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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 18 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. **29:5 VA.R. 1075-1192 November 5, 2012**, refers to Volume 29, Issue 5, pages 1075 through 1192 of the *Virginia Register* issued on November 5, 2012.

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.

Members of the Virginia Code Commission: **John S. Edwards**, Chair; **James M. LeMunyon**, Vice Chair, **Gregory D. Habeeb**; **Ryan T. McDougle**; **Pamela S. Baskerville**; **Robert L. Calhoun**; **Carlos L. Hopkins**; **E.M. Miller, Jr.**; **Thomas M. Moncure, Jr.**; **Christopher R. Nolen**; **Timothy Oksman**; **Charles S. Sharp**; **Robert L. Tavenner**.

Staff of the Virginia Register: **Jane D. Chaffin**, Registrar of Regulations; **Karen Perrine**, Assistant Registrar; **Anne Bloomsburg**, Regulations Analyst; **Rhonda Dyer**, Publications Assistant; **Terri Edwards**, Operations Staff Assistant.

PUBLICATION SCHEDULE AND DEADLINES

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

August 2015 through August 2016

| <u>Volume: Issue</u> | <u>Material Submitted By Noon*</u> | <u>Will Be Published On</u> |
|----------------------|--------------------------------------|-----------------------------|
| 31:26 | August 5, 2015 | August 24, 2015 |
| 32:1 | August 19, 2015 | September 7, 2015 |
| 32:2 | September 2, 2015 | September 21, 2015 |
| 32:3 | September 16, 2015 | October 5, 2015 |
| 32:4 | September 30, 2015 | October 19, 2015 |
| 32:5 | October 14, 2015 | November 2, 2015 |
| 32:6 | October 28, 2015 | November 16, 2015 |
| 32:7 | November 10, 2015 (Tuesday) | November 30, 2015 |
| 32:8 | November 24, 2015 (Tuesday) | December 14, 2015 |
| 32:9 | December 9, 2015 | December 28, 2015 |
| 32:10 | December 21, 2015 (Monday) | January 11, 2016 |
| 32:11 | January 6, 2016 | January 25, 2016 |
| 32:12 | January 20, 2016 | February 8, 2016 |
| 32:13 | February 3, 2016 | February 22, 2016 |
| 32:14 | February 17, 2016 | March 7, 2016 |
| 32:15 | March 2, 2016 | March 21, 2016 |
| 32:16 | March 16, 2016 | April 4, 2016 |
| 32:17 | March 30, 2016 | April 18, 2016 |
| 32:18 | April 13, 2016 | May 2, 2016 |
| 32:19 | April 27, 2016 | May 16, 2016 |
| 32:20 | May 11, 2016 | May 30, 2016 |
| 32:21 | May 25, 2016 | June 13, 2016 |
| 32:22 | June 8, 2016 | June 27, 2016 |
| 32:23 | June 22, 2016 | July 11, 2016 |
| 32:24 | July 6, 2016 | July 25, 2016 |
| 32:25 | July 20, 2016 | August 8, 2016 |
| 32:26 | August 3, 2016 | August 22, 2016 |

*Filing deadlines are Wednesdays unless otherwise specified.

PETITIONS FOR RULEMAKING

TITLE 18. PROFESSIONAL AND OCCUPATIONAL LICENSING

BOARD OF MEDICINE

Initial Agency Notice

Agency Contact: Elaine J. Yeatts, Department of Health Professions, 9960 Mayland Drive, Richmond, VA 23233, telephone (804) 367-4688, or email elaine.yeatts@dhp.virginia.gov.

VA.R. Doc. No. R15-38; Filed July 28, 2015, 16:19 p.m.

Title of Regulation: **18VAC85-110. Regulations Governing the Practice of Licensed Acupuncturists.**

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

Name of Petitioner: Dr. Arthur Yin Fan.

Nature of Petitioner's Request:

1. Add word "herbs" after "food supplements."
2. Add "basic examination prescription right" to acupuncture practice scope:

"Basic examination prescription right" includes: X-ray, ultrasound, MRI, etc. image tests; Blood routine test (CBC, complete blood count), Urine routine test (Urine analysis), Stool routine test (Stool analysis), Blood Liver panel, Blood Kidney panel, etc. bio-chem tests.
3. Require only a "recommendation" for diagnostic examination.

Prior to performing acupuncture, a licensed acupuncturist shall recommend patient to obtain written documentation that the patient has received a diagnostic examination within the past six months by a licensed doctor of medicine, osteopathy, chiropractic, or podiatry acting within the scope of his practice or shall provide to the patient a written recommendation for such a diagnostic examination on a form specified by the board and signed by the patient. The original of the signed form shall be maintained in the patient's chart and a copy provided to the patient. In case patient declines, the licensed acupuncturist shall let patient sign the consent form, check the reason of decline, and perform the basic examinations, includes in basic bio-chem lab tests and image test.

Agency Plan for Disposition of Request: In accordance with Virginia law, the petition has been filed with the Register of Regulations and will be published on August 24, 2015, and posted on the Virginia Regulatory Townhall at www.townhall.virginia.gov. Comment on the petition will be requested until September 18, 2015, and may be posted on the Townhall or sent to the board. Following receipt of all comments on the petition to amend regulations, the matter will be considered by the Advisory Board on Acupuncture which will decide whether to recommend any changes to the regulatory language. This matter will be on the advisory board's agenda for its meeting on October 7, 2015, and on the full board's agenda on October 22, 2015.

Public Comment Deadline: September 18, 2015.

REGULATIONS

For information concerning the different types of regulations, see the Information Page.

Symbol Key

Roman type indicates existing text of regulations. Underscored language indicates proposed new text. Language that has been stricken indicates proposed text for deletion. Brackets are used in final regulations to indicate changes from the proposed regulation.

TITLE 4. CONSERVATION AND NATURAL RESOURCES

BOARD OF GAME AND INLAND FISHERIES

Withdrawal of Proposed Regulation

Title of Regulation: **4VAC15-90. Game: Deer (amending 4VAC15-90-85).**

Statutory Authority: §§ 29.1-501 and 29.1-502 of the Code of Virginia.

The Board of Game and Inland Fisheries has WITHDRAWN the proposed amendments to 4VAC15-90-85, published in [26:2 VA.R. 131 September 28, 2009](#). The proposed amendments designate the term "elk" specifically as "Rocky Mountain elk" (*Cervus elaphus*) and prohibit the hunting of Rocky Mountain elk in Virginia. On October 22, 2009, the board considered this proposal for adoption as a final amendment and did not adopt it.

Agency Contact: Phil Smith, Regulatory Coordinator, Department of Game and Inland Fisheries, 7870 Villa Park Drive, Suite 400, Henrico, VA 23228, telephone (804) 367-8341, or email phil.smith@dgif.virginia.gov.

VA.R. Doc. No. R10-2138; Filed July 30, 2015, 7:26 a.m.

Withdrawal of Proposed Regulation

Title of Regulation: **4VAC15-90. Game: Deer (amending 4VAC15-90-85).**

Statutory Authority: §§ 29.1-501 and 29.1-502 of the Code of Virginia.

The Board of Game and Inland Fisheries has WITHDRAWN the proposed amendments to 4VAC15-90-85, published in [27:2 VA.R. 160 September 27, 2010](#). The proposed amendments designate the term "elk" specifically as "Rocky Mountain elk" (*Cervus elaphus*) and prohibit the hunting of Rocky Mountain elk in Virginia. On October 5, 2010, the board considered this proposal for adoption as a final amendment and did not adopt it.

Agency Contact: Phil Smith, Regulatory Coordinator, Department of Game and Inland Fisheries, 7870 Villa Park Drive, Suite 400, Henrico, VA 23228, telephone (804) 367-8341, or email phil.smith@dgif.virginia.gov.

VA.R. Doc. No. R11-2596; Filed July 30, 2015, 7:26 a.m.

Withdrawal of Proposed Regulation

Title of Regulation: **4VAC15-260. Game: Waterfowl and Waterfowl Blinds (amending 4VAC15-260-10).**

Statutory Authority: § 29.1-501 of the Code of Virginia.

The Board of Game and Inland Fisheries has WITHDRAWN the proposed amendments to 4VAC15-260-10, published in [31:20 VA.R. 1648-1649 June 1, 2015](#). The proposed amendments require stationary waterfowl blinds located in the public waters to be marked with reflective material. On June 2, 2015, the board considered this proposal for adoption as a final amendment and did not adopt it.

Agency Contact: Phil Smith, Regulatory Coordinator, Department of Game and Inland Fisheries, 7870 Villa Park Drive, Suite 400, Henrico, VA 23228, telephone (804) 367-8341, or email phil.smith@dgif.virginia.gov.

VA.R. Doc. No. R15-4405; Filed July 30, 2015, 7:26 a.m.

TITLE 6. CRIMINAL JUSTICE AND CORRECTIONS

FORENSIC SCIENCE BOARD

Final Regulation

REGISTRAR'S NOTICE: The Forensic Science Board is claiming an exemption from Article 2 of the Administrative Process Act in accordance with § 2.2-4006 A 4 a of the Code of Virginia, which excludes regulations that are necessary to conform to changes in Virginia statutory law where no agency discretion is involved. The Forensic Science Board will receive, consider, and respond to petitions from any interested person at any time with respect to reconsideration or revision.

Title of Regulation: **6VAC40-60. DNA Data Bank Regulations (amending 6VAC40-60-50).**

Statutory Authority: §§ 9.1-1110 and 19.2-310.5 of the Code of Virginia.

Effective Date: September 23, 2015.

Agency Contact: Amy M. Curtis, Department Counsel, Department of Forensic Science, 700 North 5th Street, Richmond, VA 23219, telephone (804) 786-6848, FAX (804) 786-6857, or email amy.curtis@dfs.virginia.gov.

Summary:

The amendment conforms to Chapter 193 of the 2015 Acts of Assembly by adding the Department of State Police as

an agency that may be provided information from the DNA data bank by secure electronic exchange of data.

6VAC40-60-50. Provision of DNA data bank information to the Virginia Department of Corrections, the Department of State Police, and the Department of Juvenile Justice.

Any information from the DNA data bank provided to a duly authorized representative of the Department of Corrections or the Department of State Police pursuant to § 19.2-310.2 of the Code of Virginia or to the Department of Juvenile Justice pursuant to § 16.1-299.1 of the Code of Virginia shall be by a secure electronic exchange of data.

VA.R. Doc. No. R15-4451; Filed August 3, 2015, 12:14 p.m.

TITLE 8. EDUCATION

STATE BOARD OF EDUCATION

Fast-Track Regulation

Title of Regulation: 8VAC20-131. Regulations Establishing Standards for Accrediting Public Schools in Virginia (amending 8VAC20-131-5, 8VAC20-131-10, 8VAC20-131-30, 8VAC20-131-50, 8VAC20-131-60, 8VAC20-131-110, 8VAC20-131-260, 8VAC20-131-270, 8VAC20-131-280, 8VAC20-131-300, 8VAC20-131-310, 8VAC20-131-315, 8VAC20-131-360).

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

Public Hearing Information: No public hearings are scheduled.

Public Comment Deadline: September 23, 2015.

Effective Date: October 8, 2015.

Agency Contact: Dr. Cynthia Cave, Assistant Superintendent, Policy and Communications, Department of Education, P.O. Box 2120, Richmond, VA 23218-2120, telephone (804) 225-2403, FAX (804) 225-2524, or email cynthia.cave@doe.virginia.gov.

Basis: Section 22.1-253.13:3 of the Code of Virginia authorizes the Board of Education to promulgate regulations governing standards for accrediting public schools. The Board of Education's overall regulatory authority is found in § 22.1-16 of the Code of Virginia, which provides that the board may promulgate such regulations as may be necessary to carry out the board's powers and duties and the provisions of Title 22.1 of the Code of Virginia.

Purpose: Amendments are needed to comport with legislative changes made by the following acts of assembly:

- Chapter 570 of the 1999 Acts of Assembly
- Chapters 83, 172, 787, and 833 of the 2012 Acts of Assembly

- Chapters 498, 530, 609, and 710 of the 2013 Acts of Assembly
- Chapter 84 of the 2014 Acts of Assembly
- Chapters 144, 148, 150, 324, 329, 369, 563, 564, 565, 591, 701, 702, and 705 of the 2015 Acts of Assembly.

Within the proposed changes to the regulations are provisions that have a direct impact on the safety and health of students and the community, including:

1. The development by local school boards of policies for the possession and administration of epinephrine in every school;
2. School personnel training for the administration of insulin and glucagon in school buildings;
3. Student training in emergency first aid, cardiopulmonary resuscitation, and the use of automated external defibrillators to be awarded a Standard or an Advanced Studies Diploma;
4. The establishment of threat assessment teams within schools; and
5. Conduct of lockdown drills by schools.

Other proposed amendments to the regulations address academic expectations for students and school accountability measures, and support standards for educational preparation of students, which are measured and provided to the public.

Rationale for Using Fast-Track Process: The fast-track rulemaking process is for regulations expected to be noncontroversial. This revision is noncontroversial because its only purpose is to address legislation that was adopted during the 2012 through 2015 sessions of the General Assembly, and one bill adopted during the 1999 General Assembly session. In addition, time is of the essence in promulgating these regulations because a number of the legislative changes that are addressed impact school safety, provide additional flexibility to school divisions or specify dates by which certain provisions must be implemented or in place.

Substance: The following list describes the changes required by legislation adopted during the 1999, 2012, 2013, 2014, and 2015 General Assembly sessions.

- Chapter 570 of the 1999 Acts of Assembly requires school boards to ensure that at least two employees have been trained in the administration of insulin and glucagon in school buildings with an instructional and administrative staff of 10 or more, if one or more students diagnosed as having diabetes attend the school. When there are fewer than 10 such staff members, school boards shall ensure that at least one employee has been trained if one or more students with diabetes attend the school.
- Chapters 83 and 172 of the 2012 Acts of Assembly add three points to the Graduation and Completion Index for

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each student who earns a diploma and a Career and Technical Education credential.

- Chapters 787 and 833 of the 2012 Acts of Assembly require local school boards to adopt and implement policies for the possession and administration of epinephrine in every school.
- Chapters 498 and 530 of the 2013 Acts of Assembly require students, beginning with the ninth-grade class of 2016-2017, to be trained in emergency first aid, cardiopulmonary resuscitation, and the use of automated external defibrillators to be awarded a Standard or an Advanced Studies Diploma.
- Chapter 710 of the 2013 Acts of Assembly requires each school to have a school threat assessment team. The threat assessment teams shall provide guidance to students, faculty, and staff regarding recognition of threatening or aberrant behavior that may represent a threat to the community.
- Chapter 609 of the 2013 Acts of Assembly requires at least two lockdown drills every year--one in September and one in January.
- Chapter 84 of the 2014 Acts of Assembly replaces references throughout the Code of Virginia to a General Educational Development program or test with "a high school equivalency examination approved by the Board of Education" or "a high school equivalency preparation program."
- Chapter 329 of the 2015 Acts of Assembly eliminates the term "Special Diploma" and replaces it with the term "Applied Studies Diploma."
- Chapter 563 of the 2015 Acts of Assembly requires the Virginia Department of Education, for the purposes of the School Performance Report Card, to include, as part of instructional costs, each school division's expenditures on the hardware necessary to support electronic textbooks.
- Chapters 564 and 565 of the 2015 Acts of Assembly direct the board to establish criteria for awarding a diploma seal of biliteracy and require the board to establish criteria for awarding it in time for any student graduating from a public high school in the Commonwealth in 2016 to be awarded such a diploma seal.
- Chapters 144 and 148 of the 2015 Acts of Assembly require the board to promulgate regulations to provide the same criteria for eligibility for an expedited retake of any Standards of Learning (SOL) test, with the exception of the writing SOL tests, to each student regardless of grade level or course.
- Chapters 701 and 702 of the 2015 Acts of Assembly permit local school divisions to waive the requirement for students to receive 140 clock hours of instruction to earn a standard unit of credit upon providing the board

with satisfactory proof, based on board guidelines, that the students for whom such requirements are waived have learned the content and skills included in the relevant SOL.

- Chapters 150 and 324 of the 2015 Acts of Assembly require the board to amend the Standards of Accreditation by the 2016-2017 school year to establish additional accreditation ratings that recognize the progress of schools and student growth.
- Chapter 591 of the 2015 Acts of Assembly creates an alternative, under certain circumstances, to the current requirement that, in order to receive a standard diploma, a student must earn a Career and Technical Education credential.
- Chapter 705 of the 2015 Acts of Assembly requires the board, for the purposes of the Standards of Accreditation, to use a graduation rate that excludes any student who fails to graduate because he or she is in the custody of the Department of Corrections, the Department of Juvenile Justice, or local law enforcement. This legislation becomes effective on July 1, 2016.

Issues: The primary advantage of the amendments to the Standards of Accreditation further support accountability for all public schools, student health and safety while attending school, and public information about school performance. There are no disadvantages to the public, the agency, or the Commonwealth. These revisions are required by changes in the Code of Virginia adopted by the Virginia General Assembly.

Department of Planning and Budget's Economic Impact Analysis:

Summary of the Proposed Amendments to Regulation. The Board of Education (Board) proposes numerous amendments to reflect 1999, 2012, 2013, 2014, and 2015 state legislation. The proposed amendments essentially repeat Code of Virginia language from the legislation in the regulation. In three instances the statutes instruct the Board to set criteria, and the Board's proposed regulatory language state that criteria will be set by the Board, but do not propose specific criteria in the regulation.¹

Result of Analysis. The benefits likely exceed the costs.

Estimated Economic Impact. Essentially none of the proposed amendments add detail to requirements and rules beyond that which is explicitly stated in statute. Adding this language to the regulation is potentially beneficial in that it may be easier for the public to find, but it has no other impact.

The legislative mandate² that beginning with first-time ninth-grade students in the 2016-2017 school year that in order to be awarded a Standard or Advanced Studies Diploma students shall be trained in emergency first aid, cardiopulmonary resuscitation, and the use of automated external defibrillators, including hands-on practice of the skills necessary to perform cardiopulmonary resuscitation,

introduces significant benefits and costs. Having all (or nearly all) people publically educated in the Commonwealth trained in emergency first aid, cardiopulmonary resuscitation, and the use of automated external defibrillators will increase the likelihood that someone with potentially lifesaving skills will be on hand in times of emergency. To the extent that the high school students absorb and retain the knowledge they gain in this training, the long-run benefits may be quite large.

For onsite training in emergency first aid, cardiopulmonary resuscitation, and the use of automated external defibrillators, the American Red Cross charges \$250 plus \$72 per student if there are at least 20 students.³ So for a high school with 100 freshmen, the annual cost in fees would be \$7,450.⁴ For a high school with 50 freshmen the fees would total \$3,850.⁵ The 2014/2015 statewide public school enrollment of ninth-grade students was 105,324.⁶ There are 312 public high schools.⁷ Thus, not counting the value of time, the annual statewide cost for this requirement is approximately \$7.7 million.⁸

If done all in person, the Red Cross training would take 5.5 hours. Alternatively, the students could do 2 hours of online training ahead of time. In that case the in-person training would last 1.5 hours.⁹ The fees would be the same in either case, but the amount of instructional time that potentially could have been used for other subjects differs.

Businesses and Entities Affected. The proposed amendments affect the 132 local school divisions in the Commonwealth.

Localities Particularly Affected. The proposed amendments do not disproportionately affect particular localities.

Projected Impact on Employment. The proposed amendments will not affect employment.

Effects on the Use and Value of Private Property. The proposed amendments will not affect the use and value of private property.

Real Estate Development Costs. The proposed amendments will not affect real estate development costs.

Small Businesses: Definition. Pursuant to § 2.2-4007.04 of the Code of Virginia, small business is defined as "a business entity, including its affiliates, that (i) is independently owned and operated and (ii) employs fewer than 500 full-time employees or has gross annual sales of less than \$6 million."

Costs and Other Effects. The proposed amendments will not affect small businesses.

Alternative Method that Minimizes Adverse Impact. The proposed amendments will not adversely affect small businesses.

Adverse Impacts:

Businesses: The proposed amendments will not adversely affect businesses.

Localities: The proposed amendments will not adversely affect localities.

Other Entities: The proposed amendments will not adversely affect other entities.

Legal Mandates.

General: The Department of Planning and Budget has analyzed the economic impact of this proposed regulation in accordance with § 2.2-4007.04 of the Code of Virginia (Code) and Executive Order Number 17 (2014). Code § 2.2-4007.04 requires that such economic impact analyses determine the public benefits and costs of the proposed amendments. Further the report should include but not be limited to: (1) the projected number of businesses or other entities to whom the proposed regulatory action would apply, (2) the identity of any localities and types of businesses or other entities particularly affected, (3) the projected number of persons and employment positions to be affected, (4) the projected costs to affected businesses or entities to implement or comply with the regulation, and (5) the impact on the use and value of private property.

Adverse impacts: Pursuant to Code § 2.2-4007.04(C): In the event this economic impact analysis reveals that the proposed regulation would have an adverse economic impact on businesses or would impose a significant adverse economic impact on a locality, business, or entity particularly affected, the Department of Planning and Budget shall advise the Joint Commission on Administrative Rules, the House Committee on Appropriations, and the Senate Committee on Finance within the 45-day period.

If the proposed regulatory action may have an adverse effect on small businesses, Code § 2.2-4007.04 requires that such economic impact analyses include: (1) an identification and estimate of the number of small businesses subject to the proposed regulation, (2) the projected reporting, recordkeeping, and other administrative costs required for small businesses to comply with the proposed regulation, including the type of professional skills necessary for preparing required reports and other documents, (3) a statement of the probable effect of the proposed regulation on affected small businesses, and (4) a description of any less intrusive or less costly alternative methods of achieving the purpose of the proposed regulation. Additionally, pursuant to Code § 2.2-4007.1, if there is a finding that a proposed regulation may have an adverse impact on small business, the Joint Commission on Administrative Rules shall be notified.

¹ Chapters 144 and 148, 150 and 324, and 564 and 565 of the 2015 Virginia Acts of Assembly

² Chapters 498 and 530 of the 2013 Virginia Acts of Assembly

³ These figures are based on an Internet search and phone conversation with the American Red Cross.

⁴ \$250 + (100 x \$72) = \$7,450

⁵ \$250 + (50 x \$72) = \$3,850

⁶ Data Source: Virginia Department of Education website: http://www.doe.virginia.gov/statistics_reports/enrollment/fall_membership/index.shtml

⁷ Ibid

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⁸ (312 x \$250) + (105,324 x \$72) = \$7,661,328

⁹ Source: American Red Cross

Agency's Response to Economic Impact Analysis: The agency concurs with the economic impact analysis completed by the Department of Planning and Budget. The agency will continue to examine the economic and administrative impact of the regulations as they progress through the regulatory process.

Summary:

This regulatory action addresses legislation that was enacted by the General Assembly during the 1999, 2012, 2013, 2014, and 2015 sessions. The amendments:

- 1. Require the addition of three points to the graduation and completion index for each student who earns a diploma and a career and technical education credential;*
- 2. Require local school boards to adopt and implement policies for the possession and administration of epinephrine in every school;*
- 3. Require school boards to ensure that at least two employees have been trained in the administration of insulin and glucagon in school buildings with an instructional and administrative staff of 10 or more or at least one employee has received such training when there are fewer than 10 such staff members, if one or more students diagnosed as having diabetes attend the school;*
- 4. Require students, beginning with the ninth-grade class of 2016-2017, to be trained in emergency first aid, cardiopulmonary resuscitation, and the use of automated external defibrillators to be awarded a Standard or an Advanced Studies Diploma;*
- 5. Require each school to have a school threat assessment team;*
- 6. Require at least two lockdown drills every year, one in September and one in January;*
- 7. Replace references to a General Educational Development (GED) program or test with "a high school equivalency examination approved by the Board of Education" or a "high school equivalency preparation program";*
- 8. Replace the term "Special Diploma" with "Applied Studies Diploma";*
- 9. Establish criteria for awarding a diploma seal of biliteracy for any eligible student graduating from a public high school in the Commonwealth beginning in 2016;*
- 10. Provide for an expedited retake of any Standards of Learning (SOL) test, with the exception of the writing SOL tests, to each student regardless of grade level or course;*
- 11. Permit local school divisions to waive the requirement for students to receive 140 clock hours of instruction to earn a standard unit of credit upon providing the board with satisfactory proof that the students for whom such*

requirements are waived have learned the content and skills included in the relevant SOL;

12. Establish additional accreditation ratings that recognize the progress of schools and student growth to be effective no later than academic year 2016-2017;

13. Create an alternative, under certain circumstances, to the current requirement that in order to receive a standard diploma, a student must earn a career and technical education credential; and

14. Require the board, for the purposes of the Standards of Accreditation, to use a graduation rate that excludes any student who fails to graduate because he or she is in the custody of the Department of Corrections, the Department of Juvenile Justice, or local law enforcement.

Part I

Definitions and Purpose

8VAC20-131-5. Definitions.

The following words and terms apply only to these regulations and do not supersede those definitions used for federal reporting purposes or for the calculation of costs related to the Standards of Quality (§ 22.1-253.13:1 et seq. of the Code of Virginia). When used in these regulations, these words shall have the following meanings, unless the context clearly indicates otherwise:

"Accreditation" means a process used by the Virginia Department of Education (hereinafter "department") to evaluate the educational performance of public schools in accordance with these regulations.

"Additional test" means a test, including substitute tests approved by the Board of Education that students may use in lieu of a Standards of Learning test to obtain verified credit.

"Class period" means a segment of time in the school day that is approximately 1/6 of the instructional day.

"Combined school" means a public school that contains any combination of or all of the grade levels from kindergarten through grade 12. This definition does not include those schools defined as elementary, middle, or secondary schools.

"Credit accommodations" means adjustments to meet the standard and verified credit requirements for earning a Standard Diploma for students with disabilities.

"Elementary school" means a public school with any grades kindergarten through five.

"Eligible students" means the total number of students of school age enrolled in the school at a grade or course for which a Standards of Learning test is required unless excluded under the provisions of 8VAC20-131-30 G and 8VAC20-131-280 D relative to limited English proficient (LEP) students.

"Enrollment" means the act of complying with state and local requirements relative to the registration or admission of a child for attendance in a school within a local school division. This term also means registration for courses within

the student's home school or within related schools or programs.

"First time" means the student has not been enrolled in the school at any time during the current school year (for purposes of 8VAC20-131-60 with reference to students who transfer in during the school year).

"Four core areas" or "four core academic areas" means English, mathematics, science, and history and social science for purposes of testing for the Standards of Learning.

"Graduate" means a student who has earned a Board of Education recognized diploma, which includes the Advanced Studies Diploma, the Standard Diploma, and the ~~Special Diploma~~ Applied Studies Diploma.

"Homebound instruction" means academic instruction provided to students who are confined at home or in a health care facility for periods that would prevent normal school attendance based upon certification of need by a licensed physician or a licensed clinical psychologist.

"Locally awarded verified credit" means a verified unit of credit awarded by a local school board in accordance with 8VAC20-131-110.

"Middle school" means a public school with any grades 6 through 8.

"Planning period" means one class period per day or the equivalent unencumbered of any teaching or supervisory duties.

"Recess" means a segment of free time exclusive of time provided for meals during the standard school day in which students are given a break from instruction.

"Reconstitution" means a process that may be used to initiate a range of accountability actions to improve pupil performance, curriculum, and instruction to address deficiencies that caused a school to be rated Accreditation Denied that may include, but not be limited to, restructuring a school's governance, instructional program, staff or student population.

"School" means a publicly funded institution where students are enrolled for all or a majority of the instructional day and:

1. Those students are reported in fall membership at the institution; and
2. At a minimum, the institution meets the preaccreditation eligibility requirements of these regulations as adopted by the Board of Education.

"Secondary school" means a public school with any grades 9 through 12.

"Standard school day" means a calendar day that averages at least five and one-half instructional hours for students in grades 1 through 12, excluding breaks for meals and recess, and a minimum of three instructional hours for students in kindergarten.

"Standard school year" means a school year of at least 180 teaching days or a total of at least 990 teaching hours per year.

"Standard unit of credit" or "standard credit" means credit awarded for a course in which the student successfully completes 140 clock hours of instruction and the requirements of the course. Local school boards may develop alternatives to the requirement for 140 clock hours of instruction as provided for in 8VAC20-131-110.

"Standards of Learning tests" or "SOL tests" means those criterion referenced assessments approved by the Board of Education for use in the Virginia assessment program that measure attainment of knowledge and skills required by the Standards of Learning.

"Student" means a person of school age as defined by § 22.1-1 of the Code of Virginia, a child with disabilities as defined in § 22.1-213 of the Code of Virginia, and a person with limited English proficiency in accordance with § 22.1-5 of the Code of Virginia.

"Student periods" means the number of students a teacher instructs per class period multiplied by the number of class periods taught.

"Verified unit of credit" or "verified credit" means credit awarded for a course in which a student earns a standard unit of credit and achieves a passing score on a corresponding end-of-course SOL test or an additional test approved by the Board of Education as part of the Virginia assessment program.

"Virginia assessment program" means a system used to evaluate student achievement that includes Standards of Learning tests and additional tests that may be approved from time to time by the Board of Education.

8VAC20-131-10. Purpose.

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

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

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5. Establish a means of determining the effectiveness of schools.

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

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

These regulations govern public schools operated by local school boards providing instruction to students as defined in 8VAC20-131-5. Other schools licensed under other state statutes are exempt from these requirements.

Part III Student Achievement

8VAC20-131-30. Student achievement expectations.

A. Each student should learn the relevant grade level/course subject matter before promotion to the next grade. The division superintendent shall certify to the Department of Education that the division's promotion/retention policy does not exclude students from membership in a grade, or participation in a course, in which SOL tests are to be administered. Each school shall have a process, as appropriate, to identify and recommend strategies to address the learning, behavior, communication, or development of individual children who are having difficulty in the educational setting.

B. In kindergarten through eighth grade, where the administration of Virginia assessment program tests are required by the Board of Education, each student shall be expected to take the tests; students who are accelerated shall take the tests of the grade level enrolled or the tests for the grade level of the content received in instruction. No student shall take more than one test in any content area in each year. Schools shall use the Virginia assessment program test results in kindergarten through eighth grade as part of a set of multiple criteria for determining the promotion or retention of students. Students promoted to high school from eighth grade should have attained basic mastery of the Standards of Learning in English, history and social science, mathematics, and science and should be prepared for high school work. Students shall not be required to retake the Virginia assessment program tests unless they are retained in grade and have not previously passed the related tests.

With such funds as may be appropriated by the General Assembly, the Board of Education shall provide the same criteria for eligibility for an expedited retake of any Standards of Learning test, with the exception of the writing Standards of Learning tests, to each student regardless of grade level or course.

C. In kindergarten through grade 12, students may participate in a remediation recovery program as established by the board in English (Reading) or mathematics or both.

D. The board recommends that students in kindergarten through grade 8 not be required to attend summer school or weekend remediation classes solely based on failing a SOL test in science or history/social science.

E. Each student in middle and secondary schools shall take all applicable end-of-course SOL tests following course instruction. Students who achieve a passing score on an end-of-course SOL test shall be awarded a verified unit of credit in that course in accordance with the provisions of 8VAC20-131-110. Students may earn verified units of credit in any courses for which end-of-course SOL tests are available. Middle and secondary schools may consider the student's end-of-course SOL test score in determining the student's final course grade. However, no student who has failed an end-of-course SOL test but passed the related course shall be prevented from taking any other course in a content area and from taking the applicable end-of-course SOL test. The board may approve additional tests to verify student achievement in accordance with guidelines adopted for verified units of credit described in 8VAC20-131-110.

F. Participation in the Virginia assessment program by students with disabilities shall be prescribed by provisions of their Individualized Education Program (IEP) or 504 Plan. All students with disabilities shall be assessed with appropriate accommodations and alternate assessments where necessary.

G. All students identified as limited English proficient (LEP) shall participate in the Virginia assessment program. A school-based committee shall convene and make determinations regarding the participation level of LEP students in the Virginia assessment program. In kindergarten through eighth grade, limited English proficient students may be granted a one-time exemption from SOL testing in the areas of writing, science, and history and social science.

H. Students identified as foreign exchange students taking courses for credit shall be required to take the relevant Virginia assessment program tests. Foreign exchange students who are auditing courses and who will not receive a standard unit of credit for such courses shall not be required to take the Standards of Learning tests for those courses.

8VAC20-131-50. Requirements for graduation.

A. The requirements for a student to earn a diploma and graduate from a Virginia high school shall be those in effect when that student enters the ninth grade for the first time. Students shall be awarded a diploma upon graduation from a Virginia high school.

The Advanced Studies Diploma shall be the recommended diploma for students pursuing baccalaureate study. Both the Standard Diploma and the Advanced Studies Diploma shall

prepare students for postsecondary education and the career readiness required by the Commonwealth's economy.

When students below the ninth grade successfully complete courses offered for credit in grades 9 through 12, credit shall be counted toward meeting the standard units required for graduation provided the courses are equivalent in content and academic rigor as those courses offered at the secondary level. To earn a verified unit of credit for these courses, students must meet the requirements of 8VAC20-131-110.

The following requirements shall be the only requirements for a diploma, unless a local school board has prescribed additional requirements that have been approved by the Board of Education. All additional requirements prescribed by local school boards that have been approved by the Board of Education remain in effect until such time as the local school board submits a request to the board to amend or discontinue them.

B. Requirements for a Standard Diploma.

1. Beginning with the ninth-grade class of 2013-2014 and beyond, students shall earn the required standard and verified units of credit described in subdivision 2 of this subsection.
2. Credits required for graduation with a Standard Diploma.

| Discipline Area | Standard Units of Credit Required | Verified Credits Required |
|--|-----------------------------------|---------------------------|
| English | 4 | 2 |
| Mathematics ¹ | 3 | 1 |
| Laboratory Science ^{2,6} | 3 | 1 |
| History and Social Sciences ^{3,6} | 3 | 1 |
| Health and Physical Education | 2 | |
| Foreign Language, Fine Arts or Career and Technical Education ⁷ | 2 | |
| Economics and Personal Finance | 1 | |
| Electives ⁴ | 4 | |
| Student Selected Test ⁵ | | 1 |
| Career and Technical Education Credential ⁸ | | |
| Total ⁹ | 22 | 6 |

¹Courses completed to satisfy this requirement shall include at least two different course selections from among: Algebra I, Geometry, Algebra, Functions, and Data Analysis, Algebra II, or other mathematics courses above the level of Algebra II. The board shall approve courses to satisfy this requirement.

²Courses completed to satisfy this requirement shall include course selections from at least two different science disciplines: earth sciences, biology, chemistry, or physics, or completion of the sequence of science courses required for the International Baccalaureate Diploma. The board shall approve courses to satisfy this requirement.

³Courses completed to satisfy this requirement shall include U.S. and Virginia History, U.S. and Virginia Government, and one course in either world history or geography or both. The board shall approve courses to satisfy this requirement.

⁴Courses to satisfy this requirement shall include at least two sequential electives as required by the Standards of Quality.

⁵A student may utilize additional tests for earning verified credit in computer science, technology, career and technical education, economics or other areas as prescribed by the board in 8VAC20-131-110.

⁶Students who complete a career and technical education program sequence and pass an examination or occupational competency assessment in a career and technical education field that confers certification or an occupational competency credential from a recognized industry, or trade or professional association, or acquires a professional license in a career and technical education field from the Commonwealth of Virginia may substitute the certification, competency credential, or license for (i) the student-selected verified credit and (ii) either a science or history and social science verified credit when the certification, license, or credential confers more than one verified credit. The examination or occupational competency assessment must be approved by the Board of Education as an additional test to verify student achievement.

⁷Pursuant to § 22.1-253.13:4 of the Code of Virginia, credits earned for this requirement shall include one credit in fine or performing arts or career and technical education.

⁸Students shall earn a career and technical education credential approved by the Board of Education ~~that could include, but not be limited to,~~ except when a career and technical education credential in a particular subject area is not readily available or appropriate or does not adequately measure student competency, in which case the student shall receive satisfactory competency-based instruction in the subject area to satisfy the standard

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diploma requirements. The career and technical education credential, when required, could include the successful completion of an industry certification, a state licensure examination, a national occupational competency assessment, or the Virginia workplace readiness assessment.

⁹Students shall successfully complete one virtual course, which may be a noncredit-bearing course or a required or elective credit-bearing course that is offered online.

Beginning with first-time ninth-grade students in the 2016-2017 school year, students shall be trained in emergency first aid, cardiopulmonary resuscitation, and the use of automated external defibrillators, including hands-on practice of the skills necessary to perform cardiopulmonary resuscitation. Students with an Individualized Education Program (IEP) or 504 Plan which documents that they cannot successfully complete this training shall be granted a waiver from this graduation requirement, as provided in 8VAC20-131-350.

3. The Board of Education shall establish, through guidelines, credit accommodations to the standard and verified credit requirements for a Standard Diploma. Such credit accommodations for students with disabilities may include:

- a. Approval of alternative courses to meet the standard credit requirements;
- b. Modifications to the requirements for local school divisions to award locally awarded verified credits;
- c. Approval of additional tests to earn a verified credit;
- d. Adjusted cut scores required to earn verified credit; and
- e. Allowance of work-based learning experiences.

The student's Individualized Education Program (IEP) or 504 Plan would specify any credit accommodations that would be applicable for the student.

Students completing the requirements for the Standard Diploma may be eligible to receive an honor deemed appropriate by the local school board as described in subsection H of this section.

C. Requirements for an Advanced Studies Diploma.

1. Beginning with the ninth-grade class of 2013-2014 and beyond, students shall earn the required standard and verified units of credit described in subdivision 2 of this subsection.

2. Credits required for graduation with an Advanced Studies Diploma.

| Discipline Area | Standard Units of Credit Required | Verified Credits Required |
|---|-----------------------------------|---------------------------|
| English | 4 | 2 |
| Mathematics ¹ | 4 | 2 |
| Laboratory Science ² | 4 | 2 |
| History and Social Sciences ³ | 4 | 2 |
| Foreign Language ⁴ | 3 | |
| Health and Physical Education | 2 | |
| Fine Arts or Career and Technical Education | 1 | |
| Economics and Personal Finance | 1 | |
| Electives | 3 | |
| Student Selected Test ⁵ | | 1 |
| Total ⁶ | 26 | 9 |

¹Courses completed to satisfy this requirement shall include at least three different course selections from among: Algebra I, Geometry, Algebra II, or other mathematics courses above the level of Algebra II. The board shall approve courses to satisfy this requirement.

²Courses completed to satisfy this requirement shall include course selections from at least three different science disciplines from among: earth sciences, biology, chemistry, or physics or completion of the sequence of science courses required for the International Baccalaureate Diploma. The board shall approve additional courses to satisfy this requirement.

³Courses completed to satisfy this requirement shall include U.S. and Virginia History, U.S. and Virginia Government, and two courses in either world history or geography or both. The board shall approve additional courses to satisfy this requirement.

⁴Courses completed to satisfy this requirement shall include three years of one language or two years of two languages.

⁵A student may utilize additional tests for earning verified credit in computer science, technology, career or technical education, economics or other areas as prescribed by the board in 8VAC20-131-110.

⁶Students shall successfully complete one virtual course, which may be a noncredit-bearing course, or may be a course required to earn this diploma that is offered online.

Students completing the requirements for the Advanced Studies Diploma may be eligible to receive an honor deemed appropriate by the local school board as described in subsection H of this section.

Beginning with first-time ninth-grade students in the 2016-2017 school year, students shall be trained in emergency first aid, cardiopulmonary resuscitation, and the use of automated external defibrillators, including hands-on practice of the skills necessary to perform cardiopulmonary resuscitation. Students with an Individualized Education Program (IEP) or 504 Plan which documents that they cannot successfully complete this training shall be granted a waiver from this graduation requirement, as provided in 8VAC20-131-350.

D. In accordance with the requirements of the Standards of Quality, students with disabilities who complete the requirements of their Individualized Education Program (IEP) and do not meet the requirements for other diplomas shall be awarded ~~Special~~ Applied Studies Diplomas.

E. In accordance with the requirements of the Standards of Quality, students who complete prescribed programs of studies defined by the local school board but do not qualify for a Standard Diploma, an Advanced Studies Diploma, or a ~~Special~~ an Applied Studies Diploma shall be awarded Certificates of Program Completion. The requirements for Certificates of Program Completion are developed by local school boards in accordance with the Standards of Quality.

F. In accordance with the provisions of the compulsory attendance law and ~~8VAC20-360~~ 8VAC20-30, Regulations Governing ~~General Educational Development Certificates~~ Adult High School Programs, students who do not qualify for diplomas may earn a high school equivalency credential.

G. At a student's request, the local school board shall communicate or otherwise make known to institutions of higher education, potential employers, or other applicable third parties, in a manner that the local school board deems appropriate, that a student has attained the state's academic expectations by earning a Virginia diploma and that the value of such a diploma is not affected in any way by the accreditation status of the student's school.

H. Awards for exemplary student performance. Students who demonstrate academic excellence and/or outstanding achievement may be eligible for one or more of the following awards:

1. Students who complete the requirements for an Advanced Studies Diploma with an average grade of "B" or better, and successfully complete college-level coursework that will earn the student at least nine transferable college credits in Advanced Placement (AP), International Baccalaureate (IB), Cambridge, or dual enrollment courses shall receive the Governor's Seal on the diploma.
2. Students who complete the requirements for a Standard Diploma or an Advanced Studies Diploma with an average

grade of "A" shall receive a Board of Education Seal on the diploma.

3. The Board of Education's Career and Technical Education Seal will be awarded to students who earn a Standard Diploma or an Advanced Studies Diploma and complete a prescribed sequence of courses in a career and technical education concentration or specialization that they choose and maintain a "B" or better average in those courses; or (i) pass an examination or an occupational competency assessment in a career and technical education concentration or specialization that confers certification or occupational competency credential from a recognized industry, trade or professional association or (ii) acquire a professional license in that career and technical education field from the Commonwealth of Virginia. The Board of Education shall approve all professional licenses and examinations used to satisfy these requirements.

4. The Board of Education's Seal of Advanced Mathematics and Technology will be awarded to students who earn either a Standard Diploma or an Advanced Studies Diploma and (i) satisfy all of the mathematics requirements for the Advanced Studies Diploma (four units of credit including Algebra II; two verified units of credit) with a "B" average or better; and (ii) either (a) pass an examination in a career and technical education field that confers certification from a recognized industry, or trade or professional association; (b) acquire a professional license in a career and technical education field from the Commonwealth of Virginia; or (c) pass an examination approved by the board that confers college-level credit in a technology or computer science area. The Board of Education shall approve all professional licenses and examinations used to satisfy these requirements.

5. The Board of Education's Seal for Excellence in Civics Education will be awarded to students who earn either a Standard Diploma or an Advanced Studies Diploma and (i) complete Virginia and United States History and Virginia and United States Government courses with a grade of "B" or higher; (ii) have good attendance and no disciplinary infractions as determined by local school board policies; and (iii) complete 50 hours of voluntary participation in community service or extracurricular activities. Activities that would satisfy the requirements of clause (iii) of this subdivision include: (a) volunteering for a charitable or religious organization that provides services to the poor, sick, or less fortunate; (b) participating in Boy Scouts, Girl Scouts, or similar youth organizations; (c) participating in JROTC; (d) participating in political campaigns or government internships, or Boys State, Girls State, or Model General Assembly; or (e) participating in school-sponsored extracurricular activities that have a civics focus. Any student who enlists in the United States military prior to graduation will be deemed to have met this community service requirement.

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6. The Board of Education's Seal of Biliteracy will be awarded to students who demonstrate proficiency in English and at least one other language and meet additional criteria established by the board. Such seal will be awarded to eligible students graduating from public high schools in the Commonwealth beginning in 2016.

7. Students may receive other seals or awards for exceptional academic, career and technical, citizenship, or other exemplary performance in accordance with criteria defined by the local school board.

I. Students completing graduation requirements in a summer school program shall be eligible for a diploma. The last school attended by the student during the regular session shall award the diploma unless otherwise agreed upon by the principals of the two schools.

J. Students who complete Advanced Placement courses, college-level courses, or courses required for an International Baccalaureate Diploma shall be deemed to have completed the requirements for graduation under these standards provided they have earned the standard units of credit and earned verified units of credit in accordance with the requirements for the Standard Diploma and the Advanced Studies Diploma, as specified in subsections B and C of this section.

K. Students shall be counseled annually regarding the opportunities for using additional tests for earning verified credits as provided in accordance with the provisions of 8VAC20-131-110, and the consequences of failing to fulfill the obligations to complete the requirements for verified units of credit.

8VAC20-131-60. Transfer students.

A. The provisions of this section pertain generally to students who transfer into Virginia high schools. Students transferring in grades K-8 from Virginia public schools or nonpublic schools accredited by one of the approved accrediting constituent members of the Virginia Council for Private Education shall be given recognition for all grade-level work completed. The academic record of students transferring from all other schools shall be evaluated to determine appropriate grade placement in accordance with policies adopted by the local school board. The State Testing Identifier (STI) for students who transfer into a Virginia public school from another Virginia public school shall be retained by the receiving school.

B. For the purposes of this section, the term "beginning" means within the first 20 hours of instruction per course. The term "during" means after the first 20 hours of instruction per course.

C. Standard or verified units of credit earned by a student in a Virginia public school shall be transferable without limitation regardless of the accreditation status of the Virginia public school in which the credits were earned. Virginia public schools shall accept standard and verified units of

credit from other Virginia public schools, Virginia's virtual learning program, Virtual Virginia, and state-operated programs. Standard units of credit also shall be accepted for courses satisfactorily completed in accredited colleges and universities when prior written approval of the principal has been granted or the student has been given credit by the previous school attended.

D. A secondary school shall accept credits toward graduation received from Virginia nonpublic schools accredited by one of the approved accrediting constituent members of the Virginia Council for Private Education (VCPE). The Board of Education will maintain contact with the VCPE and may periodically review its accrediting procedures and policies as part of its policies under this section.

Nothing in these standards shall prohibit a public school from accepting standard units of credit toward graduation awarded to students who transfer from all other schools when the courses for which the student receives credit generally match the description of or can be substituted for courses for which the receiving school gives standard credit, and the school from which the child transfers certifies that the courses for which credit is given meet the requirements of 8VAC20-131-110 A.

Students transferring into a Virginia public school shall be required to meet the requirements prescribed in 8VAC20-131-50 to receive a Standard Diploma or an Advanced Studies Diploma, except as provided by subsection G of this section. To receive a ~~Special~~ an Applied Studies Diploma or Certificate of Program Completion, a student must meet the requirements prescribed by the Standards of Quality.

E. The academic record of a student transferring from other Virginia public schools shall be sent directly to the school receiving the student upon request of the receiving school in accordance with the provisions of the 8VAC20-150, Management of the Student's Scholastic Record in the Public Schools of Virginia. The State Testing Identifier (STI) for students who transfer into a Virginia public school from another Virginia public school shall be retained by the receiving school.

F. The academic record of a student transferring into Virginia public schools from other than a Virginia public school shall be evaluated to determine the number of standard units of credit that have been earned, including credit from schools outside the United States, and the number of verified units of credit needed to graduate in accordance with subsection G of this section. Standard units of credit also shall be accepted for courses satisfactorily completed in accredited colleges and universities when the student has been given credit by the previous school attended.

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

G. Students entering a Virginia public high school for the first time after the tenth grade shall earn as many credits as possible toward the graduation requirements prescribed in 8VAC20-131-50. However, schools may substitute courses required in other states in the same content area if the student is unable to meet the specific content requirements of 8VAC20-131-50 without taking a heavier than normal course load in any semester, by taking summer school, or by taking courses after the time when he otherwise would have graduated. In any event, no such student shall earn fewer than the following number of verified units, nor shall such students be required to take SOL tests or additional tests as defined in 8VAC20-131-110 for verified units of credit in courses previously completed at another school or program of study, unless necessary to meet the requirements listed in subdivisions 1 and 2 of this subsection:

1. For a Standard Diploma:

- a. Students entering a Virginia high school for the first time during the ninth grade or at the beginning of the tenth grade shall earn credit as prescribed in 8VAC20-131-50;
- b. Students entering a Virginia high school for the first time during the tenth grade or at the beginning of the eleventh grade shall earn a minimum of four verified units of credit: one each in English, mathematics, history, and science. Students who complete a career and technical education program sequence may substitute a certificate, occupational competency credential or license for either a science or history and social science verified credit pursuant to 8VAC20-131-50; and
- c. Students entering a Virginia high school for the first time during the eleventh grade or at the beginning of the twelfth grade shall earn a minimum of two verified units of credit: one in English and one of the student's own choosing.

2. For an Advanced Studies Diploma:

- a. Students entering a Virginia high school for the first time during the ninth grade or at the beginning of the tenth grade shall earn credit as prescribed in 8VAC20-131-50;
- b. Students entering a Virginia high school for the first time during the tenth grade or at the beginning of the eleventh grade shall earn a minimum of six verified units of credit: two in English and one each in mathematics, history, and science and one of the student's own choosing; and
- c. Students entering a Virginia high school for the first time during the eleventh grade or at the beginning of the twelfth grade shall earn a minimum of four verified units of credit: one in English and three of the student's own choosing.

H. Students entering a Virginia high school for the first time after the first semester of their eleventh grade year must meet

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

I. Any local school division receiving approval to increase its course credit requirements for a diploma may not deny either the Standard Diploma or the Advanced Studies Diploma to any transfer student who has otherwise met the requirements contained in these standards if the transfer student can only meet the division's additional requirements by taking a heavier than normal course load in any semester, by taking summer school, or by taking courses after the time when he otherwise would have graduated.

J. The transcript of a student who graduates or transfers from a Virginia secondary school shall conform to the requirements of 8VAC20-160, Regulations Governing Secondary School Transcripts.

K. The accreditation status of a high school shall not be included on the student transcript provided to colleges, universities, or employers. The board expressly states that any student who has met the graduation requirements established in 8VAC20-131-50 and has received a Virginia diploma holds a diploma that should be recognized as equal to any other Virginia diploma of the same type, regardless of the accreditation status of the student's high school. It is the express policy of the board that no student shall be affected by the accreditation status of the student's school. The board shall take appropriate action, from time to time, to ensure that no student is affected by the accreditation status of the student's school.

8VAC20-131-110. Standard and verified units of credit.

A. The standard unit of credit for graduation shall be based on a minimum of 140 clock hours of instruction and successful completion of the requirements of the course. When credit is awarded in less than whole units, the increment awarded must be no greater than the fractional part of the 140 hours of instruction provided. If a school division elects to award credit on a basis other than the 140 clock hours of instruction required for a standard unit of credit defined in this subsection, the local school division shall provide the Board of Education with satisfactory proof, based on board guidelines, that the students for whom the 140-clock-hour requirement is waived have learned the content and skills included in the relevant Standards of Learning. In addition, the local school division shall develop a written

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policy approved by the superintendent and school board that ensures:

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

B. A verified unit of credit for graduation shall be based on a minimum of 140 clock hours of instruction, successful completion of the requirements of the course, and the achievement by the student of a passing score on the end-of-course SOL test for that course or additional tests as described in this subsection. A student may also earn a verified unit of credit by the following methods:

1. In accordance with the provisions of the Standards of Quality, students may earn a standard and verified unit of credit for any elective course in which the core academic SOL course content has been integrated and the student passes the related end-of-course SOL test. Such course and test combinations must be approved by the Board of Education.
2. ~~Upon the recommendation of the division superintendent and demonstration of mastery of course content and objectives~~ Upon waiver of the 140-clock-hour requirement according to Board of Education guidelines, qualified students ~~may receive~~ who have received a standard unit of credit ~~and will~~ be permitted to sit for the relevant SOL test to earn a verified credit without having to meet the 140-clock-hour requirement.
3. Students who do not pass Standards of Learning tests in science or history and social science may receive locally awarded verified credits from the local school board in accordance with criteria established in guidelines adopted by the Board of Education.

C. The Board of Education may from time to time approve additional tests for the purpose of awarding verified credit. Such additional tests, which enable students to earn verified units of credit, must, at a minimum, meet the following criteria:

1. The test must be standardized and graded independently of the school or school division in which the test is given;
2. The test must be knowledge based;
3. The test must be administered on a multistate or international basis, or administered as part of another state's accountability assessment program; and
4. To be counted in a specific academic area, the test must measure content that incorporates or exceeds the SOL content in the course for which verified credit is given.

The Board of Education will set the score that must be achieved to earn a verified unit of credit on the additional test options.

D. With such funds as are appropriated by the General Assembly, the Board of Education will provide opportunities for students who meet criteria adopted by the board to have an expedited retake of a SOL test to earn verified credit.

Part VI

School Facilities and Safety

8VAC20-131-260. School facilities and safety.

A. Each school shall be maintained in a manner ensuring compliance with the Virginia Statewide Building Code (13VAC5-63). In addition, the school administration shall:

1. Maintain a physical plant that is accessible, barrier free, safe, and clean;
2. Provide for the proper outdoor display of flags of the United States and of the Commonwealth of Virginia;
3. Provide suitable space for classrooms, administrative staff, pupil personnel services, library and media services, and for the needs and safety of physical education;
4. Provide adequate, safe, and properly-equipped laboratories to meet the needs of instruction in the sciences, technology, fine arts, and career and technical programs; ~~and~~
5. Provide facilities for the adequate and safe administration and storage of student medications; ~~and~~
6. Carry out the duties of the threat assessment team established by the division superintendent and implement policies established by the local school board related to threat assessment, pursuant to § 22.1-79.4 of the Code of Virginia.

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

1. Equip all exit doors with panic hardware as required by the Virginia Statewide Building Code (13VAC5-63); ~~and~~
 2. Conduct fire drills at least once a week during the first month of school and at least once each month for the remainder of the school term. Evacuation routes for students shall be posted in each room; ~~and~~
- ~~Additionally,~~ 3. Conduct at least one two simulated lock-down drills and crisis emergency evacuation activity should be conducted early in the activities each school year, one in September and one in January.

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

Each school building with instructional or administrative staff of 10 or more shall have at least three employees with current certification or training in emergency first aid, cardiopulmonary resuscitation, and the use of an automated

external defibrillator. If one or more students diagnosed as having diabetes attend such school, at least two employees shall have been trained in the administration of insulin and glucagon.

Each school building with instructional or administrative staff fewer than 10 shall have at least two employees with current certification or training in emergency first aid, cardiopulmonary resuscitation, and the use of an automated external defibrillator. If one or more students diagnosed as having diabetes attend such school, at least one employee shall have been trained in the administration of insulin and glucagon.

D. In addition, the school administration shall ensure that the school has:

1. Written procedures to follow in emergencies such as fire, injury, illness, allergic reactions, and violent or threatening behavior. This shall include school board policies for the possession and administration of epinephrine in every school, to be administered by any school nurse, employee of the school board, employee of a local governing body, or employee of a local health department who is authorized by a prescriber and trained in the administration of epinephrine to any student believed to be having an anaphylactic reaction. The plan shall be outlined in the student handbook and discussed with staff and students during the first week of each school year;
2. Space for the proper care of students who become ill;
3. A written procedure, in accordance with guidelines established by the local school board, for responding to violent, disruptive or illegal activities by students on school property or during a school sponsored activity; and
4. Written procedures to follow for the safe evacuation of persons with special physical, medical, or language needs who may need assistance to exit a facility.

Part VII

School and Community Communications

8VAC20-131-270. School and community communications.

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

1. Involve parents, citizens, community agencies, and representatives from business and industry in developing, disseminating, and explaining the biennial school plan; on advisory committees; in curriculum studies; and in evaluating the educational program.
2. Provide annually to the parents and the community the School Performance Report Card in a manner prescribed by the board. The information contained therein will be for the most recent three-year period. Such information shall include but not be limited to:

a. Virginia assessment program results by percentage of participation and proficiency and disaggregated by student subgroups.

b. The accreditation rating earned by the school.

c. Attendance rates for students.

d. Information related to school safety to include, but not limited to, incidents of crime and violence.

e. Information related to qualifications and educational attainment of the teaching staff.

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

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

(2) International Baccalaureate (IB) and Cambridge course information to include percentage of students who are enrolled in IB or Cambridge programs and percentage of students who receive IB or Cambridge Diplomas;

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

(4) Number and percentage of (i) graduates by diploma type as prescribed by the Board of Education, (ii) certificates awarded to the senior class including ~~GED credentials~~ high school equivalency preparation program credentials approved by the board, and (iii) students who do not complete high school;

(5) As a separate category on the school report card, the number of students obtaining board-approved industry certifications, and passing state licensure examinations, national occupational competency assessments and Virginia workplace readiness skills assessments while still in high school and the number of career and technical education completers who graduated; and

(6) Number and percentage of drop-outs.

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

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

B. At the beginning of each school year, each school shall provide to its students' parents or guardians information on the availability of and source for receiving:

1. The learning objectives developed in accordance with the provisions of 8VAC20-131-70 to be achieved at their child's grade level or, in high school, a copy of the syllabus for each of their child's courses, and a copy of the school division promotion, retention, and remediation policies;

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2. The Standards of Learning applicable to the child's grade or course requirements and the approximate date and potential impact of the child's next SOL testing; and

3. An annual notice to students in all grade levels of all requirements for Standard Diploma and Advanced Studies Diploma, and the board's policies on promotion and retention as outlined in 8VAC20-131-30.

The division superintendent shall report to the department compliance with this subsection through the preaccreditation eligibility procedures in 8VAC20-131-290.

Part VIII School Accreditation

8VAC20-131-280. Expectations for school accountability.

A. Schools will be accredited annually based on compliance with preaccreditation eligibility requirements and achievement of the school accountability requirements of 8VAC20-131-300 C.

B. Each school shall be accredited based, primarily, on achievement of the criteria established in 8VAC20-131-30 and in 8VAC20-131-50 as specified below:

1. The percentage of students passing the Virginia assessment program tests in the four core academic areas administered in the school with the accreditation rating calculated on a trailing three-year average that includes the current year scores and the scores from the two most recent years in each applicable academic area, or on the current year's scores, whichever is higher.

2. The percentage of students graduating from or completing high school based on a graduation and completion index prescribed by the Board of Education. The accreditation rating of any school with a twelfth grade shall be determined based on achievement of required SOL pass rates and percentage points on the board's graduation and completion index. School accreditation shall be determined by the school's current year index points or a trailing three-year average of index points that includes the current year and the two most recent years, whichever is higher. The Board of Education's graduation and completion index shall include weighted points for diploma graduates (100 points), ~~GED~~ recipients of high school equivalency credentials approved by the board (75 points), students not graduating but still in school (70 points), and students earning certificates of program completion (25 points).

The graduation and completion index calculation for a school shall be increased by three points for each student who obtains both a diploma and an industry certification, industry pathway certification, a state licensure, or an occupational competency credential in a career and technical education program, when such certification, licensure, or credential is approved by the Board of Education as student-selected verified credit; however, the

additional three points shall not be used to obtain a higher accreditation rating.

The Board of Education's graduation and completion index shall account for all students in the graduating class's ninth-grade cohort, plus students transferring in, minus students transferring out ~~and~~, deceased students, and students who fail to graduate because they are in the custody of the Department of Corrections, the Department of Juvenile Justice, or local law enforcement. Those students who are not included in one of the preceding categories will also be included in the index.

For the purposes of the Standards of Accreditation, the Board of Education shall use a graduation rate formula that excludes any student who fails to graduate because such student is in the custody of the Department of Corrections, the Department of Juvenile Justice, or local law enforcement.

3. The number of students who successfully complete a remediation recovery program.

4. Schools, with grade configurations that do not house a grade or offer courses for which SOL tests or additional tests approved by the Board of Education as outlined in 8VAC20-131-110 are administered, will be paired with another school in the division housing one or more of the grades in which SOL tests are administered. The pairing of such schools will be made upon the recommendation of the local superintendent. The schools should have a "feeder" relationship and the grades should be contiguous.

C. Subject to the provisions of 8VAC20-131-350, the governing school board of special purpose schools such as those provided for in § 22.1-26 of the Code of Virginia, Governor's schools, special education schools, alternative schools, or career and technical schools that serve as the student's school of principal enrollment may seek approval of an alternative accreditation plan from the Board of Education. Schools offering alternative education programs and schools with a graduation cohort of 50 or fewer students as defined by the graduation rate formula adopted by the board may request that the board approve an alternative accreditation plan to meet the graduation and completion index benchmark. Special purpose schools with alternative accreditation plans shall be evaluated on standards appropriate to the programs offered in the school and approved by the board prior to August 1 of the school year for which approval is requested. Any student graduating from a special purpose school with a Standard Diploma or an Advanced Studies Diploma must meet the requirements prescribed in 8VAC20-131-50.

In addition, pursuant to § 22.1-253.13:3 of the Code of Virginia, any school board, on behalf of one or more of its schools, may request the Board of Education for approval of an Individual School Accreditation Plan for the evaluation of the performance of one or more of its schools as authorized for special purpose schools.

D. When calculating the passing rates on Virginia assessment program tests for the purpose of school accreditation, the following tolerances for limited English proficient (LEP) and transfer students will apply:

1. The scores of LEP students enrolled in Virginia public schools fewer than 11 semesters may be removed from the calculation used for the purpose of school accreditation required by 8VAC20-131-280 B and 8VAC20-131-300 C. Completion of a semester shall be based on school membership days. Membership days are defined as the days the student is officially enrolled in a Virginia public school, regardless of days absent or present. For a semester to count as a completed semester, a student must have been in membership for a majority of the membership days of the semester. These semesters need not be consecutive.
2. In accordance with the provisions of 8VAC20-131-30, all students who transfer into Virginia public schools are expected to take and pass all applicable SOL tests in the content areas in which they receive instruction.
3. All students who transfer within a school division shall have their scores counted in the calculation of the school's accreditation rating. Students who transfer into a Virginia school from home instruction, or from another Virginia school division, another state, or another country, in grades kindergarten through 8 shall be expected to take all applicable SOL tests or additional tests approved by the board as outlined in 8VAC20-131-110. If the transfer takes place after the 20th instructional day following the opening of school, the scores on these tests may be used in calculating school accreditation ratings.
4. Students who transfer into a Virginia middle or high school from home instruction, or from another state or country, and enroll in a course for which there is an end-of-course SOL test, shall be expected to take the test or additional tests for that course approved by the board as outlined in 8VAC20-131-110. If the transfer takes place after 20 instructional hours per course have elapsed following the opening of school or beginning of the semester, if applicable, the scores on those tests may be used in calculating school accreditation ratings in the year the transfer occurs.
5. Students who enroll on the first day of school and subsequently transfer to a school outside of the division for a total amount of instructional time equal to or exceeding 50% of a current school year or semester, whether the transfer was a singular or multiple occurrence, and return during the same school year shall be expected to take any applicable SOL test. The scores of those tests may be used in calculating the school accreditation rating in the year in which the transfers occur.

E. The Board of Education may adopt special provisions related to the administration and use of any Virginia assessment program test in a content area. The Board of Education may adopt special provisions related to the

administration and use of the graduation and completion index, as prescribed by the board. The Board of Education may also alter the inclusions and exclusions from the accreditation calculations by providing adequate notice to local school boards. The board may add new tests or discontinue the use of existing tests in the Virginia Assessment Program by providing adequate notice to local school boards.

F. As a prerequisite to the awarding of an accreditation rating as defined in 8VAC20-131-300, each new or existing school shall document, in a manner prescribed by the board, the following: (i) the division's promotion/retention policies developed in accordance with the requirements of 8VAC20-131-30, (ii) compliance with the requirements to offer courses that will allow students to complete the graduation requirements in 8VAC20-131-50, (iii) the ability to offer the instructional program prescribed in 8VAC20-131-70 through 8VAC20-131-100, (iv) the leadership and staffing requirements of 8VAC20-131-210 through 8VAC20-131-240, and (v) the facilities and safety provisions of 8VAC20-131-260. The division superintendent shall report to the department compliance with this subsection through the preaccreditation eligibility procedures in 8VAC20-131-290.

8VAC20-131-300. Application of the standards.

A. Schools Effective no later than the academic year 2016-2017, schools that meet the preaccreditation eligibility requirements prescribed in 8VAC20-131-280 F shall be assigned one of the following ratings as described in this section:

1. Fully Accredited;
- ~~2. Accredited with Warning in (specified academic area or areas and/or in achievement of the minimum threshold for the graduation and completion index);~~
2. Conditionally Accredited: New School
3. Partially Accredited according to criteria in one or more of the following categories:
 - a. Approaching Benchmark-within specified margins
 - (1) Graduation and Completion Index
 - (2) Pass Rate
 - b. Improving School-meets criteria for improvement over previous year or for student growth
 - (1) Graduation and Completion Index
 - (2) Pass Rate
 - c. Warned School
 - (1) Graduation and Completion Index
 - (2) Pass Rate
 - d. Reconstituted School
- ~~3. 4. Accreditation Denied;~~
- ~~4. Conditionally Accredited;~~
- ~~5. Provisionally Accredited Graduation Rate.~~

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B. Compliance with the student academic achievement expectations shall be documented to the board directly through the reporting of the results of student performance on SOL tests and other alternative means of assessing student academic achievement as outlined in 8VAC20-131-110. To facilitate accurate reporting of the graduation and completion index, the State Testing Identifier (STI) for students who transfer into a Virginia public school from another Virginia public school shall be retained by the receiving school. Compliance with other provisions of these regulations will be documented in accordance with procedures prescribed by the Board of Education.

C. Accreditation ratings defined. Accreditation ratings awarded in an academic year are based upon Virginia assessment program scores from the academic year immediately prior to the year to which the accreditation rating applies and on graduation and completion indexes (for schools with twelfth grade) established for the current year. Accreditation Effective no later than the academic year 2016-2017, accreditation ratings are defined as follows:

1. ~~Fully accredited~~ Accredited.

~~a. With tests administered in the academic years 2010-2011 and 2011-2012 for the accreditation ratings awarded for academic years 2011-2012 and 2012-2013 respectively, a school will be rated Fully Accredited when its eligible students meet the pass rate of 70% in each of the four core academic areas except, the pass rates required shall be 75% in third grade through fifth-grade English and 50% in third grade science and history/social science.~~

~~b. For schools housing grade configurations where multiple pass rates apply, the results of the tests may be combined in each of the four core academic areas for the purpose of calculating the school's accreditation rating provided the school chooses to meet the higher pass rate.~~

~~e. With tests administered beginning in the academic year 2012-2013 for the accreditation ratings awarded for school year 2013-2014 and beyond, a~~ a. A school will be rated Fully Accredited when its eligible students meet the pass rate of 75% in English and the pass rate of 70% in mathematics, science, and history and social science. Additionally, each school with a graduating class shall achieve a minimum of 85 percentage points on the Board of Education's graduation and completion index, as described in 8VAC20-131-280 B 2, to be rated Fully Accredited.

~~d. b.~~ For accreditation purposes, the pass rate will be calculated as single rates for each of the four core academic areas by combining all scores of all tests administered in each subject area.

~~2. Accredited with Warning (in specific academic areas and/or in achievement of the minimum threshold for the graduation and completion index). A school will be Accredited with Warning (in specific academic areas~~

~~and/or in achievement of the minimum threshold for the graduation and completion index) if it has failed to achieve Fully Accredited status. Such a school may remain in the Accredited with Warning status for no more than three consecutive years.~~

2. Conditionally Accredited: New School. New schools that are comprised of students from one or more existing schools in the division will be awarded a Conditionally Accredited: New School status for one year pending an evaluation of the school's eligible students' performance on SOL tests or additional tests approved by the Board of Education to be rated Fully Accredited.

3. Partially Accredited. A school which meets criteria as prescribed by the Board of Education will be designated as Partially Accredited according to the specific categories shown below.

a. Approaching Benchmark (within specified margins):

(1) Graduation and Completion Index. Based on components of the graduation and completion index as described in 8VAC20-131-280 B 2, a school will be rated as Partially Accredited: Approaching Benchmark-Graduation and Completion Index when its eligible students meet pass rates required for full accreditation and its graduation and completion index is within a narrow margin of the minimum threshold as prescribed by the board. A school may remain in the Partially Accredited: Approaching Benchmark-Graduation and Completion Index status for no more than three consecutive years, unless an extension is granted based on criteria established by the board.

(2) Pass Rate. Based on tests administered in the previous academic year, a school will be rated as Partially Accredited: Approaching Benchmark-Pass Rate if the school does not meet the requirements for full accreditation in all of the four core academic subject areas but the pass rate in each subject area either (i) meets the pass rate required for full accreditation or (ii) is within a narrow margin of the pass rate required for full accreditation, as defined by the board. A school may remain in the Partially Accredited: Approaching Benchmark-Pass Rate status for no more than three consecutive years, unless an extension is granted based on criteria established by the board.

b. Improving School (meets criteria for improvement or student growth, or both, over previous year):

(1) Graduation and Completion Index. Based on components of the graduation and completion index as described in 8VAC20-131-280 B 2, a school will be rated as Partially Accredited: Improving School-Graduation and Completion Index when its eligible students meet pass rates required for full accreditation, but its graduation and completion index is not within the established narrow margin of the minimum threshold prescribed by the board; however it has achieved

sufficient improvement in its graduation and completion index from the previous year, as prescribed by the board. A school may remain in the Partially Accredited: Improving School-Graduation and Completion Index status for no more than three consecutive years, unless an extension is granted based on criteria established by the board.

(2) Pass Rate. Based on tests administered in the previous academic year, a school will be rated as Partially Accredited: Improving School-Pass Rate if the school does not meet the requirements for full accreditation or for Partially Accredited: Approaching Benchmark-Pass Rate, but in each of the four core academic subject areas, one of the following criteria is met: (i) the pass rate meets the benchmark required for full accreditation; (ii) the pass rate is within a narrow margin of the benchmark required for full accreditation, as defined by the board; (iii) the school has demonstrated sufficient improvement in its pass rate from the previous year as defined by the board; or (iv) the school has demonstrated sufficient student growth, as defined by the board. A school may remain in the Partially Accredited: Improving School-Pass Rate status for no more than three consecutive years, unless an extension is granted based on criteria established by the board.

c. Warned School:

(1) Graduation and Completion Index. A school will be designated as Partially Accredited: Warned School-Graduation and Completion Index if it has failed to achieve Fully Accredited, Partially Accredited: Approaching Benchmark-Graduation and Completion Index, or Partially Accredited: Improving School-Graduation and Completion Index status. Such a school may remain in the Partially Accredited: Warned School-Graduation and Completion Index status for no more than three consecutive years.

(2) Pass Rate. A school will be designated as Partially Accredited: Warned School-Pass Rate if it has failed to achieve Fully Accredited, Partially Accredited: Approaching Benchmark-Pass Rate, or Partially Accredited: Improving School-Pass Rate status. Such a school may remain in the Partially Accredited: Warned School-Pass Rate status for no more than three consecutive years.

d. Reconstituted School. A Partially Accredited: Reconstituted School rating may be awarded to a school that is being reconstituted in accordance with the provisions of 8VAC20-131-340 upon approval by the Board of Education. A school awarded this rating under those circumstances will revert to a status of Accreditation Denied if it fails to meet the requirements to be rated Fully Accredited by the end of the agreed upon term or if it fails to have its annual application for such rating renewed.

3. 4. Accreditation Denied. Based on a school's academic performance and/or achievement of the minimum threshold or performance for the graduation and completion index, or both, a school shall be rated Accreditation Denied if it fails to meet the requirements to be rated Fully Accredited or Provisionally Accredited Graduation Rate, Partially Accredited for the preceding three consecutive years or for three consecutive years anytime thereafter.

In any school division in which one-third or more of the schools have been rated Accreditation Denied, the superintendent shall be evaluated by the local school board with a copy of such evaluation submitted to the Board of Education no later than December 1 of each year in which such condition exists. In addition, the Board of Education may take action against the local school board as permitted by the Standards of Quality due to the failure of the local board to maintain accredited schools.

4. Conditionally Accredited. New schools that are comprised of students from one or more existing schools in the division will be awarded a Conditionally Accredited New status for one year pending an evaluation of the school's eligible students' performance on SOL tests or additional tests approved by the Board of Education to be rated Fully Accredited. A Conditionally Accredited Reconstituted rating may be awarded to a school that is being reconstituted in accordance with the provisions of 8VAC20-131-340 upon approval by the Board of Education. A school awarded this rating under those circumstances will revert to a status of Accreditation Denied if it fails to meet the requirements to be rated Fully Accredited by the end of the agreed upon term or if it fails to have its annual application for such rating renewed.

5. Provisionally Accredited Graduation Rate. With tests administered in the academic years 2010-2011, 2011-2012, 2012-2013, 2013-2014, 2014-2015 for the accreditation ratings awarded for academic years 2011-2012, 2012-2013, 2013-2014, 2014-2015, and 2015-2016 respectively, a school will be rated Provisionally Accredited Graduation Rate when its eligible students meet SOL pass rates to be rated Fully Accredited but fails to achieve a minimum of 85 percentage index points on the Board of Education's graduation and completion index, but achieve the following minimum benchmarks for each year:

| Graduation and Completion Index Benchmarks for Provisionally Accredited Ratings | | |
|---|--------------------|-------------------------|
| Academic Year | Accreditation Year | Index Percentage Points |
| 2010-2011 | 2011-2012 | 80 |
| 2011-2012 | 2012-2013 | 81 |
| 2012-2013 | 2013-2014 | 82 |
| 2013-2014 | 2014-2015 | 83 |
| 2014-2015 | 2015-2016 | 84 |

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The last year in which this rating shall be awarded is the 2015-2016 accreditation year, based on tests administered in the 2014-2015 academic year.

8VAC20-131-310. Action requirements for schools that are ~~Accredited with Warning or Provisionally Accredited-Graduation Rate~~ designated Partially Accredited in the following categories: (i) Improving School-Pass Rate; (ii) Improving School-Graduation and Completion Index; and (iii) Warned School.

A. With such funds as are appropriated by the General Assembly, the Department of Education shall develop a school academic review process and monitoring plan designed to assist schools rated as ~~Accredited with Warning Partially Accredited~~ in the following categories: (i) Improving School-Pass Rate; (ii) Improving School-Graduation and Completion Index; and (iii) Warned School. All procedures and operations for the academic review process shall be approved and adopted by the board.

Schools rated ~~Accredited with Warning or Provisionally Accredited-Graduation Rate~~ Partially Accredited in the following categories: (i) Improving School-Pass Rate; (ii) Improving School-Graduation and Completion Index; and (iii) Warned School must undergo an academic review in accordance with guidelines adopted by the board and prepare a school improvement plan as required by subsection F of this section.

B. Any school that is rated ~~Accredited with Warning Partially Accredited: Warned School-Pass Rate~~ because of pass rates in English or mathematics shall adopt a research-based instructional intervention that has a proven track record of success at raising student achievement in those areas as appropriate.

C. The superintendent and principal shall certify in writing to the Board of Education that such an intervention has been adopted and implemented.

D. The board shall publish a list of recommended instructional interventions, which may be amended from time to time.

E. Adoption of instructional interventions referenced in subsections B and D of this section shall be funded by eligible local, state, and federal funds.

F. A three-year School Improvement Plan must be developed and implemented, based on the results of an academic review of each school that is rated ~~Accredited with Warning or Provisionally Accredited-Graduation Rate Partially Accredited~~ in the following categories: (i) Improving School-Pass Rate; (ii) Improving School-Graduation and Completion Index; and (iii) Warned School. upon receipt of notification of the awarding of this rating and receipt of the results of the academic review. The plan:

1. Shall be developed with the assistance of parents and teachers and made available to the public;

2. Must include the components outlined in subsection G of this section; and

3. Must be approved by the division superintendent and the local school board and be designed to assist the school in meeting the student achievement standard to be Fully Accredited as outlined in 8VAC20-131-300.

G. The improvement plan shall include the following:

1. A description of how the school will meet the requirements to be Fully Accredited, for each of the years covered by the plan;
2. Specific measures for achieving and documenting student academic improvement;
3. A description of the amount of time in the school day devoted to instruction in the core academic areas;
4. Instructional practices designed to remediate students who have not been successful on SOL tests;
5. Intervention strategies designed to prevent further declines in student performance and graduation rates;
6. Staff development needed;
7. Strategies to involve and assist parents in raising their child's academic performance;
8. The need for flexibility or waivers to state or local regulations to meet the objectives of the plan; and
9. A description of the manner in which local, state, and federal funds are used to support the implementation of the components of this plan.

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

H. The school improvement plan and related annual reports submitted to the board shall provide documentation of the continuous efforts of the school to achieve the requirements to become rated Fully Accredited. The board shall adopt and approve all policies and formats for the submission of annual reports under this section. The reports shall be due no later than October 1 of the school year.

8VAC20-131-315. Action requirements for schools that are denied accreditation.

A. Any school rated Accreditation Denied in accordance with 8VAC20-131-300 shall be subject to actions prescribed by the Board of Education and shall provide parents of enrolled students and other interested parties with the following:

1. Written notice of the school's accreditation rating within 30 calendar days of the notification of the rating from the Department of Education;
2. A copy of the school division's proposed corrective action plan, including a timeline for implementation, to improve the school's accreditation rating; and

3. An opportunity to comment on the division's proposed corrective action plan. Such public comment shall be received and considered by the school division prior to finalizing the school's corrective action plan and a Board of Education memorandum of understanding with the local school board.

B. Any school rated Accreditation Denied in accordance with 8VAC20-131-300 shall be subject to actions prescribed by the Board of Education and affirmed through a memorandum of understanding between the Board of Education and the local school board. The local school board shall submit a corrective action plan to the Board of Education for its consideration in prescribing actions in the memorandum of understanding within 45 days of the notification of the rating. The memorandum of understanding shall be entered into no later than November 1 of the academic year in which the rating is awarded.

The local board shall submit status reports detailing implementation of actions prescribed by the memorandum of understanding to the Board of Education. The status reports shall be signed by the school principal, division superintendent, and the chair of the local school board. The school principal, division superintendent, and the chair of the local school board may be required to appear before the Board of Education to present status reports.

The memorandum of understanding may also include but not be limited to:

1. Undergoing an educational service delivery and management review. The Board of Education shall prescribe the content of such review and approve the reviewing authority retained by the school division.
2. Employing a turnaround specialist credentialed by the state to address those conditions at the school that may impede educational progress and effectiveness and academic success.

C. As an alternative to the memorandum of understanding outlined in subsection B of this section, a local school board may choose to reconstitute a school rated Accreditation Denied and apply to the Board of Education for a rating of ~~Conditionally Accredited~~ Partially Accredited: Reconstituted School. The application shall outline specific responses that address all areas of deficiency that resulted in the Accreditation Denied rating and may include any of the provisions of subsection B of this section.

If a local school board chooses to reconstitute a school, it may annually apply for an accreditation rating of ~~Conditionally Accredited~~ Partially Accredited: Reconstituted School as provided for in 8VAC20-131-300 C ~~5~~ 3 d. The ~~Conditionally Accredited~~ Partially Accredited: Reconstituted School rating may be granted for a period not to exceed three years if the school is making progress toward a rating of Fully Accredited in accordance with the terms of the Board of Education's approval of the reconstitution application. The school will revert to a status of Accreditation Denied if it fails

to meet the requirements to be rated Fully Accredited by the end of the three-year term or if it fails to have its annual application for such rating renewed.

D. The local school board may choose to close a school rated Accreditation Denied or to combine such school with a higher performing school in the division.

E. A local school board that has any school with the status of Accreditation Denied shall annually report each school's progress toward meeting the requirements to be rated Fully Accredited to the Board of Education. The local board shall submit such report in a manner prescribed by the Board of Education no later than October 1 of each year. Such reports on each school's progress shall be included in the Board of Education's annual report on the condition and needs of public education to the Governor and the General Assembly submitted on November 15 of each year.

8VAC20-131-360. Effective date.

A. The provisions in 8VAC20-131-30 B relating to double testing and the provisions in 8VAC20-131-60 C relating to Virtual Virginia shall become effective July 31, 2009.

B. Graduation requirements prescribed in 8VAC20-131-50 B and C for the Standard Diploma and the Advanced Studies Diploma shall become effective with the ninth-grade class of 2013-2014.

C. Schools with a graduating class shall meet prescribed thresholds on a graduation and completion rate index as prescribed in 8VAC20-131-280 and 8VAC20-131-300 for accreditation ratings earned in 2010-2011 and awarded in 2011-2012.

D. Accreditation ratings prescribed in 8VAC20-131-300 C 1 a shall become effective with tests administered in 2010-2011 and 2011-2012 for ratings awarded in 2011-2012 and 2012-2013.

E. Accreditation ratings prescribed in 8VAC20-121-300 C 1 c shall become effective with tests administered in 2012-2013 for ratings awarded in 2013-2014 and beyond.

F. The Academic and Career Plan prescribed in 8VAC20-131-140 shall become effective in 2013-2014.

G. Unless otherwise specified, the remainder of these regulations shall be effective beginning with the 2011-2012 academic year.

H. The revision of the graduation rate formula, for purposes of the Standards of Accreditation, as described in 8VAC20-131-280 is effective as of July 1, 2016.

VA.R. Doc. No. R15-4464; Filed August 3, 2015, 12:10 p.m.

Proposed Regulation

Titles of Regulations: 8VAC20-542. Regulations Governing the Review and Approval of Education Programs in Virginia (repealing 8VAC20-542-10 through 8VAC20-542-600).

Regulations

8VAC20-543. Regulations Governing the Review and Approval of Education Programs in Virginia (adding 8VAC20-543-10 through 8VAC20-543-640).

Statutory Authority: §§ 22.1-16 and 22.1-298.2 of the Code of Virginia.

Public Hearing Information:

October 22, 2015 - 11 a.m. - James Monroe Building, 101 North 14th Street, 22nd Floor, Conference Room, Richmond, VA 23219. The public hearing will begin immediately following adjournment of the Board of Education business meeting.

Public Comment Deadline: October 31, 2015.

Agency Contact: Patty S. Pitts, Assistant Superintendent for Teacher Education and Licensure, Department of Education, P.O. Box 2120, Richmond, VA 23218, telephone (804) 371-2522, or email patty.pitts@doe.virginia.gov.

Basis: The bases for the regulation are the following:

Section 4 of Article VIII of the Constitution of Virginia, which provides that the general supervision of the public school system shall be vested in a Board of Education.

Section 22.1-16 of the Code of Virginia, which authorizes the board to promulgate such regulations as may be necessary to carry out its powers and duties.

Section 22.1-298.2 of the Code of Virginia, which states that education preparation programs shall meet the requirements for accreditation and program approval as prescribed by the Board of Education in its regulations.

Section 22.1-305.2 of the Code of Virginia regarding the Advisory Board on Teacher Education and Licensure.

Purpose: The proposed regulatory action is essential to protect the health, safety, or welfare of citizens as the regulations set forth the requirements for college and university programs that prepare instructional personnel to be accredited and approved. The completion of an approved program prepares an individual to be licensed by the Virginia Board of Education.

Section 22.1-298.2 of the Code of Virginia, states, in part, the following: "Education preparation programs shall meet the requirements for accreditation and program approval as prescribed by the Board of Education in its regulations."

On September 21, 2007, Regulations Governing the Review and Approval of Education Programs in Virginia, promulgated by the Board of Education, became effective. One additional amendment became effective on January 19, 2011, in response to a requirement of the 2010 Virginia General Assembly to include local government and civics instruction specific to Virginia in certain preparation programs.

A comprehensive review of the Regulations Governing the Review and Approval of Education Programs in Virginia was conducted, and the regulations in their entirety were

examined. The proposed action is to repeal the existing chapter and promulgate a new chapter.

Substance: The proposed new regulations are outlined in detail under the Detail of Changes section in the Proposed Regulation Agency Background Document on the Virginia Regulatory Town Hall. Substantive elements of the proposed new regulations focus on revision of selected definitions to conform with changes in the proposed new regulations; modifications in administration of the proposed new regulations, including national accreditation for all approved Virginia professional education programs and increased rigor in biennial measures of accountability; addition of new education program endorsement areas in mathematics, engineering, and special education and increased rigor in professional studies requirements for selected education program endorsement areas.

Issues: The primary advantage to the public and the Commonwealth is to ensure that programs preparing instructional personnel are reviewed according to Board of Education standards. Institutions of higher education are accountable to meet statutory and regulatory requirements to continue to offer approved preparation programs. In addition, an amendment will require all professional education programs in Virginia to be accredited by the Council for the Accreditation of Educator Preparation (CAEP), thereby, requiring national accreditation and Board of Education approval. An issue for institutions of higher education is the cost associated with obtaining and maintaining national accreditation.

Department of Planning and Budget's Economic Impact Analysis:

Summary of the Proposed Amendments to Regulation. The Board of Education (Board) proposes to repeal the current regulation (8VAC20-542) and replace it with a new regulation (8VAC20-543). In doing so, the Board proposes numerous amendments to the rules including:

- Revising definitions for accredited program, biennial accountability measures, biennial report, field experiences, professional education program, and regional accrediting agency.
- Adding definitions for Annual Report Card, education endorsement program, program completers, and program non-completers.
- Eliminating definitions for candidates completing a program, candidates exiting a program, distance learning, education program, exceptionalities, full-time faculty, general education, governance, part-time faculty, pedagogical studies, professional education faculty, scholarly activities, and school faculty.¹
- Removing the professional studies coursework cap.
- Allowing professional studies coursework and methodology to include field experiences to be designated for completion within a baccalaureate degree program.²

- Requiring education programs to ensure that candidates complete training or certification in emergency first aid, cardiopulmonary resuscitation, and the use of automated external defibrillators.³
- Eliminating the option for the Board to approve the professional education process and require all professional education programs to be accredited by a national organization.⁴
- Revising the biennial standards for candidate progress and performance on Board licensure assessments.
- Modifying the student teaching requirements to stipulate continuous, systematic supervised clinical experiences comprised of early field experiences with a minimum of ten weeks of full-time student teaching under the supervision of a cooperating teacher with demonstrated effectiveness in the classroom, as indicated by a proficient or exemplary evaluation rating.
- Expanding indicators for evidence of employer job satisfaction with candidates completing the program to require documentation to address teacher performance, including student academic progress.
- Mandating that ratings for education endorsement programs include national accreditation of professional education programs as a prerequisite to education endorsement program approval and a description of education endorsement program candidates biennial passing rates, reported by percentages.
- Expanding the approved with stipulations rating to more clearly define consequences for education endorsement programs that fall below the 80 percent biennial passing rate for program completers and non-completers.
- Amending the approval denied rating to more clearly define how this standard is applied.
- Requiring accredited professional education programs to submit a new Annual Report Card that includes yearly data on the preparation of professional school personnel.
- Amending the competencies language for all educational endorsement programs to include general and specific competencies and requirements for education endorsement programs.
- Deleting language describing education program endorsements in career and technical education-industrial cooperative training (ICT) and special education-speech-language disorders preK-12.⁵
- Adding education program endorsements in engineering; special education-general curriculum K-6, middle grades 6-8, and secondary education grades 6-12; and mathematics specialist for middle education.

Result of Analysis. The benefits likely exceed the costs for some changes. For other amendments, whether the benefits exceed the costs depend on the policy views of the observer.

Estimated Economic Impact.

1. First Aid, CPR, and AED Training: The legislatively mandated proposal to specify that education programs ensure that candidates complete training or certification in emergency first aid, cardiopulmonary resuscitation, and the use of automated external defibrillators will introduce significant benefits and costs. Having all (or nearly all) teachers educated in the Commonwealth trained in emergency first aid, cardiopulmonary resuscitation, and the use of automated external defibrillators will increase the likelihood that someone with potentially lifesaving skills will be on hand during medical emergencies in the classroom. To the extent that the future teachers absorb and retain the knowledge they gain in this training, the long-run benefits may be quite significant.

For onsite training in emergency first aid, cardiopulmonary resuscitation, and the use of automated external defibrillators, the American Red Cross charges \$250 plus \$72 per student if there are at least 20 students. So for example, an education program with 50 students the fees would total \$3,850.⁶ If done all in person, the Red Cross training would take 5.5 hours. Alternatively, the students could do 2 hours of online training ahead of time. In that case the in-person training would last 1.5 hours. The fees would be the same in either case, but the amount of time that potentially could have been used for other subjects differs.

2. Education Program Accreditation: Under the current regulations, Professional education programs in Virginia shall obtain and maintain national accreditation from the National Council for the Accreditation of Teacher Education (NCATE) and the Teacher Education Accreditation Council (TEAC), or a process approved by the Board of Education. Of the 37 Virginia colleges with professional education programs, 28 have national accreditation and 9 have accreditation via the Board-approved process. The proposal to eliminate the option for the Board to approve the professional education process and require all professional education programs to be accredited by a national organization will increase costs for the 9 colleges whose professional education programs are not yet nationally accredited.

On July 1, 2013, the NCATE and TEAC merged, creating the Council for the Accreditation of Educator Preparation (CAEP), the new sole national accreditor for educator preparation.⁷ The CAEP accreditation visit fee ranges from \$5,250 to \$14,000, depending on the size of the required visit team. The annual CAEP fee is based upon the number of program completers in the professional education program. The following table displays the CAEP annual fee range:

| 2014-2015 CAEP EPP Fees (July 1, 2014 - June 30, 2015) | |
|---|-------------|
| Completers | Annual Fees |
| 1 - 50 | \$2,320 |
| 51 - 150 | \$2,575 |

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| | |
|------------|---------|
| 151 - 300 | \$2,935 |
| 301 - 500 | \$3,400 |
| 501 - 1000 | \$4,480 |
| 1000+ | \$5,200 |

Since 28 out of the 37 Virginia colleges with professional education programs have already opted to have national accreditation, it appears that there is significant benefit associated with having national accreditation. Thus taking into account this benefit, the net cost to the 9 colleges whose professional education programs are not yet nationally accredited will likely be significantly less than just considering their additional financial cost. The proposal to eliminate the option for the Board to approve the professional education process and require all professional education programs to be accredited by a national organization also enables the Virginia Department of Education to reallocate staff resources to be used in other productive ways. This produces an additional benefit.

Businesses and Entities Affected. The proposed amendments affect the 37 colleges and universities in Virginia that have education programs, the 132 public school divisions in the Commonwealth, current and future teachers, and businesses or organizations that provide training in emergency first aid, cardiopulmonary resuscitation, and the use of automated external defibrillators.

Localities Particularly Affected. The proposed amendments do not disproportionately affect particular localities.

Projected Impact on Employment. The requirement that education programs ensure that candidates complete training or certification in emergency first aid, cardiopulmonary resuscitation, and the use of automated external defibrillators will increase demand for these services from businesses and organizations that provide such training. The increase in demand may be enough to create additional jobs.

Effects on the Use and Value of Private Property. The requirement that education programs ensure that candidates complete training or certification in emergency first aid, cardiopulmonary resuscitation, and the use of automated external defibrillators will likely increase business for firms that provide such training.

Small Businesses: Costs and Other Effects. The proposed amendments are unlikely to significantly affect costs for small businesses. The requirement that education programs ensure that candidates complete training or certification in emergency first aid, cardiopulmonary resuscitation, and the use of automated external defibrillators will increase demand for small firms that provide such training.

Small Businesses: Alternative Method that Minimizes Adverse Impact. The proposed amendments will not adversely affect small businesses.

Real Estate Development Costs. The proposed amendments are unlikely to significantly affect real estate development costs.

Legal Mandate. General: The Department of Planning and Budget (DPB) has analyzed the economic impact of this proposed regulation in accordance with § 2.2-4007.04 of the Code of Virginia and Executive Order Number 14 (2010). Section 2.2-4007.04 requires that such economic impact analyses determine the public benefits and costs of the proposed amendments. Further the report should include but not be limited to:

- the projected number of businesses or other entities to whom the proposed regulatory action would apply,
- the identity of any localities and types of businesses or other entities particularly affected,
- the projected number of persons and employment positions to be affected,
- the projected costs to affected businesses or entities to implement or comply with the regulation, and
- the impact on the use and value of private property.

Small Businesses: If the proposed regulatory action will have an adverse effect on small businesses, § 2.2-4007.04 requires that such economic impact analyses include:

- an identification and estimate of the number of small businesses subject to the proposed regulation,
- the projected reporting, recordkeeping, and other administrative costs required for small businesses to comply with the proposed regulation, including the type of professional skills necessary for preparing required reports and other documents,
- a statement of the probable effect of the proposed regulation on affected small businesses, and
- a description of any less intrusive or less costly alternative methods of achieving the purpose of the proposed regulation.

Additionally, pursuant to § 2.2-4007.1, if there is a finding that a proposed regulation may have an adverse impact on small business, the Joint Commission on Administrative Rules is notified at the time the proposed regulation is submitted to the Virginia Register of Regulations for publication. This analysis shall represent DPB's best estimate for the purposes of public review and comment on the proposed regulation.

¹DOE indicated that presently, these definitions primarily refer to terms used in the Board-approved accreditation process. Since that option for accreditation is being eliminated, these terms would become obsolete and are therefore being repealed.

²Field experiences are currently excluded.

³This change was mandated by Chapter 498 of the 2013 Acts of Assembly.

⁴According to DOE, this change is expected to affect nine institutions of higher education.

⁵According to DOE, the ICT program was never used so it was eliminated from the regulatory text. The change to the special education program

resulted from a joint effort with the Department of Health Professions (DHP) to eliminate confusion as to whether these individuals should be licensed by DHP or DOE. Chapter 781 of the 2014 Acts of Assembly clarified that DHP would issue the licenses; therefore DOE is eliminating references to the program from its regulations.

⁶\$250 + (50 x \$72) = \$3,850

⁷Source: Council for the Accreditation of Educator Preparation website (<http://caepnet.org/about/history/>)

Agency Response to Economic Impact Analysis: The agency concurs with the economic impact analysis completed by the Department of Planning and Budget. The agency will continue to examine the economic and administrative impact of the regulations as they progress through the regulatory process.

Summary:

The proposed action repeals existing regulations (8VAC20-542) and adopts new regulations (8VAC20-543) regarding educational programs that prepare instructional personnel to be accredited and approved for licensure by the Board of Education. Substantive elements of the proposed new regulations focus on (i) revision of selected definitions to conform with changes in the proposed new regulations; (ii) modifications in administration of the proposed new regulations, including national accreditation for all approved Virginia professional education programs and increased rigor in biennial measures of accountability; (iii) addition of new educational program endorsement areas in mathematics, engineering, and special education; and (iv) increased rigor in professional studies requirements for selected education program endorsement areas.

CHAPTER 543

REGULATIONS GOVERNING THE REVIEW AND APPROVAL OF EDUCATION PROGRAMS IN VIRGINIA

**Part I
Definitions**

8VAC20-543-10. Definitions.

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

"Accreditation" means a process for assessing and improving academic and educational quality through voluntary peer review. This process informs the public that an institution has a professional education program that has met national standards of educational quality.

"Accredited institution" means an institution of higher education accredited by a regional accrediting agency recognized by the United States Department of Education.

"Accredited program" means a Virginia professional education program accredited by the Council for the Accreditation of Educator Preparation (CAEP), including CAEP/National Council for the Accreditation of Teacher Education (NCATE) and CAEP/Teacher Education Accreditation Council (TEAC).

"Annual report card" means the Virginia Department of Education yearly data report card required of all professional education programs in Virginia that offer approved programs for the preparation of school personnel.

"Biennial accountability measures" means those specific benchmarks set forth in 8VAC20-543-40 to meet the standards required to obtain or maintain education endorsement program approval status.

"Biennial accountability measurement report" means the compliance report submitted to the Virginia Department of Education every two years by an accredited professional education program.

"Candidates" means individuals enrolled in education programs.

"Department" means the Virginia Department of Education.

"Diversity" means the wide range of differences among groups of people and individuals based on ethnicity, race, socioeconomic status, gender, exceptionalities, language, religion, and geographical area.

"Education endorsement program" means a state-approved course of study, the completion of which signifies that an enrollee has met all the state's educational and training requirements for initial licensure in a specified endorsement area.

"Field experiences" means program components that are (i) conducted in off-campus settings or on-campus settings dedicated to the instruction of children who would or could otherwise be served by school divisions in Virginia or accredited nonpublic schools and (ii) accredited for this purpose by external entities such as regional accrediting agencies. Field experiences include classroom observations, tutoring, assisting teachers and school administrators, and supervised clinical experiences (i.e., practica, student teaching, and internships).

"Indicators" means operational definitions that suggest the kinds of evidence that professional education programs shall provide to demonstrate that a standard is met.

"Instructional technology" means the theory and practice of design, development, utilization, management, and evaluation of processes and resources for learning and the use of computers and other technologies.

"Licensing" means the official recognition by a state governmental agency that an individual has met state requirements and is, therefore, approved to practice as a licensed professional.

"Professional education program" means the Virginia institution, college, school, department or other administrative body within a Virginia institution of higher education, or another Virginia entity, for a defined education program that is primarily responsible for the preparation of teachers and other professional school personnel.

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"Professional studies" means courses and other learning experiences designed to prepare candidates to demonstrate competence in the areas of human development and learning, curriculum and instruction, assessment of and for learning, classroom and behavior management, the teaching profession, reading, and supervised clinical experiences.

"Program approval" means the process by which a state governmental agency reviews an education program to determine if it meets the state's standards for the preparation of school personnel.

"Program completers" means individuals who have successfully completed all coursework, required licensure assessments, including those prescribed by the Board of Education, and supervised student teaching or required internship.

"Program noncompleters" means individuals who have been officially admitted into an education program and who have taken, regardless of whether the individuals passed or failed, required licensure assessments and who exit the program prior to completion. Program noncompleters shall have been officially released in writing from an education endorsement program by an authorized administrator of the program. Program noncompleters who did not take required assessments are not included in biennial reporting pass rates.

"Regional accrediting agency" means one of the six accrediting associations recognized by the United States Department of Education as follows: New England Association of Schools and Colleges, Middle States Association of Colleges and Schools, North Central Association of Colleges and Schools, Northwest Commission on Colleges and Universities, Southern Association of Colleges and Schools, and Western Association of Schools and Colleges.

"Standards of Learning for Virginia public schools" means the Commonwealth's expectations for student learning and achievement in grades K-12 in English, mathematics, science, history/social science, technology, fine arts, foreign language, health and physical education, and driver education.

Part II

Accreditation and Administering this Chapter

8VAC20-543-20. Accreditation and administering this chapter.

A. Institutions of higher education seeking approval of an education endorsement program shall be accredited by a regional accrediting agency.

B. Professional education programs in Virginia shall obtain and maintain national accreditation from the Council for the Accreditation of Educator Preparation (CAEP), including CAEP/National Council for the Accreditation of Teacher Education (NCATE) and CAEP/Teacher Education Accreditation Council (TEAC). Professional education programs in Virginia seeking accreditation through CAEP shall adhere to procedures and timelines established by CAEP

and the CAEP/Virginia Partnership Agreement. Professional education programs shall ensure and document that programs are aligned with standards set forth in 8VAC20-543-40 through 8VAC20-543-50 and meet competencies outlined in 8VAC20-543-60 through 8VAC20-543-640.

C. If a professional education program fails to maintain accreditation, enrolled candidates shall be permitted to complete their programs of study. Professional education programs that fail to maintain accreditation shall not admit new candidates. Candidates shall be notified of the education endorsement program's approval status.

D. Teacher candidates shall complete academic degrees in the arts and sciences, or equivalent, except in health, physical, and career and technical education. Candidates in early/primary education preK-3, elementary education (preK-6), middle education (6-8), and special education programs may complete a major in interdisciplinary studies or its equivalent. Candidates seeking a secondary endorsement area must have earned a major, or the equivalent, in the area sought.

E. Professional studies coursework and methodology, including field experiences, required in this chapter shall be designed for completion within a baccalaureate degree program.

F. Professional education programs shall ensure that candidates demonstrate proficiency in the use of educational technology for instruction; complete study in child abuse recognition and intervention; and complete training or certification in emergency first aid, cardiopulmonary resuscitation, and the use of automated external defibrillators.

G. Standards and procedures for the review and approval of each education endorsement program shall adhere to procedures for administering the chapter as defined in this section and in 8VAC20-543-40, 8VAC20-543-50, and 8VAC20-543-60. These procedures shall result in biennial recommendations to the Board of Education for one of the following three ratings: "approved," "approved with stipulations," or "approval denied."

H. Education endorsement programs shall be approved under this chapter biennially based on compliance with the criteria described in 8VAC20-543-40, 8VAC20-543-50, and 8VAC20-543-60.

I. The Department of Education will determine the timeline and procedures for applying for education endorsement program approval.

J. Education endorsement programs in Virginia shall address the competencies set forth in this chapter, and the curriculum for each program must be documented and submitted to the Department of Education for approval.

K. Professional education programs shall submit to the Department of Education on behalf of each education endorsement program under consideration a biennial accountability measurement report and an annual report card

to include data prescribed by the Board of Education on education endorsement programs in accordance with department procedures and timelines.

L. The professional education program authorized administrator shall maintain copies of approved education endorsement programs and required reports.

M. The Department of Education may conduct onsite visits to review education endorsement programs and verify data.

N. The Advisory Board on Teacher Education and Licensure (ABTEL) is authorized to review and make recommendations to the Board of Education on approval of Virginia education endorsement programs for school personnel. The Board of Education has final authority on education endorsement program approval.

O. Modifications may be made by the Superintendent of Public Instruction in the administration of this chapter. Proposed modifications shall be made in writing to the Superintendent of Public Instruction, Commonwealth of Virginia.

Part III

Application for New Education Endorsement Programs

8VAC20-543-30. Application for new education endorsement programs.

A. Requests for new education endorsement programs shall be approved by the Virginia Board of Education.

B. The professional education program shall submit a request for the new program in a format provided by the Department of Education that shall address the following requirements:

1. Rationale for the new education endorsement program, to include local division or service area demand data and statements of support from the institution's dean, provost, president, or designee and Virginia school divisions. A summary of the stakeholders' involvement in the development of the education endorsement program must be included.
2. Capacity of the institution to offer the education endorsement program.
3. List of the requirements for the education endorsement program, to include the degree, major, and the curriculum.
4. Matrices demonstrating that the competencies set forth in this chapter have been incorporated in the education endorsement program.
5. Description of structured and integrated field experiences to include early clinical experiences and a summative supervised student teaching experience.
6. Description of the partnerships and collaborations based on preK-12 school needs.

Part IV

Standards for Biennial Approval of Education Endorsement Programs

8VAC20-543-40. Standards for biennial approval of education endorsement programs.

Education endorsement programs in Virginia shall be approved by the Board of Education and demonstrate achievement biennially of the accountability measures in this section. The institution of higher education must report evidence of the standards for Board of Education review biennially.

1. Candidate progress and performance on prescribed Board of Education licensure assessments. Candidate passing rates, reported by percentages, shall not fall below 80% biennially for program completers and program noncompleters. Program completers are individuals who have successfully completed all coursework, required licensure assessments, and supervised student teaching or required internship. Program noncompleters are those individuals who have been officially admitted into the education program and who have taken, regardless of whether the individual passed or failed, required licensure assessments, and who exit the program prior to completion. Program noncompleters shall have been officially released (in writing) from an education endorsement program by an authorized administrator of the program.

2. Candidate progress and performance on an assessment of basic skills as prescribed by the Board of Education for individuals seeking entry into an approved education endorsement program.

Indicators of the achievement of this standard shall include the following:

- a. Results on Board of Education prescribed entry-level assessments;
- b. Documentation that candidates enrolled in the program who fail to achieve a minimum score established by the Board of Education have the opportunity to address deficiencies; and
- c. Documentation of the number of candidates admitted into the program who did not meet the prescribed admission assessment and the opportunities provided to the candidates to address deficiencies.

3. Structured and integrated field experiences to include early clinical experiences and a summative supervised student teaching experience.

Indicators of the achievement of this standard shall include the following:

- a. Evidence that candidates receive quality clinically-based structured and integrated field experiences that prepare them to work in diverse educational environments; and

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b. Evidence that supervised clinical experiences are continuous and systematic and comprised of early field experiences with a minimum of 10 weeks of full-time student teaching under the supervision of a cooperating teacher with demonstrated effectiveness in the classroom, as indicated by a proficient or exemplary evaluation rating. The supervised student teaching experience shall include at least 150 clock hours spent in direct teaching at the level of endorsement.

4. Evidence of opportunities for candidates to participate in diverse school settings that provide experiences with populations that include racial, economic, linguistic, and ethnic diversity throughout the program experiences.

The indicator of the achievement of this standard shall include evidence that the professional education program provides opportunities for candidates to have program experiences in diverse school settings that provide experiences with populations that include racial, economic, linguistic, and ethnic diversity within each biennial period.

5. Evidence of contributions to preK-12 student achievement by candidates completing the program.

Indicators of the achievement of this standard shall include the following:

a. Evidence to show that candidates know about, create, and use appropriate and effective data-driven assessments in teaching that shall provide dependable information about student achievement;

b. Evidence to document that faculty have made provisions for evaluating the effects that candidates have on preK-12 student learning in the context of teaching as they design unit assessment systems and assessments for each program; and

c. Evidence that the education program assesses candidates' mastery of exit criteria and performance proficiencies, including the ability to affect student learning, through the use of multiple sources of data such as a culminating experience, portfolios, interviews, videotaped and observed performance in schools, standardized tests, and course grades.

6. Evidence of employer job satisfaction with candidates completing the program.

Indicators of the achievement of this standard shall include:

a. Documentation that the professional education program has two years of evidence regarding candidate performance based on employer surveys.

b. Documented evidence of teacher effectiveness, including student academic progress.

7. Partnerships and collaborations based on preK-12 school needs.

Indicators of the achievement of this standard shall include the following:

a. Documented evidence that the education endorsement program has established partnerships reflecting collaboratively designed program descriptions based on identified needs of the preK-12 community.

b. Documented evidence that the administration and supervision program collaborates with partnering schools to identify and select candidates for school leadership programs who meet local needs, demonstrate both potential for and interest in school leadership, and meet the qualifications for admission to advanced programs.

Part V

Application of Standards for Biennial Approval of Education Endorsement Programs

8VAC20-543-50. Application of the standards.

A. As a prerequisite to education endorsement program approval, professional education programs in Virginia shall have national accreditation. Failure to do so will result in the education endorsement program being designated as "approval denied."

B. The education endorsement program's candidate passing rates, reported by percentages, shall not fall below 80% biennially for program completers and program noncompleters. Program completers are individuals who have successfully completed all coursework, required licensure assessments, and supervised student teaching or required internship. Program noncompleters are those individuals who have been officially admitted into the education program and who have taken, regardless of whether the individual passed or failed, required licensure assessments, and who exit the program prior to completion. Program noncompleters shall have been officially released (in writing) from an education endorsement program by an authorized administrator of the program.

C. The professional education program's authorized administrator is responsible to certify documented evidence that the following standards as set forth in 8VAC20-543-40 have been met by the education endorsement program:

1. The professional education program shall demonstrate candidate progress and performance on an assessment of basic skills as prescribed by the Board of Education for individuals seeking entry into an approved education endorsement program.

2. The professional education program shall provide structured and integrated field experiences.

3. The professional education program shall provide evidence of opportunities for candidates to participate in diverse school settings that provide experiences with populations that include racial, economic, linguistic, and ethnic diversity throughout the program experiences.

4. The professional education program shall provide evidence of contributions to preK-12 student achievement by candidates completing the program.

5. The professional education program shall provide evidence of employer job satisfaction with candidates completing the program.

6. The professional education program shall develop and provide evidence of biennial accountability measures for partnerships and collaborations based on preK-12 school needs.

D. After submitting to the Department of Education the information contained in 8VAC20-543-40, education endorsement programs in Virginia shall receive one of the following three ratings:

1. Approved. The education endorsement program has met all standards set forth in 8VAC20-543-40.

2. Approved with stipulations. The education endorsement program has met standards in subsections A and B of this section and is making documented progress toward meeting standards in subsection C of this section. Biennial passing rates that fall below the 80% requirement for program completers and noncompleters shall result in the education endorsement program receiving a rating of "approved with stipulations." The passing rate for program completers and noncompleters must meet the 80% passing rate requirement by the end of the next biennial period for the program to be approved; if the 80% pass rate is not achieved, the program will be denied.

3. Approval denied. Approval may be denied if:

a. The education endorsement program has not met standards in subsection A of this section;

b. The education endorsement program has met standards in subsection A of this section but has not met requirements in subsection B of this section for two consecutive biennial reporting periods. The program shall be denied and the public notified. The program may resubmit a request for approval at the end of the next biennial period.

Part VI

Professional Education Program Accountability

8VAC20-543-60. Biennial accountability measurement report.

The accredited professional education program shall report, every two years, in accordance with Virginia Department of Education procedures, those specific criteria set forth in 8VAC20-543-40 to meet the standards required to obtain or maintain education endorsement program approval status.

8VAC20-543-70. Annual report card.

The accredited professional education program shall submit to the Virginia Department of Education a yearly data report card on the preparation of professional school personnel. The report card shall be published on the department's website. The information required on the report card shall be approved by the Board of Education and will include the following:

1. Institution's accreditation status;

2. Education endorsement program status;

3. Number of candidates admitted in education endorsement programs;

4. Number of candidates admitted in education endorsement programs who are in the top quartile of the college or university population.

5. Number of program completers, including number of program completers in critical shortage teaching areas;

6. Number of program noncompleters;

7. Biennial accountability data results;

8. Number of candidates admitted into the program for the reporting year who did not meet the prescribed admission assessment requirement;

9. Number of program completers for the reporting year who were admitted without meeting the prescribed admission assessment requirement;

10. Number of program noncompleters for the reporting year who were admitted to the program without meeting the prescribed admission assessment requirement;

11. Satisfaction ratings by school administrators and clinical experience supervisors on student teachers;

12. Satisfaction ratings by employers of program completers;

13. Satisfaction ratings of program completers within two years of employment; and

14. Other data as required by the Board of Education.

Part VII

Competencies for Endorsement Areas

Article 1

General Competencies

8VAC20-543-80. Competencies and requirements for endorsement areas.

A. The professional education program develops, maintains, and continuously evaluates high quality education endorsement programs that are collaboratively designed and based on identified needs of the preK-12 community. Candidates in education endorsement programs shall demonstrate competence in the areas in which they plan to practice and complete professional studies requirements and applicable assessments, in addition to meeting requirements for specific licenses, pursuant to the Licensure Regulations for School Personnel (8VAC20-22). The Licensure Regulations for School Personnel set forth the required degrees from regionally accredited colleges or universities for licenses, endorsements, and prerequisite licenses or endorsements for add-on endorsements.

B. All education endorsement programs in early/primary education preK-3, elementary education preK-6, middle education 6-8, and history and social sciences must include local government and civics instruction specific to Virginia.

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C. Candidates in education endorsement programs demonstrate an understanding of competencies, including the core concepts and facts of the disciplines and the Virginia Standards of Learning, for the content areas in which they plan to teach where required.

D. Candidates in early/primary education preK-3, elementary education preK-6, and special education complete a minimum of six semester hours of reading coursework as outlined in the reading competencies.

E. Candidates seeking an early/primary education preK-3 or an elementary education preK-6 endorsement must complete 12-15 semester hours each in English, history and social sciences, mathematics, and science addressing competencies set forth in this chapter or complete the following:

1. English: complete six semester hours in English and pass a rigorous assessment in elementary English prescribed by the Board of Education.

2. History and social sciences: complete six semester hours in history and social sciences and pass a rigorous assessment in elementary history and social sciences prescribed by the Board of Education.

3. Mathematics: complete six semester hours in mathematics, complete a methods of teaching elementary mathematics course, and pass a rigorous assessment in elementary mathematics prescribed by the Board of Education.

4. Science: complete six semester hours in laboratory sciences in two science disciplines, complete a methods of teaching elementary science course, and pass a rigorous assessment in elementary science prescribed by the Board of Education.

F. Candidates seeking an endorsement in special education-general curriculum K-12 must have one area of specialization in English, history and social sciences, mathematics, or science with 12-15 semester hours in the specialization area.

G. Candidates seeking a middle education endorsement must have an area of concentration in English, history and social sciences, mathematics, or science with 21-24 semester hours in the concentration area.

Article 2

Early/Primary Education, Elementary Education, and Middle Education Endorsements

8VAC20-543-90. Professional studies requirements for early/primary education, elementary education, and middle education.

Professional studies requirements for early/primary education, elementary education, and middle education:

1. Human development and learning (birth through adolescence).

a. Skills in this area shall contribute to an understanding of the physical, social, emotional, speech and language, and intellectual development of children and the ability

to use this understanding in guiding learning experiences and relating meaningfully to students.

b. The interaction of children with individual differences - economic, social, racial, ethnic, religious, physical, and mental - should be incorporated to include skills contributing to an understanding of developmental disabilities and developmental issues related but not limited to low socioeconomic status, attention deficit disorders, developmental disorders, gifted education, including the use of multiple criteria to identify gifted students, substance abuse, child abuse, and family disruptions.

2. Curriculum and instruction.

a. Early/primary education preK-3 or elementary education preK-6 curriculum and instruction.

(1) Skills in this area shall contribute to an understanding of the principles of learning; the application of skills in discipline-specific methodology; effective communication with and among students; selection and use of materials, including media and contemporary technologies; selection, development, and use of appropriate curricula, methodologies, and materials that support and enhance student learning and reflect the research on unique, age-appropriate, and culturally relevant curriculum and pedagogy.

(2) Understanding of the principles of online learning and online instructional strategies and the application of skills to deliver online instruction must be included.

(3) Instructional practices that are sensitive to culturally and linguistically diverse learners, including limited English proficient students, gifted and talented students, and students with disabilities, and appropriate for the level of endorsement (preK-3 or preK-6) sought shall be included.

(4) Teaching methods shall be tailored to promote student engagement and student academic progress and effective preparation for the Standards of Learning assessments.

(5) Study in (i) methods of improving communication between schools and families, (ii) communicating with families regarding social and instructional needs of children, (iii) ways of increasing family involvement in student learning at home and in school, (iv) the Virginia Standards of Learning, and (v) Virginia Foundation Blocks for Early Learning: Comprehensive Standards for Four-Year-Olds prepared by the department's Office of Humanities and Early Childhood shall be included.

(6) Early childhood educators must understand the role of families in child development and in relation to teaching educational skills.

(7) Early childhood educators must understand the role of the informal and play-mediated settings for promoting students' skills and development and must demonstrate

knowledge and skill in interacting in such situations to promote specific learning outcomes as reflected in Virginia's Foundation Blocks for Early Learning.

(8) Demonstrated proficiency in the use of educational technology for instruction shall be included. Persons seeking initial licensure as teachers and persons seeking licensure renewal as teachers for the first time shall complete study in child abuse recognition and intervention in accordance with curriculum guidelines developed by the Virginia Board of Education in consultation with the Virginia Department of Social Services that are relevant to the specific teacher licensure routes. Pre-student teaching experiences (field experiences) should be evident within these skills.

b. Middle education 6-8 curriculum and instruction.

(1) Skills in this area shall contribute to an understanding of the principles of learning; the application of skills in discipline-specific methodology; effective communication with and among students, selection and use of materials, including media and contemporary technologies; evaluation of pupil performance; and the relationships among assessment, instruction, and monitoring student progress to include student performance measures in grading practices, the ability to construct and interpret valid assessments using a variety of formats in order to measure student attainment of essential skills in a standards-based environment, and the ability to analyze assessment data to make decisions about how to improve instruction and student performance.

(2) Understanding of the principles of online learning and online instructional strategies and the application of skills to deliver online instruction must be included.

(3) Instructional practices that are sensitive to culturally and linguistically diverse learners including limited English proficient students, gifted and talented students, and students with disabilities, and must be appropriate for the middle education endorsement shall be included.

(4) Teaching methods shall be tailored to promote student engagement and student academic progress and effective preparation for the Standards of Learning assessments.

(5) Study in methods of improving communication between schools and families, ways of increasing family involvement in student learning at home and in school, and the Standards of Learning shall be included.

(6) Demonstrated proficiency in the use of educational technology for instruction shall be included.

(7) Persons seeking initial licensure as teachers and persons seeking licensure renewal as teachers for the first time shall complete study in child abuse recognition and intervention in accordance with curriculum guidelines developed by the Virginia Board of Education in

consultation with the Virginia Department of Social Services that are relevant to the specific teacher licensure routes. Pre-student teaching experiences (field experiences) should be evident within these skills.

3. Classroom and behavior management. Skills in this area shall contribute to an understanding and application of research-based classroom and behavior management techniques, classroom community building, positive behavior supports, and individual interventions, including techniques that promote emotional well-being and teach and maintain behavioral conduct and skills consistent with norms, standards, and rules of the educational environment. This area shall address diverse approaches based upon behavioral, cognitive, affective, social, and ecological theory and practice. Approaches should support professionally appropriate practices that promote positive redirection of behavior, development of social skills, and self discipline. Knowledge and an understanding of various school crisis management and safety plans and the demonstrated ability to create a safe, orderly classroom environment must be included. The link between classroom management and students' ages must be understood and demonstrated in techniques used in the classroom.

4. Assessment of and for learning.

a. Skills in this area shall be designed to develop an understanding and application of creating, selecting, and implementing valid and reliable classroom-based assessments of student learning, including formative and summative assessments. Assessments designed and adapted to meet the needs of diverse learners must be addressed.

b. Analytical skills necessary to inform ongoing planning and instruction, as well as to understand, and help students understand their own progress and growth must be included.

c. Skills also include the ability to understand the relationships among assessment, instruction, and monitoring student progress to include student performance measures in grading practices; the ability to interpret valid assessments using a variety of formats in order to measure student attainment of essential skills in a standards-based environment; and the ability to analyze assessment data to make decisions about how to improve instruction and student performance.

d. Understanding of state assessment programs and accountability systems, including assessments used for student achievement goal setting as related to teacher evaluation and determining student academic progress, including knowledge of legal and ethical aspects of assessment.

e. Skills include developing familiarity with assessments used in preK-12 education (e.g., diagnostic, college

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admission exams, industry certifications, placement assessments).

5. The teaching profession.

a. Skills in this area shall be designed to develop an understanding of the historical, philosophical, and sociological foundations underlying the role, development, and organization of public education in the United States.

b. Attention must be given to the legal status of teachers and students, including federal and state laws and regulations; school as an organization and culture; and contemporary issues and current trends in education, including the impact of technology on education. Local, state, and federal governance of schools, including the roles of teachers and schools in communities, must be included.

c. Professionalism and ethical standards as well as personal integrity must be addressed.

d. Knowledge and understanding of Virginia's Guidelines for Uniform Performance Standards and Evaluation Criteria for Teachers must be included.

6. Reading.

a. Early/primary education preK-3 and elementary education preK-6 - language acquisition and reading and writing. Skills listed for these endorsement areas represent the minimum competencies that a beginning teacher must be able to demonstrate. These skills are not intended to limit the scope of a beginning teacher's program. Additional knowledge and skills that add to a beginning teacher's competencies to deliver instruction and improve student achievement should be included as part of a quality learning experience.

(1) Language acquisition: Skills in this area shall be designed to impart a thorough understanding of the Virginia English Standards of Learning as well as the complex nature of language acquisition as a precursor to literacy. Language acquisition shall follow the typical development of linguistic competence in the areas of phonetics, semantics, syntax, morphology, phonology, and pragmatics.

(2) Reading and writing: Skills in this area shall be designed to impart a thorough understanding of the Virginia English Standards of Learning as well as the reciprocal nature of reading and writing. Reading shall include phonemic awareness, concept of print, phonics, fluency, vocabulary development, and comprehension strategies. Writing shall include writing strategies and conventions as supporting the composing and writing expression and usage and mechanics domains. Additional skills shall include proficiency in understanding the stages of spelling development, the writing process as well as the ability to foster appreciation of a variety of fiction and nonfiction text and independent reading.

b. Middle education - language acquisition and reading development and literacy in the content areas.

(1) Language acquisition and reading development: Skills in this area shall be designed to impart a thorough understanding of the complex nature of language acquisition and reading, to include phonemic awareness, phonics, fluency, vocabulary development, and comprehension strategies for adolescent learners. Additional skills shall include proficiency in writing strategies, as well as the ability to foster appreciation of a variety of fiction and nonfiction text and independent reading for adolescent learners.

(2) Literacy in the content areas: Skills in this area shall be designed to impart an understanding of vocabulary development and comprehension skills in areas of English, mathematics, science, history and social science, and other content areas. Strategies include teaching students how to ask effective questions, summarize and retell both verbally and in writing, and to listen effectively. Teaching strategies include literal, interpretive, critical, and evaluative comprehension, as well as the ability to foster appreciation of a variety of fiction and nonfiction text and independent reading for adolescent readers.

7. Supervised clinical experiences. The supervised clinical experiences shall be continuous and systematic and comprised of early field experiences with a minimum of 10 weeks of full-time student teaching under the supervision of a cooperating teacher with demonstrated effectiveness in the classroom. The summative supervised student teaching experience shall include at least 150 clock hours spent in direct teaching at the level of endorsement. One year of successful full-time teaching experience in the endorsement area in any public school or accredited nonpublic school may be accepted in lieu of the supervised student teaching experience. A fully licensed, experienced teacher shall be available in the school building to assist a beginning teacher employed through the alternate route.

8VAC20-543-100. Early childhood for three-year-olds and four-year-olds (add-on endorsement).

The program in early childhood education for three-year-olds and four-year-olds shall ensure that the candidate holds an active license with an endorsement in elementary education (such as preK-3 or preK-6) or special education early childhood issued by the Virginia Board of Education and has demonstrated the following competencies:

1. Understanding child growth and development from birth through age five, with a specific focus on three-year-olds and four-year-olds, including:

a. Knowledge of characteristics and developmental needs of three-year-olds and four-year-olds, including the ability to recognize indicators of typical and atypical development, in the domains of language, social,

- emotional, cognitive, physical, and gross and fine motor development;
- b. Understanding of the multiple interacting influences on child development (biological and environmental), interconnectedness of developmental domains, the wide range of ages at which developmental skills are manifested, and the individual differences in behavioral styles; and
- c. Knowledge of child development within the context of family, culture, and society.
2. Understanding principles of developmental practice, with a focus on three-year-olds and four-year-olds, including practices that are:
- a. Appropriate to the child's age and stage of development;
- b. Appropriate for children with a wide range of individual differences in abilities, interests, and learning styles; and
- c. Appropriate for the child's cultural background and experience.
3. Understanding health and nutritional practices that impact early learning including:
- a. Practices and procedures that support health status conducive to optimal development (e.g., health assessment, prevention of the spread of communicable diseases, oral hygiene, reduction of environmental hazards, injury prevention, and emergency preparedness);
- b. Indicators of possible child abuse or neglect and the appropriate response if such indicators are observed;
- c. Nutritional and dietary practices that support healthy growth and development while remaining sensitive to each family's preferences, dietary restrictions, and culture;
- d. Skills for communicating with families about health and dietary concerns;
- e. Community resources that support healthy living; and
- f. Practices that allow children to become independent and knowledgeable about healthy living.
4. Understanding and application of formal and informal assessment procedures for documenting development and knowledge of how to use assessment to plan curriculum, including:
- a. Age-appropriate and stage-appropriate methods for documenting, assessing, and interpreting development and learning;
- b. Identifying and documenting children's interests, strengths, and challenges; and
- c. Communicating with families to acquire and to share information relevant to assessment.
5. Understanding effective strategies for (i) facilitating positive reciprocal relationships with children for teachers, families, and communities through mutual respect, communication strategies, collaborative linkages among families, and community resources and (ii) nurturing the capacity of family members to serve as advocates on behalf of children.
6. Understanding strategies for planning, implementing, assessing, and modifying physical and psychological aspects of the learning environment to support language, physical, cognitive, and social, as well as emotional, well-being in children with a broad range of developmental levels, special needs, individual interests, and cultural backgrounds, including the ability to:
- a. Utilize learning strategies that stimulate curiosity, promote thinking, and encourage participation in exploration and play;
- b. Provide curriculum that facilitate learning goals in content areas and provide opportunities to acquire concepts and skills that are precursors to academic content taught in elementary school;
- c. Adapt tasks to the child's zone of proximal development;
- d. Nurture children's development through firsthand experiences and opportunities to explore, examine, and investigate real materials in authentic context and engage in social interactions with peers and adults;
- e. Select materials and equipment, arrange physical space, and plan schedules and routines to stimulate and facilitate development; and
- f. Collaborate with families, colleagues, and members of the broader community to construct learning environments that promote a spirit of unity, respect, and service in the interest of the common good.
7. Understanding strategies that create positive and nurturing relationships with each child based on respect, trust, and acceptance of individual differences in ability levels, temperament, and other characteristics, including the ability to:
- a. Emphasize the importance of supportive verbal and nonverbal communication;
- b. Establish classroom and behavior management practices that are respectful, meet children's emotional needs, clearly communicate expectations for appropriate behavior, promote pro-social behaviors, prevent or minimize behavioral problems through careful planning of the learning environment, teach conflict resolution strategies, and mitigate or redirect challenging behaviors; and
- c. Build positive, collaborative relationships with children's families with regard to behavioral guidance.

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8VAC20-543-110. Early/primary education preK-3.

The program for early/primary education preK-3 shall ensure that the candidate has demonstrated the following competencies:

1. Methods.

a. Understanding of the knowledge, skills, and processes to support learners in achievement of Virginia's Foundation Blocks for Early Learning: Comprehensive Standards for Four-Year-Olds and the Virginia Standards of Learning in English, mathematics, history and social science, science, and computer and technology;

b. The ability to integrate English, mathematics, science, health, history and social sciences, art, music, drama, movement, and technology in learning experiences;

c. The use of differentiated instruction and flexible groupings to meet the needs of learners at different stages of development, abilities, and achievement;

d. The use of appropriate methods including those in visual and performing arts, to help learners develop knowledge and basic skills, sustain intellectual curiosity, and problem-solve;

e. The ability to utilize effective classroom management skills through methods that build responsibility and self-discipline and maintain a positive learning environment;

f. The ability to modify and manage learning environments and experiences to meet the individual needs of children, including children with disabilities, gifted children, children with limited proficiency in English, and children with diverse cultural needs;

g. The ability to use formal and informal assessments to diagnose needs, plan and modify instruction, and record student progress;

h. A commitment to professional growth and development through reflection, collaboration, and continuous learning;

i. The ability to analyze, evaluate, and apply quantitative and qualitative research; and

j. The ability to use technology as a tool for teaching, learning, research, and communication.

2. Knowledge and skills.

a. Reading and English. Understanding of the content, knowledge, skills, and processes for teaching Virginia's Foundation Blocks for Early Learning: Comprehensive Standards for Four-Year-Olds and the Virginia Standards of Learning for English including oral language (speaking and listening), reading, and writing, and how these standards provide the core for teaching English in grades preK-3 (early/primary licensure).

(1) Assessment and diagnostic teaching. The individual shall:

(a) Be proficient in the use of both formal and informal assessment as screening, diagnostic, and progress monitoring measures for the component of reading: phoneme awareness, letter recognition, decoding, fluency, vocabulary, reading levels, and comprehension; and

(b) Be proficient in the ability to use diagnostic data to inform instruction for acceleration, intervention, remediation, and differentiation.

(2) Oral communication. The individual shall:

(a) Be proficient in the knowledge, skills, and processes necessary for teaching oral language (speaking and listening);

(b) Be proficient in developing students' phonological awareness skills;

(c) Demonstrate effective strategies for facilitating the learning of standard English by speakers of other languages and dialects; and

(d) Demonstrate the ability to promote creative thinking and expression, such as through storytelling, drama, and choral and oral reading, etc.

(3) Reading and literature. The individual shall:

(a) Be proficient in explicit phonics instruction, including an understanding of sound and symbol relationships, syllables, phonemes, morphemes, word analysis, and decoding skills;

(b) Be proficient in strategies to increase vocabulary and concept development;

(c) Be proficient in the structure of the English language, including an understanding of syntax;

(d) Be proficient in reading comprehension strategies for (i) fiction and nonfiction text predicting, retelling, and summarizing and (ii) guiding students to make connections beyond the text;

(e) Demonstrate the ability to develop comprehension skills in all content areas;

(f) Demonstrate the ability to foster the appreciation of a variety of literature;

(g) Understand the importance of promoting independent reading by selecting fiction and nonfiction texts of appropriate yet engaging topics and reading levels; and

(h) Demonstrate effective strategies for teaching students to view, interpret, analyze, and represent information and concepts in visual form with or without the spoken or written word.

(4) Writing. The individual shall:

(a) Be proficient in the knowledge, skills, and processes necessary for teaching writing, including the domains of composing, written expression, and usage and mechanics and the writing process of planning, drafting, revising, editing, and publishing;

(b) Understand the stages of spelling development, promoting the generalization of spelling study to writing, and be proficient in systematic spelling instruction, including awareness of the purpose and limitations of "invented spelling"; and

(c) Demonstrate the ability to teach students to write cohesively for a variety of purposes and to provide instruction on the writing process: planning, drafting, revising, editing, and publishing in the narrative, descriptive, persuasive, and explanative modes.

(5) Technology. The individual shall demonstrate the ability to guide students in their use of technology for both process and product as they work with reading and writing.

b. Mathematics.

(1) Understanding of the mathematics relevant to the content identified in Virginia's Foundation Blocks for Early Learning: Comprehensive Standards for Four-Year-Olds and the Virginia Standards of Learning and how the standards provide the foundation for teaching mathematics in grades preK-3. Experiences with practical applications and the use of appropriate technology and manipulatives should be used within the following content:

(a) Number systems and their structure, basic operations, and properties;

(b) Elementary number theory, ratio, proportion, and percent;

(c) Algebra: fundamental idea of equality; operations with monomials and polynomials; algebraic fractions; linear and quadratic equations and inequalities and linear systems of equations and inequalities; radicals and exponents; arithmetic and geometric sequences and series; algebraic and trigonometric functions; and transformations among graphical, tabular, and symbolic forms of functions;

(d) Geometry: geometric figures, their properties, relationships, the Pythagorean Theorem; deductive and inductive reasoning; perimeter, area, and surface area of two-dimensional and three-dimensional figures; coordinate and transformational geometry; and constructions; and

(e) Probability and statistics: permutations and combinations; experimental and theoretical probability; prediction; data collection and graphical representations including box-and-whisker plots; and measures of center, spread of data, variability, range, and normal distribution.

(2) Understanding of the sequential nature of mathematics and vertical progression of mathematical standards.

(3) Understanding of the multiple representations of mathematical concepts and procedures.

(4) Understanding of and the ability to use the five processes - reasoning mathematically, solving problems, communicating mathematics effectively, making mathematical connections, and using mathematical models and representations at different levels of complexity.

(5) Understanding of the contributions of different cultures toward the development of mathematics and the role of mathematics in culture and society.

(6) Understanding of the appropriate use of calculators and technology in the teaching and learning of mathematics, including virtual manipulatives.

(7) Understanding of and the ability to use strategies to teach mathematics to diverse learners.

c. History and social sciences.

(1) Understanding of the knowledge, skills, and processes of history and the social science disciplines as defined in Virginia's Foundation Blocks for Early Learning: Comprehensive Standards for Four-Year-Olds and the Virginia Standards of Learning and how the standards provide the necessary foundation for teaching history and social sciences, including in:

(a) History.

(i) The contributions of ancient civilizations to American social and political institutions;

(ii) Major events in Virginia history from 1607 to the present;

(iii) Key individuals, documents, and events in United States history; and

(iv) The evolution of America's constitutional republic and its ideas, institutions, and practices.

(b) Geography.

(i) The use of maps and other geographic representations, tools, and technologies to acquire, process, and report information;

(ii) The relationship between human activity and the physical environment in the community and the world; and

(iii) Physical processes that shape the surface of the earth.

(c) Civics.

(i) The privileges and responsibilities of good citizenship and the importance of the rule of law for the protection of individual rights;

(ii) The process of making laws in the United States and the fundamental ideals and principles of a republican form of government;

(iii) The understanding that Americans are a people of diverse ethnic origins, customs, and traditions, who are united by the basic principles of a republican form of government and a common identity as Americans; and

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(iv) Local government and civics instruction specific to Virginia.

(d) Economics.

(i) The basic economic principles that underlie the United States market economy;

(ii) The role of the individual and how economic decisions are made in the market place; and

(iii) The role of government in the structure of the United States economy.

(2) Understanding of the nature of history and the social sciences, and how the study of the disciplines assists students in developing critical thinking skills in helping them to understand:

(a) The relationship between past and present;

(b) The use of primary sources such as artifacts, letters, photographs, and newspapers;

(c) How events in history are shaped both by the ideas and actions of people;

(d) Diverse cultures and shared humanity;

(e) Civic participation in a democracy; and

(f) The relationship between history, literature, art, and music.

d. Science.

(1) Understanding of the knowledge, skills, and processes of the four core science disciplines as defined in Virginia's Foundation Blocks for Early Learning: Comprehensive Standards for Four-Year-Olds and the Virginia Science Standards of Learning and how these standards provide a sound foundation for teaching science in the early/primary grades.

(2) Understanding of the nature of the theory and scientific inquiry, including the following:

(a) Function of research design and experimentation;

(b) Role and nature of science in explaining and predicting events and phenomena;

(c) Practices required to provide empirical answers to research questions, including data collection and analysis, modeling, argumentation with evidence, and constructing explanations;

(d) Reliability of scientific knowledge and its constant scrutiny and refinement;

(e) Self-checking mechanisms used by science to increase objectivity, including peer review; and

(f) Assumptions, influencing conditions, and limits of empirical knowledge.

(3) Understanding of the knowledge, skills, and practices for conducting an active elementary science program, including the ability to:

(a) Design instruction reflecting the goals of the Virginia Science Standards of Learning;

(b) Implement classroom and laboratory safety rules and procedures, and ensure that students take appropriate safety precautions;

(c) Conduct research projects and experiments, including applications of the design process and technology;

(d) Conduct systematic field investigations using the school grounds, the community, and regional resources;

(e) Organize key science content, skills, and practices into meaningful units of instruction that actively engage students in learning;

(f) Design instruction to meet the needs of diverse learners using a variety of techniques;

(g) Evaluate instructional materials, technologies, and teaching practices;

(h) Conduct formative and summative assessments of student learning;

(i) Incorporate instructional technology to enhance student performance in science; and

(j) Ensure student competence in science.

(4) Understanding of the content, processes, and skills of the four core science areas, including Earth sciences, biology, chemistry, and physics supporting the teaching of elementary school science as defined by the Virginia's Foundation Blocks for Early Learning: Comprehensive Standards for Four-Year-Olds and Virginia Science Standards of Learning and equivalent to academic course work in each of these four core science areas.

(5) Understanding of the core scientific disciplines of Earth science, biology, chemistry, and physics to ensure:

(a) The placement of the four core scientific disciplines in an appropriate interdisciplinary context;

(b) The ability to teach the processes and crosscutting concepts common to the natural and physical sciences;

(c) The application of key science principles to solve practical problems; and

(d) A "systems" understanding of the natural world.

(6) Understanding of the contributions and significance of science, including:

(a) Its social, cultural, and economic significance;

(b) The relationship of science to mathematics, the design process, and technology; and

(c) The historical development of scientific concepts and scientific reasoning.

8VAC20-543-120. Elementary education preK-6.

The program in elementary education preK-6 may require that the candidate has completed an undergraduate major in interdisciplinary studies (focusing on the areas of English, mathematics, history and social sciences, and science) or in Virginia's core academic areas of English, mathematics, history and social sciences (i.e., history, government,

geography, and economics), or science and demonstrated the following competencies:

1. Methods.

- a. Understanding of the needed knowledge, skills, and processes to support learners in achievement of Virginia's Foundation Blocks for Early Learning: Comprehensive Standards for Four-Year-Olds and the Virginia Standards of Learning in English, mathematics, history and social science, science, and computer and technology;
- b. Understanding of current research on the brain, its role in learning, and implications for instruction;
- c. The ability to integrate English, mathematics, science, health, history and social sciences, art, music, drama, movement, and technology in learning experiences;
- d. The use of differentiated instruction and flexible groupings to meet the needs of learners at different stages of development, abilities, and achievement;
- e. The use of appropriate methods, including those in visual and performing arts, to help learners develop knowledge and basic skills, sustain intellectual curiosity, and problem-solve;
- f. The ability to utilize effective classroom and behavior management skills through methods that build responsibility and self-discipline and maintain a positive learning environment;
- g. The ability to modify and manage learning environments and experiences to meet the individual needs of children, including children with disabilities, gifted children, and children with limited proficiency in English, and children with diverse cultural needs;
- h. The ability to use formal and informal assessments to diagnose needs, plan and modify instruction, and record student progress;
- i. A commitment to professional growth and development through reflection, collaboration, and continuous learning;
- j. The ability to analyze, evaluate, and apply quantitative and qualitative research; and
- k. Understanding of the Virginia Standards of Learning for Computer Technology and the ability to use technology as a tool for teaching, learning, research, and communication.

2. Knowledge and skills.

- a. Reading and English. Understanding of the content, knowledge, skills, and processes for teaching Virginia's Foundation Blocks for Early Learning: Comprehensive Standards for Four-Year-Olds and the Virginia Standards of Learning for English including communication (speaking, listening, and media literacy), reading, writing, and research and how these standards provide the core for teaching English in grades preK-6 (elementary licensure).

(1) Assessment and diagnostic teaching. The individual shall:

(a) Be proficient in the use of both formal and informal assessment as screening diagnostic, and progress monitoring measures for the components of reading: phoneme awareness, letter recognition, decoding, fluency, vocabulary, reading level, and comprehension; and

(b) Be proficient in the ability to use diagnostic data to inform instruction for acceleration, intervention, remediation, and differentiation.

(2) Communication: speaking, listening, and media literacy. The individual shall:

(a) Be proficient in the knowledge, skills, and processes necessary for teaching communication (speaking, listening, and media literacy);

(b) Be proficient in developing students' phonological awareness skills;

(c) Demonstrate the ability to teach students to identify the characteristics of and apply critical thinking to media messages and to facilitate students' proficiency in using various forms of media to collaborate and communicate;

(d) Demonstrate effective strategies for facilitating the learning of standard English by speakers of other languages and dialects; and

(e) Demonstrate the ability to promote creative thinking and expression, such as through storytelling, drama, choral and oral reading, etc.

(3) Reading and literature. The individual shall:

(a) Be proficient in explicit and systematic phonics instruction, including an understanding of sound and symbol relationships, syllables, phonemes, morphemes, word analysis, and decoding skills;

(b) Be proficient in strategies to increase vocabulary and concept development;

(c) Be proficient in the structure of the English language, including an understanding of syntax and semantics;

(d) Be proficient in reading comprehension strategies for both fiction and nonfiction text, including questioning, predicting, inferencing, summarizing, clarifying, evaluating, and making connections;

(e) Demonstrate the ability to support students to read with fluency, accuracy, and meaningful expression (prosody);

(f) Demonstrate the ability to develop comprehension skills in all content areas;

(g) Demonstrate the ability to foster appreciation of a variety of literature;

(h) Understand the importance of promoting independent reading by selecting fiction and nonfiction texts of appropriate yet engaging topics and reading levels; and

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(i) Demonstrate effective strategies for teaching students to view, interpret, analyze, and represent information and concepts in visual form with or without the spoken or written word.

(4) Writing. The individual shall:

(a) Be proficient in the knowledge, skills, and processes necessary for teaching writing, including the domains of composing and written expression, and usage and mechanics and the writing process of planning, drafting, revising, editing, and publishing;

(b) Understand the stages of spelling development, promoting the generalization of spelling study to writing, and be proficient in systematic spelling instruction, including awareness of the purpose and limitations of "invented spelling";

(c) Demonstrate the ability to teach students to write cohesively for a variety of purposes and to provide instruction on the writing process: planning, drafting, revising, editing, and publishing in the narrative, descriptive, persuasive, and explanative modes; and

(d) Demonstrate the ability to facilitate student research and related skills such as accessing information, evaluating the validity of sources, citing sources, and synthesizing information.

(5) Technology. The individual shall demonstrate the ability to guide students in their use of technology for both process and product as they work with reading, writing, and research.

b. Mathematics.

(1) Understanding of the mathematics relevant to the content identified in Virginia's Foundation Blocks for Early Learning: Comprehensive Standards for Four-Year-Olds and the Virginia Standards of Learning and how the standards provide the foundation for teaching mathematics in grades preK-6. Experiences with practical applications and the use of appropriate technology and concrete materials should be used within the following content:

(a) Number systems and their structure, basic operations, and properties;

(b) Elementary number theory, ratio, proportion, and percent;

(c) Algebra: operations with monomials and polynomials; algebraic fractions; linear and quadratic equations and inequalities and linear systems of equations and inequalities; radicals and exponents; arithmetic and geometric sequences and series; algebraic and trigonometric functions; and transformations among graphical, tabular, and symbolic forms of functions;

(d) Geometry: geometric figures, their properties, relationships, the Pythagorean Theorem; deductive and inductive reasoning; perimeter, area, and surface area of

two-dimensional and three-dimensional figures; coordinate and transformational geometry; and constructions;

(e) Probability and statistics: permutations and combinations; experimental and theoretical probability; prediction; graphical representations including box-and-whisker plots; and measures of center, range, and normal distribution; and

(f) Computer science: terminology, simple programming, and software applications.

(2) Understanding of the sequential and developmental nature of mathematics.

(3) Understanding of the multiple representations of mathematical concepts and procedures.

(4) Understanding of and the ability to use the five processes - reasoning mathematically, solving problems, communicating mathematics effectively, making mathematical connections, and using mathematical representations - at different levels of complexity.

(5) Understanding of the contributions of different cultures toward the development of mathematics and the role of mathematics in culture and society.

(6) Understanding of the role of technology and the ability to use calculators and computers in the teaching and learning of mathematics.

c. History and social sciences.

(1) Understanding of the knowledge, skills, and processes of history and the social sciences disciplines as defined in Virginia's Foundation Blocks for Early Learning: Comprehensive Standards for Four-Year-Olds and the Virginia Standards of Learning and how the standards provide the necessary foundation for teaching history and social sciences, including in:

(a) History.

(i) The contributions of ancient civilizations to modern social and political institutions;

(ii) Major events in Virginia history from 1607 to the present;

(iii) Key individuals, documents, and events in United States history; and

(iv) The evolution of America's constitutional republic and its ideas, institutions, and practices.

(b) Geography.

(i) The use of maps and other geographic representations, tools, and technologies to acquire, process, and report information;

(ii) The relationship between human activity and the physical environment in the community and the world; and

(iii) Physical processes that shape the surface of the earth.

(c) Civics.

(i) The privileges and responsibilities of good citizenship and the importance of the rule of law for the protection of individual rights;

(ii) The process of making laws in the United States and the fundamental ideals and principles of a republican form of government;

(iii) The understanding that Americans are a people of diverse ethnic origins, customs, and traditions, who are united by basic principles of a republican form of government and a common identity as Americans; and

(iv) Local government and civics instruction specific to Virginia.

(d) Economics.

(i) The basic economic principles that underlie the United States market economy;

(ii) The role of the individual and how economic decisions are made in the market place; and

(iii) The role of government in the structure of the United States economy.

(2) Understanding of the nature of history and social sciences and how the study of the disciplines assists students in developing critical thinking skills in helping them to understand:

(a) The relationship between past and present;

(b) The use of primary sources such as artifacts, letters, photographs, and newspapers;

(c) How events in history are shaped both by the ideas and actions of people;

(d) Diverse cultures and shared humanity;

(e) Civic participation in a democracy; and

(f) The relationship between history, literature, art, and music.

d. Science.

(1) Understanding of the knowledge, skills, and processes of the four core science disciplines as defined in Virginia's Foundation Blocks for Early Learning: Comprehensive Standards for Four-Year-Olds and the Virginia Science Standards of Learning and how these standards provide a sound foundation for teaching science in the elementary grades.

(2) Understanding of the nature of science and scientific inquiry, including the:

(a) Function of research design and experimentation;

(b) Role and nature of the theory in explaining and predicting events and phenomena;

(c) Practices required to provide empirical answers to research questions, including data collection and analysis, modeling, argumentation with evidence, and constructing explanations;

(d) Reliability of scientific knowledge and its constant scrutiny and refinement;

(e) Self-checking mechanisms used by science to increase objectivity, including peer review; and

(f) Assumptions, influencing conditions, and limits of empirical knowledge.

(3) Understanding of the knowledge, skills, and processes for an active elementary science program including the ability to:

(a) Design instruction reflecting the goals of the Virginia Science Standards of Learning;

(b) Implement classroom and laboratory safety rules and procedures and ensure that students take appropriate safety precautions;

(c) Conduct research projects and experiments, including applications of the design process and technology;

(d) Conduct systematic field investigations using the school grounds, the community, and regional resources;

(e) Organize key science content, skills, and practices into meaningful units of instruction that actively engage students in learning;

(f) Design instruction to meet the needs of diverse learners using a variety of techniques;

(g) Evaluate instructional materials, technologies, and teaching practices;

(h) Conduct formative and summative assessments of student learning;

(i) Incorporate instructional technology to enhance student performance in science; and

(j) Ensure student competence in science.

(4) Understanding of the content, processes, and skills of the four science areas, including Earth sciences, biology, chemistry, and physics supporting the teaching of preK-6 science as defined by the Virginia Science Standards of Learning and equivalent course work reflecting each of the four core science areas.

(5) Understanding of the core scientific disciplines of Earth science, biology, chemistry, and physics to ensure:

(a) The placement of the four core scientific disciplines in an appropriate interdisciplinary context;

(b) The ability to teach the processes and crosscutting concepts common to the natural and physical sciences;

(c) The application of key science principles to solve practical problems; and

(d) A "systems" understanding of the natural world.

(6) Understanding of the contributions and significance of science including:

(a) Its social, cultural, and economic significance;

(b) The relationship of science to mathematics, the design process, and technology; and

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(c) The historical development of scientific concepts and scientific reasoning.

8VAC20-543-130. Middle education 6-8.

The program in middle education 6-8 with at least one area of academic preparation shall ensure that the candidate has demonstrated the following competencies:

1. Methods.

a. Understanding of the required knowledge, skills, and processes to support learners in achievement of the Virginia Standards of Learning for grades 6-8;

b. The use of appropriate methods, including direct instruction and inquiry-based instructional methods, to help learners develop knowledge and skills, sustain intellectual curiosity, and solve problems;

c. The ability to plan and teach collaboratively to facilitate interdisciplinary learning;

d. The use of differentiated instruction and flexible groupings to meet the needs of preadolescents at different stages of development, abilities, and achievement;

e. The ability to utilize effective classroom and behavior management skills through methods that build responsibility and self-discipline and maintain a positive learning environment;

f. The ability to modify and manage learning environments and experiences to meet the individual needs of preadolescents, including children with disabilities, gifted children, and children with limited proficiency in the English language;

g. The ability to use formal and informal assessments to diagnose needs, plan and modify instruction, and record student progress;

h. A commitment to professional growth and development through reflection, collaboration, and continuous learning;

i. The ability to analyze, evaluate, apply, and conduct quantitative and qualitative research;

j. The ability to use technology as a tool for teaching, learning, research, and communication;

k. An understanding of how to apply a variety of school organizational structures, schedules, groupings, and classroom formats appropriately for middle level learners;

l. Skill in promoting the development of all students' abilities for academic achievement and continued learning; and

m. The ability to use reading in the content area strategies appropriate to text and student needs.

2. English.

a. Possession of the skills necessary to teach the writing process, to differentiate among the forms of writing

(narrative, descriptive, informational, and persuasive), and to use computers and other available technology;

b. Understanding of and knowledge in grammar, usage, and mechanics and its integration in writing;

c. Understanding and the nature and development of language and its impact on vocabulary development and spelling;

d. Understanding of and knowledge in techniques and strategies to enhance reading comprehension and fluency;

e. Understanding of and knowledge in the instruction of speaking, listening, collaboration, and media literacy;

f. Knowledge of varied works from current and classic young adult literature appropriate for English instruction of fiction, nonfiction, and poetry; and

g. Skills necessary to teach research techniques, including evaluating, organizing, crediting, and synthesizing information.

3. History and social sciences.

a. Understanding of the knowledge, skills, and processes of history and the social science disciplines as defined by the Virginia History and Social Sciences Standards of Learning and how the standards provide the foundation for teaching history and social sciences, including in:

(1) United States history.

(a) The evolution of the American constitutional republic and its ideas, institutions, and practices from the colonial period to the present; the American Revolution, including ideas and principles preserved in significant Virginia and United States historical documents as required by § 22.1-201 of the Code of Virginia (the Declaration of American Independence; the general principles of the Constitution of the United States; the Virginia Statute of Religious Freedom; the charters of The Virginia Company of April 10, 1606, May 23, 1609, and March 12, 1612; and the Virginia Declaration of Rights); and historical challenges to the American political system (i.e., slavery, the Civil War, emancipation, and civil rights);

(b) The influence of religious traditions on the American heritage and on contemporary American society;

(c) The changing role of America around the world; the relationship between domestic affairs and foreign policy; and the global political and economic interactions;

(d) The influence of immigration on American political, social, and economic life;

(e) Origins, effects, aftermath and significance of the two world wars, the Korean and Vietnam conflicts, and the post-Cold War era;

(f) Social, political, and economic transformations in American life during the 20th century; and

(g) Tensions between liberty and equality, liberty and order, region and nation, individualism and the common welfare, and cultural diversity and civic unity.

(2) World history.

(a) The political, philosophical, and cultural legacies of ancient, American, Asian, African, and European civilizations;

(b) Origins, ideas, and institutions of Judaism, Christianity, Hinduism, Confucianism and Taoism, and Shinto, Buddhist, and Islamic religious traditions;

(c) Medieval society and institutions, relations with Islam, feudalism, and the evolution of representative government;

(d) The social, political, and economic contributions of selected civilizations in Africa, Asia, Europe, and the Americas;

(e) The culture and ideas of the Renaissance and the Reformation, European exploration, and the origins of capitalism and colonization;

(f) The cultural ideas of the Enlightenment and the intellectual revolution of the 17th and 18th centuries;

(g) The sources, results, and influence of the American and French revolutions;

(h) The social consequences of the Industrial Revolution and its impact on politics and culture;

(i) The global influence of European ideologies of the 19th and 20th centuries (liberalism, republicanism, social democracy, Marxism, nationalism, Communism, Fascism, and Nazism); and

(j) The origins, effects, aftermath, and significance of the two world wars.

(3) Civics and economics.

(a) Essential characteristics of limited and unlimited governments;

(b) Importance of the rule of law for the protection of individual rights and the common good;

(c) Rights and responsibilities of American citizenship;

(d) Nature and purposes of constitutions and alternative ways of organizing constitutional governments;

(e) American political culture;

(f) Values and principles of the American constitutional republic;

(g) Structures, functions, and powers of local and state government;

(h) Importance of citizen participation in the political process in local and state government;

(i) Local government and civic instruction specific to Virginia;

(j) Structures, functions, and powers of the national government; and

(k) The structure and function of the United States market economy as compared with other economies.

b. Understanding of the nature of history and social sciences and how the study of these disciplines helps students go beyond critical thinking skills to help them appreciate:

(1) The significance of the past to their lives and to society;

(2) Diverse cultures and shared humanity;

(3) How things happen, how they change, and how human intervention matters;

(4) The interplay of change and continuity;

(5) Historical cause and effect;

(6) The importance of individuals who have made a difference in history and the significance of personal character to the future of society;

(7) The relationship among history, geography, civics, and economics; and

(8) The difference between fact and conjecture, evidence and assertion, and the importance of framing useful questions.

4. Mathematics.

a. Understanding of the knowledge and skills necessary to teach the Virginia Mathematics Standards of Learning and how curriculum may be organized to teach these standards to diverse learners;

b. Understanding of a core knowledge base of concepts and procedures within the discipline of mathematics, including the following strands: number and number sense; computation and estimation; geometry and measurement; statistics and probability; and patterns, functions, and algebra;

c. Understanding of the mathematics relevant to the content identified in the Virginia Standards of Learning and how the standards provide the foundation for teaching mathematics in the middle grades. Experiences with practical applications and the use of appropriate technology and manipulatives should be used within the following content:

(1) Number systems and their structure, basic operations, and properties;

(2) Elementary number theory, ratio, proportion, and percent;

(3) Algebra: fundamental idea of equality; operations with monomials and polynomials; algebraic fractions; linear and quadratic equations and inequalities and linear systems of equations and inequalities; radicals and exponents; arithmetic and geometric sequences and series; algebraic and trigonometric functions; and transformations among graphical, tabular, and symbolic forms of functions;

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(4) Geometry: geometric figures, their properties, relationships, the Pythagorean Theorem; deductive and inductive reasoning; perimeter, area, and surface area of two-dimensional and three-dimensional figures; coordinate and transformational geometry; and constructions;

(5) Probability and statistics: permutations and combinations; experimental and theoretical probability; data collection and graphical representations, including box-and-whisker plots; data analysis and interpretation for predictions; measures of center; spread of data, variability, range, standard deviation, and normal distributions.

d. Understanding of the sequential nature of mathematics, the vertical progression of mathematical standards, and the mathematical structures inherent in the content strands;

e. Understanding of and the ability to use the five processes - becoming mathematical problem solvers, reasoning mathematically, communicating mathematically, making mathematical connections, and representing, modeling and describing mathematical ideas, generalizations, and relationships using a variety of methods - at different levels of complexity;

f. Understanding of the contributions of various individuals and cultures toward the development of mathematics and the role of mathematics in culture and society;

g. Understanding of the major current curriculum studies and trends in mathematics;

h. Understanding of the appropriate use of calculators and technology and the ability to use graphing utilities in the teaching and learning of mathematics, including virtual manipulatives;

i. Understanding of and the ability to select, adapt, evaluate and use instructional materials and resources, including professional journals and technology;

j. Understanding of and the ability to use strategies for managing, assessing, and monitoring student learning, including diagnosing student errors; and

k. Understanding of and the ability to use strategies to teach mathematics to diverse adolescent learners.

5. Science.

a. Understanding of the knowledge, skills, and processes of the Earth, life, and physical sciences as defined in the Virginia Science Standards of Learning and how these provide a sound foundation for teaching science in the middle grades.

b. Understanding of the nature of science and scientific inquiry, including:

(1) Function of research design and experimentation;

(2) Role of science in explaining and predicting events and phenomena; and

(3) Science skills of data analysis, measurement, observation, prediction, and experimentation.

c. Understanding of the knowledge, skills, and processes for an active middle school science program, including the ability to:

(1) Design instruction reflecting the goals of the Virginia Science Standards of Learning;

(2) Conduct research projects and experiments;

(3) Implement safety rules and procedures and ensure that students take appropriate safety precautions;

(4) Organize key science content into meaningful units of instruction;

(5) Adapt instruction to diverse learners using a variety of techniques;

(6) Evaluate instructional materials, instruction, and student achievement; and

(7) Incorporate instructional technology to enhance student performance in science.

d. Understanding of the content, processes, and skills of the Earth sciences, biology, chemistry, and physics supporting the teaching of middle school science as defined by the Virginia Science Standards of Learning and equivalent to academic course work in each of these core science areas.

e. Understanding of the core scientific disciplines to ensure:

(1) The placement of science in an appropriate interdisciplinary context;

(2) The ability to teach the processes and organize concepts common to the natural and physical sciences; and

(3) Student achievement in science.

f. Understanding of the contributions and significance of science to include:

(1) Its social and cultural significance;

(2) The relationship of science to technology; and

(3) The historical development of scientific concepts and scientific reasoning.

Article 3

PreK-12 Endorsements, Special Education, Secondary Grades 6-12 Endorsements, and Adult Education

8VAC20-543-140. Professional studies requirements for preK-12 endorsements, special education, secondary grades 6-12 endorsements, and adult education.

Professional studies requirements for preK-12 endorsements, special education, secondary grades 6-12 endorsements, and adult education:

1. Human development and learning (birth through adolescence).

a. Skills in this area shall contribute to an understanding of the physical, social, emotional, speech and language, and intellectual development of children and the ability to use this understanding in guiding learning experiences and relating meaningfully to students.

b. The interaction of children with individual differences - economic, social, racial, ethnic, religious, physical, and mental - should be incorporated to include skills contributing to an understanding of developmental disabilities and developmental issues related but not limited to low socioeconomic status, attention deficit disorders, developmental disabilities, gifted education including the use of multiple criteria to identify gifted students, substance abuse, child abuse, and family disruptions.

2. Curriculum and instruction.

a. Skills in this area shall contribute to an understanding of the principles of learning; the application of skills in discipline-specific methodology; effective communication with and among students; selection and use of materials, including media and contemporary technologies; selection, development, and use of appropriate curricula, methodologies, and materials that support and enhance student learning and reflect the research on unique, age-appropriate, and culturally relevant curriculum and pedagogy.

b. Understanding of the principles of online learning and online instructional strategies and the application of skills to deliver online instruction must be included.

c. Instructional practices that are sensitive to culturally and linguistically diverse learners, including limited English proficient students, gifted and talented students, and students with disabilities, and appropriate for the level of endorsement sought shall be included.

d. Teaching methods shall be tailored to promote student academic progress and effective preparation for the Standards of Learning assessments.

e. Methods of improving communication between schools and families and ways of increasing family involvement in student learning at home and in school and the Virginia Standards of Learning shall be included.

f. Demonstrated proficiency in the use of educational technology for instruction shall be included.

g. Persons seeking initial licensure as teachers and persons seeking licensure renewal as teachers for the first time shall complete study in child abuse recognition and intervention in accordance with curriculum guidelines developed by the Virginia Board of Education in consultation with the Virginia Department of Social Services that are relevant to the specific teacher licensure routes.

h. Curriculum and instruction for secondary grades 6-12 endorsements shall include middle and secondary education. Pre-student teaching experiences (field experiences) should be evident within these skills. For preK-12, field experiences shall be at the elementary, middle, and secondary levels.

3. Assessment of and for learning.

a. Skills in this area shall be designed to develop an understanding and application of creating, selecting, and implementing valid and reliable classroom-based assessments of student learning, including formative and summative assessments. Assessments designed and adapted to meet the needs of diverse learners must be addressed.

b. Analytical skills necessary to inform ongoing planning and instruction, as well as to understand and help students understand their own progress and growth must be included.

c. Skills also include the ability to understand the relationships among assessment, instruction, and monitoring student progress to include student performance measures in grading practices, the ability to interpret valid assessments using a variety of formats in order to measure student attainment of essential skills in a standards-based environment, and the ability to analyze assessment data to make decisions about how to improve instruction and student performance.

d. Understanding of state assessment programs and accountability systems, including assessments used for student achievement goal setting as related to teacher evaluation and determining student academic progress, including knowledge of legal and ethical aspects of assessment.

e. Skills include developing familiarity with assessments used in preK-12 education (e.g., diagnostic, college admission exams, industry certifications, placement assessments).

4. The teaching profession.

a. Skills in this area shall be designed to develop an understanding of the historical, philosophical, and sociological foundations underlying the role, development, and organization of public education in the United States.

b. Attention must be given to the legal status of teachers and students, including federal and state laws and regulations; school as an organization and culture; and contemporary issues and current trends in education, including the impact of technology on education. Local, state, and federal governance of schools, including the roles of teachers and schools in communities, must be included.

c. Professionalism and ethical standards, as well as personal integrity must be addressed.

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d. Knowledge and understanding of Virginia's Guidelines for Uniform Performance Standards and Evaluation Criteria for Teachers must be included.

5. Classroom and behavior management.

a. Skills in this area shall contribute to an understanding of and application of research-based classroom and behavior management techniques, classroom community building, positive behavior supports, and individual interventions, including techniques that promote emotional well-being and teach and maintain behavioral conduct and skills consistent with norms, standards, and rules of the educational environment.

b. This area shall address diverse approaches based upon behavioral, cognitive, affective, social, and ecological theory and practice.

c. Approaches should support professionally appropriate practices that promote positive redirection of behavior, development of social skills, and self-discipline.

d. Knowledge and an understanding of various school crisis management and safety plans and the ability to create a safe, orderly classroom environment must be included. The link between classroom management and the students' ages must be understood and demonstrated in techniques used in the classroom.

6. Reading.

a. Adult education, preK-12, and secondary grades 6-12 - literacy in the content areas. Skills in this area shall be designed to impart an understanding of vocabulary development and comprehension skills in English, mathematics, science, history and social sciences, and other content areas. Strategies include teaching students how to ask effective questions, summarize and retell both verbally and in writing, and listen effectively. Teaching strategies include literal, interpretive, critical, and evaluative comprehension, as well as the ability to foster appreciation of a variety of fiction and nonfiction texts and independent reading for adolescent learners.

b. Special education - language acquisition and reading and writing. Skills listed for these endorsement areas represent the minimum competencies that a beginning teacher must be able to demonstrate. These skills are not intended to limit the scope of a beginning teacher's program. Additional knowledge and skills that add to a beginning teacher's competencies to deliver instruction and improve student achievement should be included as part of a quality learning experience.

(1) Language acquisition: Skills in this area shall be designed to impart a thorough understanding of the Virginia English Standards of Learning as well as the complex nature of language acquisition as a precursor to literacy. Language acquisition shall follow the typical development of linguistic competence in the areas of

phonetics, semantics, syntax, morphology, phonology, and pragmatics.

(2) Reading and writing: Skills in this area shall be designed to impart a thorough understanding of the Virginia English Standards of Learning as well as the reciprocal nature of reading and writing. Reading shall include phonemic awareness, concept of print, phonics, fluency, vocabulary development, and comprehension strategies. Writing shall include writing strategies and conventions as supporting the composing and written expression and usage and mechanics domains. Additional skills shall include proficiency in understanding the stages of spelling development, the writing process, and the ability to foster appreciation of a variety of fiction and nonfiction texts and independent reading.

7. Supervised clinical experiences. The supervised clinical experiences shall be continuous and systematic and comprised of early field experiences with a minimum of 10 weeks of full-time student teaching under the supervision of a cooperating teacher with demonstrated effectiveness in the classroom. The summative supervised student teaching experience shall include at least 150 clock hours spent in direct teaching at the level of endorsement.

If a preK-12 endorsement is sought, teaching activities shall be at the elementary and middle or secondary levels. Individuals seeking the endorsement in library media shall complete the supervised school library media practicum in a school library media setting. Individuals seeking an endorsement in an area of special education shall complete the supervised student teaching experience requirement in the area of special education for which the endorsement is sought. One year of successful full-time teaching experience in the endorsement area in any public school or accredited nonpublic school may be accepted in lieu of the supervised student teaching experience. A fully licensed, experienced teacher shall be available in the school building to assist a beginning teacher employed through the alternate route.

8VAC20-543-150. Adult education.

The program in adult education shall ensure that the candidate has demonstrated the following competencies:

1. Understanding of the nature or psychology of the adult learner or adult development;

2. Understanding of the knowledge, skills, and processes needed for the selection, evaluation, and instructional applications of the methods and materials for adult basic skills including:

a. Curriculum development in adult basic education or general educational development (GED) instruction;

b. Beginning reading for adults;

c. Beginning mathematics for adults;

d. Reading comprehension for adult education;

- e. Foundations of adult education; and
- f. Other adult basic skills instruction.

3. Understanding of and proficiency in grammar, usage, and mechanics and their integration in writing;

4. Understanding of and proficiency in pedagogy to incorporate writing as an instructional and assessment tool for candidates to generate, gather, plan, organize, and present ideas in writing to communicate for a variety of purposes; and

5. One semester of supervised successful full-time, or an equivalent number of hours of part-time, experience teaching adults.

8VAC20-543-160. Adult English as a second language (add-on endorsement).

The program in adult English as a second language shall ensure that the candidate holds an active license with a teaching endorsement or endorsements issued by the Virginia Board of Education and has demonstrated the following competencies:

1. Knowledge in the growth and development of the adult learner;
2. Knowledge of teaching methods and materials in adult English as a second language;
3. Knowledge in adult language acquisition;
4. Knowledge of assessment methods in adult English as a second language instruction;
5. Skills in teaching the adult learner;
6. Understanding of the effects of sociocultural variables in the instructional setting;
7. Skills in teaching a variety of adult learning styles;
8. Proficiency in cross-cultural communication;
9. Proficiency in speaking, listening, and reading;
10. Understanding of and proficiency in grammar, usage, and mechanics and their integration in writing; and
11. Understanding of and proficiency in pedagogy to incorporate writing as an instructional and assessment tool for candidates to generate, gather, plan, organize, and present ideas in writing to communicate for a variety of purposes.

8VAC20-543-170. Career and technical education – agricultural education.

The program in agricultural education shall ensure that the candidate has demonstrated the following competencies:

1. Understanding of the importance and relationship of and contribution to the agricultural industry to the community, state, nation, and global economy including:
 - a. Knowledge of the fundamental historical foundation of the state and national agricultural industry;
 - b. Knowledge of contemporary components of the United States food and fiber system; and

c. Knowledge of the career opportunities in agriculture and related fields.

2. Applying the knowledge, skills, and processes involved in plant and soil sciences, including:

- a. Production, use, and marketing of row crops, specialty crops, forage crops, fruits, small grains, vegetables, and cereal crops; and
- b. Soil and water management.

3. Applying the knowledge, skills, and processes involved in the production, management, and marketing of animals, including:

- a. Production of cattle, swine, poultry, dairy cows, sheep, aquaculture species, goats, and horses; and
- b. Care and management of horses and small companion animals.

4. Applying knowledge, skills, and processes involved in agricultural mechanics and technology, including:

- a. Set up safe operation, repair, and maintenance of equipment, tools, and measuring devices used in agriculture;
- b. Knowledge of energy transfer systems used in agriculture;
- c. Knowledge of properties of metals used in tools and equipment; and
- d. Knowledge of alternative energy sources, fuels, and lubricants from agricultural and natural resources.

5. Understanding of agricultural economics, including the various markets, international trade, government policies, and the operation and management of various agricultural businesses.

6. Applying the knowledge, skills, and processes involved in natural resources, including:

- a. Care, management, and conservation of soil, air, water, energy, and wildlife; and
- b. Production and management of the forest.

7. Understanding the relationship of agriculture to community resource and partnership development, including:

- a. Local agricultural program advisory committees;
- b. Adult education programs;
- c. Agricultural enterprises;
- d. Student work-based learning opportunities;
- e. Public and private programs and resources; and
- f. Civic organizations.

8. Implementing classroom management techniques and pedagogical knowledge necessary to:

- a. Understand the biological, physical, chemical, and applied sciences to practical solutions of agricultural problems;

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b. Teach agricultural competencies needed by secondary students to be successful in continuing their education and entering a related career pathway;

c. Develop effective leadership skills through the Future Farmers of America (FFA) student organization as an integral part of instruction; and

d. Apply knowledge and skills for the administration of the agricultural program, including managing budgets, maintaining student performance records and equipment inventories.

9. Understanding of and proficiency in grammar, usage, and mechanics and their integration in writing.

10. Understanding of and proficiency in pedagogy to incorporate writing as an instructional and assessment tool for candidates to generate, gather, plan, organize, and present ideas in writing to communicate for a variety of purposes.

11. Understanding of and proficiency in the use of instructional technologies.

12. Demonstrating and integrating workplace readiness skills in the classroom and real-world activities.

13. Ability to plan, deliver, and manage work-based learning methods of instruction such as internship, job shadowing, cooperative education, mentorship, service learning, clinical, and youth apprenticeship.

8VAC20-543-180. Career and technical education – business and information technology.

The program in business and information technology shall ensure that the candidate has demonstrated the following competencies:

1. Knowledge, skills, and principles of manual and automated accounting, including:

a. Accounting concepts, terminology, and applications;

b. Accounting systems;

c. The basic accounting cycle of source documents, verifications, analyzing, recording, posting, trial balances, and preparing financial statements; and

d. Use of accounting computer software to automate accounting tasks.

2. Knowledge and skills in economics, including:

a. Basic economic concepts and structures;

b. The role of producers and consumers in a market economy;

c. The price system;

d. The many factors that may affect income;

e. A nation's economic goals, including full employment, stable prices, and economic growth;

f. The nation's finance system;

g. How monetary and fiscal policy influence employment, output, and prices;

h. The role of government in a market economy;

i. The global economy; and

j. Distinguishing between trade deficit and trade surplus.

3. Knowledge of the foundations of business selected from the following areas:

a. Business law.

(1) Ability to recognize the legal requirements affecting business organization; and

(2) Ability to apply legal principles to business situations.

b. Business principles.

(1) Ability to identify, explain, and apply contemporary business principles;

(2) Ability to identify and explain the advantages and disadvantages of various business organizational structures; and

(3) Knowledge of the foundations of international business, the global business environment, international business communications, and global business ethics.

c. Management. Understanding and analyzing of basic management functions, tools, theories, and leadership styles to explore and solve problems in business organizations, economics, international business, and human relations issues.

d. Marketing and entrepreneurship.

(1) Understanding of basic marketing concepts in sales techniques, advertising, display, buying, wholesale and retail, distribution, service occupations, market analysis, warehousing, and inventory control; and

(2) Understanding of the unique characteristics of an entrepreneur and the knowledge and skills necessary for an entrepreneurial venture.

e. Finance.

(1) Knowledge about and skills in the areas of managing personal finance and budgeting, saving and investing, buying goods and services, banking and financial institutions, and earning and reporting income needed for sound financial decision making; and

(2) Understanding of the basic concepts of economics, insurance, credit, consumer skills, and other related topics.

4. Knowledge and skills in all of the following communications and information technologies:

a. Communications.

(1) Ability to communicate in a clear, courteous, concise, and correct manner for personal and professional purposes through the foundations of listening, writing, reading, speaking, nonverbal cues, and following written and oral directions;

(2) Ability to use information systems and technology to expedite and enhance the effectiveness of communications and telecommunications; and

(3) Ability to gather, evaluate, use, and cite information from information technology sources.

b. Impact of technology on society and the individual (digital citizenship). Knowledge to assess the impact of information technology on society.

c. Computer architecture. Ability to describe current and emerging computer architecture; configure, install, and upgrade hardware; and diagnose and repair hardware problems.

d. Operating systems, environments, and utilities. Ability to identify, evaluate, select, install, use, upgrade, customize, and diagnose and solve problems with various types of operating systems, environments, and utilities.

e. Application software (e.g., word processing; database; spreadsheet; graphics; web design; desktop, presentation, multimedia, and imaging; and emerging technologies).

(1) Ability to identify, evaluate, select, install, use, upgrade, and customize application software; and

(2) Ability to diagnose and solve problems resulting from an application software's installation and use.

f. Input technologies. Ability to use input devices and technologies (e.g., touch keyboarding, speech recognition, handwriting recognition, hand-held devices, touch screen or mouse, scanning, and other emerging input technologies) to enter, manipulate, and format text and data.

g. Database management systems. Ability to use, plan, develop, and maintain database management systems. Ability to diagnose and solve problems using database management systems.

h. Programming and application development. Ability to help students design, develop, test, and implement multi-platform (e.g., mobile, different operating systems) programs that solve business problems.

i. Networking and communications infrastructures.

(1) Facilitate students' development in the skills to design, deploy, and administer networks and communications systems;

(2) Facilitate students' ability to use, evaluate, and deploy communications and networking applications; and

(3) Facilitate students' ability to analyze networks for security vulnerabilities and develop and deploy appropriate security plans and applications.

j. Information management.

(1) Ability to plan the selection and acquisition of information technologies (hardware and software);

(2) Ability to instruct students in the development of technical and interpersonal skills and knowledge to support the user community; and

(3) Ability to describe, analyze, develop, and follow policies for managing privacy and ethical issues in organizations and in a technology-based society.

k. Web development and multimedia;

(1) Ability to instruct students in the design and development of web applications based on industry standards and principles of good design;

(2) Ability to instruct students in the design and development of multimedia applications; and

(3) Ability to design and develop multimedia and web-based applications for multiple operating systems and environments (mobile, desktop, cloud).

l. Project management.

(1) Understand the components of project management and its importance to business and information technology.

(2) Use project management tools to coordinate information technology, business, or related projects and manage teamwork.

5. Knowledge and skills necessary to teach leadership skills, organize and manage an effective co-curricular student organization, and implement the organization's activities as an integral part of instruction.

6. Understanding of and proficiency in grammar, usage, and mechanics and their integration in writing.

7. Understanding of and proficiency in pedagogy to incorporate writing as an instructional and assessment tool for candidates to generate, gather, plan, organize, and present ideas in writing to communicate for a variety of purposes.

8. Knowledge and skills necessary to apply basic mathematical operations to solve business problems.

9. Demonstration and integration of workplace readiness skills in the classroom and real-world activities.

10. Ability to plan, deliver, evaluate, and manage work-based learning methods of instruction such as internship, job shadowing, cooperative education, mentorship, service learning, clinical, and youth apprenticeship.

8VAC20-543-190. Career and technical education – family and consumer sciences.

The program in family and consumer sciences shall ensure that the candidate has demonstrated the following competencies:

1. Knowledge of the human growth and developmental processes throughout the lifespan, including infancy, childhood, preadolescence, adolescence, adulthood and aging, and in creating and maintaining an environment in

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which family members develop and interact as individuals and as members of a group;

2. Knowledge of the decision-making processes related to housing, furnishings, and equipment for individuals and families with attention given to special needs and the diversity of individuals;

3. The ability to plan, purchase, and prepare food choices that promote nutrition and wellness and safety and sanitation;

4. Knowledge of the management of resources to achieve individual and family goals at different stages of the life span and the family life cycle;

5. Knowledge of the sociological, psychological, and physiological aspects of apparel and textiles for individuals and families;

6. Knowledge of the management of families, community, work, and their interrelationships;

7. Knowledge of occupational skill development and career planning;

8. Knowledge of the use of critical science and creative skills to address problems in diverse family, community, and work environments;

9. Knowledge and skills necessary to teach leadership, communication, interpersonal problem-solving, and ethical decision-making skills;

10. The ability to plan, develop, teach, supervise, and evaluate programs in occupational programs at the secondary, postsecondary, and adult levels;

11. The ability to organize and implement Family, Career, and Community Leaders of America (FCCLA) programs as an integral part of classroom instruction;

12. Understanding of and proficiency in grammar, usage, and mechanics and their integration in writing;

13. Understanding of and proficiency in pedagogy to incorporate writing as an instructional and assessment tool for candidates to generate, gather, plan, organize, and present ideas in writing to communicate for a variety of purposes;

14. Demonstrate and integrate workplace readiness skills in the classroom and real-world activities; and

15. Ability to plan, deliver, and manage work-based learning methods of instruction such as internship, job shadowing, cooperative education, mentorship, service learning, clinical, and youth apprenticeship.

8VAC20-543-200. Career and technical education – health and medical sciences.

The program in health and medical sciences shall ensure that the candidate has demonstrated the following competencies:

1. Knowledge of teaching methods.

a. Instructional planning - ability to determine the needs and interests of students;

b. Organizing instruction - ability to prepare teacher-made instructional materials for clinical laboratory experience;

c. Instructional execution - ability to use techniques for simulating patient care and demonstrating manipulative skills;

d. Application of technology in the classroom; and

e. Instructional evaluation - ability to determine grades for students in classroom and clinical settings.

2. Knowledge of program management.

a. Planning - ability to organize an occupational advisory committee;

b. Curriculum development - ability to keep informed of current curriculum content and patient care practices;

c. Planning and organizing teaching and occupational laboratory for laboratory simulations and demonstrations;

d. Understanding of the process for issuing credentials for health workers;

e. Understanding of the health care industry; and

f. Evaluation - ability to conduct a student follow-up study.

3. Knowledge and skills necessary to teach leadership skills, organize and manage an effective co-curricular student organization, and implement the organization's activities as an integral part of instruction.

4. Understanding of and proficiency in grammar, usage, and mechanics and their integration in writing.

5. Understanding of and proficiency in pedagogy to incorporate writing as an instructional and assessment tool for candidates to generate, gather, plan, organize, and present ideas in writing to communicate for a variety of purposes.

6. Demonstrate and integrate workplace readiness skills in the classroom and real-world activities.

7. Ability to plan, deliver, evaluate, and manage work-based learning methods of instruction such as internship, job shadowing, cooperative education, mentorship, service learning, clinical, and youth apprenticeship.

8VAC20-543-210. Career and technical education – marketing education.

The program in marketing shall ensure that the candidate has demonstrated the following competencies:

1. Knowledge of marketing processes and the environment; management and supervision; economics; merchandising and operations; advertising and promotion; sales and selling; communication theory and techniques; consumer behavior; international (global) marketing; finance; accounting or marketing mathematics; and technology applications through a variety of educational and work experiences;

2. Knowledge of skills and principles common across the marketing pathways: channel management; marketing-information management; market planning; pricing; product and service management promotion; and selling;
3. Ability to plan, develop, and administer a comprehensive marketing program for high school students and adults;
4. Ability to organize and use a variety of instructional methods and techniques for teaching youths and adults;
5. Ability to conduct learning programs that include a variety of career objectives and recognize and respond to individual differences in students;
6. Ability to assist learners of different abilities in developing skills needed to qualify for further education and employment;
7. Knowledge of occupational skill development and career planning for opportunities in marketing, merchandising, hospitality, and management;
8. Knowledge and skills necessary to teach leadership skills, organize and manage an effective co-curricular student organization (DECA) and implement the organization's activities as an integral part of instruction;
9. Application of and proficiency in grammar, usage, and mechanics and their integration in writing;
10. Understanding of and proficiency in pedagogy to incorporate writing as an instructional and assessment tool for candidates to generate, gather, plan, organize, and present ideas in writing to communicate for a variety of purposes;
11. Application of and proficiency in instructional technology and current technological applications as these relate to marketing functions;
12. Demonstration and integration of workplace readiness skills in the classroom and real-world activities;
13. Ability to plan, deliver, and manage work-based learning methods of instruction, such as: internship, job shadowing, cooperative education, mentorship, service learning, clinical, and youth apprenticeship; and
14. Ability to apply mathematical operations to solve marketing problems.

8VAC20-543-220. Career and technical education – technology education.

The program in technology education shall ensure that the candidate has demonstrated the following competencies:

1. Understanding the nature of technology, including knowledge of the:
 - a. Characteristics and scope of technology;
 - b. Core concepts of physical, biological, and informational technologies; and
 - c. Relationships among technologies, including the natural intersects between science, technology, engineering, and mathematics (STEM) and other fields.
2. Understanding the relationships between technology and society, including the:
 - a. Sociocultural, political, and economic influences of technology;
 - b. Local and global effects of technological products and systems on the environment; and
 - c. Role that society plays in the use and development of technology; and
 - d. Influence of technology on human history.
3. Comprehension and utilization of engineering design, including the:
 - a. Attributes of technological design;
 - b. Role of constraints, optimization, and predictive analysis in engineering design;
 - c. Requirement of problem-solving, critical thinking, and technical writing skills; and
 - d. Intentional integration of mathematics and science concepts and practices.
4. Ability to succeed in a technological world, including a capacity to:
 - a. Employ the design process in the engineering of technological products and systems;
 - b. Determine and control the behavior of technological products and systems;
 - c. Use and maintain technological products and systems; and
 - d. Assess the impacts and consequences of technological products and systems.
5. Ability to select and use the major physical, biological, and informational technologies of the designed world, including the:
 - a. Principles and processes characteristic of contemporary and emerging transportation, manufacturing, and construction technologies, inclusive of research, engineering design and testing, planning, organization, resources, and modes of distribution;
 - b. Range of enabling technologies that utilize fundamental biological principles and cellular processes characteristic of traditional and modern biotechnical technologies, including research, design-based engineering and testing of agricultural products, biotechnical systems, and associated medical technologies;
 - c. Purpose, processes, and resources involved with creating, encoding, transmitting, receiving, decoding, storage, retrieval, and understanding of information data using communication systems in a global information society; and

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d. Concept, laws, forms, and characteristics of energy as a fundamental requirement of the technological world, inclusive of the resultant power and work requisites, both renewable and nonrenewable, of the tools, machines, products, and systems within.

6. Knowledge, skills, and processes required for teaching in a STEM laboratory environment, including:

a. Laboratory safety rules, regulations, processes, and procedures;

b. Ability to organize content and practices into effective instructional units;

c. Ability to deliver instruction to diverse learners;

d. Ability to evaluate student achievement, curriculum materials, instructional strategies, and teaching practices;

e. Ability to incorporate new and emerging instructional technologies to enhance student performance across the varied domains of knowledge - cognitive, affective, and psychomotor; and

f. Ability to convey the concepts and procedures for developing a learner's technological literacy specifically and integrative STEM literacy in general.

7. Demonstration of the knowledge, abilities, and capacity necessary to teach leadership skills, organize and manage an effective co-curricular student organization, and implement the organization's activities as an integral part of instruction.

8. Understanding of and proficiency in grammar, usage, and mechanics and their integration in formal technical writing.

9. Understanding of and proficiency in pedagogy to incorporate writing as an instructional and assessment tool for candidates to generate, gather, plan, organize, and present ideas in writing to communicate for a variety of purposes.

10. Demonstrate and integrate workplace readiness skills in the classroom and real-world activities.

11. Ability to plan, deliver, evaluate, and manage work-based learning methods of instruction such as internship, job shadowing, cooperative education, mentorship, service learning, clinical, and youth apprenticeship.

8VAC20-543-230. Career and technical education – trade and industrial education.

The program in trade and industrial education shall ensure that the candidate has demonstrated the following competencies:

1. Understanding of industrial education and its role in the development of technically competent, socially responsible, and culturally sensitive individuals with potential for leadership in skilled technical work and professional studies;

2. Understanding of and the ability to relate experiences designed to develop skills in the interpretation and implementation of industrial education philosophy in accordance with changing demand;

3. The knowledge and experience of systematically planning, executing, and evaluating individual and group instruction;

4. Knowledge of the competencies necessary for effective organization and management of laboratory instruction;

5. Knowledge of the competencies necessary for making physical, social, and emotional adjustments in multicultural student-teacher relationships;

6. Knowledge of the competencies necessary for developing and utilizing systematic methods and instruments for appraising and recording student progress in the career and technical educational classroom;

7. Knowledge of the ability to provide technical work experience through cooperative education or provide a method of evaluating previous occupational experience commensurate with the minimum required standard;

8. Knowledge of the competencies and industry credentials necessary to assist students in job placement and in otherwise bridging the gap between education and work;

9. Understanding of the awareness of the human relations factor in industry, with emphasis on the area of cooperation among labor, management, and the schools;

10. Knowledge of the teacher's role in the school and community;

11. Understanding of the content, skills, and techniques necessary to teach a particular trade area;

12. Knowledge of the competencies necessary to organize and manage an effective student organization;

13. Understanding of and proficiency in grammar, usage, and mechanics and their integration in writing;

14. Understanding of and proficiency in pedagogy to incorporate writing as an instructional and assessment tool for candidates to generate, gather, plan, organize, and present ideas in writing to communicate for a variety of purposes;

15. Demonstration and integration of work place readiness skills in the classroom and real-world activities; and

16. Understanding of the planning, delivery, and management of work-based learning methods of instruction such as internship, job shadowing, cooperative education, mentorship, service learning, clinical, and youth apprenticeship.

8VAC20-543-240. Career and technical education – transition and special needs (add-on endorsement).

The transition and special needs (add-on endorsement) shall ensure that the candidate holds an active license with a teaching endorsement or endorsements issued by the Virginia

Board of Education and has demonstrated the following competencies:

1. Knowledge of special needs and transition programs and services, characteristics of students who are disadvantaged, disabled, gifted, and individuals with barriers to educational achievement and employment, including individuals with limited English proficiency.
2. Knowledge of program development, implementation, and evaluation.
3. Basic understanding of cultural issues pertaining to employment and postsecondary education and training.
4. Understanding of the federal and state laws and regulations pertaining to special education, rehabilitation, and the American with Disabilities Act (42 USC § 12101 et seq.).
5. Understanding and demonstration of the integration of instructional methods, resources, and transition programs for targeted populations in career and technical education, including:
 - a. Use of learning and teaching styles to plan and deliver differentiated instruction and differentiated assessment;
 - b. Knowledge of age appropriate assessments;
 - c. Use of assessment results to plan individual instruction strategies and assist with long-range and short-term planning;
 - d. Understanding of required skills that demonstrate college and career readiness;
 - e. Ability to plan and manage a competency-based education system;
 - f. Ability to adapt and modify curriculum materials and utilize Universal Design for Learning Principles to meet special student needs;
 - g. Use of a variety of classroom and behavior management techniques to develop an enhanced learning environment, behavior change techniques, and individual and group instruction;
 - h. Use of different processes to improve collaboration and develop partnerships with colleagues, parents, and the community to include service agencies and businesses; and
 - i. Ability to plan learning experiences that prepare individuals for transition to more advanced education and career development options.
6. Ability to develop, plan, deliver, and manage work-based learning methods of instruction such as community-based instruction, internship, job shadowing, cooperative education, mentorship, service learning, clinical, and youth apprenticeship.
7. Understanding and application of strategies for enabling students to learn all aspects of particular industries - planning, management, finances, technical and production

skills, labor and community issues, health and safety, environmental issues, and the technology associated with the specific industry.

8. Ability to articulate career and life planning procedures, transitioning processes and procedures, and career-search techniques.
9. Application of and proficiency in grammar, usage, and mechanics and their integration in writing.
10. Understanding of and proficiency in pedagogy to incorporate writing as an instructional and assessment tool for candidates to generate, gather, plan, organize, and present ideas in writing to communicate for a variety of purposes.
11. Ability to use a variety of technologies to deliver instruction and media to students, parents, teachers, and community partners.
12. Demonstration and integration of workplace readiness skills in the classroom and real-world activities.
13. Demonstrate person-centered planning skills.

8VAC20-543-250. Computer science.

The program in computer science shall ensure that the candidate has demonstrated the following competencies:

1. Understanding of mathematical principles that are the basis of many computer applications;
2. Knowledge of the functions, capabilities, and limitations of computers and computer systems;
3. Knowledge of the ethical, moral, and legal issues associated with applications in programming and computer science;
4. Knowledge of programming in at least two widely used programming languages, including definition, structure, and comparison;
5. Knowledge of programming languages including definition, design, comparison, and evaluation;
6. Knowledge of computers and computer systems and their applications;
7. Knowledge of data structures and algorithms;
8. Understanding of and proficiency in grammar, usage, and mechanics and their integration in writing; and
9. Understanding of and proficiency in pedagogy to incorporate writing as an instructional and assessment tool for candidates to generate, gather, plan, organize, and present ideas in writing to communicate for a variety of purposes.

8VAC20-543-260. Dance arts preK-12.

The program in dance arts shall ensure that the candidate has demonstrated the following competencies:

1. Understanding of the knowledge, skills, and processes of the dance arts discipline as defined in the Virginia

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Standards of Learning and how they provide a foundation needed to teach dance arts.

2. Understanding of the knowledge, skills, and processes for teaching dance arts to meet the developmental levels and academic needs of students in preK-12, including the following:

a. Knowledge of and experience in planning, developing, administering, and evaluating a program of dance arts education;

b. Knowledge and understanding for teaching dance arts, including performance, creation, and production; dance history and cultural context; analysis, evaluation, and critique; and aesthetics;

c. Ballet, folk, jazz, and modern dance with an area of concentration in one of these areas;

d. Scientific foundations, including human anatomy, kinesiology, and injury prevention and care for dance arts;

e. The relationship of dance arts and culture and the influence of dance on past and present cultures;

f. Knowledge and understanding of technological and artistic copyright laws;

g. Knowledge and understanding of classroom management and safety, including performance and studio;

h. Knowledge of a variety of instructional and assessment strategies to foster, support, and enhance student dance arts learning;

i. Knowledge and understanding of technology, with applications for instruction, resources, artistic expression, administration, assessment, and communication;

j. Knowledge and understanding of appropriate and sensitive attention to diversity and cultural understanding;

k. Knowledge of related areas of the fine arts, such as music, theatre arts, and the visual arts; and

l. Observation and student teaching experiences at the elementary, middle, and secondary levels.

3. Understanding of and proficiency in grammar, usage, and mechanics and their integration in writing.

4. Understanding of and proficiency in pedagogy to incorporate writing as an instructional and assessment tool for candidates to generate, gather, plan, organize, and present ideas in writing to communicate for a variety of purposes.

8VAC20-543-270. Driver education (add-on endorsement).

The program in driver education shall ensure that the candidate holds an active license with a teaching endorsement or endorsements issued by the Virginia Board of Education and has demonstrated the following competencies:

1. Basic understanding of the administration of a driver education program as required by § 22.1-205 of the Code of Virginia and the Administrative Guide for Driver Education in Virginia 2010 (http://www.doe.virginia.gov/instruction/driver_education/curriculum_admin_guide/index.shtml) including:

a. Coordination and scheduling of classroom and in-car instruction;

b. The Board of Education and the Department of Motor Vehicle's regulations governing driver education programs;

c. Student safety and other legal liability issues;

d. The juvenile licensing process;

e. Highway traffic safety and the driver licensing laws in the Code of Virginia;

f. Vehicle procurement maintenance and safety equipment requirements;

g. The Department of Education's and the Department of Motor Vehicle's juvenile licensing forms;

h. Monitoring and oversight procedures that ensure the approved program meets state curriculum objectives, goals, and learning outcomes; the classroom and in-car hour requirements; and teachers have valid Virginia driver's licenses, acceptable driving records, and meet teacher licensure and/or in-car instructor training requirements;

i. Promoting parent involvement;

j. Providing opportunities for ongoing professional development; and

k. Integrating classroom and in-car instruction when possible to maximize transfer of skills.

2. Understanding of knowledge, skills, and processes of classroom driver education instruction including:

a. Traffic laws, signs, signals, pavement markings, and right-of-way rules;

b. Licensing procedures and other legal responsibilities associated with the driving privilege and vehicle ownership;

c. The effect of speed and steering on vehicle balance and control;

d. Communicating and interacting with other highway users (pedestrians, animals, motorcycles, bicycles, trucks, buses, trains, trailers, motor homes, ATVs, and other recreational users) in a positive manner;

e. Managing of time, space, and visibility, and using perceptual skills in the risk management process;

f. Alcohol and other drug use;

g. Passive protective devices and active restraint systems;

h. Vehicle controls, vehicle maintenance, vehicle functions, and vehicle malfunctions;

- i. Consequences of aggressive driving, road rage, fatigue, distracted driving, and other physical, social, and psychological influences that affect the driver;
 - j. Natural laws and environmental factors that influence the decision-making process;
 - k. Adverse driving conditions and handling emergencies;
 - l. Planning a safe trip;
 - m. Differentiating instruction based on a continuous learning cycle;
 - n. Using assessments that foster student learning to inform decisions about instruction; and
 - o. Using new and emerging instructional technology and media effectively to enhance learning.
3. Understanding of knowledge, skills, and processes of the laboratory phase of instruction including:
- a. Simulation and other instructional technologies;
 - b. Multiple-car range;
 - c. Route planning and preparing for sequential instructional performances that lead to effective habit formation;
 - d. Providing clear, concise instructions when describing the critical elements of a driving skill;
 - e. Correctly using occupant restraints and protective devices;
 - f. The role of the driver and the observer;
 - g. Using commentary driving to determine visual search skills needed to identify and make risk-reducing decisions for safe speed and position;
 - h. Using reference points to gauge vehicle position and execute maneuvers with precision;
 - i. Selecting vehicle position to communicate or establish line of sight to targets;
 - j. Balancing vehicle movement through precise and timely steering, braking, and accelerating to manage vehicle weight transfer;
 - k. Applying visual search skills to manage risks in low, moderate, and high-risk driving environments;
 - l. Adjusting speed and space to communicate and reduce risks to avoid conflicts;
 - m. Preventing, detecting, and managing vehicle traction loss in simulated and adverse driving conditions;
 - n. Using vehicle braking, traction, and stability technologies;
 - o. Recognizing environmental factors that influence vehicle control;
 - p. Applying space management strategies to the front and sides and monitoring space to the rear;
 - q. Understanding the consequences of speed selection;
 - r. Dividing mental attention between intended path of travel and other tasks;
 - s. Demonstrating basic and evasive maneuvers and off-road recovery;
 - t. Recognizing understeer and oversteer, and the effects of traction, gravity, inertia and momentum on vehicle handling and control;
 - u. Controlling vehicle from instructor's seat;
 - v. Interacting with other roadway users in a positive manner;
 - w. Using manual transmission;
 - x. Developing precision in the use of skills, processes, and habits for approach to intersection, curves, turns, parking, turnabouts, backing, lane change, passing and being passed, getting on and off highways, and responding to emergencies;
 - y. Administering the driver's license road skills test and issuing the six-month temporary provisional license; and
 - z. Completing a debriefing with a parent or guardian that includes a reminder that the parent must ultimately determine readiness for a driver's license.
4. Guiding parents to provide meaningful guided practice including:
- a. Understanding the juvenile licensing laws and the parents' role in the juvenile licensing process;
 - b. Determining the readiness of the child to begin learning how to drive in a car;
 - c. Planning and supervising the learner's permit experience;
 - d. Keeping a record of the meaningful supervised driving hours; and
 - e. Adopting a written agreement with the child that reflects expectations, defines rules and consequences, and allows the parents to progressively grant broader driving privileges.
5. Understanding of and proficiency in grammar, usage, and mechanics and their integration in writing.
6. Understanding of and proficiency in pedagogy to incorporate writing as an instructional and assessment tool for candidates to generate, gather, plan, organize, and present ideas in writing to communicate for a variety of purposes.
- 8VAC20-543-280. Engineering.**
- The program in engineering shall ensure that the candidate demonstrates the following competencies:
- 1. Understanding of the knowledge, skills, and processes of the engineering discipline as defined in Virginia's high school engineering courses and how these provide a sound foundation for teaching engineering.

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2. Understanding the nature of engineering design and analysis, including the:

- a. Function of the engineering design process;
- b. Methods used by engineers to generate, develop, and test ideas to meet design requirements;
- c. Role of failure in the engineering design process.

3. Understanding of the knowledge, skills, and processes for teaching engineering, including the ability to:

- a. Formulate instruction reflecting the goals of the engineering courses that are taught in Virginia high schools;
- b. Design, prototype, test, analyze, and operate solutions to engineering challenges;
- c. Implement laboratory and field safety rules and procedures and ensure that students take appropriate safety precautions;
- d. Organize key engineering content and skills into meaningful units of instruction;
- e. Adapt instruction to diverse learners using a variety of techniques;
- f. Evaluate student achievement, instructional materials, and teaching materials; and
- g. Incorporate instructional technology to enhance student performance.

4. Understanding of content, processes, and skills of engineering, equivalent to an undergraduate degree in engineering, with course work in principles of engineering, engineering design, statics and dynamics, circuits, fluid mechanics, thermodynamics, materials, ordinary differential equations, and linear algebra.

5. Understanding of basic chemistry, biology, Earth and space sciences, physics, and mathematics, including statistics and calculus, to ensure:

- a. The placement of engineering in an appropriate science, technology, engineering, and mathematics (STEM) and interdisciplinary context;
- b. The ability to teach the processes and organizing concepts of the natural and physical sciences to analyze successful and failed engineering designs; and
- c. Student achievement in engineering.

6. Understanding of the contributions and significance of engineering, including:

- a. Its social and cultural significance;
- b. The relationship of engineering and its sub-fields (e.g., electrical engineering, mechanical engineering, bio-engineering, etc.) to the sciences, mathematics and technology; and
- c. The historical development of engineering concepts and reasoning.

7. Understanding of and proficiency in grammar, usage, and mechanics and their integration in writing, oral, and multi-media presentations.

8. Understanding of and proficiency in pedagogy to incorporate writing as an instructional and assessment tool for candidates to generate, gather, plan, organize, and present ideas in writing to communicate for a variety of purposes.

8VAC20-543-290. English.

The program in English shall ensure that the candidate has demonstrated the following competencies:

1. Understanding of the knowledge, skills, and processes of English as defined in the Virginia Standards of Learning;

2. Skills necessary to teach the writing process and the different modes of writing (narrative, descriptive, expository, persuasive, and analytical) and to employ available technology;

3. Knowledge of grammar, usage, and mechanics and their integration in writing;

4. Understanding of and proficiency in pedagogy to incorporate writing as an instructional and assessment tool for candidates to generate, gather, plan, organize, and present ideas in writing to communicate for a variety of purposes;

5. Understanding of the nature and development of language including vocabulary appropriate to the topic, audience, and purpose;

6. Knowledge of reading strategies and techniques used to enhance reading comprehension skills in both fiction and nonfiction texts;

7. Knowledge of communication skills including speaking and listening skills and media literacy;

8. Knowledge of varied fiction and nonfiction from young adult, British, American, world, and ethnic and minority texts appropriate for English instruction;

9. The ability to provide experiences in communication arts, such as journalism, dramatics, debate, forensics, radio, television, films, and other media production;

10. Skills necessary to teach the analysis and production of media literacy;

11. Skills necessary to teach research including ethical accessing, evaluating, organizing, crediting, and synthesizing information; and

12. Knowledge of the Computer Technology Standards of Learning and their integration into English Language Arts.

8VAC20-543-300. English as a second language preK-12.

The program in English as a second language shall ensure that the candidate has demonstrated the following competencies:

1. Skills in methods of teaching English as a second language to include the understanding of the World-Class

Instructional and Design Assessment (WIDA) English Language Development (ELD) Standards;

2. Skills in student assessment for English as a second language to include the Assessing Comprehension and Communication in English State-to-State for English Language Learners (Access for ELLs®) test;

3. Skills in the teaching of reading and writing to include (i) the five areas of reading instruction: phonemic awareness, phonics, fluency, vocabulary and text comprehension; (ii) similarities and differences between reading in a first language and reading in a second language; and (iii) a balanced literacy approach;

4. Knowledge of the effects of sociocultural variables in the instructional setting;

5. Proficiency in spoken and written English;

6. Understanding of second language acquisition;

7. Knowledge of another language and its structure;

8. Understanding of and proficiency in grammar, usage, and mechanics and their integration in writing;

9. Understanding of and proficiency in pedagogy to incorporate writing as an instructional and assessment tool for candidates to generate, gather, plan, organize, and present ideas in writing to communicate for a variety of purposes; and

10. Knowledge of English linguistics.

8VAC20-543-310. Foreign language preK-12.

A. The specific language of the endorsement shall be noted on the license.

B. Foreign language preK-12 - languages other than Latin. The program in the foreign language shall ensure that the candidate has:

1. Demonstrated the following competencies:

a. Understanding of authentic speech at a normal tempo;

b. Ability to speak with a command of vocabulary, pronunciation, and syntax adequate for expressing thoughts to a native speaker not used to dealing with foreigners;

c. Ability to read and comprehend authentic texts of average difficulty and of mature content;

d. Ability to write a variety of texts including description and narration with clarity and correctness in vocabulary and syntax;

e. Knowledge of geography, history, social structure, and artistic and literary contributions of the target societies;

f. Ability to interpret contemporary lifestyles, customs, and cultural patterns of the target societies;

g. Understanding of the application of basic concepts of phonology, syntax, and morphology to the teaching of the foreign language;

h. Knowledge of the national standards for foreign language learning, current proficiency-based and performance-based objectives of the teaching of foreign languages at the elementary and secondary levels, elementary and secondary methods and techniques for attaining these objectives, the use of technology and media in teaching languages, current curricular developments, the relationship of language study to other areas of the curriculum, and the professional literature of foreign language teaching;

i. Understanding of and proficiency in grammar, usage, and mechanics and their integration in writing;

j. Understanding of and proficiency in pedagogy to incorporate writing as an instructional and assessment tool for candidates to generate, gather, plan, organize, and present ideas in writing to communicate for a variety of purposes;

k. Knowledge of the assessment of foreign language skills in listening, speaking, reading, and writing, and the differing types of assessments and their uses, including portfolio-based assessments, integrated performance assessments, and oral proficiency interviews; and

l. Knowledge of the characteristics of effective foreign language teaching, including the standards and key elements related to foreign language teaching as outlined in the Virginia Standards for the Professional Practice of Teachers.

2. Participated in opportunities for significant foreign language study or living experiences in this country or abroad, or both.

C. Foreign language preK-12 - Latin. The program in Latin shall ensure that the candidate has demonstrated the following competencies:

1. Ability to read and comprehend Latin in the original;

2. Ability to pronounce Latin with consistent classical, or ecclesiastical, pronunciation;

3. Knowledge of the vocabulary, phonetics, morphology, and syntax of Latin and the etymological impact of Latin;

4. Ability to discuss the culture and civilization of Greco-Roman society, including history, daily life, art, architecture, and geography;

5. Ability to explain the relationship of Greco-Roman culture and civilization to subsequent cultures and civilizations;

6. Knowledge of major literary masterpieces and their relationship to the historical and social context of the society;

7. Competency in current methodologies for teaching Latin at the elementary and secondary levels; lesson planning; scope and sequencing of material; instructional strategies and assessment under the guidance of an experienced Latin teacher;

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8. Understanding of and proficiency in grammar, usage, and mechanics and their integration in writing;

9. Understanding of and proficiency in pedagogy to incorporate writing as an instructional and assessment tool for candidates to generate, gather, plan, organize, and present ideas in writing to communicate for a variety of purposes; and

10. Knowledge of the characteristics of effective foreign language teaching, including the standards and key elements related to foreign language teaching as outlined in the Virginia Standards for the Professional Practice of Teachers.

D. Foreign language preK-12 - American Sign Language.
The program in American Sign Language shall ensure that the candidate has:

1. Demonstrated the following competencies:

a. Understanding of native users of American Sign Language at a normal tempo;

b. Ability to sign with a command of vocabulary, nominal behaviors, and syntax adequate for expressing thoughts to an American Sign Language user not accustomed to dealing with individuals who do not use American Sign Language;

c. Knowledge of history, social structure, and artistic and literary contributions of the deaf culture;

d. Ability to interpret contemporary lifestyles, customs, and cultural patterns of the deaf culture;

e. Understanding of the application of basic concepts of phonology (e.g., hand shapes, location, palm orientation, and sign movements), syntax, and morphology to the teaching of the American Sign Language;

f. Knowledge of the national standards for foreign language learning, current proficiency-based and performance-based objectives of the teaching of foreign languages at the elementary and secondary levels, elementary and secondary methods and techniques for attaining these objectives, the assessment of foreign language skills, the use of technology and media in teaching languages, current curricular developments, the relationship of language study to other areas of the curriculum, and the professional literature of foreign language teaching;

g. Understanding of and proficiency in English grammar, usage, and mechanics and their integration in writing;

h. Understanding of and proficiency in pedagogy to incorporate writing as an instructional and assessment tool for candidates to generate, gather, plan, organize, and present ideas in writing to communicate for a variety of purposes; and

i. Knowledge of the characteristics of effective foreign language teaching, including the standards and key elements related to foreign language teaching as outlined

in the Virginia Standards for the Professional Practice of Teachers.

2. Participated in opportunities for significant study of the linguistics of American Sign Language and immersion experiences in the deaf culture.

8VAC20-543-320. Gifted education (add-on endorsement).

The program in gifted education shall ensure that the candidate holds an active license with a teaching endorsement or endorsements issued by the Virginia Board of Education and has demonstrated the following competencies:

1. Understanding of principles of the integration of gifted education and general education, including:

a. Strategies to facilitate the interaction of gifted students with students of similar and differing intellectual and academic abilities;

b. Development of activities to encourage parental and community involvement in the education of the gifted;

c. Strategies to encourage collaboration among professional colleagues, especially in the areas of curriculum and professional development; and

d. Strategies to collaborate and consult with general education teachers and other resource specialists on behalf of gifted students.

2. Understanding of the characteristics of gifted students, including:

a. Varied expressions of advanced aptitudes, skills, creativity, and conceptual understandings;

b. Varied expressions of the affective (social-emotional) needs of gifted students; and

c. Gifted behaviors in special populations (i.e., those who are culturally and linguistically diverse, economically disadvantaged, highly gifted, or have special needs or disabilities, including twice-exceptional students).

3. Understanding of specific techniques to identify gifted students using diagnostic and prescriptive approaches to assessment, including:

a. The selection, use, and interpretation of multiple standardized, norm-referenced aptitude and achievement assessment instruments;

b. The selection, use, and evaluation of multiple identification criteria and strategies;

c. The use of both formal and informal nonbiased measures to provide relevant information regarding the aptitude and ability or achievement of potentially gifted students;

d. The use of authentic assessment tools such as portfolios to determine performance, motivation, interest, and other characteristics of potentially gifted students;

e. The use and interpretation of reliable rating scales, checklists, and questionnaires by parents, teachers, and others;

- f. The evaluation of data collected from student records such as grades, honors, and awards;
 - g. The use of case study reports providing information concerning exceptional conditions; and
 - h. The roles and responsibilities of the identification and placement committee.
4. Understanding and application of a variety of curricular and instructional models, methodologies, and strategies that ensure:
- a. The use of the Virginia Standards of Learning as a foundation to develop a high level of proficiency, academic rigor, and complexity for gifted learners in all curricular academic areas;
 - b. The acquisition of knowledge and development of products that demonstrate creative and critical thinking as applied to student learning both in and out of the classroom, including inquiry-based instruction, questioning strategies, and problem-solving skills;
 - c. The development of learning environments that guide students to become self-directed, reflective, independent learners;
 - d. The acquisition of tools to enable students to contribute to a multicultural, diverse society, including preparation for college and careers; and
 - e. The development of learning environments that recognize and support the affective needs of the gifted students.
5. Understanding and application of theories and principles of appropriately differentiating curriculum specifically designed to accommodate the accelerated learning aptitudes of gifted students, including:
- a. Accelerated and enrichment opportunities that recognize gifted students' needs for advanced content and pacing of instruction, original research or production, problem-finding and problem-solving, higher level thinking that leads to the generation of products, and a focus on issues, themes, and ideas integrated within and across disciplines;
 - b. Opportunities for students to explore, develop, and research their areas of interest, talent, or strength using varied modes of expression;
 - c. Emphasis on advanced and complex content that is paced and sequenced to respond to gifted students' persistent intellectual, artistic, or technical curiosity; exceptional problem-solving abilities; rapid acquisition and mastery of information; conceptual thinking processes; and imaginative expression across a broad range of disciplines;
 - d. Evaluation of student academic growth and learner outcomes through appropriate multiple criteria, including a variety of pre-assessments and post-assessments; and
 - e. Use of current and advanced technologies to enhance student performance and academic growth.
6. Understanding of contemporary issues and research in gifted education, including:
- a. The systematic gathering, analyzing, and reporting of formative and summative data from local, state, and national perspectives; and
 - b. Current local, state, and national policies, trends, and issues.
7. Understanding of and proficiency in grammar, usage, and mechanics and their integration in all forms of communication.
8. Understanding of and proficiency in pedagogy to incorporate writing as an instructional and assessment tool for candidates to generate, gather, plan, organize, and present ideas in writing to communicate for a variety of purposes.
9. The program shall include a practicum that shall include a minimum of 45 instructional hours of successful teaching experiences with gifted students.
- 8VAC20-543-330. Health and physical education preK-12.**
- The program in health and physical education preK-12 shall ensure that the candidate has demonstrated the following competencies:
- 1. Understanding of the knowledge, skills, and processes of health and physical education as defined in the Virginia Standards of Learning.
 - 2. Understanding basic human anatomy, physiology, and kinesiology needed to apply discipline-specific biomechanical concepts critical to the development of physically educated individuals.
 - 3. Understanding of the basic scientific principles of human movement as they apply to:
 - a. Health-related fitness (flexibility, muscular strength and endurance, cardio respiratory endurance, and body composition);
 - b. Skill-related fitness (coordination, agility, power, balance, speed, and reaction time); and
 - c. Analyzing and correcting critical elements of motor skills and performance concepts related to skillful movement and fitness.
 - 4. Basic understanding of the administration and planning for a health and physical education program, including:
 - a. Differentiated instruction based on a continuous learning cycle;
 - b. Student safety, classroom management, injury prevention, and liability issues;
 - c. Standards-based curriculum and assessments that foster student learning and inform decisions about instruction;
 - d. The role of coordinated school and community health.

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e. Utilizing school health advisory boards, local health departments, and other representative stakeholders for support for best practice; and

f. Increasing physical activity behaviors before, during, and after school.

5. Understanding of the essential health knowledge, skills, and processes for teaching developmentally and culturally appropriate health education content standards, including:

a. Health promotion and chronic disease prevention;

b. Mental, social, and emotional health;

c. Nutrition, body image, eating disorders, energy balance, and weight management;

d. Tobacco, alcohol, and other drug use prevention;

e. Safety and emergency care (first aid, CPR, AED, universal precautions);

f. Injury and violence prevention;

g. Consumer health and information access;

h. Communicable and noncommunicable diseases prevention and treatment;

i. Environmental health;

j. Personal, family, and community health;

k. Bullying prevention, resistance skills, and conflict mediation; and

l. Theories and models of behavior change and goal-setting.

6. Understanding of the knowledge, skills, and processes for teaching physical education, including:

a. Articulated, sequential preK-12 instruction in a variety of movement forms that include:

(1) Functional fitness;

(2) Developmentally appropriate movement skills; and

(3) Movement principles and concepts.

b. Activities that meet the needs of the diverse learner;

c. Design learning activities to help students understand, develop, value and achieve personal fitness;

d. Knowledge of human growth, development, and motor learning;

e. The relationship between a physically active lifestyle and health;

f. Knowledge of the cognitive, social, and emotional development through physical activity;

g. Incorporate strategies that promote effective physical activity learning environments;

h. Use of authentic, traditional, psychomotor, and fitness assessment methods;

i. The cultural significance of dance, leisure, competition, and sportsmanship; and

j. Demonstrate personal competence in motor skill performance for a variety of movement patterns, modeling healthy behaviors, and maintaining health-enhancing level of fitness.

7. Understanding of and ability to design developmentally appropriate curriculum, instruction, and performance-based assessment that is aligned with the Virginia Standards of Learning for Health and Physical Education:

a. Develop a developmentally appropriate scope and sequence plan of essential health and physical education concepts, information, and skills based on the Virginia Standards of Learning;

b. Use the scope and sequence plan to develop performance indicators that describe the essential concepts and skills;

c. Use new and emerging instructional technology and media effectively to enhance learning;

d. Use research-based educational strategies to meet diverse learning styles and needs;

e. Adapt and create strategies best suited for delivering instruction in diverse settings;

f. Employ individual and cooperative group learning strategies;

g. Connect instruction to prior student learning, and to other curricular areas; and

h. Use evaluation to plan a continuous cycle of learning strategies that reinforce mastery of performance indicators.

8. Obtaining, analyzing and applying health-related and fitness-related data to meet the cultural, social, growth, and development needs of the students and community:

a. Select valid and current sources of information and data;

b. Use computerized sources of information and appropriate data-gathering instruments; and

c. Analyze and interpret data and determine priority areas of focused instruction.

9. Understanding of and proficiency in grammar, usage, and mechanics and their integration in writing.

10. Understanding of and proficiency in pedagogy to incorporate writing as an instructional and assessment tool for candidates to generate, gather, plan, organize, and present ideas in writing to communicate for a variety of purposes.

8VAC20-543-340. History and social sciences.

The program in history and social sciences shall ensure that the candidate has demonstrated the following competencies:

1. Understanding of the knowledge, skills, and processes of history and the social science disciplines as defined by the Virginia History and Social Sciences Standards of

Learning and how the standards provide the foundation for teaching history and the social sciences, including in:

a. United States history.

(1) The evolution of the American constitutional republic and its ideas, institutions, and practices from the philosophical origins in the Enlightenment through the debates of the colonial period to the present; the American Revolution, including ideas and principles preserved in significant Virginia and United States historical documents as required by § 22.1-201 of the Code of Virginia (the Declaration of American Independence; the general principles of the Constitution of the United States; the Virginia Statute of Religious Freedom; the charters of The Virginia Company of April 10, 1606, May 23, 1609, and March 12, 1612; and the Virginia Declaration of Rights); Articles of Confederation; and historical challenges to the American political system;

(2) The influence of religious traditions on American heritage and contemporary American society;

(3) The influence of immigration on American political, social, cultural, and economic life;

(4) The origins, effects, aftermath, and significance of the two world wars, the Korean and Vietnam conflicts, and the post-Cold War era;

(5) The social, political, and economic transformations in American life during the 20th century;

(6) The tensions between liberty and equality, liberty and order, region and nation, individualism and the common welfare, and cultural diversity and national unity; and

(7) The difference between a democracy and a republic and other types of economic and political systems.

b. World history.

(1) The political, philosophical, and cultural legacies of ancient American, Asian, African, and European civilizations;

(2) The origins, ideas, and institutions of Judaism, Christianity, Hinduism, Confucianism and Taoism, and Shinto, Buddhist, and Islamic religious traditions;

(3) Medieval society, institutions, and civilizations; feudalism; and the evolution of representative government;

(4) The social, political, cultural, and economic innovations of selected civilizations in Africa, Asia, Europe, and the Americas;

(5) The ideas of the Renaissance and the Reformation, European exploration, and the origins of capitalism and colonization;

(6) The cultural ideas of the Enlightenment and the intellectual and political revolution of the 17th and 18th centuries;

(7) The sources, results, and influences of the American, French, and Latin American revolutions;

(8) The social and economic consequences of the Industrial Revolution and its impact on politics, culture, and the lives of everyday people;

(9) The influence of global ideologies of the 19th and 20th centuries (liberalism, republicanism, social democracy, Marxism, nationalism, Communism, Fascism, Nazism, and post-colonialism);

(10) The origins, effects, aftermath, and significance of the two world wars, the Korean and Vietnam conflicts, and the post-Cold War era; and

(11) The development of globalization and the growing interdependence and inter-relationship among countries and cultures in the world.

c. Civics, government, and economics.

(1) The essential characteristics of governments;

(2) The importance of the rule of law for the protection of individual rights and the common good;

(3) The rights and responsibilities of American citizenship;

(4) The nature and purposes of constitutions and alternative ways of organizing constitutional governments;

(5) American political culture;

(6) Principles of the American constitutional republic;

(7) The idea of federalism and states' rights;

(8) The structures, functions, and powers of local and state government;

(9) Importance of citizen participation in the political process in local and state government;

(10) Local government and civics instruction specific to Virginia;

(11) The structures, functions, and powers of the national government;

(12) The role of the United States government in foreign policy and national security;

(13) The structure of the federal judiciary;

(14) The structure and function of the United States market economy as compared with other economies;

(15) Knowledge of the impact of the government role in the economy and individual economic and political freedoms;

(16) Knowledge of economic systems in the areas of productivity and key economic indicators;

(17) The analysis of global economic trends; and

(18) Knowledge of international organizations, both political and economic, such as the United Nations, International Court in the Hague, and the International Monetary Fund.

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d. Geography.

(1) Relationship between human activity and the physical environment, the ways in which geography governs human activity, and the effects of human activity on geographic features;

(2) Use of maps and other geographic representations, tools, and technologies to acquire, process, and report information;

(3) Physical and human characteristics of places;

(4) Physical processes that shape the surface of the earth;

(5) Characteristics, distribution, and migration of human populations;

(6) Patterns and networks of economic interdependence;

(7) Processes, patterns, and functions of human settlement;

(8) How the forces of conflict and cooperation influence the division and control of the earth's surface;

(9) Changes that occur in the meaning, use, distribution, and importance of resources;

(10) Applying geography to interpret the past and the present and to plan for the future; and

(11) Impact of geospatial technologies on the study of geography, physical and human.

2. Understanding of history and social sciences to appreciate the significance of:

a. Diverse cultures and shared humanity;

b. How things happen, how they change, and how human intervention matters;

c. The interplay of change and continuity;

d. How people in other times and places have struggled with fundamental questions of truth, justice, and personal responsibility;

e. The importance of individuals and groups who have made a difference in history and the significance of personal character to the future of society;

f. The relationship among history, geography, civics, and economics;

g. The difference between fact and conjecture, evidence and assertion, and the importance of framing useful questions;

h. How ideas have real consequences; and

i. The importance of primary documents and the potential problems with second-hand accounts.

3. Understanding of the use of the content and processes of history and social sciences instruction, including:

a. Fluency in historical thinking and geographic analysis skills;

b. Skill in debate, discussion, and persuasive writing;

c. The ability to organize key social science content into meaningful units of instruction based on historical thinking skills;

d. The ability to provide instruction using a variety of instructional techniques;

e. The ability to evaluate primary and secondary instructional resources, instruction, and student achievement;

f. The ability to incorporate appropriate technologies into social science instruction; and

g. The development of digital literacy skills while recognizing the influence of the media.

4. Understanding of the content, processes, and skills of one of the social sciences disciplines at a level equivalent to an undergraduate major, along with proficient understanding of the three supporting disciplines to ensure:

a. The ability to teach the processes and organizing concepts of social science;

b. An understanding of the significance of the social sciences; and

c. Student achievement in the social sciences.

5. Understanding of and proficiency in grammar, usage, and mechanics and their integration in writing and communications.

6. Understanding of and proficiency in pedagogy to incorporate writing as an instructional and assessment tool for candidates to generate, gather, plan, organize, and present ideas in writing to communicate for a variety of purposes.

7. Skills necessary to teach research including use of primary and secondary sources, ethical accessing, evaluating, organizing, crediting, and synthesizing information.

8VAC20-543-350. Journalism (add-on endorsement).

The program in journalism (add-on endorsement) shall ensure that the candidate holds an active license with a teaching endorsement or endorsements issued by the Virginia Board of Education and has demonstrated the following competencies:

1. Understanding the history and functions of journalism in American culture including the value of freedom of speech and of the press and the complexity of legal and ethical issues;

2. Understanding press law and ethics as it applies to scholastic media, including First Amendment-related rights and responsibilities;

3. Understanding of and experience in theory and practice of both print and nonprint media including design and layout production and the use of technology;

4. Possession of skills in teaching journalistic writing, interviewing, and editing for a variety of purposes, audiences, and formats;

5. Understanding of and proficiency in grammar, usage, and mechanics and their integration in writing and communications;

6. Understanding of and proficiency in pedagogy to incorporate writing as an instructional and assessment tool for candidates to generate, gather, plan, organize, and present ideas in writing to communicate for a variety of purposes; and

7. Skills to lead student media and production, including an understanding of fiscal responsibility, conflict resolution, and time management.

8VAC20-543-360. Keyboarding (add-on endorsement).

The program in keyboarding (add-on endorsement) shall ensure that the candidate holds an active license with a teaching endorsement or endorsements issued by the Virginia Board of Education and has demonstrated the following competencies:

1. Possession of skills in fingering and keyboard manipulation techniques to model and provide touch keyboarding instruction;

2. Ability to provide instruction that allows students to develop touch fingering techniques in a kinesthetic response to the keyboard required for rapid, accurate entry of data and information;

3. Ability to provide instruction for current procedures in formatting documents;

4. Ability to provide instruction that allows students to develop proper keyboarding techniques based on ergonomics research to minimize future repetitive strain injuries;

5. Understanding of and proficiency in grammar, usage, and mechanics and their integration in writing and communications; and

6. Understanding of and proficiency in pedagogy to incorporate writing as an instructional and assessment tool for candidates to generate, gather, plan, organize, and present ideas in writing to communicate for a variety of purposes.

8VAC20-543-370. Library media preK-12.

The program in library media preK-12 shall ensure that the candidate has demonstrated the following competencies:

1. Proficiency in teaching for learning, including knowledge of learners and learning; effective and knowledgeable teaching; collaborative instructional partners; integration of 21st century skills, learning standards, and technologies; assessment of and for student learning; and the design and implementation of instruction that engages students' interests and develops their ability to inquire, think critically, and gain and share knowledge.

2. Proficiency in literacy and reading, including familiarity with children's, young adult, and professional literature in multiple formats; use of a variety of strategies to promote reading for enjoyment and information; collection development to support diverse learning needs; and collaboration to reinforce reading instructional strategies.

3. Proficiency in information and knowledge, including efficient and ethical information-seeking behavior, ethical and equitable access to information, design and delivery of authentic learning through current and emerging technology, and the use of evidence-based action research to create and share knowledge.

4. Proficiency in advocacy and leadership, including networking with the library community, commitment to professional development, leadership in articulating the role of the school library program in the educational community and in student learning, and advocacy for school library programs, resources, and services.

5. Proficiency in program management and administration, including planning, developing, implementing, and evaluating library programs, collections, and facilities; personnel; funding; organization of materials; professional ethics; and strategic planning and program assessment.

6. Understanding of and proficiency in grammar, usage, and mechanics and their integration in writing in multiple formats.

7. Understanding of and proficiency in pedagogy to incorporate writing as an instructional and assessment tool for candidates to generate, gather, plan, organize, and present ideas in writing to communicate for a variety of purposes.

8VAC20-543-380. Mathematics.

The program in mathematics shall ensure that the candidate has demonstrated the following competencies:

1. Understanding of the knowledge, skills, and processes of the Virginia Mathematics Standards of Learning and how curriculum may be organized to teach these standards to diverse learners;

2. Understanding of a core knowledge base of concepts and procedures within the discipline of mathematics, including the following strands: number systems and number theory, geometry and measurement, analytic geometry, statistics and probability, functions and algebra, multivariate calculus, discrete mathematics, and linear and abstract algebra;

3. Understanding of the sequential and interrelated nature of mathematics, the vertical progression of mathematical standards, and the mathematical structures inherent in the content strands;

4. Understanding of the connections among mathematical concepts and procedures and their practical applications;

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5. Understanding of and the ability to use the five processes - becoming mathematical problem-solvers, reasoning mathematically, communicating mathematically, making mathematical connections, and using mathematical models and representations - at different levels of complexity;

6. Understanding of the history of mathematics, including the contributions of different individuals and cultures toward the development of mathematics and the role of mathematics in culture and society;

7. Understanding of major current curriculum studies and trends in mathematics;

8. Understanding how to utilize appropriate technologies for teaching and learning mathematics, including graphing utilities, dynamic software, spreadsheets, and virtual manipulatives;

9. Understanding of and the ability to select, adapt, differentiate, evaluate, and use instructional materials and resources, including professional journals and technology;

10. Understanding of and the ability to use strategies for managing, assessing, and monitoring student learning, including diagnosing student errors;

11. Understanding of and the ability to use strategies to teach mathematics to diverse learners;

12. Understanding of and proficiency in grammar, usage, and mechanics and their integration in writing; and

13. Understanding of and proficiency in pedagogy to incorporate writing as an instructional and assessment tool for candidates to generate, gather, plan, organize, and present ideas in writing to communicate for a variety of purposes.

8VAC20-543-390. Mathematics – Algebra I (add-on endorsement).

The program in Algebra I shall ensure that the candidate holds an active license with a teaching endorsement or endorsements issued by the Virginia Board of Education and has demonstrated the following competencies:

1. Understanding of the mathematics relevant to the content identified in the Mathematics Standards of Learning and how the standards provide the foundation for teaching middle level mathematics through Algebra I, including:

a. The structure of real numbers and subsets, basic operations, and properties;

b. Elementary number theory, ratio, proportion, and percent;

c. Algebra, trigonometry, and analytic geometry: operations with monomials and polynomials; rational expressions; linear, quadratic, and higher degree equations and inequalities; linear systems of equations and inequalities; nonlinear systems of equations; radicals and exponents; complex numbers; arithmetic and

geometric sequences and series; algebraic, trigonometric, logarithmic, exponential, absolute value, and step functions; domain and range of functions; composite and inverse functions; one-to-one mapping; transformations between graphical, tabular, and symbolic forms of functions; direct and inverse variation; line and curve of best fit; conics; and recognition and application of trigonometric identities;

d. Calculus: applications of limits, differentiation, and integration;

e. Linear algebra: matrices, vectors, and linear transformations;

f. Geometry: geometric figures, their properties, relationships, and application of the Pythagorean Theorem; using deductive axiomatic methods of proof and inductive reasoning; perimeter, area, and surface area of two-dimensional and three-dimensional figures; coordinate and transformational geometry; constructions and applications of algebra in geometry;

g. Probability and statistics: experimental and theoretical probability; prediction; graphical representations, including box-and-whisker plots; and measures of center, range, standard deviation, z-scores, and simple and normal distributions; and

h. Discrete mathematics: symbolic logic, sets, permutations and combinations, functions that are defined recursively, and linear programming.

2. Understanding of varied pedagogical approaches to teaching algebraic concepts and their connected procedures.

3. Understanding of the connections among algebraic concepts, procedures, models, and practical applications.

4. Understanding of the sequential and interrelated nature of mathematics and the mathematical structures inherent in algebra.

5. Understanding of and the ability to use the five processes - becoming mathematical problem-solvers, reasoning mathematically, communicating mathematically, making mathematical connections, and using mathematical models and representations - at different levels of complexity.

6. Understanding how to utilize appropriate technologies for teaching and learning algebra, including graphing utilities, dynamic software, spreadsheets, and virtual manipulatives.

7. Understanding of and the ability to use strategies for managing, assessing, and monitoring student learning, including diagnosing student errors.

8. Understanding of and the ability to use strategies to teach algebra to diverse learners.

9. Understanding of and proficiency in grammar, usage, and mechanics and their integration in writing.

10. Understanding of and proficiency in pedagogy to incorporate writing as an instructional and assessment tool for candidates to generate, gather, plan, organize, and present ideas in writing to communicate for a variety of purposes.

8VAC20-543-400. Music education – instrumental preK-12.

The program in music education - instrumental preK-12 shall ensure that the candidate has demonstrated the following competencies:

1. Understanding of the knowledge, skills, and processes of the music discipline as defined in the Virginia Standards of Learning and how they provide a necessary foundation integral to teaching instrumental music.

2. Understanding of the common elements of music - rhythm, melody, harmony, timbre, texture, dynamics, and form - and their relationship with each other and student academic needs and employing this understanding in the analysis of music.

3. Effective musicianship through the development of:

a. Basic skills in conducting, score reading, teaching musical courses, and rehearsal techniques for choral and instrumental music;

b. Skills in composing, arranging, and adapting music to meet the classroom needs and ability levels of school performing groups;

c. Skills in providing and directing creative experiences and improvising when necessary;

d. Proficiency, sufficient for classroom instruction, on keyboard or other accompanying instrument; and

e. The ability to perform in ensembles.

4. Knowledge and understanding of teaching music, including music theory; performance; music history and cultural context; analysis, evaluation, and critique; and aesthetics.

5. Knowledge of music history and literature with emphasis on the relationship of music to culture and the ability to place compositions in historical and stylistic perspective.

6. Knowledge of a comprehensive program of music education based upon sound philosophy, content, and methodology for teaching in elementary, middle, and secondary schools.

7. Specialization on a musical instrument and functional teaching knowledge on each of the string, brass, woodwind, and percussion instruments.

8. Competency in teaching rehearsing and conducting combined instrumental and vocal groups. In addition, the program shall provide instruction in business procedures, organization, and management of large and small instrumental ensembles.

9. Knowledge of vocal techniques in teaching, rehearsing, and conducting combined instrumental and vocal groups.

10. Knowledge and understanding of technological and artistic copyright laws.

11. Knowledge and understanding of classroom management and safety, including performance and studio.

12. Knowledge of a variety of instructional and assessment strategies to foster, support, and enhance student music learning.

13. Knowledge and understanding of technology, with applications for instruction, resources, artistic expression, administration, business procedures, assessment, and communication.

14. Knowledge and understanding of appropriate and sensitive attention to diversity and cultural understanding.

15. Knowledge of related areas of the fine arts, such as dance arts, theatre arts, and the visual arts.

16. Observation and professional laboratory experiences with pupils in elementary, middle, and secondary schools, including instruction of instrumental groups.

17. Understanding of and proficiency in grammar, usage, and mechanics and their integration in writing.

18. Understanding of and proficiency in pedagogy to incorporate writing as an instructional and assessment tool for candidates to generate, gather, plan, organize, and present ideas in writing to communicate for a variety of purposes.

8VAC20-543-410. Music education – vocal/choral preK-12.

A. The program in music education - vocal/choral preK-12 shall ensure that the candidate has demonstrated the following competencies:

1. Understanding of the knowledge, skills, and processes of the music discipline as defined in the Virginia Standards of Learning and how they provide a necessary foundation integral to teaching instrumental music.

2. Understanding of the common elements of music - rhythm, melody, harmony, timbre, texture, dynamics, and form - and their relationship with each other and student academic needs and to employ this understanding in the analysis of music.

3. Effective musicianship through the development of:

a. Basic skills in conducting, score reading, teaching musical courses, and rehearsal techniques for choral and instrumental music;

b. Skills in composing, arranging, and adapting music to meet the classroom needs and ability levels of school performing groups;

c. Skills in providing and directing creative experiences and improvising when necessary;

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- d. Proficiency, sufficient for classroom instruction, on keyboard or other accompanying instrument; and
- e. The ability to perform in ensembles.
- 4. Knowledge and understanding of teaching music, including music theory; performance; music history and cultural context; analysis, evaluation, and critique; and aesthetics.
- 5. Knowledge of music history and literature with emphasis on the relationship of music to culture and the ability to place compositions in historical and stylistic perspective.
- 6. Knowledge of a comprehensive program of music education based upon sound philosophy, content, and methodology for teaching in elementary, middle, and secondary schools.
- 7. Specialization in the methods, materials, and media appropriate to the teaching of vocal/choral and general music at elementary, middle, and secondary levels.
- 8. Competency in teaching, rehearsing, and conducting choral ensembles and combined vocal and instrumental school groups. In addition, the program shall provide instruction in business procedures, organization, and management of large and small choral ensembles.
- 9. Knowledge of instrumental techniques in teaching, rehearsing, and conducting combined vocal and instrumental school groups.
- 10. Knowledge and understanding of technological and artistic copyright laws.
- 11. Knowledge and understanding of classroom management and safety, including performance and studio.
- 12. Knowledge of a variety of instructional and assessment strategies to foster, support, and enhance student music learning.
- 13. Knowledge and understanding of technology, with applications for instruction, resources, artistic expression, administration, business procedures, assessment, and communication.
- 14. Knowledge and understanding of appropriate and sensitive attention to diversity and cultural understanding.
- 15. Knowledge of related areas of the fine arts, such as dance arts, theatre arts, and the visual arts.
- 16. Observation and professional laboratory experiences with pupils at elementary, middle, and secondary levels, including instruction of choral groups.
- 17. Understanding of and proficiency in grammar, usage, and mechanics and their integration in writing.
- 18. Understanding of and proficiency in pedagogy to incorporate writing as an instructional and assessment tool for candidates to generate, gather, plan, organize, and present ideas in writing to communicate for a variety of purposes.

8VAC20-543-420. Science – biology.

The program in biology shall ensure that the candidate demonstrates the following competencies:

- 1. Understanding of the knowledge, skills, and processes of the four core science disciplines as defined in the Virginia Science Standards of Learning and how these provide a sound foundation for teaching biology.
- 2. Understanding of the nature of science and scientific inquiry, including the:
 - a. Function of research design and experimentation;
 - b. Role and nature of the theory in explaining and predicting events and phenomena;
 - c. Practices required to provide empirical answers to research questions, including data collection and analysis, modeling, augmentation with evidence, and constructing explanations;
 - d. Reliability of scientific knowledge and its constant scrutiny and refinement;
 - e. Self-checking mechanisms used by science to increase objectivity including peer review; and
 - f. Assumptions, influencing conditions, and limits of empirical knowledge.
- 3. Understanding of the knowledge, skills, and processes for teaching laboratory science, including the ability to:
 - a. Design instruction reflecting the goals of the Virginia Science Standards of Learning;
 - b. Implement laboratory safety rules and procedures and ensure that students take appropriate safety precautions;
 - c. Conduct research projects and experiments including applications of the design process and technology;
 - d. Conduct systematic field investigations using the school grounds, the community, and regional resources;
 - e. Organize key biological content, skills, and practices into meaningful units of instruction that actively engage students in learning;
 - f. Design instruction to meet the needs of diverse learners using a variety of techniques;
 - g. Evaluate instructional materials and teaching practices;
 - h. Conduct formative and summative assessments of student learning;
 - i. Incorporate instructional technology to enhance student performance; and
 - j. Ensure student competence in biology.
- 4. Understanding of the content, processes, and skills of biology, equivalent to an undergraduate degree in biology, with course work in genetics, biochemistry/molecular biology, cell biology, botany, zoology, anatomy/physiology, ecology, and evolutionary biology.

5. Understanding of basic physics, chemistry (including organic chemistry), the Earth sciences, and mathematics (including statistics) to ensure:

- a. The placement of biology in an appropriate interdisciplinary context;
- b. The ability to teach the processes and crosscutting concepts common to the natural and physical sciences;
- c. The application of key principles in biology to solve practical problems; and
- d. A "systems" understanding of the natural world.

6. Understanding of the contributions and significance of biology, including:

- a. Its social, cultural, and economic significance;
- b. The relationship of biology and other sciences to mathematics, the design process, and technology; and
- c. The historical development of scientific concepts and scientific reasoning.

7. Understanding of and proficiency in grammar, usage, and mechanics and their integration in writing.

8. Understanding of and proficiency in pedagogy to incorporate writing as an instructional and assessment tool for candidates to generate, gather, plan, organize, and present ideas in writing to communicate for a variety of purposes.

8VAC20-543-430. Science – chemistry.

The program in chemistry shall ensure that the candidate demonstrates the following competencies:

1. Understanding of the knowledge, skills, and processes of the four core science disciplines as defined in the Virginia Science Standards of Learning and how they provide a sound foundation for teaching chemistry.

2. Understanding of the nature of science and scientific inquiry including the:

- a. Function of research design and experimentation;
- b. Role and nature of the theory in explaining and predicting events and phenomena;
- c. Practices required to provide empirical answers to research questions, including data collection and analysis, modeling, augmentation with evidence, and constructing explanations;
- d. Reliability of scientific knowledge and its constant scrutiny and refinement;
- e. Self-checking mechanisms used by science to increase objectivity including peer review; and
- f. Assumptions, influencing conditions, and limits of empirical knowledge.

3. Understanding of the knowledge, skills, and processes for teaching laboratory science, including the ability to:

- a. Design instruction reflecting the goals of the Virginia Science Standards of Learning;

b. Implement laboratory safety rules and procedures and ensure that students take appropriate safety precautions;

c. Conduct research projects and experiments including applications of the design process and technology;

d. Conduct systematic field investigations using the school grounds, the community, and regional resources;

e. Organize key chemistry content, skills, and practices into meaningful units of instruction that actively engage students in learning;

f. Design instruction to meet the needs of diverse learners using a variety of techniques;

g. Evaluate instructional materials and teaching practices;

h. Conduct formative and summative assessments of student learning;

i. Incorporate instructional technology to enhance student performance; and

j. Ensure student competence in chemistry.

4. Understanding of content, processes, and skills of chemistry, equivalent to an undergraduate degree in chemistry, with course work in biochemistry, inorganic chemistry, organic chemistry, physical chemistry, and analytical chemistry.

5. Understanding of basic physics, Earth science, biology, and mathematics to ensure:

a. The placement of chemistry in an appropriate interdisciplinary context;

b. The ability to teach the processes and crosscutting concepts common to the natural and physical sciences;

c. The application of key principles in chemistry to solve practical problems; and

d. A "systems" understanding of the natural world.

6. Understanding of the contributions and significance of chemistry, including:

a. Its social, cultural, and economic significance;

b. The relationship of chemistry and other sciences to mathematics, the design process and technology; and

c. The historical development of scientific concepts and scientific reasoning.

7. Understanding of and proficiency in grammar, usage, and mechanics and their integration in writing.

8. Understanding of and proficiency in pedagogy to incorporate writing as an instructional and assessment tool for candidates to generate, gather, plan, organize, and present ideas in writing to communicate for a variety of purposes.

8VAC20-543-440. Science – Earth science.

The program in Earth science shall ensure that the candidate demonstrates the following competencies:

1. Understanding of the knowledge, skills, and processes of the four core science disciplines as defined in the Virginia

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Science Standards of Learning and how these provide a sound foundation for teaching Earth science.

2. Understanding of the nature of science and scientific inquiry, including the:

- a. Function of research design and experimentation;
- b. Role and nature of the theory in explaining and predicting events and phenomena;
- c. Practices required to provide empirical answers to research questions, including data collection and analysis, modeling, augmentation with evidence, and constructing explanations;
- d. Reliability of scientific knowledge and its constant scrutiny and refinement;
- e. Self-checking mechanisms used by science to increase objectivity including peer review; and
- f. Assumptions, influencing conditions, and limits of empirical knowledge.

3. Understanding of the knowledge, skills, and practices for teaching laboratory science, including the ability to:

- a. Design instruction reflecting the goals of the Virginia Science Standards of Learning;
- b. Implement laboratory safety rules and procedures and ensure that students take appropriate safety precautions;
- c. Conduct research projects and experiments including applications of the design process and technology;
- d. Conduct systematic field investigations using the school grounds, the community, and regional resources;
- e. Organize key Earth science content, skills, and practices into meaningful units of instruction that actively engage students in learning;
- f. Design instruction to meet the needs of diverse learners using a variety of techniques;
- g. Evaluate instructional materials and teaching practices;
- h. Conduct formative and summative assessments of student learning;
- i. Incorporate instructional technology to enhance student performance; and
- j. Ensure student competence in Earth science.

4. Understanding of the content, processes, and skills of Earth science, equivalent to an undergraduate degree in geology, or a related area, with course work in structural geology, paleontology, petrology, oceanography, meteorology, and astronomy/space science.

5. Understanding of basic physics, chemistry (including organic chemistry), biology, and mathematics to ensure:

- a. The placement of Earth science in an appropriate interdisciplinary context;
- b. The ability to teach the processes and crosscutting concepts common to the natural and physical sciences;

c. The application of key principles in Earth science to solve practical problems; and

d. A "systems" understanding of the natural world.

6. Understanding of the contributions and significance of Earth science, including:

- a. Its social, cultural, and economic significance;
- b. The relationship of Earth science and other sciences to mathematics, the design process, and technology; and
- c. The historical development of scientific concepts and scientific reasoning.

7. Understanding of and proficiency in grammar, usage, and mechanics and their integration in writing.

8. Understanding of and proficiency in pedagogy to incorporate writing as an instructional and assessment tool for candidates to generate, gather, plan, organize, and present ideas in writing to communicate for a variety of purposes.

8VAC20-543-450. Science – physics.

The program in physics shall ensure that the candidate demonstrates the following competencies:

1. Understanding of the knowledge, skills, and processes of the four core science disciplines as defined in the Virginia Science Standards of Learning and how these provide a sound foundation for teaching physics.

2. Understanding of the nature of science and scientific inquiry, including the

- a. Function of research design and experimentation;
- b. Role and nature of the theory in explaining and predicting events and phenomena;
- c. Practices required to provide empirical answers to research questions, including data collection and analysis, modeling, augmentation with evidence, and constructing explanations;
- d. Reliability of scientific knowledge and its constant scrutiny and refinement;
- e. Self-checking mechanisms used by science to increase objectivity including peer review; and
- f. Assumptions, influencing conditions, and limits of empirical knowledge.

3. Understanding of the knowledge, skills, and processes for teaching laboratory science, including the ability to:

- a. Design instruction reflecting the goals of the Virginia Science Standards of Learning;
- b. Implement laboratory safety rules and procedures and ensure that students take appropriate safety precautions;
- c. Conduct research projects and experiments including applications of the design process and technology;
- d. Conduct systematic field investigations using the school grounds, the community, and regional resources;

e. Organize key physics content, skills, and practices into meaningful units of instruction that actively engage students in learning;

f. Design instruction to meet the needs of diverse learners using a variety of techniques;

g. Evaluate instructional materials and teaching practices;

h. Conduct formative and summative assessments of student learning;

i. Incorporate instructional technology to enhance student performance; and

j. Ensure student competence in physics.

4. Understanding of content, processes, and skills of physics, equivalent to an undergraduate degree in physics, with course work in mechanics, electricity and magnetism, optics, and modern physics.

5. Understanding of basic Earth science, chemistry (including organic chemistry), biology, and mathematics to ensure:

a. The placement of physics in an appropriate interdisciplinary context;

b. The ability to teach the processes and crosscutting concepts common to the natural and physical sciences; and

c. A "systems" understanding of the natural world.

6. Understanding of the contributions and significance of physics, including:

a. Its social, cultural, and economic significance;

b. The relationship of physics and other sciences to mathematics, the design process, and technology; and

c. The historical development of scientific concepts and scientific reasoning.

7. Understanding of and proficiency in grammar, usage, and mechanics and their integration in writing.

8. Understanding of and proficiency in pedagogy to incorporate writing as an instructional and assessment tool for candidates to generate, gather, plan, organize, and present ideas in writing to communicate for a variety of purposes.

8VAC20-543-460. Special education adapted curriculum K-12.

A. The program in special education is designed to ensure through coursework and field experiences in a variety of settings that the candidate has demonstrated the core competencies in this section to prepare children and youth for participation in the general education curriculum and within the community to the maximum extent possible. The candidate also shall complete the competencies in at least one of the endorsement areas of Special Education Adapted Curriculum K-12, in addition to those required under professional studies, including reading and language acquisition.

1. Foundations. Characteristics, legal, and medical aspects.

a. Knowledge of the foundation for educating students with disabilities, including:

(1) Historical perspectives, models, theories, philosophies, and trends that provide the basis for special education practice;

(2) Characteristics of children and youth with disabilities relative to age, varying levels of severity, and developmental differences manifested in cognitive, linguistic, physical, psychomotor, social, or emotional functioning;

(3) Normal patterns of development (i.e., physical, psychomotor, cognitive, linguistic, social, and emotional development) and their relationship to the various disabilities;

(4) Medical aspects of disabilities;

(5) The dynamic influence of the family system and cultural and environmental milieu and related issues pertinent to the education of students with disabilities;

(6) Educational implications of the various disabilities; and

(7) Understanding of ethical issues and the practice of accepted standards of professional behavior.

b. An understanding and application of the legal aspects, regulatory requirements, and expectations associated with identification, education, and evaluation of students with disabilities, including:

(1) Legislative and judicial mandates related to education and special education (e.g., the Individuals with Disabilities Education Act, § 504 of the Rehabilitation Act of 1973, the Americans with Disabilities Act, the No Child Left Behind Act of 2001, etc.);

(2) Current regulations governing special education (e.g., individualized education program (IEP) development; disciplinary practices, policies, and procedures; and alternative placements and programs in schools); and

(3) Rights and responsibilities of parents, students, teachers, and schools as they relate to individuals with disabilities and disability issues.

2. Assessments and evaluation.

An understanding and application of the foundation of assessment and evaluation related to best special education practice, including:

a. Ethical issues and responsibilities in the assessment of individuals with disabilities;

b. Procedures for screening, prereferral, referral, and eligibility determinations;

c. Factors that may influence assessment findings such as cultural, behavioral, and learning diversity;

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d. A general knowledge of measurement theory and practice, including validity, reliability, norming, bias, sensitivity, and specificity;

e. Administration, scoring, and interpretation of commonly used individual and group instruments, including norm-referenced, criterion-referenced, and curriculum-based measures as well as task analysis, observation, portfolio, and environmental assessments;

f. Synthesis and interpretation of assessment findings for eligibility, program planning, and program evaluation decisions; and

g. Knowledge of the Virginia Accountability System, assessment options, and procedures for participation for students with disabilities.

3. Management of instruction and behavior.

An understanding and application of classroom and behavior management techniques and individual interventions, including techniques that:

a. Promote emotional well-being and teach and maintain behavioral conduct and skills consistent with norms, standards, and rules of the educational environment;

b. Address diverse approaches and classroom organization based upon behavioral, cognitive, affective, social, and ecological theory and practice;

c. Provide positive behavioral supports; and

d. Are based on functional assessment of behavior.

4. Collaboration.

a. Skills in consultation, case management, and collaboration, including:

Coordination of service delivery with related service providers, general educators, and other professions in collaborative work environments to include:

(1) Understanding the Standards of Learning (SOL), structure of the curriculum, and accountability systems across K-12;

(2) Understanding and assessing the organization and environment of general education classrooms across the K-12 setting;

(3) Implementation of collaborative models, including collaborative consultation, co-teaching with co-planning, and student intervention teams;

(4) Procedures to collaboratively develop, provide, and evaluate instructional and behavioral plans consistent with students' individual needs;

(5) Understanding of the roles and responsibilities of each member of the collaborative team; and

(6) Knowledge and application of effective communication strategies and culturally responsive strategies with a variety of stakeholders in the collaborative environment;

b. Training, managing, and monitoring paraprofessionals;

c. Involving of families in the education of their children with disabilities;

d. Understanding the standards of professionalism;

e. Cooperating with community agencies and other resource providers; and

f. Models and strategies for promoting students' self-advocacy skills.

B. The program in special education adapted curriculum K-12 shall ensure through coursework and field experiences in a variety of settings that the candidate seeking endorsement in special education adapted curriculum has the special education core competencies and the specific competency requirements specified in this section. The candidate shall demonstrate the following competencies to prepare children and youth to acquire the functional, academic, and community living skills necessary to reach an appropriate level of independence and be assessed in progress toward an aligned curriculum while participating in programs with nondisabled peers to the fullest extent possible:

1. Characteristics.

a. Demonstrate knowledge of the definitions: characteristics, including medical and health conditions; and learning and behavioral support needs of students with disabilities (K-12) whose cognitive impairments or adaptive skills require adaptations to the general curriculum and whose functional skills are significantly different from typically developing peers, and therefore require adaptations to the general curriculum for an appropriate education, including, but not limited to, students with:

(1) Autism spectrum disorders;

(2) Developmental delay;

(3) Intellectual disability;

(4) Traumatic brain injury; and

(5) Multiple disabilities, including sensory, deaf-blindness, speech-language, orthopedic and/or health impairments as an additional disability to those referenced in subdivision 1 a of this subsection.

b. Knowledge of characteristics shall include:

(1) Medical needs, sensory needs, and position and handling needs of children with multiple disabilities;

(2) Speech and language development and communication and impact on educational, behavioral, and social interactions;

(3) Impact of disability on self-determination and self-advocacy skills; and

(4) Historical and legal perspectives, models, theories, philosophies, and trends related to specific student populations.

2. Individualized education program (IEP) development and implementation.

a. Demonstrate knowledge of the eligibility process and legal and regulatory requirements for IEP development including timelines, components, team composition, roles, and responsibilities.

b. Apply knowledge of content standards, assessment, and evaluation throughout the K-12 grade levels to:

(1) Construct, use, and interpret a variety of standardized and nonstandardized data collection techniques, such as task analysis, observation, portfolio assessment, and other curriculum-based measures;

(2) Make decisions about student progress, instruction, program, modifications, adaptations, placement, teaching methodology, and transitional services and activities for students with disabilities who are accessing the general education curriculum and the standards of learning through an aligned curriculum;

(3) Be able to write educationally relevant IEP goals and objectives that address self-care and self-management of student physical, sensory, and medical needs that also enhance academic success in the adapted curriculum.

3. Instructional methods and strategies for the adapted curriculum.

An understanding and application of service delivery, curriculum, and instruction of students with disabilities, including:

a. Curriculum development that includes a scope and sequence, lesson plans, instructional methods, and assessments that are based on grade level content standards;

b. Foundational knowledge of reading and writing that includes an understanding of the complex nature of language acquisition and reading (reading competencies in professional studies requirements in 8VAC40-543-140). Skills in this area include phonemic awareness, an understanding of sound and symbol relationships, explicit phonics instruction, syllables, phonemes, morphemes, decoding skills, word attack skills, and knowledge of how phonics, syntax, and semantics interact. Additional skills shall include proficiency in a wide variety of comprehension strategies and writing, as well as the ability to foster appreciation of a variety of literature and independent reading; and reading and writing across the content areas;

c. Foundational knowledge of the complex nature of numeracy acquisition and the sequential nature of mathematics including mathematical concepts, mathematical thinking, calculation, and problem-solving;

d. Alternative ways to teach content material including curriculum adaptation and curriculum modifications;

e. Procedures to develop, provide, and evaluate instruction consistent with students' individual needs;

f. Strategies to promote successful integration of students with disabilities with their nondisabled peers;

g. Use of technology to promote student learning;

h. Structure and organization of general education classrooms and other instructional settings representing the continuum of special education services, to include field experiences;

i. Demonstrate the ability to implement individual educational planning and group instruction with students with disabilities who are accessing the general education curriculum and Standards of Learning through an aligned curriculum across the K-12 grade levels, including the ability to:

(1) Identify and apply differentiated instructional methodologies including systematic instruction, multisensory approaches, learning cognitive strategies, diverse learning styles, and technology use;

(2) Implement a blended curriculum that includes teaching academic skills using the aligned standards of learning and incorporating functional and essential life skills into instruction;

(3) Provide explicit instruction of reading, writing and mathematics at appropriate developmental and grade level in a cumulative manner to students with disabilities accessing the general education curriculum through an aligned curriculum;

(4) Conduct and analyze results of functional behavior assessment;

(5) Implement behavioral intervention plans incorporating positive behavioral supports;

(6) Promote the potential and capacity of individual students to meet high functional, academic, behavioral, and social expectations;

(7) Design alternative ways to teach content material including modifying and adapting the general education curriculum;

(8) Develop appropriate transition between grade levels, setting, and environments;

(9) Use assistive and instructional technology, including augmentative and alternative communication methods and systems;

(10) Implement and evaluate group management technique and individual interventions that teach and maintain emotional, behavioral, and social skills;

(11) Implement and monitor IEP specified modifications and adaptations within the general education classroom; and

(12) Integrate students in the community through collaboration with community service systems.

4. Individualized supports and specialized care of students with significant disabilities.

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a. An understanding and application of service delivery for students with significant disabilities and their unique care needs, including the ability to identify the physical, sensory, and health and medical needs of students with significant disabilities and understand how these needs impact the educational program including:

(1) Understanding of typical physical development of children and application of this knowledge in developing learning experiences for students with significant disabilities;

(2) Basic understanding of the most common medical diagnoses associated with students with significant disabilities and the impact on their functioning in school and community settings;

(3) Understanding of the role muscle tone plays in the positioning and handling of students and familiarity with common positioning equipment used in the classroom; and

(4) Understanding of alternative and augmentative communication systems and the ability to identify an appropriate communication system based on the needs of the student.

b. Understanding of the roles and responsibilities of related and support staff working in a collaborative setting and the process and procedures related to initiating a related service request.

c. Ability to develop lesson plans that blend and incorporate the academic, functional, and behavioral goals and objectives, while integrating positioning, self-help, feeding, grooming, sensory, and toileting programs into the instructional delivery.

5. Transitioning.

Demonstrate the ability to prepare students and work with families to provide successful student transitions throughout the educational experience to include postsecondary education, training, employment, and independent living that addresses an understanding of long-term planning, age-appropriate transition assessments, career development, life skills, community experiences and resources, and self-determination to include goal setting, decision-making, problem-solving, self-awareness and self-advocacy, guardianship, and other legal considerations.

a. Skills in consultation, case management, and collaboration for students with varying degrees of disability severity.

(1) Coordinate service delivery with general educators including career and technical educators and school counselors, related services providers, and other providers;

(2) Awareness of community resources agencies and strategies to interface with community agencies when developing and planning IEPs;

(3) Knowledge of related services and accommodations that pertain to postsecondary transitions that increase student access to postsecondary education and community resources; and

(4) Ability to coordinate and facilitate meetings involving parents, students, outside agencies, and administrators to include the understanding of consent to share information, including confidentiality and disability disclosure.

b. Understand the difference between entitlement and eligibility for agency services as students move to the adult world, including a basic understanding of Social Security Income benefits planning, work incentive, Medicaid, community independent living, and waivers.

c. Recognize uses of technology and seek out technology at postsecondary settings that shall aid the student in their education, work, and independent living.

d. Recognize and plan for individual student potential and their capacity to meet high academic, behavioral, and social expectations and the impact of academic and social success on personal development.

e. Knowledge of person-centered planning strategies to promote student involvement in planning.

f. Knowledge of generic skills that lead to success in school, work, and community, including time management, preparedness, social interactions, and communication skills.

g. Understand social skill development and the unique social skills deficits and challenges associated with disabilities:

(1) Assesses social skill strengths and needs; and

(2) Plans and uses specialized social skills strategies.

h. Knowledge of use and implementation of vocational assessments to encourage and support students' advocacy and self-determination skills.

i. Knowledge of legal issues surrounding age of majority and guardianship.

j. Knowledge of graduation requirements, diploma options and legal issues surrounding age of majority, and guardianship.

6. Understanding of and proficiency in grammar, usage, and mechanics and their integration in writing.

7. Understanding of and proficiency in pedagogy to incorporate writing as an instructional and assessment tool for candidates to generate, gather, plan, organize, and present ideas in writing to communicate for a variety of purposes.

C. Completion of supervised classroom experiences with students with disabilities and an adapted curriculum K-12.

8VAC20-543-470. Special education blindness and visual impairments preK-12.

The program in special education visual impairments preK-12 is designed to ensure through course work and field experiences in a variety of settings that the candidate has demonstrated the following competencies:

1. Understanding of the characteristics of individuals with disabilities, including:

- a. Developmental and cognitive characteristics of children and youth with disabilities, particularly blindness or visual impairment;
- b. Language development and the effects of blindness, visual impairment, and other disabling conditions and cultural and linguistic diversity on language development;
- c. Characteristics of individuals with visual impairments, including impact of visual impairment on children's social and emotional development, and family interaction patterns; and
- d. Understanding of psychosocial aspects of visual impairment and cultural identity.

2. Understanding of the foundation of the legal aspects associated with students with disabilities and students with visual impairments, including:

- a. Legislative and judicial mandates related to education and special education;
- b. The Individuals with Disabilities Education Act (IDEA), § 504 of the Rehabilitation Act of 1973, and the Americans with Disabilities Act;
- c. Legal decisions related to persons with disabilities;
- d. Current regulations and procedures governing special education, including individualized education program (IEP) development, individualized family service plan (IFSP), and transition services; and
- e. Disciplinary practices, policies, and procedures and alternative placements and programs in schools.

3. Understanding of the foundation of assessment and evaluation with an emphasis on individuals with visual impairments, including:

- a. Administering, scoring, and interpreting assessments, including norm-referenced, criterion-referenced, and curriculum-based individual and group assessments;
- b. Administration and interpretation of a functional vision assessment (FVA), learning media assessment (LMA), and assistive technology assessment and assessment in the areas of the expanded core curriculum (ECC);
- c. Interpreting assessments for eligibility, placement, and program decisions and to inform instruction;
- d. Techniques to collect, record, and analyze information;
- e. Diagnostic instruction using ongoing assessment data;

f. Techniques for recognizing capacity and diversity and its influence on student assessment and evaluation;

g. Using data from student program evaluation to inform curriculum development, instructional practice, and accommodations; and

h. Low vision practices and procedures, including assessment and instructional programming for functional vision.

4. Understanding of service delivery, classroom and behavior management, and instruction for students who are blind and visually impaired, including:

- a. The application of current research and evidence-based practice;
- b. Classroom organization and curriculum development;
- c. Curriculum adaptations and accommodations;
- d. The development of language and literacy skills;
- e. The use of technology in teaching and instructing students to use assistive technologies to promote learning and provide access to the general education curriculum;
- f. Classroom management, including behavior support systems and individual planning;
- g. Methods and procedures for teaching students with visual impairments;
- h. Instructional programming and modifications of curriculum to facilitate inclusion of students with blindness and visual impairment in programs and services with sighted and typically developing peers;
- i. Individual and group behavior management techniques;
- j. Career and vocational aspects of individuals with disabilities, including persons with visual impairments, including knowledge of careers, vocational opportunities, and transition from school to work; and
- k. Social and recreational skills and resources for individuals with visual impairments, including methods and materials for assessing and teaching activities of daily living.

5. Understanding of consultation, case management, and collaboration including:

- a. Coordinating service delivery with other professionals in collaborative work environments;
- b. Training, managing, and monitoring paraprofessionals;
- c. Involving families in the education of their children with blindness or visual impairment;
- d. Implementation of collaborative models, including collaborative consultation, co-teaching, and student intervention teams; and
- e. Interfacing with community agencies and resources.

6. Understanding of the foundations of Braille reading and writing, including:

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a. Teaching reading and writing of grade 2 Braille on both a Braille writer and a "slate and stylus"; and

b. Knowledge of other codes, including Nemeth, foreign language code, music code, and computer Braille.

7. Understanding of anatomy, physiology, and diseases of the eye and the educational implications.

8. Understanding principles and how to instruct in human guide techniques and pre-cane orientation and mobility instruction.

9. Understanding of the standards of professionalism, including ethical and professional practice.

10. Completion of supervised classroom experiences at the elementary and secondary levels with students who have visual impairments, to include those with blindness and low vision, and with individuals who may have additional disabilities.

11. Understanding of and proficiency in grammar, usage, and mechanics and their integration in writing.

12. Understanding of and proficiency in pedagogy to incorporate writing as an instructional and assessment tool for candidates to generate, gather, plan, organize, and present ideas in writing to communicate for a variety of purposes.

8VAC20-543-480. Special education deaf and hard of hearing preK-12.

The program in special education deaf and hard of hearing preK-12 is designed to ensure through course work and field experiences in a variety of settings that the candidate has demonstrated the following competencies:

1. Understanding of the characteristics of individuals with disabilities, including the following:

a. Developmental and cognitive characteristics of children and youth with disabilities;

b. Characteristics of individuals who are deaf or hard of hearing, including sociocultural influences and possible health-related or genetically-related problems; and

c. Foundations of the education and culture of persons who are deaf or hard of hearing.

2. Understanding of the foundation of the legal aspects associated with students with disabilities and students who are deaf or hard of hearing including:

a. Legislative and judicial mandates related to education and special education;

b. The Individuals with Disabilities Education Act (IDEA), § 504 of the Rehabilitation Act of 1973, and the Americans with Disabilities Act;

c. Legal decisions related to persons with disabilities;

d. Current regulations and procedures governing special education, including individualized education program (IEP) development, individualized family service plan (IFSP), and transition services; and

e. Disciplinary practices, policies, and procedures and alternative placements and programs in schools.

3. Understanding of the foundation of assessment and evaluation with an emphasis on individuals who are deaf or hard of hearing, including:

a. Administering, scoring, and interpreting assessments, including norm-referenced, criterion-referenced, and curriculum-based individual and group assessments;

b. Interpreting assessment results for eligibility, placement, and to inform instruction (i.e., linking assessment results to classroom interventions);

c. Techniques to collect, record, and analyze information from observing students;

d. Data-based decision-making skills using assessment data to inform diagnostic instruction;

e. Techniques for recognizing capacity and diversity and its influence on student assessment and evaluation.

4. Understanding of service delivery, classroom and behavior management, and instruction, including:

a. The application of current research in practice;

b. Classroom organization and curriculum development;

c. Curriculum adaptations and accommodations;

d. The development of language and literacy skills;

e. The use of technology to promote student learning;

f. Classroom and behavior management, including behavior support systems and individual planning;

g. Evidence-based strategies and procedures for teaching persons who are deaf or hard of hearing;

h. Instructional programming and modifications of curriculum to facilitate inclusion of students with disabilities into the continuum of programs and services with peers without disabilities;

i. Strategies to promote successful socialization of students who are deaf or hard of hearing with their hearing peers; and

j. Career and vocational skill development of individuals with disabilities, including persons who are deaf or hard of hearing and who may have additional needs.

5. Skills in consultation, case management, and collaboration, including:

a. Coordinating service delivery with other professionals in collaborative work environments;

b. Training, managing, and monitoring paraprofessionals;

c. Implementation of collaborative models, including collaborative consultation, co-teaching, and student intervention teams;

d. Involving families in the education of their children with disabilities; and

e. Cooperating with community agencies and resources.

6. Understanding of speech, hearing, and language development, including:

- a. Speech, hearing, and language development and the effects of sensory loss and cultural diversity on typical language development;
- b. How to promote development of listening and spoken language skills in children who are deaf or hard of hearing; how to promote development of American Sign Language skills in children who are deaf or hard of hearing;
- c. Anatomy of speech structures, auditory and visual mechanisms, production, transmission, and psychophysical characteristics of sound; and
- d. General and specific effects of having partial or no hearing on production and reception of speech and on English language development.

7. Understanding of audiology, including:

- a. Diagnostic evaluation, testing procedures, and interpreting audiology reports to inform instruction in and expectations for development of listening and spoken language skills; and
- b. Characteristics of individual, group amplification and assistive listening devices (e.g., cochlear implant systems, hearing aids, FM systems, sound field systems, etc.) with emphasis on utilization in educational environments.

8. Understanding of communication modalities to include various modalities of communication, including cued speech, speech reading, listening, signed language, and spoken language.

9. Demonstrated proficiency in expressive and receptive sign language, to include American Sign Language and contact varieties.

10. Understanding of the standards for professionalism.

11. Completion of supervised classroom experiences at the elementary and secondary levels with students who are deaf or hard of hearing, including those with additional disabilities.

12. Understanding of and proficiency in grammar, usage, and mechanics and their integration in writing.

13. Understanding of and proficiency in pedagogy to incorporate writing as an instructional and assessment tool for candidates to generate, gather, plan, organize, and present ideas in writing to communicate for a variety of purposes.

8VAC20-543-490. Special education early childhood (birth through age five).

The program in special education early childhood (birth through age five) is designed to ensure through course work and field experiences in a variety of settings that the candidate has demonstrated the following competencies:

1. Understanding of the nature and characteristics of major disabling and at-risk conditions, including:

- a. Trends for service delivery to the birth-through-age-five population;
- b. An overview of early intervention and early childhood special education;
- c. Historical perspective of special education; and
- d. Awareness of the issues surrounding cultural and linguistic diversity.

2. Understanding of the foundation of the legal aspects associated with students with disabilities, including:

- a. Legislative and judicial mandates related to education and special education;
- b. The Individuals with Disabilities Education Act (IDEA), § 504 of the Rehabilitation Act of 1973, and the Americans with Disabilities Act;
- c. Legal decisions related to persons with disabilities;
- d. Current regulations and procedures governing special education to include individualized education program (IEP) development and individualized family service plan (IFSP); and
- e. Disciplinary practices, policies, and procedures and alternative placements and programs in schools.

3. Knowledge of the selection, administration, and interpretation of formal and informal assessment techniques for young children with disabling and at-risk conditions and their families, including:

- a. Eligibility and diagnosis of disabling and at-risk conditions;
- b. Progress monitoring for growth compared to same age, typically developing peers and functioning in environments where same age peers would normally attend (to include, but not be limited to, settings that the families choose);
- c. Program development and improvement; and
- d. Curriculum-based assessments for instructional planning.

4. Understanding of the methods for providing instructional programs for early intervention, including:

- a. Service delivery options;
- b. Development of individualized education programs (IEPs) and individualized family service plans (IFSPs);
- c. Curriculum development and implementation to ensure developmentally appropriate intervention techniques in the areas of self-help, motor, cognitive, social and emotional, and language; and
- d. Service delivery to support success and functionality in all settings where same age, typically developing peers would be located.

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5. Understanding of teaching social and emotional skills to assist with behavior management and the application of principles of learning and child development to individual and group management using a variety of techniques that are appropriate to the age of that child.

6. Understanding of speech and language development and intervention methods, including the effects of disabling and at-risk conditions on young children, including:

- a. Developmental stages of language acquisition;
- b. Cultural and linguistic diversity;
- c. English language learner language acquisition; and
- d. Use of language to get needs and wants met and for social interaction.

7. Understanding of and experiences with the medical aspects of young children with disabling and at-risk conditions and the management of neuro-developmental and motor disabilities, including:

- a. Emergency care and the role of health care professionals in the lives of individuals with disabilities; and
- b. Use and effects of medications.

8. Skills in consultation, case management, collaboration, coaching, mentoring, and co-teaching, including techniques in working with children, families, educators, related service providers, and other human service professionals that include:

- a. Service coordination;
- b. Interagency coordination;
- c. Inclusive practices;
- d. Transition facilitation; and
- e. Training, managing, and monitoring paraprofessionals.

9. Understanding of the theories and techniques of family-centered intervention, including:

- a. Cultural and linguistic differences influences; and
- b. Family issues.

10. Understanding of the standards of professionalism.

11. Completion of supervised experiences at the early childhood level in a variety of settings, including but not limited to early intervention, home-based, school-based, and community-based settings.

12. Understanding of and proficiency in grammar, usage, and mechanics and their integration in writing.

13. Understanding of and proficiency in pedagogy to incorporate writing as an instructional and assessment tool for candidates to generate, gather, plan, organize, and present ideas in writing to communicate for a variety of purposes.

8VAC20-543-500. Special education general curriculum K-12.

A. The program in special education is designed to ensure through course work and field experiences in a variety of settings that the candidate has demonstrated the core competencies in this section to prepare children and youth for participation in the general education curriculum and within the community to the maximum extent possible. The candidate also shall complete the competencies in at least one of the endorsement areas of Special Education General Curriculum K-12, in addition to those required under professional studies in 8VAC40-543-140, including reading and language acquisition.

1. Foundations - Characteristics, legal, and medical aspects.

a. Knowledge of the foundation for educating students with disabilities, including:

(1) Historical perspectives, models, theories, philosophies, and trends that provide the basis for special education practice;

(2) Characteristics of children and youth with disabilities relative to age, varying levels of severity, and developmental differences manifested in cognitive, linguistic, physical, psychomotor, social, or emotional functioning;

(3) Normal patterns of development (i.e., physical, psychomotor, cognitive, linguistic, social, or emotional development) and their relationship to the various disabilities;

(4) Medical aspects of disabilities;

(5) The dynamic influence of the family system and cultural and environmental milieu and related issues pertinent to the education of students with disabilities;

(6) Educational implications of the various disabilities; and

(7) Understanding of ethical issues and the practice of accepted standards of professional behavior.

b. An understanding and application of the legal aspects, regulatory requirements, and expectations associated with identification, education, and evaluation of students with disabilities, including:

(1) Legislative and judicial mandates related to education and special education (e.g., the Individuals with Disabilities Education Act, § 504 of the Rehabilitation Act of 1973, the Americans with Disabilities Act, the No Child Left Behind Act of 2001, etc.);

(2) Current regulations governing special education (e.g., individualized education program (IEP) development; disciplinary practices, policies, and procedures; and alternative placements and programs in schools); and

(3) Rights and responsibilities of parents, students, teachers, and schools as they relate to individuals with disabilities and disability issues.

2. Assessments and evaluation.

An understanding and application of the foundation of assessment and evaluation related to best special education practice, including:

- a. Ethical issues and responsibilities in the assessment of individuals with disabilities;
- b. Procedures for screening, pre-referral, referral, and eligibility determinations;
- c. Factors that may influence assessment findings such as cultural, behavioral, and learning diversity;
- d. A general knowledge of measurement theory and practice, including validity, reliability, norming, bias, sensitivity, and specificity;
- e. Administration, scoring, and interpretation of commonly used individual and group instruments, including norm-referenced, criterion-referenced, and curriculum-based measures as well as task analysis, observation, portfolio, and environmental assessments;
- f. Synthesis and interpretation of assessment findings for eligibility, program planning, and program evaluation decisions; and
- g. Knowledge of the Virginia Accountability System, assessment options, and procedures for participation for students with disabilities.

3. Management of instruction and behavior.

An understanding and application of classroom and behavior management techniques and individual interventions, including techniques that:

- a. Promote emotional well-being and teach and maintain behavioral conduct and skills consistent with norms, standards, and rules of the educational environment;
- b. Address diverse approaches to classroom organization and set-up based upon behavioral, cognitive, affective, social, and ecological theory and practice;
- c. Provide positive behavioral supports; and
- d. Are based on functional assessment of behavior.

4. Collaboration.

a. Skills in consultation, case management, and collaboration, including coordination of service delivery with related service providers, general educators, and other professions in collaborative work environments to include:

- (1) Understanding the Standards of Learning, the structure of the curriculum, and accountability systems across K-12;
- (2) Understanding and assessing the organization and environment of general education classrooms across the K-12 setting;

(3) Implementation of collaborative models, including collaborative consultation, co-teaching with co-planning, and student intervention teams;

(4) Procedures to collaboratively develop, provide, and evaluate instructional and behavioral plans consistent with students' individual needs;

(5) Understanding the roles and responsibilities of each member of the collaborative team; and

(6) Knowledge and application of effective communication strategies and culturally responsive strategies with a variety of stakeholders in the collaborative environment;

- b. Training, managing, and monitoring paraprofessionals;
- c. Involvement of families in the education of their children with disabilities;
- d. Understanding the standards of professionalism;
- e. Cooperating with community agencies and other resource providers; and
- f. Models and strategies for promoting students' self-advocacy skills.

B. The program in special education general curriculum K-12 shall ensure through coursework and field experiences in a variety of settings that the candidate seeking endorsement in special education general curriculum K-12 has the special education core competencies and the specific competency requirements specified in this section.

1. Characteristics.

a. Demonstrate knowledge of definitions, characteristics, and learning and behavioral support needs of students with disabilities whose cognitive and functional skills are not significantly different from typically developing peers and therefore require access to the general education curriculum for an appropriate education, including but not limited to, students with:

- (1) Autism spectrum disorder;
- (2) Deaf-blindness;
- (3) Developmental delay;
- (4) Emotional disability;
- (5) Hearing impairment (or deaf and hard of hearing);
- (6) Intellectual disability;
- (7) Learning disability;
- (8) Multiple disabilities;
- (9) Orthopedic impairment;
- (10) Other health impairment;
- (11) Speech-language impairment;
- (12) Traumatic brain injury; and/or
- (13) Visual impairment (including blindness).

b. Knowledge of characteristics shall include:

- (1) Age-span and developmental issues;

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- (2) Levels of severity;
- (3) Cognitive functioning;
- (4) Language development;
- (5) Emotional and behavioral adjustment;
- (6) Social development;
- (7) Medical aspects; and
- (8) Cultural, ethnic, and socioeconomic factors.

2. Individualized education program development and implementation.

a. Demonstrate knowledge of the eligibility process and legal and regulatory requirements for IEP development, including timelines, components, team composition, roles, and responsibilities.

b. Apply knowledge of content standards, assessment, and evaluation throughout the K-12 grade levels to:

(1) Construct, use, and interpret a variety of standardized and nonstandardized data collection techniques, such as task analysis, observation, portfolio assessment, and other curriculum-based measures;

(2) Make decisions about student progress, instruction, program, accommodations, placement, teaching methodology, and transition services and activities for students with disabilities who are accessing the general education curriculum and the Virginia Standards of Learning; and

(3) Develop an individualized education program (IEP) that addresses the academic and functional needs of the student with disabilities in the general education curriculum and meets regulatory requirements.

3. Instructional strategies for reading and writing.

An understanding and application of service delivery, curriculum, and instruction of students with disabilities, including:

a. Curriculum development that includes a scope and sequence, lesson plans, instructional methods, and assessments that are based on the general education curriculum standards of learning at the elementary, middle, and secondary levels;

b. Foundational knowledge of reading and writing that includes an understanding of the complex nature of language acquisition and reading (reading competencies in professional studies requirements). Skills in this area include: phonemic awareness, an understanding of sound and symbol relationships, explicit phonics instruction, syllables, phonemes, morphemes, decoding skills, word attack skills, and knowledge of how phonics, syntax, and semantics interact. Additional skills shall include proficiency in a wide variety of comprehension, vocabulary, and writing strategies, as well as the ability to foster appreciation of a variety of literature,

independent reading, and reading and writing across content areas;

c. Alternative ways to teach content material including curriculum adaptation and curriculum modifications;

d. Procedures to develop, provide, and evaluate instruction consistent with students' individual needs;

e. Strategies to promote successful integration of students with disabilities with their nondisabled peers;

f. Use of technology to promote student learning;

g. Structure and organization of general education classrooms and other instructional settings representing the continuum of special education services, to include field experiences; and

h. Demonstrate the ability to implement individual educational planning and group instruction with students with disabilities who are accessing the general education curriculum across the K-12 grade levels, including the ability to:

(1) Identify and apply differentiated instructional methodologies including systematic instruction, multisensory approaches, learning cognitive strategies, study skills, diverse learning styles, and technology use;

(2) Teach skills and remediate deficits in academic areas at the elementary, middle, and secondary levels;

(3) Provide explicit instruction of reading and writing at appropriate developmental and grade level in a systematic and cumulative manner to students with disabilities who are accessing the general education curriculum;

(4) Promote the potential and capacity of individual students to meet high academic, behavioral, and social expectations;

(5) Design alternative ways to teach content material including modifying curriculum in both directive and nondirective methodologies;

(6) Use assistive and instructional technology in order to access the general education curriculum;

(7) Implement and evaluate group management techniques and individual interventions that teach and maintain emotional, behavioral, and social skills; and

(8) Implement and monitor IEP specified accommodations within the general education classroom.

4. Instructional strategies for mathematics.

An understanding and application of service delivery, curriculum, and instruction of students with disabilities, including:

a. Curriculum development that includes a scope and sequence, lesson plans, instructional methods, and assessments that are based on the general education curriculum standards of learning at the elementary, middle, and secondary levels;

b. Foundational knowledge of the complex nature of numeracy acquisition and nature of mathematics including mathematical concepts, mathematical thinking, mathematics vocabulary, calculation, and problem-solving;

c. Alternative ways to teach content material including curriculum adaptation and curriculum modifications;

d. Procedures to develop, provide, and evaluate instruction consistent with students' individual needs;

e. Strategies to promote successful integration of students with disabilities with their nondisabled peers;

f. Use of technology to promote student learning;

g. Structure and organization of general education classrooms and other instructional settings representing the continuum of special education services, to include field experiences;

h. Demonstrate the ability to implement individual educational planning and group instruction with students with disabilities who are accessing the general education curriculum across the K-12 grade levels, including the ability to:

(1) Identify and apply differentiated instructional methodologies including systematic instruction, multisensory approaches, learning cognitive strategies, study skills, diverse learning styles, and technology use;

(2) Teach skills and remediate deficits in academic areas at the elementary, middle, and secondary levels;

(3) Provide explicit instruction in mathematics at appropriate developmental and grade level in a systematic and cumulative manner to students with disabilities who are accessing the general education curriculum;

(4) Promote the potential and capacity of individual students to meet high academic, behavioral, and social expectations;

(5) Design alternative ways to teach content material including modifying curriculum in both directive and nondirective methodologies;

(6) Use assistive and instructional technology in order to access the general education curriculum;

(7) Implement and evaluate group management techniques and individual interventions that teach and maintain emotional, behavioral, and social skills; and

(8) Implement and monitor IEP specified accommodations within the general education classroom.

5. Transitioning.

Demonstrate the ability to prepare students and work with families to provide successful student transitions throughout the educational experience to include postsecondary education, training, employment, and independent living that addresses an understanding of

long-term planning, transition assessments, career development, life skills, community experiences and resources, self-advocacy, and self-determination, guardianship, and legal considerations.

a. Skills in consultation, case management, and collaboration for students with varying degrees of disability severity;

(1) Coordinate service delivery with general educators, related service providers, and other providers;

(2) Awareness of community resources agencies and strategies to interface with community agencies when developing and planning IEPs;

(3) Knowledge of related services and accommodations that pertain to postsecondary transitions that increase student access to postsecondary education and community resources;

(4) Ability to coordinate and facilitate meetings involving parents, students, outside agencies, and administrators.

b. Understand the difference between entitlement and eligibility for agency services as students move to the adult world including a basic understanding of Social Security Income benefits planning, work incentive, Medicaid, and community independent living.

c. Recognize uses of technology and seek out technology at postsecondary settings that shall aid the student in their education, work, and independent living.

d. Recognize and plan for individual student potential and their capacity to meet high academic, behavioral, and social expectations and the impact of academic and social success on personal development:

(1) Knowledge of person-centered planning strategies to promote student involvement in planning; and

(2) Knowledge of generic skills that lead to success in school, work, and community, including time management, preparedness, social interactions, and communication skills.

e. Understand social skill development and the unique social skills deficits and challenges associated with disabilities:

(1) Assess social skill strengths and needs; and

(2) Plan and use specialized social skills strategies.

f. Knowledge of use and implementation of vocational assessments to encourage and support students' self-advocacy and self-determination skills.

g. Knowledge of graduation requirements, diploma options, and legal issues surrounding age of majority and guardianship.

6. Understanding of and proficiency in grammar, usage, and mechanics and their integration in writing.

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7. Understanding of and proficiency in pedagogy to incorporate writing as an instructional and assessment tool for candidates to generate, gather, plan, organize, and present ideas in writing to communicate for a variety of purposes.

C. Completion of supervised classroom experiences with students with disabilities and the general curriculum K-12.

8VAC20-543-510. Special education – general curriculum elementary education K-6 (add-on endorsement).

The program in special education - general curriculum elementary education K-6 (add-on endorsement) shall ensure that the candidate holds an active license with an endorsement in elementary education (early/primary education preK-3/elementary education preK-6) issued by the Virginia Board of Education and has demonstrated the following competencies. The candidate must:

1. Hold a license issued by the Virginia Board of Education with an endorsement in elementary education (early/primary education preK-3/elementary education preK-6);

2. Have completed competencies in the education of students with disabilities distributed in each of the following areas:

a. Foundations. Characteristics that include knowledge of the foundation for educating students with disabilities; historical, ethical, and legal aspects that include an understanding and application of the federal and state regulatory requirements; and expectations associated with identification, education, and evaluation of students with disabilities.

b. Individualized education program (IEP) development and implementation.

(1) Knowledge of the eligibility process, legal, and regulatory requirements of IEP development including timelines, components, team composition, roles, and responsibilities.

(2) Skills in this area include the ability to apply knowledge of assessment and evaluation throughout the K-12 grade levels to construct, use, and interpret a variety of standardized and nonstandardized data collection techniques; to make decisions about student progress, instructional, program, goal development, accommodations, placement, and teaching methodology for students with disabilities who are accessing the general education curriculum and the standards of learning; and to demonstrate the use of assessment, evaluation, and other information to develop and implement individual educational planning and group instruction with students with disabilities who are accessing the general education curriculum across the K-12 grade levels.

c. Assessment and evaluation.

(1) Understanding and application of the foundation of assessment and evaluation related to best practice in special education; including types and characteristics of assessment, introduction to formal and informal assessment, and use of assessments and other information to determine special education eligibility, service delivery, curriculum, and instruction of students with disabilities.

(2) Understanding of the current legal and ethical issues related to assessment selection and use, including comprehensive evaluation requirements, students with disabilities participation in the state and local accountability systems, assessment options, appropriate grading and testing accommodations, and assessment of students from diverse backgrounds.

d. Instructional strategies in reading and writing.

(1) An understanding and application of service delivery, curriculum, and instruction of students with disabilities in reading and writing.

(2) Knowledge of the general curriculum, English requirements, and expectations, and how to provide access to the curriculum based on student characteristics and needs.

(3) Ability to assess, interpret data, and implement instructional practices to address the identified reading needs of the students. Skills in this area include the ability to identify, understand, and implement a range of specialized instructional strategies and research-based interventions that reflect best practice in reading and writing instruction for students with disabilities.

(4) Ability to align the instructional practices and intervention with the Standards of Learning and state assessments.

(5) Knowledge and ability to utilize current assistive and instructional reading and writing technologies to promote learning and independence for students with disabilities in the general curriculum and the ability to evaluate the effectiveness of the use of the technologies.

(6) Ability to develop and use curriculum-based and standardized reading and writing assessments to conduct ongoing evaluations of instructional materials and practices to determine effectiveness and assess student needs as it relates to the curriculum design and delivery.

(7) Ability to model and directly teach reading and writing instructional strategies in a variety of settings and collaborate and co-teach with general educators to develop and implement instructional practices that meet the needs of students with disabilities in the general curriculum and monitor student progress.

e. Instructional strategies in mathematics.

(1) An understanding and application of service delivery, curriculum, and instruction of students with disabilities in mathematics.

(2) Knowledge of the general curriculum mathematics requirements and expectations and how to provide access to the curriculum based on student characteristics and needs.

(3) Ability to assess, interpret data, and implement instructional practices to address calculations, reasoning, and problem-solving skills. Skills in this area include the ability to understand and use a range of specialized mathematics instructional strategies and research-based interventions that reflect best practice in mathematics instruction for students with disabilities.

(4) Ability to align the instructional practices and intervention with the Standards of Learning and state assessments.

(5) Knowledge of and ability to utilize current mathematics related assistive and instructional technologies to promote learning and independence for students with disabilities in the general curriculum and the ability to evaluate the effectiveness of the use of the technologies.

(6) Ability to develop and use curriculum-based and standardized mathematics assessments to conduct ongoing evaluations of instructional materials and practices to determine effectiveness and assess student needs as related to the mathematics curriculum design and delivery.

(7) Ability to model and directly teach mathematics instructional strategies in a variety of settings and collaborate and co-teach with general educators to develop and implement instructional practices that meet the needs of students with disabilities in the mathematics general curriculum and monitor student progress.

3. Understanding of and proficiency in grammar, usage, and mechanics and their integration in writing.

4. Understanding of and proficiency in pedagogy to incorporate writing as an instructional and assessment tool for candidates to generate, gather, plan, organize, and present ideas in writing to communicate for a variety of purposes.

8VAC20-543-520. Special education – general curriculum middle education grades 6-8 (add-on endorsement).

The program in special education - general curriculum middle education grades 6-8 (add-on endorsement) shall ensure that the candidate holds an active license with an endorsement in middle education (middle education 6-8 English, middle education 6-8 history and social sciences, middle education 6-8 mathematics, or middle education 6-8 sciences) issued by the Virginia Board of Education and has demonstrated the following competencies. The candidate must:

1. Hold a license issued by the Virginia Board of Education with an endorsement in middle education (middle education 6-8 English, middle education 6-8

history and social sciences, middle education 6-8 mathematics, or middle education 6-8 sciences).

2. Have completed competencies in the education of students with disabilities distributed in each of the following areas:

a. Foundations. Characteristics that include knowledge of the foundation for educating students with disabilities; historical, ethical, and legal aspects that include an understanding and application of the federal and state regulatory requirements; and expectations associated with identification, education, and evaluation of students with disabilities.

b. Individualized education program (IEP) development and implementation. Knowledge of the eligibility process and legal and regulatory requirements of IEP development including timelines, components, team composition, roles, and responsibilities. Skills in this area include the ability to apply knowledge of assessment and evaluation throughout the K-12 grade levels to construct, use, and interpret a variety of standardized and nonstandardized data collection techniques; to make decisions about student progress, instructional, program, goal development, accommodations, placement, and teaching methodology for students with disabilities who are accessing the general education curriculum and the standards of learning; and to demonstrate the use of assessment, evaluation, and other information to develop and implement individual educational planning and group instruction with students with disabilities who are accessing the general education curriculum across the K-12 grade levels.

c. Transitioning. Skills in this area include the ability to prepare students and work with families and community agencies to provide successful student transitions throughout the educational experience to include postsecondary education training, employment, and independent living which addresses an understanding of long-term planning, career development, life skills, community experiences and resources, self-advocacy, and self-determination, guardianship, and legal considerations.

d. Instructional strategies in reading and writing.

(1) An understanding and application of service delivery, curriculum, and instruction of students with disabilities in reading and writing.

(2) Knowledge of the general curriculum, English requirements and expectations, and how to provide access to the curriculum based on student characteristics and needs.

(3) Ability to assess, interpret data, and implement instructional practices to address the identified reading needs of the students. Skills in this area include the ability to identify, understand, and implement a range of

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specialized instructional strategies and research-based interventions that reflect best practice in reading and writing instruction for students with disabilities.

(4) Ability to align the instructional practices and intervention with the Standards of Learning and state assessments.

(5) Knowledge and ability to utilize current assistive and instructional reading and writing technologies to promote learning and independence for students with disabilities in the general curriculum and the ability to evaluate the effectiveness of the use of the technologies.

(6) Ability to develop and use curriculum-based and standardized reading and writing assessments to conduct ongoing evaluations of instructional materials and practices to determine effectiveness and assess student needs as related to the curriculum design and delivery.

(7) Ability to model and directly teach reading and writing instructional strategies in a variety of settings, collaborate and co-teach with general educators to develop and implement instructional practices that meet the needs of students with disabilities in the general curriculum, and monitor student progress.

e. Instructional strategies in mathematics.

(1) An understanding and application of service delivery, curriculum, and instruction of students with disabilities in mathematics.

(2) Knowledge of the general curriculum mathematics requirements and expectations and how to provide access to the curriculum based on student characteristics and needs.

(3) Ability to assess, interpret data, and implement instructional practices to address calculations, reasoning, and problem-solving skills. Skills in this area include the ability to understand and use a range of specialized mathematics instructional strategies and research-based interventions that reflect best practice in mathematics instruction for students with disabilities.

(4) Ability to align the instructional practices and intervention with the Standards of Learning and state assessments.

(5) Knowledge of and ability to utilize current mathematics related assistive and instructional technologies to promote learning and independence for students with disabilities in the general curriculum and the ability to evaluate the effectiveness of the use of the technologies.

(6) Ability to develop and use curriculum-based and standardized mathematics assessments to conduct ongoing evaluations of instructional materials and practices to determine effectiveness and assess student needs as it relates to the mathematics curriculum design and delivery.

(7) Ability to model and directly teach mathematics instructional strategies in a variety of settings, collaborate and co-teach with general educators to develop and implement instructional practices that meet the needs of students with disabilities in the mathematics general curriculum, and monitor student progress.

3. Understanding of and proficiency in grammar, usage, and mechanics and their integration in writing.

4. Understanding of and proficiency in pedagogy to incorporate writing as an instructional and assessment tool for candidates to generate, gather, plan, organize, and present ideas in writing to communicate for a variety of purposes.

8VAC20-543-530. Special education – general curriculum secondary education grades 6-12 (add-on endorsement).

The program in special education - general curriculum secondary education grades 6-12 (add-on endorsement) shall ensure that the candidate holds an active license with an endorsement in English, history and social sciences, mathematics, biology, chemistry, Earth science, or physics issued by the Virginia Board of Education and has demonstrated the following competencies. The candidate must:

1. Hold a license issued by the Virginia Board of Education with an endorsement in English, history and social sciences, mathematics, biology, chemistry, Earth science, or physics.

2. Have completed competencies in the education of students with disabilities distributed in each of the following areas:

a. Foundations. Characteristics that include knowledge of the foundation for educating students with disabilities; historical, ethical, and legal aspects that include an understanding and application of the federal and state regulatory requirements; and expectations associated with identification, education, and evaluation of students with disabilities.

b. Individualized education program development and implementation. Knowledge of the eligibility process and legal and regulatory requirements of IEP development including timelines, components, team composition, roles, and responsibilities. Skills in this area include the ability to apply knowledge of assessment and evaluation throughout the K-12 grade levels to construct, use, and interpret a variety of standardized and nonstandardized data collection techniques; to make decisions about student progress, instructional, program, goal development, accommodations, placement, and teaching methodology for students with disabilities who are accessing the general education curriculum and the standards of learning; and to demonstrate the use of assessment, evaluation, and other information to develop and implement individual educational planning and

group instruction with students with disabilities who are accessing the general education curriculum across the K-12 grade levels.

c. Transitioning. Skills in this area include the ability to prepare students and work with families and community agencies to provide successful student transitions throughout the educational experience to include postsecondary education training, employment, and independent living which addresses an understanding of long-term planning, career development, life skills, community experiences and resources, self-advocacy, and self-determination, guardianship, and legal considerations.

d. Instructional strategies in reading and writing.

(1) An understanding and application of service delivery, curriculum, and instruction of students with disabilities in reading and writing.

(2) Knowledge of the general curriculum, English requirements and expectations, and how to provide access to the curriculum based on student characteristics and needs.

(3) Ability to assess, interpret data, and implement instructional practices to address the identified reading needs of the students. Skills in this area include the ability to identify, understand, and implement a range of specialized instructional strategies and research-based interventions that reflect best practice in reading and writing instruction for students with disabilities.

(4) Ability to align the instructional practices and intervention with the Standards of Learning and state assessments.

(5) Knowledge and ability to utilize current assistive and instructional reading and writing technologies to promote learning and independence for students with disabilities in the general curriculum and the ability to evaluate the effectiveness of the use of the technologies.

(6) Ability to develop and use curriculum-based and standardized reading and writing assessments to conduct ongoing evaluations of instructional materials and practices to determine effectiveness and assess student needs as related to the curriculum design and delivery.

(7) Ability to model and directly teach reading and writing instructional strategies in a variety of settings, collaborate and co-teach with general educators to develop and implement instructional practices that meet the needs of students with disabilities in the general curriculum, and monitor student progress.

e. Instructional strategies in mathematics.

(1) An understanding and application of service delivery, curriculum, and instruction of students with disabilities in mathematics.

(2) Knowledge of the general curriculum mathematics requirements and expectations and how to provide access to the curriculum based on student characteristics and needs.

(3) Ability to assess, interpret data, and implement instructional practices to address calculations, reasoning, and problem-solving skills. Skills in this area include the ability to understand and use a range of specialized mathematics instructional strategies and research-based interventions that reflect best practice in mathematics instruction for students with disabilities.

(4) Ability to align the instructional practices and intervention with the Standards of Learning and state assessments.

(5) Knowledge of and ability to utilize current mathematics related assistive and instructional technologies to promote learning and independence for students with disabilities in the general curriculum and the ability to evaluate the effectiveness of the use of the technologies.

(6) Ability to develop and use curriculum-based and standardized mathematics assessments to conduct ongoing evaluations of instructional materials and practices to determine effectiveness and assess student needs as it relates to the mathematics curriculum design and delivery.

(7) Ability to model and directly teach mathematics instructional strategies in a variety of settings, collaborate and co-teach with general educators to develop and implement instructional practices that meet the needs of students with disabilities in the mathematics general curriculum, and monitor student progress.

3. Understanding of and proficiency in grammar, usage, and mechanics and their integration in writing.

4. Understanding of and proficiency in pedagogy to incorporate writing as an instructional and assessment tool for candidates to generate, gather, plan, organize, and present ideas in writing to communicate for a variety of purposes.

8VAC20-543-540. Speech communication (add-on endorsement).

The program in speech communication shall ensure that the candidate holds an active license with a teaching endorsement or endorsements issued by the Virginia Board of Education and has demonstrated the following competencies:

1. Understanding and knowledge of oral communication, including language acquisition involving the processes of expressive and receptive language and voice production involving the aesthetics of speech;

2. Understanding and knowledge of common speech production patterns, including articulation, pronunciation, and dialectical variances as these relate to standard English patterns;

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3. Understanding the components of effective messages, including appropriate use of language, voice and diction, and nonverbal elements;

4. Understanding of and proficiency in effective communication, including interpersonal communication, small group communication, skills contributing to effective listening, the art of persuasion, oral interpretation, group discussion, mass communication, public speaking, and debate, verbal and nonverbal messages, and the ability to critique such communication interactions;

5. Understanding media, digital, and visual literacy and the skills to evaluate and utilize these literacies in presentations;

6. Understanding of and proficiency in grammar, usage, and mechanics and their integration in writing;

7. Understanding of and proficiency in pedagogy to incorporate writing as an instructional and assessment tool for candidates to generate, gather, plan, organize, and present ideas in writing to communicate for a variety of purposes;

8. Skills necessary to teach research including ethical accessing, evaluating, organizing, crediting, and synthesizing information as needed for speech communication; and

9. Knowledge of the Computer Technology Standards of Learning and their integration into Speech Communication.

8VAC20-543-550. Theatre arts preK-12.

The program in theatre arts preK-12 shall ensure that the candidate has demonstrated the following competencies:

1. Understanding of the knowledge, skills, and processes of the theatre arts discipline as defined in the Virginia Standards of Learning and how these provide a necessary foundation integral to teaching theatre arts.

2. Understanding of the knowledge, skills, and processes for teaching theatre arts to the developmental levels and academic needs of students in preK-12, including the following:

a. Experience in planning, developing, administering, and evaluating a program of theatre arts education;

b. Knowledge and understanding for teaching theatre arts, including performance and production; theatre history and cultural context; analysis, evaluation, and critique; and aesthetics;

c. Directing;

d. Technical theatre, including lighting, set design, stage craft, costuming, makeup, and safety;

e. Performance, including acting and acting styles;

f. Dramatic literature;

g. The relationship of theatre and culture and the influence of theatre on past and present culture;

h. Knowledge and understanding of technological and artistic copyright laws;

i. Knowledge and understanding of classroom management and safety, including performance and studio;

k. Knowledge of instructional and assessment strategies to foster, support, and enhance student theatre arts learning;

l. Knowledge of related areas of theatre arts, such as art, dance arts, music, and the visual arts;

m. Knowledge and understanding of technology, with applications for instruction, resources, artistic expression, administration, assessment, and communication;

n. Knowledge and understanding of appropriate and sensitive attention to diversity and cultural understanding; and

o. Observation and student teaching experiences at the elementary, middle, and secondary levels.

3. Understanding of and proficiency in grammar, usage, and mechanics and their integration in writing.

4. Understanding of and proficiency in pedagogy to incorporate writing as an instructional and assessment tool for candidates to generate, gather, plan, organize, and present ideas in writing to communicate for a variety of purposes.

8VAC20-543-560. Visual arts preK-12.

The program in visual arts preK-12 shall ensure that the candidate has demonstrated the following competencies:

1. Understanding of the knowledge, skills, and processes of the visual arts discipline as defined in the Virginia Standards of Learning, and how they provide a necessary foundation for teaching the visual arts;

2. Understanding of the knowledge, skills, and processes for teaching art appropriate to the developmental levels and academic needs of students in preK-12 including the following areas:

a. Knowledge and experience in planning, developing, administering, and evaluating a program of visual arts education;

b. Two-dimensional media and concepts: basic and complex techniques and concepts in two-dimensional design, drawing, painting, printmaking, computer graphics, and other electronic imagery;

c. Three-dimensional media and concepts: basic and complex techniques and concepts in three-dimensional design, sculpture, ceramics, fiber arts, crafts, and computer and other electronic imagery;

d. Knowledge and understanding for teaching the visual arts, including visual communication and production, art history and cultural context, analysis, evaluation and critique, and aesthetics;

- e. The relationship of visual arts and culture and the influence of visual arts on past and present cultures;
- f. Related areas of visual arts, such as architecture, dance arts, music, theatre arts, photography, and other expressive arts;
- g. Knowledge and understanding of technological and artistic copyright laws;
- h. Knowledge and understanding of classroom management and safety, including use of toxic art material in various aspects of studio and classroom work;
- i. Knowledge of a variety of instructional and assessment strategies to foster, support, and enhance student visual arts learning;
- j. Knowledge and understanding of technology, with applications for instruction, resources, artistic expression, administration, assessment, and communication;
- k. Knowledge and understanding of appropriate and sensitive attention to diversity and cultural understanding; and
- l. Observation and student teaching experiences at the elementary, middle, and secondary levels.

3. Understanding of and proficiency in grammar, usage, and mechanics and their integration in writing.

4. Understanding of and proficiency in pedagogy to incorporate writing as an instructional and assessment tool for candidates to generate, gather, plan, organize, and present ideas in writing to communicate for a variety of purposes.

Article 4

Administration and Supervision and Support Personnel

8VAC20-543-570. Administration and supervision preK-12.

A. The program in administration and supervision preK-12 shall ensure that the candidate has demonstrated the following competencies:

- 1. Knowledge, understanding, and application of planning, assessment, and instructional leadership that builds collective professional capacity, including:
 - a. Principles of student motivation, growth, and development as a foundation for age-appropriate and grade-appropriate curriculum, instruction, and assessment;
 - b. Collaborative leadership in gathering and analyzing data to identify needs to develop and implement a school improvement plan that results in increased student learning;
 - c. Planning, implementation, and refinement of standards-based curriculum aligned with instruction and assessment;
 - d. Collaborative planning and implementation of a variety of assessment techniques, including examination

of student work, that yield individual, class, grade level, and school level data as a foundation for identifying existing competencies and targeting areas in need of further attention;

e. Incorporation of differentiated and effective instruction that responds to individual learner needs including appropriate response to cultural, ethnic, and linguistic diversity;

f. Knowledge, understanding, and application of the federal and state regulatory requirements, and expectations associated with identification, education, and evaluation of students with disabilities;

g. Collaboratively working with parents and school personnel to ensure that students with disabilities are included as a valued part of the school community, and that they receive effective and appropriately intensive instruction to assist them in meeting the standards set for all students as well as individual goals outlined in their individualized education plans (IEPs);

h. Integration of technology in curriculum and instruction to enhance learner understanding;

i. Identification, analysis, and resolution of problems using effective problem-solving techniques; and

j. Development, articulation, implementation, and stewardship of a vision of excellence linked to mission and core beliefs that promote continuous improvement consistent with the goals of the school division.

2. Knowledge, understanding, and application of leadership and organizations, including:

a. The change process of systems, organizations, and individuals using appropriate and effective adult learning models;

b. Aligning organizational practice, division mission, and core beliefs for developing and implementing strategic plans;

c. Information sources and processing, including data collection and data analysis strategies;

d. Using data as a part of ongoing program evaluation to inform and lead change;

e. Developing a change management strategy for improved student outcomes;

f. Developing distributed leadership strategies to create personalized learning environments for diverse schools; and

g. Effective two-way communication skills including consensus building, negotiation, and mediation skills.

3. Knowledge, understanding, and application of management and leadership skills that achieve effective and efficient organizational operations and sustain an instructional program conducive to student academic progress, including:

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- a. Alignment of curriculum and instruction and assessment of the educational program to achieve high academic success at the school and division or district level;
 - b. Principles and issues of supervising and leading others to ensure a working and learning climate that is safe, secure, and respectful of a diverse school community;
 - c. Management decisions that ensure successful teaching and learning including human resources management and development, theories of motivation, change in school culture, innovation and creativity, conflict resolution, adult learning, and professional development models;
 - d. Knowledge, understanding, and application of Virginia's Guidelines for Uniform Performance Standards and Evaluation Criteria for Teachers and the Guidelines for Uniform Performance Standards and Evaluation Criteria for Principals;
 - e. Principles and issues related to fiscal operations of school management;
 - f. Principles and issues related to school facilities and use of space and time for supporting high-quality school instruction and student learning;
 - g. Legal issues impacting school operations and management;
 - h. Technologies that support management functions; and
 - i. Application of data-driven decision-making to initiate and continue improvement in school and classroom practices and student achievement.
4. Knowledge, understanding, and application of the conditions and dynamics impacting a diverse school community, including:
- a. Emerging issues and trends within school and community relations;
 - b. Working collaboratively with staff, families, and community members to secure resources and to support the success of a diverse population;
 - c. Developing appropriate public relations and public engagement strategies and processes for building and sustaining positive relationships with families, caregivers, and community partners; and
 - d. Integration of technology to support communication efforts.
5. Knowledge, understanding, and application of the purpose of education and the role of professionalism in advancing educational goals, including:
- a. Philosophy of education that reflects commitment to principles of honesty, fairness, caring, and equity in day-to-day professional behavior;
 - b. Integration of high quality, content rich, job-embedded professional learning that respects the contribution of all faculty and staff members in building a diverse professional learning community;
 - c. Reflective understanding of potential moral and legal consequences of decision-making in the school setting;
 - d. Intentional and purposeful effort to model professional, moral, and ethical standards as well as personal integrity in all interactions; and
 - e. Intentional and purposeful effort to model continuous professional learning and to work collegially and collaboratively with all members of the school community to support the school's goals and enhance its collective capacity.
6. Knowledge, understanding, and application of basic leadership theories and influences that impact schools including:
- a. Concepts of leadership including systems theory, change theory, learning organizations, and current leadership theory;
 - b. Identify and respond to internal and external forces and influences on a school;
 - c. Identify and apply the processes of educational policy development at the state, local, and school level; and
 - d. Identify and demonstrate ways to influence educational policy development at the state, local, and school level.
- B. Complete a deliberately structured and supervised internship that is focused on student academic progress for all students and
- 1. Provides significant experiences within a school environment for candidates to synthesize and apply the content knowledge and develop professional skills through school-based leadership experiences;
 - 2. Shall occur in a public or accredited nonpublic school;
 - 3. Provides exposure to five different multiple sites (elementary, middle, high, central office, and agency) with diverse student populations; and
 - 4. Documents a minimum of 320 clock hours, of which at least 120 clock hours are embedded as experiential field-based opportunities experienced during coursework.
- C. Satisfy the requirements for the school leaders licensure assessment prescribed by the Board of Education. Individuals seeking an initial administration and supervision endorsement who are interested in serving as central office instructional personnel are not required to take and pass the school leaders assessment prescribed by the Board of Education.
- 8VAC20-543-580. Mathematics specialist for elementary education.**
- A. A mathematics specialist is a teacher in the elementary grades who has interest and special preparation in mathematics content, scientifically based research in the teaching and learning of mathematics, diagnostic and

assessment methods, and leadership skills. The school-based mathematics specialist shall serve as a resource in professional development, instructing children who have learning difficulties in mathematics, curriculum development and implementation, mentoring new teachers, and parent and community education.

B. The mathematics specialist program shall ensure that the candidate has completed at least three years of successful classroom teaching experience in which the teaching of mathematics was an important responsibility and demonstrated the following competencies:

1. Understanding of the knowledge, skills, and processes of the Virginia Mathematics Standards of Learning and how curriculum may be organized to teach these standards to diverse learners;
2. Understanding of a core knowledge base of concepts and procedures within the discipline of mathematics, including the following strands: number systems and number theory; geometry and measurement; statistics and probability; and functions and algebra;
3. Understanding of the sequential nature of mathematics, the vertical progression of mathematical standards, and the mathematical structures inherent in the content strands;
4. Understanding of the connections among mathematical concepts and procedures and their practical applications;
5. Understanding of and the ability to use the five processes - becoming mathematical problem-solvers, reasoning mathematically, communicating mathematically, making mathematical connections, and using mathematical models and representations - at different levels of complexity;
6. Understanding of major current curriculum studies and trends in mathematics;
7. Understanding how to utilize appropriate technologies for teaching and learning mathematics including virtual manipulatives;
8. Understanding of and the ability to select, adapt, evaluate, and use instructional materials and resources, including professional journals and technology;
9. Understanding of and the ability to use strategies for managing, assessing, and monitoring student learning, including diagnosing student errors;
10. Understanding of and the ability to use strategies to teach mathematics to diverse learners;
11. Understanding of leadership skills needed to improve mathematics programs at the school and division levels, including the needs of high-achieving and low-achieving students and of strategies to challenge them at appropriate levels; child psychology, including personality and learning behaviors; educational measurement and evaluation; and effective professional development approaches;

12. Understanding of how to develop and lead appropriate professional development based on the needs of students and the school community;

13. Understanding of how to work with school-based administration for the improvement of mathematics teaching and learning;

14. Understanding of how to effectively mentor teachers for the improvement of mathematics teaching and learning;

15. Understanding of how to effectively work with parents and the at-large community to improve mathematics teaching and learning;

16. Understanding of and proficiency in grammar, usage, and mechanics and their integration in writing; and

17. Understanding of and proficiency in pedagogy to incorporate writing as an instructional and assessment tool for candidates to generate, gather, plan, organize, and present ideas in writing to communicate for a variety of purposes.

8VAC20-543-590. Mathematics specialist for middle education.

A. A mathematics specialist is a teacher in the middle grades who has interest and special preparation in mathematics content, scientifically-based research in the teaching and learning of mathematics, diagnostic and assessment methods, and leadership skills. The school-based mathematics specialist shall serve as a resource in professional development, instructing children who have learning difficulties in mathematics, curriculum development and implementation, mentoring new teachers, and parent and community education.

B. The mathematics specialist program shall ensure that the candidate has completed at least three years of successful classroom teaching experience in which the teaching of mathematics was an important responsibility and demonstrated the following competencies:

1. Understanding of the knowledge, skills, and processes of the Virginia Mathematics Standards of Learning and how curriculum may be organized to teach these standards to diverse learners;

2. Understanding of a core knowledge base of concepts and procedures within the discipline of mathematics, including the following strands: number systems and number theory; geometry and measurement; statistics and probability; and functions and algebra;

3. Understanding of the sequential nature of mathematics, the vertical progression of mathematical standards, and the mathematical structures inherent in the content strands;

4. Understanding of the connections among mathematical concepts and procedures and their practical applications;

5. Understanding of and the ability to use the five processes - becoming mathematical problem-solvers, reasoning mathematically, communicating mathematically,

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making mathematical connections, and using mathematical models and representations - at different levels of complexity;

6. Understanding of major current curriculum studies and trends in mathematics;

7. Understanding how to utilize appropriate technologies for teaching and learning mathematics, including graphing utilities, dynamic software, spreadsheets, and virtual manipulatives;

8. Understanding of and the ability to select, adapt, evaluate, and use instructional materials and resources, including professional journals and technology;

9. Understanding of and the ability to use strategies for managing, assessing, and monitoring student learning, including diagnosing student errors;

10. Understanding of and the ability to use strategies to teach mathematics to diverse learners;

11. Understanding of leadership skills needed to improve mathematics programs at the school and division levels, including the needs of high-achieving and low-achieving students and of strategies to challenge them at appropriate levels; child psychology, including personality and learning behaviors; educational measurement and evaluation; and effective professional development approaches;

12. Understanding of how to develop and lead appropriate professional development based on the needs of students and the school community;

13. Understanding of how to work with school-based administration for the improvement of mathematics teaching and learning;

14. Understanding of how to effectively mentor teachers for the improvement of mathematics teaching and learning;

15. Understanding of how to effectively work with parents and the at-large community to improve mathematics teaching and learning;

16. Understanding of and proficiency in grammar, usage, and mechanics and their integration in writing; and

17. Understanding of and proficiency in pedagogy to incorporate writing as an instructional and assessment tool for candidates to generate, gather, plan, organize, and present ideas in writing to communicate for a variety of purposes.

8VAC20-543-600. Reading specialist.

The reading specialist program shall ensure that the candidate has demonstrated the following competencies:

1. Assessment and diagnostic teaching. The candidate shall:

a. Demonstrate expertise in the use of formal and informal screening, diagnostic, and progress monitoring assessment for language proficiency, concepts of print,

phonemic awareness, letter recognition, decoding, fluency, vocabulary, reading levels, and comprehension; and

b. Demonstrate expertise in the ability to use diagnostic data to inform instruction for acceleration, intervention, remediation, and differentiation.

2. Communication: speaking, listening, media literacy. The candidate shall:

a. Demonstrate expertise in the knowledge, skills, and processes necessary for teaching communication, (speaking, listening, and media literacy);

b. Demonstrate expertise in developing students' phonological awareness skills;

c. Demonstrate effective strategies for facilitating the learning of standard English by speakers of other languages and dialects;

d. Demonstrate an understanding of the unique needs of students with language differences and delays;

e. Demonstrate the ability to promote creative thinking and expression, such as through storytelling, drama, and choral and oral reading, etc.; and

f. Demonstrate the ability to teach students to identify the characteristics of, and apply critical thinking to, media messages and to facilitate their proficiency in using various forms of media to collaborate and communicate.

3. Reading. The candidate shall:

a. Demonstrate expertise in explicit and systematic phonics instruction, including an understanding of sound and symbol relationships, syllables, phonemes, morphemes, decoding skills, word analysis, and word attack skills;

b. Demonstrate expertise in the morphology of English including inflections, prefixes, suffixes, roots, and word relationships;

c. Demonstrate expertise in strategies to increase vocabulary;

d. Demonstrate expertise in the structure of the English language, including and understanding of syntax, semantics, and vocabulary development;

e. Demonstrate expertise in reading comprehension strategies, including a repertoire of questioning strategies, understanding the dimensions of word meanings, teaching predicting, inferencing, summarizing, clarifying, evaluating, and making connections;

f. Demonstrate expertise in the ability to teach strategies in literal, interpretive, critical, and evaluative comprehension;

g. Demonstrate the ability to develop comprehension skills in all content areas;

h. Demonstrate the ability to foster appreciation of a variety of literature; and

i. Understand the importance of promoting independent reading and reading strategically through a variety of means including by selecting fiction and nonfiction texts of appropriate yet engaging topics and reading levels; and

j. Demonstrate effective strategies for teaching students to view, interpret, analyze, and represent information and concepts in visual form with or without the spoken or written word.

4. Writing. The candidate shall:

a. Demonstrate expertise in the knowledge, skills, and processes necessary for teaching writing, including the domains of composing and written expression and usage and mechanics and the writing process of planning, drafting, revising, editing, and sharing;

b. Demonstrate expertise in systematic spelling instruction, including awareness of the purpose and limitations of "invented spelling," orthographic patterns, and strategies for promoting generalization of spelling study to writing; and

c. Demonstrate expertise to teach the writing process: plan, draft, revise, edit, and share in the narrative, descriptive, and explanative modes.

5. Technology. The candidate shall demonstrate expertise in their use of technology for both process and product as they work to guide students with reading, writing, and research.

6. Leadership, coaching, and specialization. The candidate shall:

a. Demonstrate an understanding of developmental psychology, including personality and learning behaviors;

b. Demonstrate an understanding of the needs of high achieving students and of strategies to challenge them at appropriate levels;

c. Demonstrate an understanding of the significance of cultural contexts upon language;

d. Demonstrate an understanding of varying degrees of learning disabilities;

e. Demonstrate expertise with educational measurement and evaluation including validity, reliability, and normative comparisons in test design and selections;

f. Demonstrate expertise to interpret grade equivalents, percentile ranks, normal curve equivalents, and standards scores;

g. Demonstrate the ability to instruct and advise teachers in the skills necessary to differentiate reading instruction for both low and high achieving readers;

h. Demonstrate the ability to coach and support teachers through classroom observations, demonstrations, co-teaching, and other forms of job-embedded professional development;

i. Demonstrate the ability to organize and supervise the reading program within the classroom, school, or division;

j. Demonstrate effective communication skills in working with a variety of groups, including parents, teachers, administrators, community leaders, etc.;

k. Demonstrate knowledge of current research and exemplary practices in English and reading;

l. Understanding of and proficiency in grammar, usage, and mechanics and their integration in writing; and

m. Understanding of and proficiency in pedagogy to incorporate writing as an instructional and assessment tool for candidates to generate, gather, plan, organize, and present ideas in writing to communicate for a variety of purposes.

8VAC20-543-610. School counselor preK-12.

The school counselor preK-12 program shall ensure that the candidate has demonstrated the following competencies:

1. The ability to support students by cooperatively working with parents and guardians and teachers.

2. Understanding of the principles and theories of human growth and development throughout the lifespan and their implications for school counseling.

3. Understanding of the social and cultural foundations of education and their implications for school counseling programs.

4. Understanding of lifespan career development.

5. Understanding of the skills and processes for counseling students to include:

a. Individual and group counseling for academic development;

b. Individual and group counseling for career development; and

c. Individual and group counseling for personal and social development.

6. Understanding of the knowledge, skills, and processes for providing developmental group guidance, including:

a. Academic development;

b. Career development; and

c. Personal and social development.

7. Understanding of the skills and processes related to the school counseling program at the elementary, middle, and secondary levels, including:

a. Characteristics of learners at the elementary, middle, and secondary levels;

b. Program planning;

c. Coordination; and

d. Consultation.

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8. Understanding of the knowledge, skills, and processes of student appraisal and assessment relative to school guidance and counseling programs, including:

- a. Individual assessment; and
- b. Group assessment.

9. Understanding of the school counseling professional, including:

- a. Legal considerations;
- b. Ethical considerations; and
- c. Professional issues and standards.

10. Understanding of the skills and processes of research and evaluation aimed at improving school counseling programs.

11. Understanding work-based learning methods of instruction such as internship, job shadowing, cooperative education, mentorship, service learning, clinical, and youth apprenticeship.

12. Understanding of and proficiency in grammar, usage, and mechanics and their integration in writing.

13. Understanding of and proficiency in pedagogy to incorporate writing as an instructional and assessment tool for candidates to generate, gather, plan, organize, and present ideas in writing to communicate for a variety of purposes.

14. The program shall include at least 100 clock hours of internship and practicum experience in the preK-6 setting and 100 clock hours of internship and practicum experience in the grades 7-12 setting.

8VAC20-543-620. School psychology.

The school psychology program shall ensure that the candidate has demonstrated the following competencies:

1. Knowledge of basic teaching and learning principles and the conditions under which they operate maximally (academic environment and instructional match).

2. Knowledge and application of psychological foundations of human functioning including biological bases of behavior; cultural diversity; infant, child, and adolescent development; effects of poverty and lack of opportunity on learning; interplay between behavior, learning and motivation; personality theory; human learning; and social bases of behavior and mental health, to ensure student academic achievement, student growth and development, and mental health.

3. Knowledge of and skill at applying educational foundations of schooling, including education of exceptional learners; evidence-based instructional and remedial interventions, techniques, and strategies; formative and summative evaluation; evidence-based behavioral interventions; and organization and operations of schools, to ensure effective collaboration with other

school professionals toward implementing school practices that promote learning and mental health.

4. Knowledge of various methods for assessing students' cognitive processes and abilities and skill in administering a variety of such methods; knowledge of various methods for assessing student academic strengths and weaknesses and skill in administering a variety of such methods; knowledge of various methods for assessing student interpersonal emotional and social and behavioral functioning and skill in administering a variety of such methods; and knowledge of universal screening measures designed for early and tiered academic and behavioral intervention. Knowledge of a variety of progress monitoring tools, especially student growth percentiles and skill in implementing at least two such tools.

5. Understanding and knowledge of direct and indirect methods of academic and behavioral intervention, and proficiency in delivering such interventions including:

- a. Counseling on an individual, group, and family basis;
- b. Consulting with administrators, teachers, parents, and other professionals about student problems and appropriate change strategies;

c. Designing and implementing individual and group behavior change programs; designing, implementing, and evaluating crisis intervention and threat (self-directed and other-directed) assessment programs; and

d. Designing and implementing academic and instructional interventions.

6. Statistics and research design, measurement, and program evaluation.

7. The profession of psychology applied to schools, including:

a. Basic knowledge of the standards of practice promoted by the National Association of School Psychologists (NASP);

b. Knowledge of and skill with several basic problem-solving schemes;

c. Knowledge of and ability to identify the variety of mental health problems exhibited by infants, children, and adolescents through age 21, including the ability to collaborate with other community-based professionals and private practitioners in providing wraparound services to the extent possible (systems of care philosophy);

d. History and foundations of school psychology;

e. Legal and ethical issues of practicing in schools;

f. Professional issues and standards related to practicing as a psychologist in a public school setting; and

g. Knowledge of the roles of all individuals practicing and working in a public school setting.

8. Understanding of and proficiency in grammar, usage, and mechanics and their integration in writing.
9. Understanding of and proficiency in pedagogy to incorporate writing as an instructional and assessment tool for candidates to generate, gather, plan, organize, and present ideas in writing to communicate for a variety of purposes.
10. The candidate shall have earned a baccalaureate degree from a regionally accredited college or university and completed 60 graduate hours, 54 of which are academic coursework, exclusive of field-based experiences, that culminate in at least a master's degree.
11. The candidate shall complete an internship that is documented by the degree granting institution. The internship experience shall occur on a full-time basis over a period of one year or on a half-time basis over a period of two consecutive years. The internship shall occur under conditions of appropriate supervision (i.e., the school-based supervisor shall be licensed as either a school or clinical psychologist). The internship shall include experiences at multiple age levels, at least one half of which shall be in an accredited schooling setting.

8VAC20-543-630. School social worker.

The school social worker program shall ensure that the candidate has demonstrated the following competencies:

1. Understanding of the knowledge, skills, and processes for direct and indirect intervention, including:
 - a. Facilitating integrated intervention efforts that emphasize primary prevention, early screening, and multi-tiered interventions that target multiple risk factors in various settings;
 - b. Identifying approaches that seek to improve individual and system factors contributing to academic success and data-informed decision making and intervention fidelity;
 - c. Counseling on an individual, group, or family basis;
 - d. Consulting with administrators, teachers, parents, and other professionals about student problems and appropriate change strategies;
 - e. Networking and brokering with school programs and community agencies to provide essential services for families and children; and
 - f. Skills in collaborating with and facilitating collaboration among students, parents, members, administrators, teachers, and staff to identify ways to intervene early, reduce barriers to learning, and improve student outcomes.
2. Understanding of child development, psychopathology, social and environmental conditioning, cultural diversity, and family systems including:
 - a. Acknowledgment of the interrelatedness of various ecological systems such as education, juvenile justice,

- a. family and children's health, mental health, and child protective services; and
 - b. Knowledge of social problem impact on student performance and behaviors.
3. Understanding of the knowledge, skills, and processes for effective casework practice:
 - a. Examine factors in home, school, and community that impact students' educational performance and success; and
 - b. Assist in reducing identified barriers to learning.
4. Specialized knowledge and understanding of the organization and operations of school systems including:
 - a. Historical and current perspectives of public school education at the local, state, and national levels, including educational reform and legislation; and
 - b. Identifying and conveying the impact social problems, within ecological systems of home, school, and community, have on student performance in the educational setting.
5. Understanding of the knowledge, skills, and processes involved with assessing and programming for exceptional students including:
 - a. Skills in implementing systematic assessment, data gathering and interpretation at multiple levels, and developing action plans to address the areas of need;
 - b. Identifying and utilizing research-based interventions to enhance the educational opportunities and school performance of vulnerable and at-risk populations;
 - c. Providing leadership in developing prevention programs and policies with administrators that impact school climate, student learning, and academic success; and
 - d. Ability to facilitate team decision-making and problem-solving strategies.
6. Understanding of the school social work profession, including:
 - a. History and foundations of school social work;
 - b. Legal and ethical issues;
 - c. Professional issues and standards; and
 - d. The role and function of the school social worker to include contextual variables influencing school social work roles and functions (e.g., political, legal, ethical, and value-based issues) that confront schools.
7. Understanding of and proficiency in grammar, usage, and mechanics and their integration in writing.
8. Understanding of and proficiency in pedagogy to incorporate writing as an instructional and assessment tool for candidates to generate, gather, plan, organize, and present ideas in writing to communicate for a variety of purposes.

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9. The candidate shall have earned a master's of social work degree from a regionally accredited college or university school of social work with a minimum of 60 graduate semester hours.

10. The candidate shall complete a minimum of six graduate semester hours in education to include six semester hours from two of the following courses:

- a. The teaching profession (3 semester hours);
- b. Characteristics of special education (3 semester hours);
- c. Human development and learning (3 semester hours);
- or
- d. Classroom and behavior management (3 semester hours).

11. The candidate shall complete a supervised practicum or field experience of a minimum of 400 clock hours in a public or accredited nonpublic school discharging the duties of a school social worker. One year of successful, full-time experience as a school social worker in a public or accredited nonpublic school may be accepted in lieu of the school social work practicum.

8VAC20-543-640. Vocational evaluator.

The vocational evaluator program shall ensure that the candidate has demonstrated the following competencies:

1. Understanding of the foundations of vocational evaluation and career assessment, including philosophy and process of vocational evaluation and assessment, use of occupational and labor market information, and functional aspects of physical, mental and intellectual disabilities.

2. Understanding of the basic concepts and skills of planning for and delivering vocational evaluation and career assessment services, including the use of vocational interviewing, individualized service planning, report development and communication, and use of modifications and accommodations.

3. Ability to modify standard instruments and to develop new instruments to respond to labor markets or individual needs.

4. Understanding of the federal and state laws and regulations pertaining to special education (Individuals with Disabilities Education Act), rehabilitation (Rehabilitation Act and the Americans with Disabilities Act.)

5. Understanding of the content, processes, and skills necessary to administer and report findings of standardized testing, including knowledge of tests and measurements and selection and use of appropriate instruments.

6. Above average communication skills in order to explain assessment information to school personnel, parents, students, and other service providers

7. Understanding of natural supports and assistive technology.

8. Ability to select, administer, and interpret a wide assortment of evaluation instruments which includes commercial work sample systems, and situational assessments.

9. Understanding and knowledge of specific assessment techniques and skills and the processes for conducting vocational evaluation and career assessment, including:

- a. Job and training analysis;
- b. Work samples and systems;
- c. Situational and community-based assessment;
- d. Behavioral observation;
- e. Learning and functional skills assessment; and
- f. Work site assessment (ecological assessment).

10. Understanding of and proficiency in grammar, usage, and mechanics and their integration in writing.

11. Understanding of and proficiency in pedagogy to incorporate writing as an instructional and assessment tool for candidates to generate, gather, plan, organize, and present ideas in writing to communicate for a variety of purposes.

NOTICE: The following form used in administering the regulation was filed by the agency. The form is not being published; however, online users of this issue of the Virginia Register of Regulations may click on the name of the form with a hyperlink to access it. The form is 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 (8VAC20-543)

[Request for New Education Program Endorsement Area \(undated\)](#)

VA.R. Doc. No. R13-3477; Filed July 27, 2015, 12:31 p.m.

TITLE 9. ENVIRONMENT

STATE WATER CONTROL BOARD

Final Regulation

Title of Regulation: **9VAC25-91. Facility and Aboveground Storage Tank (AST) Regulation (amending 9VAC25-91-10 through 9VAC25-91-70, 9VAC25-91-100, 9VAC25-91-120 through 9VAC25-91-180, 9VAC25-91-200, 9VAC25-91-220; adding 9VAC25-91-145; repealing 9VAC25-91-90).**

Statutory Authority: §§ 62.1-44.15, 62.1-44.34:15, 62.1-44.34:15.1, and 62.1-44.34:19.1 of the Code of Virginia.

Effective Date: November 1, 2015.

Agency Contact: Melissa Porterfield, Department of Environmental Quality, 629 East Main Street, P.O. Box 1105,

Richmond, VA 23218, telephone (804) 698-4238, FAX (804) 698-4346, or email melissa.porterfield@deq.virginia.gov.

Summary:

The amendments (i) incorporate new performance standards for certain aboveground storage tanks located in the City of Fairfax as mandated by Chapter 884 of the 2011 Acts of Assembly, (ii) clarify the applicability of the regulations, (iii) remove the requirement for the payment of registration fees, and (iv) reorganize 9VAC25-91-130 to make the pollution prevention regulations easier to understand.

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

Part I
Program Administration

9VAC25-91-10. Definitions.

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

"Aboveground storage tank" or "AST" means any one or combination of tanks, including pipes, used to contain an accumulation of oil at atmospheric pressure, and the volume of which, including the volume of the pipes, is more than 90% above the surface of the ground. This term does not include line pipe and breakout tanks of an interstate pipeline regulated under the federal Accountable Pipeline Safety and Partnership Act of 1996 (49 USC § 60101 et seq.).

"Board" means the State Water Control Board.

"Containment and cleanup" means abatement, containment, removal and disposal of oil and, to the extent possible, the restoration of the environment to its existing state prior to an oil discharge.

"Corrosion professional" means a person who by reason of thorough knowledge of the physical sciences and the principles of engineering and mathematics acquired by a professional education and related practical experience is qualified to engage in the practice of corrosion control on buried or submerged metal piping systems and metal tanks. Such a person shall be accredited or certified as being qualified by the National Association of Corrosion Engineers or be a registered professional engineer who has certification or licensing that includes education and experience in corrosion control of buried or submerged metal piping systems and metal tanks.

"Department" means the Department of Environmental Quality (DEQ).

"Discharge" means any spilling, leaking, pumping, pouring, emitting, emptying, or dumping.

"Elevated tank" means an AST that is not in contact with the ground and that is raised above the surface of the ground.

"Facility" means any development or installation within the Commonwealth that deals in, stores or handles oil and includes a pipeline.

"Flow-through process tank" means (as defined in 40 CFR Part 280) a tank that forms an integral part of a production process through which there is a steady, variable, recurring, or intermittent flow of materials during the operation of the process. Flow-through process tanks do not include tanks used for the storage of materials prior to their introduction into the production process or for the storage of finished products or by-products from the production process.

"Local building official" means the person authorized by the Commonwealth to enforce the provisions of the Uniform Statewide Building Code (USBC).

"Local director or coordinator of emergency services" means any person appointed pursuant to § 44-146.19 of the Code of Virginia.

"Major repair" means alterations that refer to operations that require cutting, additions, removal or replacement of the annular plate ring, the shell-to-bottom weld or a sizable portion of the AST shell.

"Oil" means oil of any kind and in any form, including, but not limited to, petroleum and petroleum by-products, fuel oil, lubricating oils, sludge, oil refuse, oil mixed with other wastes, crude oils, and all other liquid hydrocarbons regardless of specific gravity.

"Operator" means any person who owns, operates, charters by demise, rents, or otherwise exercises control over or responsibility for a facility or a vehicle or a vessel.

"Person" means an individual; trust; firm; joint stock company; corporation, including a government corporation; partnership; association; any state or agency thereof; municipality; county; town; commission; political subdivision of a state; any interstate body; consortium; joint venture; commercial entity; the government of the United States or any unit or agency thereof.

"Pipes" or "piping" means a pressure-tight cylinder used to convey a fluid or to transmit a fluid pressure and is ordinarily designated "pipe" in applicable material specifications. Materials designated "tube" or "tubing" in the specifications are treated as pipe when intended for pressure service. This term includes piping and associated piping which is utilized in the operation of an AST, or emanating from or feeding ASTs or transfers oil from or to an AST (e.g., dispensing systems, including airport hydrant fueling systems, supply systems, gauging systems, auxiliary systems, etc.). This term does not include line pipe and breakout tanks of an interstate pipeline regulated under the federal Accountable Pipeline Safety and Partnership Act of 1996 (49 USC § 60101 et seq.).

"Pipeline" means all new and existing pipe, rights of way, and any equipment, facility, or building used in the transportation of oil, including, but not limited to, line pipe, valves, and other appurtenances connected to line pipe;

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pumping units; fabricated assemblies associated with pumping units; metering and delivery stations and fabricated assemblies therein; and breakout tanks.

"Release prevention barrier (RPB)" means a nonearthen barrier that is impermeable; is composed of material compatible with oil stored in the AST; meets proper engineering strength and elasticity standards; and functions to prevent the discharge of stored oil to state lands, waters and storm drains. It must contain and channel any leaked oil in a manner that provides for early release detection through the required daily and weekly inspections.

"State waters" means all water, on the surface and under the ground, wholly or partially within or bordering the Commonwealth or within its jurisdiction.

"Storage capacity" means the total capacity of an AST or a container, whether filled in whole or in part with oil, a mixture of oil, or mixtures of oil with nonhazardous substances, or empty. An AST that has been permanently closed in accordance with this chapter has no storage capacity.

"Tank" means a device designed to contain an accumulation of oil and constructed of nonearthen materials, such as concrete, steel, or plastic, that provides structural support. This term does not include flow-through process tanks as defined in 40 CFR Part 280.

"Tank vessel" means any vessel used in the transportation of oil as bulk cargo.

"Upgrade" means an alteration of the performance, design, equipment or appurtenances of an AST or facility to meet a higher, new, or current standard.

"Vaulted tank" means any tank situated upon or above the surface of the floor in an underground area (such as an underground room, basement, cellar, mine-working, drift, shaft, tunnel or vault) providing enough space for physical inspection of the exterior of the tank.

"Vehicle" means any motor vehicle, rolling stock, or other artificial contrivance for transport whether self-propelled or otherwise, except vessels.

"Vessel" includes every description of watercraft or other contrivance used as a means of transporting on water, whether self-propelled or otherwise, and shall include barges and tugs.

9VAC25-91-20. Applicability.

A. The operator shall comply with all applicable requirements pursuant to this chapter. The operator as defined in this chapter can be more than one person and each operator shares joint responsibility for compliance.

B. The requirements of this chapter ~~may vary in their applicability to any given AST or facility depending on the part in which the requirement appears. The applicability of Parts II, III, IV, and V are differentiated~~ apply as follows:

1. The provisions of Part II (9VAC25-91-100 et seq., Registration, Notification and Closure Requirements) of this chapter apply to: (i) an individual AST located within the Commonwealth of Virginia with an aboveground storage capacity greater than 660 gallons of oil, unless otherwise specified within this chapter; and (ii) all facilities in the Commonwealth of Virginia with an aggregate aboveground storage capacity greater than 1,320 gallons of oil, unless otherwise specified within this chapter. Storage of oil that is excluded from regulation in 9VAC25-91-30 A is not included when calculating the aggregate aboveground storage capacity.

2. The provisions of Part III (9VAC25-91-130 et seq., Pollution Prevention Requirements) of this chapter apply to: (i) an individual AST located within the Commonwealth of Virginia with an aboveground storage capacity of 25,000 gallons or greater of oil, unless otherwise specified within this chapter; and (ii) all facilities in the Commonwealth of Virginia with an aggregate aboveground storage capacity of 25,000 gallons or greater of oil, unless otherwise specified within this chapter. Storage of oil that is excluded from regulation in 9VAC25-91-30 A is not included when calculating the aggregate aboveground storage capacity.

3. The provisions of Part IV (9VAC25-91-170, Oil Discharge Contingency Plan (ODCP) Requirements) of this chapter apply to: (i) an individual AST located within the Commonwealth of Virginia with an aboveground storage capacity of 25,000 gallons or greater of oil, unless otherwise specified within this chapter; and (ii) all facilities in the Commonwealth of Virginia with an aggregate aboveground storage capacity of 25,000 gallons or greater of oil, unless otherwise specified within this chapter. Storage of oil that is excluded from regulation in 9VAC25-91-30 A is not included when calculating the aggregate aboveground storage capacity.

4. The provisions of Part V (9VAC25-91-180 et seq., Groundwater Characterization Study (GCS) and GCS Well Monitoring Requirements) of this chapter apply to: (i) an individual AST located within the Commonwealth of Virginia with an aboveground storage capacity of one million gallons or greater of oil, unless otherwise specified within this regulation; and (ii) all facilities in the Commonwealth of Virginia with an aggregate aboveground storage capacity of one million gallons or greater of oil, unless otherwise specified within this chapter. Storage of oil that is excluded from regulation in 9VAC25-91-30 A is not included when calculating the aggregate aboveground storage capacity.

9VAC25-91-30. Exclusions.

A. The requirements of this chapter do not apply to:

1. Vessels;

2. Licensed motor vehicles, unless used solely for the storage of oil [(e.g., airport refueling trucks and mobile refueling vehicles)];
3. An AST with a storage capacity of 660 gallons or less of oil;
4. An AST containing petroleum, including crude oil or any fraction thereof, which is liquid at standard temperature and pressure (60°F at 14.7 pounds per square inch absolute) subject to and specifically listed or designated as a hazardous substance under subparagraphs (A) through (F) of § 101(14) of the federal Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) (42 USC § 9601 et seq.);
5. A wastewater treatment tank system that is part of a wastewater treatment facility regulated under § 402 or § 307(b) of the federal Clean Water Act (33 USC § 1251 et seq.);
6. An AST that is regulated by the Department of Mines, Minerals and Energy under Chapter 22.1 (§ 45.1-361.1 et seq.) of Title 45.1 of the Code of Virginia;
7. An AST used for the storage of products that are regulated pursuant to the federal Food, Drug, and Cosmetic Act (21 USC § 301 et seq.);
8. An AST that is used to store hazardous wastes listed or identified under Subtitle C of the Resource Conservation and Recovery Act (RCRA) (Solid Waste Disposal Act) (42 USC § 6901 et seq.), or a mixture of such hazardous wastes and other regulated substances;
9. An AST that is used to store propane gas, butane gas or other liquid petroleum gases;
10. An AST used to store nonpetroleum hydrocarbon-based animal and vegetable oils;
11. A liquid trap or associated gathering lines directly related to oil or gas production, or gathering operations;
12. A surface impoundment, pit, pond, or lagoon;
13. A stormwater or wastewater collection system;
14. Equipment or machinery that contains oil for operational purposes, including but not limited to lubricating systems, hydraulic systems, and heat transfer systems;
15. An AST that forms an integral part (cannot be readily detached or removed) of the equipment or machinery and the contents of the AST are solely used by the attached equipment or machinery (e.g., fuel tank affixed into the frame of an emergency generator);
- ~~15.~~ 16. An AST used to contain oil for less than 120 days when: (i) used in connection with activities related to the containment and cleanup of oil; (ii) used by a federal, state or local entity in responding to an ~~emergency~~; emergency, including response related drills; or (iii) used temporarily on-site to replace permanent capacity storage;

- ~~16.~~ 17. Oil-filled electrical equipment, including, but not limited to, transformers, circuit breakers or capacitors;
- ~~17.~~ 18. A flow-through process tank;
- ~~18.~~ 19. Oily water separators;
- ~~19.~~ 20. An AST containing dredge spoils;
- ~~20.~~ 21. An AST located on a farm or residence used for storing motor fuel for noncommercial purposes with ~~an aggregate~~ a storage capacity of 1,100 gallons or less; or
- ~~21.~~ 22. Pipes or piping beyond the first valve from the AST that connects an AST with production process tanks or production process equipment.

B. In addition to the ~~complete~~ exclusions listed in subsection A of this section, the following are ~~partially~~ excluded from ~~this chapter in that they need not comply with the requirements contained in Part III (9VAC25-91-130 et seq., Pollution Prevention Requirements) of this chapter:~~

1. An AST with a capacity of 5,000 gallons or less used for storing heating oil for consumptive use on the premises where stored;
2. An AST storing asphalt and asphalt compounds which are not liquid at standard conditions of temperature and pressure (60°F at 14.7 pounds per square inch absolute); and
3. Line pipe and breakout tanks of an interstate pipeline regulated under the federal Accountable Pipeline Safety and Partnership Act of 1996 (49 USC § 60101 et seq.).

C. ~~In addition to the exclusions listed in subsections A and B of this section, asphalt~~ Asphalt and asphalt compounds ~~which that~~ are not liquid at standard conditions of temperature and pressure (60°F at 14.7 pounds per square inch absolute) are excluded ~~for the purposes of from~~ any requirement to install groundwater monitoring wells or groundwater protection devices or to conduct groundwater characterization studies under Part IV (9VAC25-91-170, Oil Discharge Contingency Plan (ODCP) Requirements) and Part V (9VAC25-91-180 et seq., Groundwater Characterization Study (GCS) and GCS Well Monitoring Requirements) of this chapter.

9VAC25-91-40. Compliance dates.

A. Every operator shall comply with this chapter on its effective date unless a later date is otherwise specified.

B. Operators of facilities existing on June 24, 1998, and exempted under § 62.1-44.34:17 D of the Code of Virginia (i.e., facilities not engaged in the resale of oil) having an aboveground storage capacity of 25,000 gallons or greater of oil ~~shall comply~~ must have complied with Part III (9VAC25-91-130 et seq., Pollution Prevention Requirements) of this chapter ~~within 120 days after the effective date of this chapter on or before October 22, 1998, unless otherwise specified in this chapter. If compliance with Part III of this chapter necessitates extensive upgrades to the existing facility design, these exempted operators may submit~~ shall have submitted a proposed extended compliance schedule and supporting

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explanation to the board no later than ~~90 days after the effective date of this chapter. The board may approve an extended compliance schedule where the circumstances so warrant~~ September 22, 1998, or such date approved by the board.

C. Operators of ~~existing~~ ASTs and facilities existing prior to June 24, 1998, and previously registered in accordance with the requirements of § 62.1-44.34:19.1 of the Code of Virginia shall not have to resubmit the registration form until five years from the date of the initial registration unless title to that AST or facility is transferred (i.e., change of ownership) or the AST is converted or brought back into use after permanent closure, whichever occurs first.

D. Operators of facilities subject to Part IV (9VAC25-91-170, Oil Discharge Contingency Plan (ODCP) Requirements) of this chapter that ~~are~~ were brought into use on or after the effective date of this chapter June 24, 1998, shall submit a complete application meeting all applicable requirements of this chapter no later than 90 days prior to commencement of operations.

1. The operator must receive approval of the ODCP by ~~DEQ~~ the board prior to commencement of facility operations.

2. The operators of facilities that have previously met the provisions of § 62.1-44.34:15 of the Code of Virginia for ODCP submittal shall not be required to resubmit the ODCP until 90 days prior to the date that plan's approval expires. Ninety days prior to the expiration of approval of the ODCP, the facility operator shall submit an updated plan or certification of renewal of an existing plan according to 9VAC25-91-170 F.

E. ~~As of July 1, 1997, an~~ An operator having obtained approval of the ODCP shall operate, maintain, monitor, and keep records pertaining to 9VAC25-91-170 A 18 of Part IV (9VAC25-91-170, Oil Discharge Contingency Plan (ODCP) Requirements) of this chapter and under the provisions of Part III (9VAC25-91-130 et seq., Pollution Prevention Requirements) of this chapter.

9VAC25-91-50. Statement of purpose.

The purpose of this chapter is to: (i) establish requirements for registration of facilities and individual ASTs located within the Commonwealth; (ii) provide the board with the information necessary to identify and inventory facilities with an aggregate storage capacity of greater than 1,320 gallons of oil or an individual ~~ASTs~~ AST with a storage capacity of greater than 660 gallons of oil; (iii) develop standards and procedures for operators of facilities with an aggregate aboveground storage capacity of 25,000 gallons or greater of oil relating to the prevention of pollution from new and existing aboveground storage tanks; (iv) provide requirements for the development of facility oil discharge contingency plans for facilities with an aggregate aboveground storage capacity of 25,000 gallons or greater of oil that will ensure that the applicant can take such steps as are necessary to

protect environmentally sensitive areas, to respond to the threat of an oil discharge, and to contain, clean up and mitigate an oil discharge within the shortest feasible time, where plans must address concerns for the effect of oil discharges on the environment as well as considerations of public health and safety; and (v) provide requirements for facilities and individual ASTs with an aggregate aboveground storage capacity of one million gallons or greater of oil to conduct a groundwater characterization study (GCS) within the geographic boundaries of a facility; to submit the GCS as part of the oil discharge contingency plan; to conduct a monthly gauging and inspection of GCS monitoring wells, monitoring of well headspace and sampling and laboratory analysis of GCS monitoring wells; and to gather all observations and data maintained at the facility and compile and submit them as an annual report to the ~~board~~ department.

9VAC25-91-60. Administrative fees.

A. Fees are assessed for review of oil discharge contingency plans ~~and for registration of an AST or a facility according to the schedules contained in subsections B and C of this section. A registration form or an~~ (ODCP). An application for review of a contingency plan will not be accepted unless the required fee has been received by the department.

1. Fees shall be paid in United States currency by check, draft, or postal money order made payable to the Treasurer of Virginia. When the department is able to accept electronic payments, payments may be submitted electronically.

2. The fee, together with the ~~form or~~ application and oil discharge contingency plan, shall be sent to the department at the following mailing address:

Department of Environmental Quality
Office of Financial Management
P.O. Box ~~40150~~ 1104
Richmond, VA ~~23240~~ 23218

3. Notifications and correspondence for which a fee is not applicable should be mailed to the department as specified in 9VAC25-91-70.

~~B. Facility and AST registration.~~

~~1. Registration fees shall be submitted for the following:~~

~~a. Initial registration;~~

~~b. New installations;~~

~~c. Conversion (i.e., UST to an AST, storing a nonoil to an oil product, etc.);~~

~~d. AST brought back into use after permanent closure;~~

~~e. Registration renewal (every five years); or~~

~~f. When title to a facility or AST is transferred (change of ownership);~~

~~2. Registration fees are as follows:~~

~~a. An individual AST (new, existing, replaced or brought back into use after permanent closure) = \$25;~~

- ~~b. One facility with one AST = \$25;~~
- ~~c. One facility with two or more ASTs = \$50;~~
- ~~d. Two facilities with one AST at each facility = \$50;~~
- ~~e. Two facilities with one AST at the first facility and two or more at the other = \$75;~~
- ~~f. Two or more facilities with two or more ASTs each = \$100;~~
- ~~g. Three facilities with one AST each = \$75; or~~
- ~~h. Three facilities with two or more ASTs at the first facility and one AST at each other facility = \$100.~~

~~3. An operator of an AST subject to the registration requirements of this chapter shall submit a fee of \$25 to the board for each such AST up to a maximum of \$50 per facility. An operator of a single facility shall submit a maximum of \$50 for the facility and all ASTs. An operator of multiple facilities shall submit a maximum fee of \$100 to the board to register all of their facilities and ASTs.~~

~~4. Registration forms will not be accepted by the board as complete unless the applicable fee has been paid. No fee is required for a "notification" of an AST replacement (i.e., relocation of existing AST), upgrade, repair, or closure.~~

~~C.~~ B. ODCP application.

1. ODCP application fees are as follows:
 - a. For a facility with an aggregate aboveground maximum storage or handling capacity from 25,000 gallons up to and including 100,000 gallons of oil the fee is \$718;
 - b. For a facility with an aggregate aboveground maximum storage or handling capacity ~~from 100,001~~ greater than 100,000 gallons up to one million gallons of oil the fee is \$2,155;
 - c. For a facility with an aggregate aboveground maximum storage or handling capacity of one million gallons or greater of oil the fee is \$3,353; or
 - d. For a pipeline, the ODCP application fee shall be based on the average daily throughput of oil. Once that volume is determined, the ODCP application fee will be calculated per subdivisions a, b and c of this subdivision.
2. The fee for approval of a contingency plan encompassing more than one facility as described in 9VAC25-91-170 D shall be based on the aggregate aboveground storage capacity of the facilities.
3. Fees shall only be paid upon initial submittal of an oil discharge contingency plan by an operator. Renewals, additions, deletions or changes to the plan are not subject to the administrative fee.
4. Application fees are refundable upon receipt of a written request to withdraw the ODCP application provided the request is received no later than 30 days after submittal and prior to the department's review of the contingency plan.

5. Overpayments of application fees are refundable upon written request.

9VAC25-91-70. Notices Correspondence to the Department of Environmental Quality (DEQ).

A. Correspondence that contains fees must be submitted to the department as specified in 9VAC25-91-60 A.

B. All other written correspondence and notifications to the Department of Environmental Quality department related to the requirements of this chapter, with the exceptions of (i) the correspondence which contains fees and therefore must be paid directly to the Treasurer of Virginia as specified in 9VAC25 91 60 A and (ii) variance petitions as specified in 9VAC25 91 160 shall be addressed to the cognizant DEQ regional office servicing the facility that is the subject of the correspondence. A list of regional offices and their addresses are available from the central office at the following address:

Mailing Address:

Department of Environmental Quality
Office of Spill Response and Remediation
P.O. Box 40009 1105
Richmond, VA 23240-0009 23218

Street Address:

Department of Environmental Quality
Office of Spill Response and Remediation
629 E. Main Street
Richmond, VA 23219

9VAC25-91-90. Evaluation of chapter. (Repealed.)

~~A. Within three years after the effective date of this chapter, the department shall perform an analysis on this chapter and provide the board with a report on the results. The analysis shall include (i) the purpose and need for the chapter; (ii) alternatives which would achieve the stated purpose of this chapter in a less burdensome and less intrusive manner; (iii) an assessment of the effectiveness of this chapter; (iv) the results of a review of current state and federal statutory and regulatory requirements, including identification and justification of requirements of this chapter which are more stringent than federal requirements; and (v) the results of a review as to whether this chapter is clearly written and easily understandable by affected entities.~~

~~B. Upon review of the department's analysis, the board shall confirm the need to (i) continue this chapter without amendments, (ii) repeal this chapter or (iii) amend this chapter. If the board's decision is to repeal or amend this chapter, the board shall authorize the department to initiate the applicable regulatory process to carry out the decision of the board.~~

Part II

Registration, Notification and Closure Requirements

9VAC25-91-100. Registration requirements.

A. Section 62.1-44.34:19.1 of the Code of Virginia requires an operator of a facility located within the Commonwealth

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with an aggregate aboveground storage capacity of more than 1,320 gallons of oil or an operator of an individual AST located within the Commonwealth with a storage capacity of more than 660 gallons of oil to register such facility or AST with the board and with the local director or coordinator of emergency services unless otherwise specified within this chapter.

B. Although the term "operator" includes a variety of persons who may share joint responsibility for compliance with this chapter, in fixing responsibility for compliance with the registration requirements, ~~DEQ~~ the board shall look first to the owner or a duly authorized representative of the facility or AST.

C. A duly authorized representative may submit the registration on the owner's behalf.

1. A person is a duly authorized representative only if:

a. The authorization is made in writing by the owner and indicates that the representative has signatory authority for the registration;

b. The authorization specifies either an individual or a position having responsibility for the overall operation of the regulated facility or activity (e.g., the plant manager, the operator of a facility or an AST, the superintendent, or a position of equivalent responsibility), or specifies an individual or a position having overall responsibility for environmental matters for the facility or company. A duly authorized representative thus may be either a named individual or any individual occupying a named position; and

c. The written authorization is submitted to the department along with the registration form.

2. Changes to authorization. If an authorization previously submitted is no longer accurate because a different individual or position has assumed responsibility for the overall operation of the facility or for environmental matters, a new authorization satisfying the requirements shall be submitted to the department prior to or together with any reports or information signed by that duly authorized representative.

3. Certification. Any person signing a registration document shall make the following certification:

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to ensure that qualified personnel properly gathered and evaluated the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fines and imprisonment for knowing violations."

D. The owner or a duly authorized representative of a new facility or AST, a converted facility or AST, ~~or a facility or AST brought back into use after permanent closure,~~ or a facility or AST whose title is transferred (change of ownership) shall register such facility or AST with the board and local director or coordinator of emergency services within 30 days after being brought into use or when title is transferred.

E. Registration shall include the following information and other information that may be required if approved by the board:

1. Facility and AST owner and operator information (e.g., name, address, and phone numbers);
2. Facility information (e.g., name, type, address, contact person and phone numbers, and aggregate storage capacity);
3. Tank and piping information (e.g., storage capacity, product stored, type of design and construction standards);
4. Other information that may be reasonably requested by the board; and
5. Owner certification of information.

F. The owner or a duly authorized representative of the facility or AST shall renew the registration required by this section every five years or whenever title to the facility or AST is transferred (change of ownership), whichever occurs first.

G. A facility or AST installed after ~~the effective date of this chapter~~ June 24, 1998, including an AST or facility operated by the federal government, shall not be registered without either (i) a review [performed] by the department of the permits, inspections, and certification of use required in accordance with the provisions of the Uniform Statewide Building Code, ~~the BOCA® National Building Code and NFPA Code~~ and obtained by the owner or a duly authorized representative from the local code officials or their designee or (ii) an inspection by the department. In the case of a regulated AST operated by the Commonwealth, the Department of General Services shall function as the local code official in accordance with § 36-98.1 of the Code of Virginia.

9VAC25-91-120. Aboveground storage tank closure.

A. After ~~the effective date of this chapter~~ June 24, 1998, a facility or AST, including a facility or AST operated by the federal government, shall not be permanently closed without being registered ~~and the fee paid~~ and either (i) having a review performed by the department of the permits and inspections required in accordance with the provisions of the Uniform Statewide Building Code, ~~the BOCA® National Building Code, and NFPA Code~~ [and] obtained by the owner or a duly authorized representative from the local code official or his designee or (ii) being inspected by the department.

1. For inspections by the department (e.g., where a permit is not issued by the local code official or his designee), at least 14 days notice to the department is required prior to the commencement of closure operations. Notice shall be made by the owner or a duly authorized representative.

2. In the case of a regulated AST operated by the Commonwealth, the Department of General Services shall function as the local code official in accordance with § 36-98.1 of the Code of Virginia.

3. If the closure is in response to containment and cleanup actions that necessitate AST removal, the owner or a duly authorized representative of the facility or AST shall immediately notify the local code official and the department.

B. Closure operations shall be reported to the department by the owner or a duly authorized representative within 30 days after the permanent closure operation is completed.

C. Closure operations shall include the following:

1. Removal of all liquids, sludges, and vapors from the AST and associated piping. All wastes removed shall be disposed of in accordance with all applicable state and federal requirements.

2. For tanks being closed in place, the tank shall be rendered vapor free. Provisions must be made for adequate ventilation to ensure that the tank remains vapor free. Vent lines shall remain open and maintained in accordance with the applicable codes. All access openings shall be secured (normally with spacers to assist ventilation). The AST shall be secured against tampering and flooding. The name of the product last stored, the date of permanent closure and PERMANENTLY CLOSED shall be stenciled in a readily visible location on the AST. Piping shall be disconnected. All pipes being closed in place shall be vapor free and capped or blind flanged.

3. An assessment of the AST site shall be conducted prior to completion of permanent closure operations.

a. In conducting the assessment, the owner or a duly authorized representative shall sample and test for the presence of petroleum hydrocarbons at the AST site in any area where contamination is likely to have occurred. These locations shall be subject to the review of the board. Sampling and testing shall be conducted in accordance with established EPA-approved analytical methods or other methods approved by the board.

(1) The owner or a duly authorized representative shall submit copies of the laboratory results, a description of the area sampled, a photograph of the site indicating sampled areas, and a site map indicating the location of the closed AST and associated piping as attachments to the closure form.

(2) If contaminated soils, contaminated groundwater, free product as a liquid or vapor, or other evidence of a release is discovered, the owner or a duly authorized

representative shall immediately notify the board and conduct the cleanup in accordance with ~~department~~ board requirements.

b. The ~~department~~ board may consider an alternative to the soil sampling requirements of this subsection if the owner or a duly authorized representative of the AST demonstrates to the board's satisfaction that:

(1) There is no evidence of present or past contamination by providing records of monthly leak detection monitoring for the previous 12 months; and

(2) The facility or AST has operated an approved or approvable leak detection system.

4. A closure inspection conducted by either the department or the local building official, as discussed in subsection A of this section.

D. When deemed necessary by the board, the owner or a duly authorized representative of a facility or an AST that was permanently closed prior to ~~the effective date of this chapter~~ June 24, 1998, shall assess the site and close the AST in accordance with the requirements of this section.

E. The owner or a duly authorized representative shall maintain all records relating to compliance with this section for a period of not less than five years from the date the board receives notice of the completed closure. These records shall be made available to the board upon request.

Part III

Pollution Prevention Requirements

9VAC25-91-130. Pollution prevention standards and procedures.

A. Pollution prevention standards and procedures for facilities are listed in this section. Aboveground storage tanks with an aggregate capacity of one million gallons or more shall comply with the requirements of subsections B and C of this section.

B. Requirements for aboveground storage tanks at facilities for 25,000 gallons or more. Section 62.1-44.34:15.1 of the Code of Virginia provides the following requirements for existing aboveground storage tanks at a facility with an aggregate aboveground storage capacity of ~~one million gallons~~ equal to or greater than 25,000 gallons of oil or for an existing individual aboveground storage tank with a storage capacity of ~~one million gallons or equal to or greater than 25,000 gallons~~ of oil, unless otherwise exempted.

1. Inventory control and testing for significant variations.

a. The following aboveground storage tanks shall not be subject to inventory control and testing for significant variations:

(1) Aboveground storage tanks totally off ground with all associated piping off ground;

(2) Aboveground storage tanks with a capacity of 5,000 gallons or less located within a building or structure designed to fully contain a discharge of oil; and

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(3) Aboveground storage tanks containing No. 5 or No. 6 oil for consumption on the premises where stored.

b. Each operator shall institute inventory control procedures capable of detecting a significant variation of inventory. A significant variation shall be considered a variation in excess of 1.0% of the storage capacity of each individual AST. ~~For a refinery, a significant variation of inventory shall be considered a loss in excess of 1.0% by weight of the difference between the refinery's input and output.~~ Reconciliations of inventory measurements shall be conducted monthly. If ~~the a~~ significant variation persists for two consecutive reconciliation periods, the operator shall conduct an investigation to determine the cause of the variation and reconcile physical measurements to 60°F at 14.7 pounds per square inch absolute. This investigation shall be completed within five working days of the end of the second reconciliation period. If this investigation does not reveal the cause of the inventory variation, the operator shall notify the board and the local director or coordinator of emergency services and shall conduct additional testing to determine the cause of the inventory variation. The testing method, schedule, and results of this additional testing shall be submitted to the board for review. For a refinery, a significant variation of inventory shall be considered a loss in excess of 1.0% by weight of the difference between the refinery's input and output of oil.

c. Inventory records shall be kept of incoming and outgoing volumes of oil from each tank. All tanks shall be gauged no less frequently than once every 14 days and on each day of normal operation. ~~Physical measurements shall be reconciled to 60°F at 14.7 pounds per square inch absolute. For a refinery, the operator shall calculate the input and output of oil at the refinery on a daily basis. The operator shall reconcile daily inventory records with the inventory measurements conducted monthly.~~

~~2. Formal inspections.~~

~~a. Each AST shall undergo formal external and internal tank inspections. The initial formal internal and external inspections for an existing AST shall be completed on or before June 30, 1998, unless otherwise specified within this chapter.~~

~~(1) All newly installed ASTs shall have initial formal inspections within five years after the date of installation.~~

~~(2) Operators of facilities exempted under § 62.1-44.34:17 D of the Code of Virginia (i.e., exempted facilities not engaged in the resale of oil) shall complete the initial formal inspections within five years of the effective date of this chapter.~~

~~(3) An AST with a storage capacity of less than 12,000 gallons shall not be subject to the formal internal inspection unless the integrity of the AST is in question and an inspection is deemed necessary by the board.~~

~~b. Inspections shall be conducted in accordance with the provisions of API Standard 653 or procedure approved by the board. If construction practices allow external access to the tank bottom, a formal external inspection utilizing accepted methods of nondestructive testing or procedure approved by the board may be allowed in lieu of the internal inspection. An AST with a release prevention barrier or liner installed shall be internally inspected in accordance with the applicable provisions of API Standard 653 or API Recommended Practice 652 or procedure accepted by the board.~~

~~e. An API Standard 653 inspection conducted between January 1, 1991, and the effective date of this chapter may be accepted by the board if the operator provides supporting documentation to the board for review and approval.~~

~~3. Formal reinspections.~~

~~a. Each AST shall undergo an external reinspection every five years in accordance with the provisions of API Standard 653 after the initial formal external inspection has been conducted.~~

~~b. Each AST with a storage capacity of 12,000 gallons of oil or greater shall undergo an internal reinspection in accordance with the provisions of API Standard 653 every 10 years after the initial formal internal inspection has been conducted.~~

~~(1) The board may require the internal reinspection sooner than 10 years if there is an indication that the corrosion rate established by the initial internal inspection or a subsequent reinspection has increased.~~

~~(2) The internal reinspection period may be extended beyond 10 years if the operator can demonstrate to the board that an extension of the reinspection period is warranted. The operator shall provide supporting documentation to the board for review and approval at least six months prior to the date the reinspection is due.~~

~~e. An AST with a storage capacity of less than 12,000 gallons shall not be subject to the formal internal reinspection unless the integrity of the AST is in question and an inspection is deemed necessary by the board.~~

~~4. 2. Secondary containment. Each secondary containment dike or berm shall be maintained and evaluated or certified with respect to its compliance with the applicable requirements of 40 CFR Part 112 (1997), NFPA 30, and 29 CFR 1910.106. The operator shall have this evaluation or certification performed by a professional engineer or person approved by the board on or before June 30, 1998, and every 10 years thereafter, unless otherwise exempted.~~

~~a. Operators of facilities exempted under § 62.1-44.34:17 D of the Code of Virginia (i.e., exempted facilities not engaged in the resale of oil) shall have this evaluation completed within five years after the effective date of this chapter and every 10 years thereafter.~~

~~b. Operators of a newly installed AST shall have this evaluation completed prior to being placed into service and every 10 years thereafter.~~

~~a. The operator shall have and maintain secondary containment or another method approved by the board for each AST. The containment structure must be capable of containing oil and shall be constructed in accordance with 40 CFR Part 112 so that any discharge from the AST will not escape the containment before cleanup occurs. The operator shall have each secondary containment or approved method evaluated and certified to be in compliance with the applicable requirements of 40 CFR Part 112, the Uniform Statewide Building Code and its referenced model codes and standards, and 29 CFR 1910.106. The operator of a facility existing on June 24, 1998, shall have had this evaluation or certification performed by a professional engineer or person approved by the board on or before June 30, 1998, and every 10 years thereafter, unless otherwise exempted.~~

~~b. If the secondary containment cannot be certified to be in compliance with the applicable requirements of 40 CFR Part 112, the Uniform Statewide Building Code and its referenced model codes and standards, and 29 CFR 1910.106, the operator must upgrade, repair, or replace the secondary containment to meet the applicable requirements listed in subdivision 2 a of this subsection unless the board accepts the certification with qualifications.~~

~~c. The operator of a facility shall have the evaluation and certification performed every 10 years by a professional engineer (PE) licensed in the Commonwealth of Virginia or other state having reciprocity with Virginia or by a person approved by the board unless otherwise exempted.~~

~~d. The professional engineer shall not certify the secondary containment until all of the applicable requirements of 40 CFR Part 112, the Uniform Statewide Building Code and its referenced model codes and standards, and 29 CFR 1910.106 have been met. In the event the professional engineer certifies the secondary containment with qualifications, such qualifications will be subject to review and approval by the board. If the certification contains qualifications that may impact the ability of the secondary containment to contain a discharge of oil as required by subdivision 2 a of this subsection, the deficiencies must be corrected and the secondary containment must be reevaluated and recertified by a professional engineer.~~

~~e. At a minimum, the certification statement for the secondary containment must contain the following statement: "Based on my evaluation, I hereby certify that each secondary containment structure for (insert the facility name and tank identification information) is in~~

~~compliance with the applicable requirements of 40 CFR Part 112, the Uniform Statewide Building Code and its referenced model codes and standards, and 29 CFR 1910.106."~~

~~f. The certification must be signed and sealed by a professional engineer licensed in the Commonwealth of Virginia or other state having reciprocity or by a person approved by the board.~~

~~g. Operators of facilities existing on June 24, 1998, and exempted under § 62.1-44.34:17 D of the Code of Virginia (i.e., exempted facilities not engaged in the resale of oil) shall have had this evaluation completed on or before June 24, 2003, and every 10 years thereafter.~~

~~h. Operators of a newly installed AST shall have this evaluation completed prior to being placed into service and every 10 years thereafter.~~

~~[i. Operators of an existing AST with a current engineering certification statement on November 1, 2015, may maintain their existing engineering certification statement until their next required certification, or 10 years, whichever is sooner. At such time, the certification statements must contain the statement required in 9VAC25-91-130 B 2 e.]~~

~~5. 3. Safe fill and shutdown procedures.~~

~~a. Each operator shall institute [~~and maintain records of~~] safe fill, shutdown, and transfer procedures, or equivalent measures ~~established~~ approved by the board, that will ensure that spills resulting from tank overfills or other product transfer operations do not occur. [Written safe fill, shutdown, and transfer procedures shall be maintained by the operator for use by facility personnel.]~~

~~(1) All receipts of oil shall be authorized by the operator or facility personnel trained by the operator who shall ensure the volume available in the tank is greater than the volume of oil to be transferred to the tank before the transfer operation commences. The operator shall ensure the transfer operation is monitored continually, either by manual or automatic means, until complete. The operator shall ensure that all tank fill valves not in use are secured and that only the tank designated is receiving oil.~~

~~(2) If unattended during transfer operations, the AST shall be equipped with a high level alarm or other appropriate mechanism approved by the board that will immediately alert the operator to prevent an overflow event. Activation of the high level alarm or other appropriate mechanism shall initiate an immediate and controlled emergency shutdown of the transfer, either by manual or automatic means. Each operator shall include this emergency shutdown procedure in the facility records and shall ensure that all facility personnel involved in the transfer operation are trained in this procedure. The alarm shall consist of a visual and audible device capable of alerting the operator, both by sight and~~

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~~hearing, to prevent an overflow situation. If the operator is in a control station, this alarm shall cause a warning light and audible signal in that station to activate. In addition, this system shall alarm on failure, malfunction or power loss. This high level alarm shall be tested prior to each receipt of oil. Records of testing shall be maintained at the facility.~~

b. All oil transfer areas where filling connections are made with vehicles shall be equipped with a spill containment system capable of containing and collecting those spills and overfills. The containment system shall be designed to hold at least the capacity as required by 40 CFR Part 112 (1997) ~~(e.g., the maximum capacity of any single compartment of a vehicle loaded or unloaded in the transfer area).~~

c. If installed, an automatic shutdown system utilized during transfer of oil shall include the capability to direct the flow of oil to another tank capable of receiving the transferred oil or the capability to shut down the pumping or transfer system. This automatic shutdown system shall be tested prior to each receipt of oil and records of testing shall be maintained at the facility.

d. All ASTs shall be equipped with a gauge that is readily visible and indicates the level of oil or quantity of oil in the tank. In addition, the storage capacity, product stored and tank identification number shall be clearly marked on the tank at the location of the gauge. These gauges shall be calibrated annually.

~~6. Cathodic protection of piping and pressure testing of piping.~~

~~a. The requirement for cathodic protection of piping shall apply to buried piping only. Cathodic protection shall be installed and maintained in accordance with the following applicable publications: API 1632, NFPA 30, NACE 0169, or NACE 0285. All piping above ground shall be protected from corrosion using methods and procedures referenced in NFPA 30, Chapter 2, Section 2-4.3 or a procedure approved by the board. Piping that passes through the wall of the containment berm or dike or under road crossings shall be protected from corrosion and damage using practices recommended in the publications listed in this subdivision.~~

~~b. 4. Pressure testing of piping.~~ All piping shall be pressure tested as specified in this subsection or using an equivalent method or measure approved by the board at intervals not to exceed five years. The operator of an existing a facility or AST existing on June 24, 1998, shall complete have completed the initial test on or before June 30, 1998, except operators of existing facilities or ASTs for which compliance was exempted under § 62.1-44.34:17 D of the Code of Virginia (i.e., exempted facilities not engaged in the resale of oil). These excepted operators shall complete have completed the initial test ~~within five years after the effective date of this chapter~~ on or before June 24, 2003.

All newly installed or repaired piping shall be tested before being placed into service.

~~(1) a.~~ A pressure test may be a hydrostatic test at 150% maximum allowable working pressure (MAWP) or an inert gas test at 110% MAWP.

~~(2) b.~~ A test conducted and certified by an API authorized piping inspector to be in conformity with the API 570 Piping Inspection Code is deemed an equivalent method of testing approved by the board.

~~(3) c.~~ The board may consider on a case-by-case basis requests for approval of other equivalent methods or measures which conform to industry recommended practices, standards and codes. The operator shall submit a request for approval of a proposed equivalent method or measure to the board as specified in 9VAC25-91-160.

~~7. 5. Visual daily inspection and weekly inspections.~~

a. The operator or a duly authorized representative shall conduct a daily visual inspection for each day ~~of~~ in which normal operation occurs, but no less frequently than once every 14 days in the areas of the facility where this chapter applies. The facility person conducting the inspection shall document completion of this inspection by making and signing an appropriate notation in the facility records. This visual inspection shall include the following:

(1) A complete walk-through of the facility property in the areas where this chapter applies to ensure that no hazardous conditions exist;

(2) An inspection of ground surface for signs of leakage, spillage, or stained or discolored soils;

(3) A check of the berm or dike area for excessive accumulation of water and to ensure the dike or berm manual drain valves are secured;

(4) A visual inspection of the exterior tank shell to look for signs of leakage or damage; and

(5) An evaluation of the condition of the aboveground storage tank and appurtenances.

b. The operator or a duly authorized representative shall conduct a weekly inspection each week in which normal operation occurs, but no less frequently than once every 14 days, of the facility in the areas where this chapter applies, using a checklist that contains at least the items found ~~in the weekly inspection checklist subdivision of this section~~ subdivision 5 c of this subsection. The checklist is not inclusive of all safety or maintenance procedures but is intended to provide guidance to the requirements within this chapter. The weekly checklist shall be maintained at the facility and provided to the board upon request. This checklist shall be signed and dated by the facility person or persons conducting the inspection and shall become part of the facility record.

(1) The operator of a new AST/facility shall develop the checklist within 90 days after the date of installation.

(2) The operator of each facility existing on June 24, 1998, and exempted under § 62.1-44.34:17 D of the Code of Virginia (i.e., exempted facilities not engaged in the resale of oil) shall ~~develop~~ have developed the checklist ~~within 90 days after the effective date of this chapter by September 28, 1998.~~

(3) Operators of facilities existing on June 24, 1998, and not exempted under § 62.1-44.34:17 D of the Code of Virginia (i.e., exempted facilities not engaged in the resale of oil) and who have developed a checklist ~~within 90 days after June 30, 1993, by September 28, 1993,~~ shall be deemed to be in compliance with this checklist requirement as of ~~the effective date of this chapter~~ June 24, 1998.

c. Sample—weekly inspection checklist for aboveground storage tank systems:

____ (1) Containment dike or berm in satisfactory condition.

____ (2) Containment area free of excess standing water or oil.

____ (3) Gate valves used for emptying containment areas secured.

____ (4) Containment area/base of tank free of high grass, weeds, and debris.

____ (5) Tank shell surface, including any peeling areas, welds, rivets/bolts, seams, and foundation, visually inspected for areas of rust and other deterioration.

____ (6) Ground surface around tanks and containment structures and transfer areas checked for signs of leakage.

____ (7) Leak detection equipment in satisfactory condition.

____ (8) Separator or drainage tank in satisfactory condition.

____ (9) Tank water bottom drawoffs not in use are secured.

____ (10) Tank fill valves not in use are secured.

____ (11) Valves inspected for signs of leakage or deterioration.

____ (12) Inlet and outlet piping and flanges inspected for leakage.

____ (13) All tank gauges have been inspected and are operational.

Signature of
Inspector

Date

Time

d. The operator shall promptly remedy unsatisfactory facility and equipment conditions observed in the daily and weekly inspections. The operator shall make repairs,

alterations, and retrofits in accordance with American Petroleum Institute (API) Standard 653, Fourth Edition (April 2009), with Addendum 1 (August 2010) and Addendum 2 (January 2012), Steel Tank Institute (STI) standard STI-SP001, Fifth Edition (September 2011), industry standards, or methods approved by the board.

8. 6. Training of individuals. To ensure proper training of individuals conducting inspections required by subdivision 7 5 of this subsection, the operator of a facility shall train personnel based on the following requirements:

a. Each facility operator shall establish a training program for those facility personnel conducting the daily visual and weekly inspections of the facility. Facility records shall contain the basic information and procedures required by subdivision 8 6 c of this subsection. The required training may be conducted by the operator or by a third party. The training program established shall be maintained to reflect current conditions of the facility.

(1) The operator of a new facility shall establish the training program within six months after being brought into use.

(2) The operator of each facility exempted under § 62.1-44.34:17 D of the Code of Virginia (i.e., exempted facilities not engaged in the resale of oil) shall ~~establish~~ have established the training program ~~within six months after the effective date of this chapter by December 24, 1998.~~

(3) Operators of facilities not exempted under § 62.1-44.34:17 D of the Code of Virginia (i.e., exempted facilities not engaged in the resale of oil) and who ~~have~~ developed a training program ~~within six months after June 30, 1993 by December 31, 1993,~~ shall be deemed to be in compliance with this training program requirement as of ~~the effective date of this chapter~~ June 24, 1998, so long as that program reflects current conditions of the facility.

b. The required training shall be conducted for facility personnel as applicable. Personnel not receiving this initial training and who will be conducting these inspections shall receive the training prior to conducting any inspection.

(1) The operator of a new facility shall conduct the personnel training within 12 months after being brought into use and prior to personnel conducting any inspection.

(2) The operator of each facility exempted under § 62.1-44.34:17 D of the Code of Virginia (i.e., exempted facilities not engaged in the resale of oil) shall ~~conduct~~ have conducted the personnel training ~~within 12 months after the effective date of this chapter by June 24, 1999.~~

(3) Operators of facilities not exempted under § 62.1-44.34:17 D of the Code of Virginia (i.e., exempted

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facilities not engaged in the resale of oil) and who have conducted the personnel training ~~within 12 months after June 30, 1993 by June 30, 1994~~, shall be deemed to be in compliance with this personnel training requirement as of ~~the effective date of this chapter June 24, 1998~~, so long as the training provided reflects current conditions of the facility and all inspections are current.

c. Training for personnel performing daily and weekly inspections shall address at a minimum:

(1) Basic information regarding occupational safety, hazard recognition, personnel protection, and facility operations;

(2) The procedures to be followed in conducting the daily visual and weekly facility inspections;

(3) The procedures to be followed upon recognition of a hazard or the potential for a hazard; and

(4) The procedure for evaluating the condition of the aboveground storage tank and appurtenances.

d. The operator of a facility shall train facility personnel upon any changes to the contents of the initial training program or every three years and shall document this training in the facility records.

~~e. All formal inspections and testing required by subdivision 2 of this subsection shall be conducted by a person certified to conduct the inspection or test. This certification shall be accomplished in accordance with the provisions of API Standard 650 and API Standard 653 or a procedure approved by the board. Proof of this certification shall be maintained in the facility records. The results of all tests and inspections required by subdivision 2 of this subsection shall be maintained at the facility or at a location approved by the board for the life of the tank, but for no less than five years.~~

~~9. 7. Leak detection. The operator shall operate, maintain, monitor and keep records of the system established for early detection of a discharge to groundwater (i.e., a method of leak detection) as required by 9VAC25-91-170 A 18 and contained in the facility's approved ODCP. These activities shall be inspected and approved by the department board.~~

~~B. Section 62.1-44.34:15.1 of the Code of Virginia provides the following requirements for C. Requirements for aboveground storage tanks at facilities for one million gallons or more. In addition to the requirements of 9VAC25-91-130 B, the following requirements apply to existing aboveground storage tanks at facilities with an aggregate aboveground storage capacity of less than one million gallons but equal to or more than 25,000 gallons of oil or for an existing individual aboveground storage tank with a storage capacity of less than one million but equal to or more than 25,000 gallons of oil, unless otherwise exempted.~~

~~1. Inventory control and testing for significant variations.~~

~~a. The following aboveground storage tanks shall not be subject to inventory control and testing for significant variations:~~

~~(1) Aboveground storage tanks totally off ground with all associated piping off ground;~~

~~(2) Aboveground storage tanks with a capacity of 5,000 gallons or less located within a building or structure designed to fully contain a discharge of oil; and~~

~~(3) Aboveground storage tanks containing No. 5 or No. 6 oil for consumption on the premises where stored.~~

~~b. Each operator shall institute inventory control procedures capable of detecting a significant variation of inventory. A significant variation shall be considered a variation in excess of 1.0% of the storage capacity of each individual AST. For a refinery, a significant variation of inventory shall be considered a loss in excess of 1.0% by weight of the difference between the refinery's input and output. Reconciliations of inventory measurements shall be conducted monthly. If the significant variation persists for two consecutive reconciliation periods, the operator shall conduct an investigation to determine the cause of the variation. This investigation shall be completed within five working days of the end of the second reconciliation period. If this investigation does not reveal the cause of the inventory variation, the operator shall notify the board and the local director or coordinator of emergency services and shall conduct additional testing to determine the cause for the inventory variation. The testing method, schedule, and results of this additional testing shall be submitted to the board for review.~~

~~c. Inventory records shall be kept of incoming and outgoing volumes of oil from each tank. All tanks shall be gauged no less frequently than once every 14 days and on each day of normal operation. Physical measurements shall be reconciled to 60°F at 14.7 pounds per square inch absolute.~~

~~2. Secondary containment. Each secondary containment dike or berm shall be maintained and evaluated or certified to be in compliance with the applicable requirements of 40 CFR Part 112 (1997), NFPA 30, and 29 CFR Part 1910.106. The operator shall have this evaluation or certification performed by a professional engineer or person approved by the board on or before June 30, 1998, and every 10 years thereafter, unless otherwise exempted.~~

~~a. Operators of facilities exempted under § 62.1-44.34:17 D of the Code of Virginia (i.e., exempted facilities not engaged in the resale of oil) shall have this evaluation completed within five years after the effective date of this chapter and every 10 years thereafter.~~

~~b. Operators of a newly installed AST shall have this evaluation completed prior to being placed into service and every 10 years thereafter.~~

3. Safe fill and shutdown procedures.

a. ~~Each operator shall institute safe fill, shutdown and transfer procedures, or equivalent measures established by the board, that will ensure that spills resulting from tank overfills or other product transfer operations do not occur. All receipts of oil shall be authorized by the operator or facility personnel trained by the operator who shall ensure the volume available in the tank is greater than the volume of oil to be transferred to the AST before the transfer operation commences. The operator shall ensure the transfer operation is monitored continually, either by manual or automatic means, until complete. The operator shall ensure that all tank fill valves not in use are secured and that only the tank designated is receiving oil.~~

b. ~~All oil transfer areas where filling connections are made with vehicles shall be equipped with a spill containment system capable of containing and collecting those spills and overfills. The containment system shall be designed to hold at least the capacity as required by 40 CFR Part 112 (1997) (e.g., the maximum capacity of any single compartment of a vehicle loaded or unloaded in the transfer area).~~

c. ~~If installed, an automatic shutdown system utilized during transfer of oil shall include the capability to direct the flow of oil to another tank capable of receiving the transferred oil or the capability to shut down the pumping or transfer system. This automatic shutdown system shall be tested prior to each receipt of oil and records of testing shall be maintained at the facility.~~

d. ~~All ASTs shall be equipped with a gauge that is readily visible and indicates the level of oil or quantity of oil in the tank. In addition, the storage capacity and tank identification number shall be clearly marked on the tank at the location of the gauge. These gauges shall be calibrated annually.~~

4. ~~Pressure testing of piping. All piping shall be pressure tested using an equivalent method or measure approved by the board at intervals not to exceed five years. The operator of an existing facility or AST shall complete the initial test on or before June 30, 1998, except operators of existing facilities or ASTs for which compliance was exempted under § 62.1-44.34:17 D of the Code of Virginia (i.e., exempted facilities not engaged in the resale of oil). These exempted operators shall complete the initial test within five years after the effective date of this chapter. All newly installed or repaired piping shall be tested before being placed into service.~~

a. ~~A pressure test may be a hydrostatic test at 150% maximum allowable working pressure (MAWP) or an inert gas test at 110% MAWP.~~

b. ~~A test conducted and certified by an API authorized piping inspector to be in conformity with the API 570~~

~~Piping Inspection Code is deemed an equivalent method of testing approved by the board.~~

c. ~~The board may consider on a case by case basis requests for approval of other equivalent methods or measures which conform to industry recommended practices, standards and codes. The operator shall submit a request for approval of a proposed equivalent method or measure to the board as specified in 9VAC25-91-160.~~

5. Visual daily inspection and weekly inspections.

a. ~~The operator or a duly authorized representative shall conduct a daily visual inspection for each day of normal operation in the areas of the facility where this chapter applies. The facility person conducting the inspection shall document completion of this inspection by making and signing an appropriate notation in the facility records. This visual inspection shall include the following:~~

(1) ~~A complete walk-through of the facility property in the areas where this chapter applies to ensure that no hazardous conditions exist;~~

(2) ~~An inspection of the ground surface for signs of leakage, spillage, or stained or discolored soils;~~

(3) ~~A check of the berm or dike area for excessive accumulation of water and to ensure the dike or berm manual drain valves are secured;~~

(4) ~~A visual inspection of the exterior tank shell to look for signs of leakage or damage; and~~

(5) ~~An evaluation of the condition of the aboveground storage tank and appurtenances.~~

b. ~~The operator or a duly authorized representative shall conduct a weekly inspection of the facility in the areas where this chapter applies, using a checklist which contains at least the items found in the weekly inspection checklist subdivision of this section. The checklist is not inclusive of all safety or maintenance procedures but is intended to provide guidance to the requirements within this chapter. The weekly checklist shall be maintained at the facility and provided to the board upon request. This checklist shall be signed and dated by the facility person or persons conducting the inspection and shall become part of the facility record.~~

(1) ~~The operator of a new AST/facility shall develop the checklist within 90 days after the date of installation.~~

(2) ~~The operator of each facility exempted under § 62.1-44.34:17 D of the Code of Virginia (i.e., exempted facilities not engaged in the resale of oil) shall develop the checklist within 90 days after the effective date of this chapter.~~

(3) ~~Operators of facilities not exempted under § 62.1-44.34:17 D of the Code of Virginia (i.e., exempted facilities not engaged in the resale of oil) and who have developed a checklist within 90 days after June 30, 1993,~~

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shall be deemed to be in compliance with this checklist requirement as of the effective date of this chapter.

~~e. Sample weekly inspection checklist for aboveground storage tank systems:~~

~~_____ (1) Containment dike or berm in satisfactory condition.~~

~~_____ (2) Containment area free of excess standing water or oil.~~

~~_____ (3) Gate valves used for emptying containment areas secured.~~

~~_____ (4) Containment area/base of tank free of high grass, weeds, and debris.~~

~~_____ (5) Tank shell surface, including any peeling areas, welds, rivets/bolts, seams, and foundation, visually inspected for areas of rust and other deterioration.~~

~~_____ (6) Ground surface around tanks and containment structures and transfer areas checked for signs of leakage.~~

~~_____ (7) Leak detection equipment in satisfactory condition.~~

~~_____ (8) Separator or drainage tank in satisfactory condition.~~

~~_____ (9) Tank water bottom drawoffs not in use are secured.~~

~~_____ (10) Tank fill valves not in use are secured.~~

~~_____ (11) Valves inspected for signs of leakage or deterioration.~~

~~_____ (12) Inlet and outlet piping and flanges inspected for leakage.~~

~~_____ (13) All tank gauges have been inspected and are operational.~~

| | | |
|------------------------|-------|-------|
| _____ | _____ | _____ |
| Signature of Inspector | Date | Time |

~~6. Training of individuals. To ensure proper training of individuals conducting inspections required by subdivision 5 of this subsection, the operator of a facility shall train personnel based on the following requirements:~~

~~a. Each facility operator shall establish a training program for those facility personnel conducting the daily visual and weekly inspections of the facility. Facility records shall contain the basic information and procedures required by subdivision 6 c of this subsection. The required training may be conducted by the operator or by a third party. The training program established shall be maintained to reflect current conditions of the facility.~~

~~(1) The operator of a new facility shall establish the training program within six months after being brought into use.~~

~~(2) The operator of each facility exempted under § 62.1-44.34:17 D of the Code of Virginia (i.e., exempted facilities not engaged in the resale of oil) shall establish the training program within six months after the effective date of this chapter.~~

~~(3) Operators of facilities not exempted under § 62.1-44.34:17 D of the Code of Virginia (i.e., exempted facilities not engaged in the resale of oil) and who have developed a training program within six months after June 30, 1993, shall be deemed to be in compliance with this training program requirement as of the effective date of this chapter, so long as that program reflects current conditions of the facility.~~

~~b. The required training shall be conducted for facility personnel as applicable. Personnel not receiving this initial training and who will be conducting these inspections shall receive the training prior to conducting any inspection.~~

~~(1) The operator of a new facility shall conduct the personnel training within 12 months after being brought into use and prior to personnel conducting any inspection.~~

~~(2) The operator of each facility exempted under § 62.1-44.34:17 D of the Code of Virginia (i.e., exempted facilities not engaged in the resale of oil) shall conduct the personnel training within 12 months after the effective date of this chapter.~~

~~(3) Operators of facilities not exempted under § 62.1-44.34:17 D of the Code of Virginia (i.e., exempted facilities not engaged in the resale of oil) and who have conducted the personnel training within 12 months after June 30, 1993, shall be deemed to be in compliance with this personnel training requirement as of the effective date of this chapter, so long as the training provided reflects current conditions of the facility and all inspections are current.~~

~~e. Training for personnel performing daily and weekly inspections shall address at a minimum:~~

~~(1) Basic information regarding occupational safety, hazard recognition, personnel protection, and facility operations;~~

~~(2) The procedures to be followed in conducting the daily visual and weekly facility inspections;~~

~~(3) The procedures to be followed upon recognition of a hazard or the potential for a hazard; and~~

~~(4) The procedure for evaluating the condition of the aboveground storage tanks and appurtenances.~~

~~d. The operator of a facility shall train facility personnel upon any changes to the contents of the initial training program or every three years and shall document this training in the facility records.~~

~~7. Leak detection. The operator shall operate, maintain, monitor and keep records of the system established for early detection of a discharge to groundwater (i.e., a method of leak detection) as required by 9VAC25-91-170 A-18 and contained in the facility's approved ODCP. These activities shall be inspected and approved by the department.~~

1. Formal inspections.

a. Each AST shall undergo formal external and internal tank inspections. The initial formal internal and external inspections for an AST existing on June 24, 1998, shall have been completed on or before June 30, 1998, unless otherwise specified within this chapter.

(1) All newly installed ASTs shall have initial formal inspections within five years after the date of installation.

(2) Operators of facilities existing on June 24, 1998, and exempted under § 62.1-44.34:17 D of the Code of Virginia (i.e., exempted facilities not engaged in the resale of oil) shall have completed the initial formal inspections on or before June 24, 2003.

(3) An AST with a storage capacity of less than 12,000 gallons shall not be subject to the formal internal inspection unless the integrity of the AST is in question and an inspection is deemed necessary by the board.

b. Inspections shall be conducted in accordance with the provisions of American Petroleum Institute (API) Standard 653, Fourth Edition (April 2009), with Addendum 1 (August 2010) and Addendum 2 (January 2012); Steel Tank Institute (STI) standard STI-SP001, Fifth Edition (September 2011); or procedure approved by the board. If construction practices allow external access to the tank bottom, a formal external inspection utilizing accepted methods of nondestructive testing or procedure approved by the board may be allowed in lieu of the internal inspection.

c. An API Standard 653 inspection conducted between January 1, 1991, and June 24, 1998, may be accepted by the board if the operator provides supporting documentation to the board for review and approval.

d. All formal inspections and testing required by subdivisions 1 and 2 of this subsection shall be conducted by a person certified to conduct the inspection or test. This certification shall be accomplished in accordance with the provisions of API Standard 653, STI-SP001, or a procedure approved by the board. Proof of this certification shall be maintained in the facility records. The results of all tests and inspections required by subdivisions 1 and 2 of this subsection shall be maintained at the facility or at a location approved by the board for the life of the tank, but for no less than five years.

2. Formal reinspections.

a. Each AST shall undergo an external reinspection every five years. Inspections shall be conducted in accordance with the provisions of API Standard 653, STI-SP001, or other procedure accepted by the board after the initial formal external inspection has been conducted.

b. Each AST with a storage capacity of 12,000 gallons of oil or greater shall undergo an internal reinspection in accordance with the provisions of API Standard 653 or STI-SP001 every 10 years after the initial formal internal inspection has been conducted.

(1) The board may require the internal reinspection sooner than 10 years if there is an indication that the corrosion rate established by the initial internal inspection or a subsequent reinspection has increased.

(2) The internal reinspection period may be extended beyond 10 years if the operator can demonstrate to the board that an extension of the reinspection period is warranted. The operator shall provide supporting documentation to the board for review and approval at least six months prior to the date the reinspection is due.

c. An AST with a storage capacity of less than 12,000 gallons shall not be subject to the formal internal reinspection unless the integrity of the AST is in question and an inspection is deemed necessary by the board.

3. Safe fill and shutdown procedures - high level alarm. If unattended during transfer operations, the AST shall be equipped with a high level alarm or other appropriate mechanism approved by the board that will immediately alert the operator to prevent an overfill event. Activation of the high level alarm or other appropriate mechanism shall initiate an immediate and controlled emergency shutdown of the transfer, either by manual or automatic means. Each operator shall include this emergency shutdown procedure in the facility records and shall ensure that all facility personnel involved in the transfer operation are trained in this procedure. The alarm shall consist of a visual and audible device capable of alerting the operator, both by sight and hearing, to prevent an overfill situation. If the operator is in a control station, this alarm shall activate a warning light and audible signal in that station. In addition, this system shall alarm on failure, malfunction, or power loss. This high level alarm shall be tested prior to each receipt of oil. Records of testing shall be maintained at the facility.

4. Cathodic protection of piping. The requirement for cathodic protection of piping shall apply to buried piping only. Cathodic protection shall be installed and maintained in accordance with the following applicable publications: American Petroleum Institute Standard (API) 1632, Third Edition (2002), the Uniform Statewide Building Code and its referenced model codes and standards, or National Association of Corrosion Engineers (NACE) SP0285-2011. All piping above ground shall be protected from

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corrosion using methods and procedures referenced in the Uniform Statewide Building Code and its referenced model codes and standards, or a procedure approved by the board. Piping that passes through the wall of the containment berm or dike or under road crossings shall be protected from corrosion and damage using practices recommended in the publications listed in this subdivision.

9VAC25-91-140. Performance standards for aboveground storage tanks newly installed, retrofitted, or brought into use.

A. All ASTs shall be built in accordance with the applicable design standards adopted by Underwriters Laboratories, the American Petroleum Institute, the Steel Tank Institute or other standard approved by the board.

B. All ASTs shall be strength tested before being placed in use in accordance with the applicable code or standard under which they were built.

C. ASTs that have the tank bottom in direct contact with the soil shall have a determination made by a corrosion professional as to the type and degree of corrosion protection needed to ensure the integrity of the tank system during the use of the tank. If a survey indicates the need for corrosion protection for the new installation, corrosion protection shall be provided.

D. ASTs installed after ~~the effective date of this chapter June 30, 1993,~~ shall have a release prevention barrier (RPB) installed either under or in the bottom of the tank. The RPB shall be capable of: (i) preventing the release of the oil and (ii) containing or channeling the oil for leak detection.

E. Existing ASTs that are retrofitted (reconstruction or bottom replacement) or brought back into use shall be brought into compliance with subsections A, B, C, and D of this section. The operator shall submit a schedule to the ~~board~~ department of the work to be performed in order to bring the existing AST into compliance with new-built construction standards. This compliance schedule shall be submitted to the ~~board~~ department no less than six months prior to the anticipated completion date.

F. Operators of ASTs installed, retrofitted (reconstruction or bottom replacement) or brought back into use shall also comply with ~~9VAC25-91-130 A or~~ 9VAC25-91-130 B, ~~whichever is~~ and 9VAC25-91-130 C, as applicable.

G. All newly installed ASTs shall be constructed and installed in a manner consistent with the applicable standards and requirements found in ~~NFPA 30 and the BOCA@ National Building Code~~ the Uniform Statewide Building Code and its referenced model codes and standards or other standards approved by the board. Approval and any applicable permits shall be obtained from the local building official before construction starts.

H. Compliance dates for subsections A through G of this section.

1. Operators of a newly installed, retrofitted or brought-back-into-use facility or AST shall comply with the requirements of this section within 30 days prior to being placed into service.

2. Operators of facilities existing on June 24, 1998, and exempted under § 62.1-44.34:17 D of the Code of Virginia (i.e., exempted facilities not engaged in the resale of oil) shall ~~comply~~ have complied with these requirements ~~within 120 days of the effective date of this chapter by~~ October 22, 1998.

3. Operators of facilities existing on June 24, 1998, and not exempted under § 62.1-44.34:17 D of the Code of Virginia (i.e., exempted facilities not engaged in the resale of oil) and who have met these requirements on or before June 30, 1993, shall be deemed to be in compliance with these requirements as of the effective date of this chapter.

9VAC25-91-145. Performance standards for certain aboveground storage tanks located in the City of Fairfax.

A. The requirements of this section apply to aboveground storage tanks at facilities with an aggregate capacity of one million gallons or greater existing prior to January 29, 1992, and located in the City of Fairfax.

B. All ASTs altered as required by this section shall be strength tested before being returned to use in accordance with the applicable code or standard under which they were built.

C. All ASTs shall contain a release prevention barrier (RPB) either under or in the bottom of the tank. The RPB shall be capable of (i) preventing the release of the oil and (ii) containing or channeling the oil for leak detection. Existing elevated ASTs that are installed in containment areas meeting the requirements of an RPB or that are located within earthen containment dikes and are included in the daily and weekly inspections required by 9VAC25-91-130 B 5 shall be considered to be in compliance with the requirements of this section.

D. All ASTs altered as required by this section shall meet the applicable standards and requirements found in the Uniform Statewide Building Code or other standards approved by the board. Approval and all applicable permits shall be obtained from the local building official before altering ASTs.

E. Operators of facilities subject to this section shall meet the performance standards of this section no later than July 1, 2021.

9VAC25-91-150. Recordkeeping and access to facilities.

A. Each operator of a facility subject to this chapter shall maintain the following records:

1. All records relating to all required measurements and inventory and reconciliation of oil at the facility;

2. All records relating to required tank/pipe testing;
3. All records relating to spill events and other discharges of oil from the facility;
4. All supporting documentation for developed contingency plans;
5. All records for implementation and monitoring of leak detection and applicable provisions of 9VAC25-91-170 A 18 of Part IV (9VAC25-91-170, Oil Discharge Contingency Plan (ODCP) Requirements) of this chapter;
6. All records relating to training of individuals; ~~and~~
7. All records relating to facility and tank inspections; and
8. Any records required to be kept by statute or regulation of the board.

B. These records shall be kept by the operator of a facility at the facility or at an alternate location approved by the board for a period of no less than five years unless otherwise indicated.

C. Upon request, each operator shall make these records available to the ~~board~~ department and to the director or coordinator of emergency services for the locality in which the facility is located or to any political subdivision within one mile of the facility.

D. Operators shall maintain all records relating to compliance with this chapter for a period of no less than five years from the date the ~~board~~ department receives notice of the closure unless otherwise indicated. These records shall be made available to the ~~board~~ department at any time upon request.

9VAC25-91-160. Variances to the requirements of Part III (9VAC25-91-130 et seq.) of this chapter.

A. General criteria for granting a variance on a case-by-case basis.

1. The board is required by § 62.1-44.34:15.1 of the Code of Virginia to establish the criteria to grant variances of the AST pollution prevention requirements on a case-by-case basis and by regulation for categories of ASTs. Any person affected by this chapter may petition the board to grant a variance of any requirement of Part III (9VAC25-91-130 et seq.) of this chapter.
2. The board will not grant any petition for a variance related to:
 - a. Definitions;
 - b. Registration;
 - c. Classification of aboveground storage tanks; or
 - d. Oil discharge contingency plans.
3. The board may grant a variance if:
 - a. The applicant demonstrates to the satisfaction of the board that the alternate design or operation will result in a facility that is equally capable of preventing pollution of state water, land, and storm drains from the discharge of oil from new and existing ASTs. If the variance would

- extend a deadline, the petitioner shall demonstrate that a good faith effort to comply with the deadline was made;
- b. Granting the variance will not result in an unreasonable risk to human health or the environment; and
- c. Granting the variance will not result in a conflict with applicable local codes or ordinances.

4. In rendering a decision, the board may:
 - a. Deny the petition;
 - b. Grant the variance as requested;
 - c. Grant a modified variance which:
 - (1) Specifies additional or modified requirements;
 - (2) Includes a schedule for:
 - (a) Periodic review of the modified requirements;
 - (b) Implementation by the facility of such control measures as the board finds necessary in order that the variance may be granted; or
 - (c) Compliance, including increments of progress, by the facility with each requirement of the variance; or
 - (3) Specifies the termination date of the variance.
 - d. Grant a partial variance that:
 - (1) Specifies a particular part of the requirement;
 - (2) Specifies a particular part of the request;
 - (3) Includes a schedule for:
 - (a) Periodic review of the partial requirements;
 - (b) Implementation by the facility of such control measures as the board finds necessary in order that the variance may be granted; or
 - (4) Specifies the termination date of the variance.

5. An operator must comply with the requirements of this chapter even when a variance request is under consideration by the board. A variance request submitted but disapproved, or submitted but not yet decided, shall not constitute a defense or delay to any enforcement action undertaken by the department.

B. Administrative procedures.

1. General requirements for the submission of a petition by the owner or a duly authorized representative. All petitions submitted to the board shall include:
 - a. The owner's or duly authorized representative's name and address;
 - b. A citation of the regulatory requirement to which a variance is requested;
 - c. An explanation of the need or desire for the proposed action, including the reason the existing requirement is not achievable or is impractical compared to the alternative being proposed;
 - d. An explanation of the impact to applicable local codes and ordinances;

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- e. A description of the proposed action;
- f. The duration of the variance, if applicable;
- g. The potential impact of the variance on human health or the environment and a justification of the proposed action's ability to provide equivalent protection of human health and the environment as would compliance with the regulatory requirements;
- h. Enforcement action against or pending against the petitioner;
- i. Other information believed by the applicant to be pertinent; and
- j. The following statements signed by the owner or a duly authorized representative:

"I certify that I have personally examined and am familiar with the information submitted in this petition and all attached documents, and that, based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate, and complete. The petition, if granted, will not be in violation of any local codes or ordinances or pose an unreasonable risk to human health or the environment. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment."

2. In addition to the general information required of all petitioners under subdivision 1 of this subsection, the petitioner shall submit other information as may be required by the board.

3. All variance petitions and correspondence shall be submitted to the following address:

Mailing Address:

Department of Environmental Quality
Office of Spill Response and Remediation
P.O. Box ~~40009~~ 1105
Richmond, VA ~~23240-0009~~ 23218

Street Address:

Department of Environmental Quality
Office of Spill Response and Remediation
629 E. Main Street
Richmond, VA 23219

C. Petition processing.

- 1. After receiving a petition that includes the information required in subdivision B 1 of this section, the board will determine whether the information received is sufficient to render the decision. If the information is deemed to be insufficient, the board will specify additional information needed and request that it be furnished.
- 2. The petitioner may submit the additional information requested, may attempt to show that no reasonable basis exists for the request for additional information, or may withdraw the petition. If the board agrees that no reasonable basis exists for the request for additional

information, the board will act in accordance with subdivision 3 b of this subsection. If the board continues to believe that a reasonable basis exists to require the submission of such information, the board will deny the petition.

3. After the petition is deemed complete:

- a. The board will review the petition;
- b. After evaluating the petition, the board will notify the applicant of the following final decision:
 - (1) Petition is denied;
 - (2) Requested variance is granted; or
 - (3) Modified or partial variance is granted;
- c. The board shall send written notification of the variance to the chief administrative officer of the locality in which the facility is located; and
- d. If the board grants a variance request, the notice to the petitioner shall provide that the variance may be terminated upon a finding by the board that the petitioner has failed to comply with any variance requirements.

D. Variance by regulation for categories of ASTs.

1. ~~ASTs totally off ground with all shall not be subject to inventory control or testing for significant variation if:~~

- a. All associated piping is off ground;
- b. All associated buried piping is double walled; or
- c. All associated piping meets the requirements using a combination of subdivisions 1 a and 1 b of this subsection shall not be subject to inventory control or testing for significant variation.

2. ASTs with a capacity of 5,000 gallons or less located within a building or structure designed to fully contain a discharge of oil shall not be subject to inventory control or testing for significant variation.

3. ASTs containing No. 5 or No. 6 fuel oil for consumption on the premises where stored shall not be subject to inventory control or testing for significant variation.

4. ASTs with release prevention barriers (RPBs) with all and with an established corrosion rate and cathodic protection that protects the entire area of the tank bottom shall not be subject to inventory control or testing for significant variation if:

- a. All associated piping is off ground;
- b. All associated buried piping is double walled; or
- c. All associated piping meets the requirements using a combination of subdivisions 4 a and 4 b of this subsection with an established corrosion rate and cathodic protection that protects the entire area of the tank bottom shall not be subject to inventory control or testing for significant variation.

5. ASTs with release prevention barriers (RPBs) with all and with secondary containment that is 72 hours

impermeable shall not be subject to inventory control or testing for significant variation if:

- a. All associated piping is off ground;
 - b. All associated buried piping is double walled; or
 - c. All associated piping [~~meeting meets~~] the requirements using a combination of subdivisions 5 a and 5 b of this subsection and with secondary containment that is 72 hours impermeable shall not be subject to inventory control or testing for significant variation.
6. ASTs that meet the construction and installation standards of ~~STI F911-93, F921-93, or F941-94~~ STI-F911, F921, or F941, or equivalent standards approved by the board shall not be subject to inventory control or testing for significant variation.
7. For refineries with a continuous leak detection monitoring system and cathodic protection of the AST and piping, a significant variation of inventory shall be considered a loss in excess of 3.0% by weight of the difference between the refinery's input and output.
8. Vaulted tanks meeting UL 2245 or an equivalent standard approved by the board shall not be subject to inventory control or testing for significant variation. The inspections for these tanks required in 9VAC25-91-130 B 5 need to be conducted no more frequently than once every 31 days. The criteria for the visual daily inspection and weekly inspection checklist shall be incorporated into a monthly checklist.
9. An AST used in the production/manufacturing process with full containment that is 72 hours impervious shall not be subject to inventory control or testing for significant variation.
10. An AST of 12,000 gallons or less with full containment that is 72 hours impervious, inside a building and used for the storage of heating oil consumed on the premises shall not be subject to inventory control or testing for significant variation.
11. A double-walled AST shall not be subject to inventory control or testing for significant variation. The inspections required in 9VAC25-91-130 B 5 need be conducted no more frequently than once every 31 days. The criteria for the visual daily inspection and weekly inspection checklist shall be incorporated into a monthly checklist.

Part IV

Oil Discharge Contingency Plan (ODCP) Requirements

9VAC25-91-170. Contingency plan requirements and approval.

A. Section 62.1-44.34:15 of the Code of Virginia requires that all facility oil discharge contingency plans must conform to the requirements and standards determined by the board to be necessary to ensure that the applicant can take such steps as are necessary to protect environmentally sensitive areas; to respond to the threat of an oil discharge; and to contain,

cleanup, and mitigate an oil discharge within the shortest feasible time. Each such plan shall provide for the use of the best available technology (economically feasible, proven effective and reliable and compatible with the safe operation of the facility) at the time the plan is submitted for approval and, in order to be approvable, shall contain, at a minimum, the following requirements:

- 1. The name of the facility, geographic location and access routes from land and water if applicable;
- 2. The names of the operators of the facility including address and phone number;
- 3. A physical description of the facility consisting of a plan of the facility which identifies the applicable oil storage areas, transfer locations, control stations, above and below ground oil transfer piping within the facility boundary (and including adjacent easements and leased property), monitoring systems, leak detection systems and location of any safety protection devices;
- 4. A copy of the material safety data sheet (MSDS) or its equivalent for each oil or groups of oil with similar characteristics stored, transferred or handled at the facility. To be equivalent, the submission shall contain the following:
 - a. Generic or chemical name of the oil;
 - b. Hazards involved in handling the oil; and
 - c. A list of fire-fighting procedures and extinguishing agents effective with fires involving each oil or groups of oil demonstrating similar hazardous properties which require the same fire-fighting procedures;
- 5. The maximum storage or handling capacity of the facility and the individual tank capacities or, in the case of a pipeline, the average daily throughput of oil;
- 6. A complete listing, including 24-hour phone numbers, of all federal, state and local agencies required to be notified in the event of a discharge;
- 7. The position title of the individuals responsible for making the required notifications and a copy of the notification check-off list;
- 8. The position title, address and phone number of the individuals authorized to act on behalf of the operator to implement containment and cleanup actions. This individual shall be available on a 24-hour basis to ensure the appropriate containment and cleanup actions are initiated;
- 9. The position title of the individuals designated by the operator to ensure compliance during containment and cleanup of a discharge with applicable federal, state and local requirements for disposal of both solid and liquid wastes;
- 10. Identification and ~~insurance~~ [insurance assurance] by contract or other means acceptable to the board of the availability of private personnel and equipment necessary

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to remove to the maximum extent practicable the worst case discharge and to mitigate or prevent a substantial threat of such a discharge. This contract or agreement shall ensure a certain response within the shortest feasible time. The board will accept a letter of understanding between the operator and the response contractors which attests to this capability being readily available. Membership in a cleanup cooperative or other response organization is also acceptable. A listing of contractor or cooperative capabilities, including an inventory of the equipment and specification of the other information required by subdivision 12 of this subsection, shall be included unless these capabilities are already on file with the ~~board~~ department;

11. Assessment of the worst case discharge, including measures to limit the outflow of oil, response strategy and operational plan. For the purpose of this chapter, the worst case discharge is the instantaneous release of the volume of the largest tank on the facility (125% of the volume of the largest tank for facilities with multiple tanks within a single containment dike) during adverse weather conditions. Facilities shall take into consideration that due to hydraulic pressure of the release, the secondary containment will not contain this volume in its entirety. The worst case discharge for a pipeline shall be based upon the volume of a discharge calculated using the maximum pressure, velocity, and elevation, and the largest pipe size and pipeline location. If facility design and operation indicates that this worst case discharge scenario does not meet the intent of this chapter, the board may require submission of other worst case scenarios on a facility-specific basis;

12. Inventory of facility containment equipment, including specification of quantity, type, location, time limits for gaining access to the equipment, and identification of facility personnel trained in its use;

13. Identification and location of natural resources at risk (including, but not limited to, surface waters as indicated on the applicable USGS quadrangle maps, groundwater, public water supplies, public and private water wells and springs, state or federal wildlife management areas, wildlife refuges, management areas, sanctuaries, property listed on the National Register of Historic Places and property listed on the National Register of Natural Landmarks), priorities for protection and means of protecting these resources;

a. In addition to the requirements set forth in this subdivision, the operator of a facility with an aggregate aboveground storage or handling capacity of one million gallons or greater of oil shall conduct a groundwater characterization study (GCS) within the geographic boundaries of the facility to be submitted as part of the contingency plan. The operator of such a facility shall utilize upgradient and downgradient GCS monitoring

wells to satisfy this requirement. At the time of a discharge, the operator of such a facility shall conduct further characterization of the groundwater as required by the board;

b. For purposes of satisfying the requirement to identify and locate natural resources at risk, the operator of a pipeline shall identify surface waters as indicated on the applicable USGS quadrangle maps, public water supplies, state or federal wildlife management areas, wildlife refuges, management areas, sanctuaries, property listed on the National Register of Historic Places and property listed on the National Register of Natural Landmarks which could reasonably be expected to be impacted by the discharge. At the time of a discharge, the operator of a pipeline shall conduct a complete groundwater characterization study as required by the board and identify other natural resources at risk including public and private wells or springs which could reasonably be expected to be impacted by the discharge;

14. Identification and location of any municipal or other services (including, but not limited to, storm drains, storm water collection systems and sanitary sewer systems) at risk, notification procedures applicable and means of protection of these services. The identification and location of all municipal services shall include those services for which official records are available. The operator of a pipeline shall determine which sections of the system are located in areas that would require an immediate response by the operator to prevent hazards to the public if a discharge occurred;

15. If applicable, the facility's responsibility for responding to a discharge from a vessel moored at the facility and the identity of the sizes, types, and number of vessels that the facility can transfer oil to or from simultaneously;

16. A description of training, equipment testing, and periodic unannounced oil discharge drills conducted by the operator to mitigate or prevent the discharge or the substantial threat of a discharge;

17. The facility's oil inventory control procedures. Facilities shall ensure that this control procedure is capable of providing for the detection of a discharge of oil within the shortest feasible time in accordance with recognized engineering practices and industry measurement standards;

18. A detailed description of a system for early detection of a discharge to groundwater, utilizing up-gradient and down-gradient leak detection monitoring wells or other groundwater protection measures acceptable to the board (i.e., visual, interstitial, vapor and leak detection groundwater monitoring wells). The system will be operated, maintained and monitored in the manner approved and be subject to inspection by the department under the pollution prevention requirements of Part III (9VAC25-91-130 et seq., Pollution Prevention Requirements) of this chapter. Operators subject to

subdivision 13 a of this subsection may utilize such GCS wells to meet this requirement when approved by the board;

19. The procedures to be followed, upon detection of a discharge of oil, for testing and inspection of all tanks, piping and all oil transfer associated equipment that could reasonably be expected to be a point source for the discharge. These procedures shall be conducted within the shortest feasible time, include a progression of written procedures from visual inspection to formal testing and be conducted in accordance with recognized engineering practices;

20. The facility's preventive maintenance procedures applicable to the critical equipment of an oil storage and transfer system as well as the maximum pressure for each oil transfer system. The term "critical equipment" shall mean equipment that affects the safe operation of an oil storage and handling system;

21. A description of the security procedures used by facility personnel to avoid intentional or unintentional damage to the facility; and

22. A post-discharge review procedure to assess the discharge response in its entirety.

B. All nonexempt facility operators shall file with the board the application form for approval of the contingency plan. This form shall be submitted with the required contingency plan and shall be completed insofar as it pertains to the facility. The operator shall sign and date the certification statement on the application form. If the operator is a corporation, the form shall be signed by an authorized corporate official; if the operator is a municipality, state, federal or other public agency, the form shall be signed by an authorized executive officer or ranking elected official; if the operator is a partnership or sole proprietorship, the form shall be signed by a general partner or the sole proprietor. All forms shall be acknowledged before a Notary Public.

C. Contingency plans shall be filed with and approved by the board. The plan shall be submitted to the board at the address specified in 9VAC25-91-60 A. A copy of the original with the facility-specific information and the approval letter shall be retained at the facility and shall be readily available for inspection.

D. An operator of multiple facilities may submit a single contingency plan encompassing more than one facility if the facilities are located within the defined boundaries of the same city or county or if the facilities are similar in design and operation. The plan shall contain site-specific information as required by subsection A of this section for each facility. The site-specific information shall be placed in appendices to the plan.

Upon renewal of an approved contingency plan submitted under this subsection, the board shall consider the individual

facilities subject to all provisions of subsections E through J of this section.

E. Oil discharge contingency plans shall be reviewed, updated if necessary and resubmitted to the board for approval every 60 months from the date of approval unless significant changes occur sooner. Operators shall notify the board of significant changes and make appropriate amendments to the contingency plan within 30 days of the occurrence. For the purpose of this chapter, a significant change includes the following:

1. A change of operator of the facility;
2. An increase in the maximum storage or handling capacity of the facility that would change the measures to limit the outflow of oil, response strategy or operational plan in the event of the worst case discharge;
3. A decrease in the availability of private personnel or equipment necessary to remove to the maximum extent practicable the worst case discharge and to mitigate or prevent a substantial threat of such a discharge;
4. A change in the type of product dealt in, stored or handled by any facility covered by the plan for which a MSDS or its equivalent has not been submitted as part of the plan; or
5. A change in the method or operation utilized for the early detection of a discharge to groundwater (i.e., change in a method of leak detection).

F. Updated plans or certification for renewal of an existing plan shall be submitted to the board for review and approval not less than 90 days prior to expiration of approval of the current plan. Submittal of the certification for renewal for an existing plan shall be made in accordance with the provisions of subsection B of this section. All notifications of changes, renewals, submissions and updates of plans required by this chapter shall be directed to the respective regional office.

G. An oil discharge exercise may be required by the board to demonstrate the facility's ability to implement the contingency plan. The board will consult with the operator of the facility prior to initiating an exercise. Where appropriate, the board will ensure coordination with federal agencies prior to initiation of an exercise.

H. The board may, after notice and opportunity for a conference pursuant to ~~§ 9-6.14:11~~ § 2.2-4019 of the Code of Virginia, deny or modify its approval of an oil discharge contingency plan if it determines that:

1. The plan as submitted fails to provide sufficient information for the board to process, review and evaluate the plan or fails to ensure the applicant can take such steps as are necessary to protect environmentally sensitive areas, to respond to the threat of a discharge, and to contain and clean up an oil discharge within the shortest feasible time;
2. A significant change has occurred in the operation of the facility covered by the plan;

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3. The facility's discharge experience or its inability to implement its plan in an oil spill discharge exercise demonstrates a necessity for modification; or

4. There has been a significant change in the best available technology since the plan was approved.

I. The board, after notice and opportunity for hearing, may revoke its approval of an oil discharge contingency plan if it determines that:

1. Approval was obtained by fraud or misrepresentation;
2. The plan cannot be implemented as approved;
3. A term or condition of approval of this chapter has been violated; or
4. The facility is no longer in operation.

J. A Facility Response Plan (FRP) developed pursuant to § 4202 of the federal Oil Pollution Act of 1990, Pub. L. No. 101-380, 33 USCA § 2716 (1996), may be accepted as meeting the requirements of subdivisions A 1 through A 22 of this section. The operator shall submit a copy of the FRP and a copy of the currently valid FRP approval letter for the facility for review and approval by the board. The FRP shall contain a cross reference in order to index pages for the specific requirements of the ODCP. The FRP shall also contain the satisfaction of the requirements of subdivisions A 13 a and A 18 of this section. This information shall be resubmitted in accordance with the renewal period established by federal statute or regulation but in no instance shall the renewal period exceed five years. The board shall be notified of any plan amendments within 30 days of the amendment.

~~As in original.~~

Part V

Groundwater Characterization Study (GCS) and GCS Well Monitoring Requirements

9VAC25-91-180. Groundwater characterization study (GCS).

A. Section 62.1-44.34:15 of the Code of Virginia requires the operator to apply to the board for approval of an ODCP. The ODCP shall be accompanied by other relevant information required by the board (e.g., groundwater characterization study (GCS) of each facility with an aggregate aboveground storage capacity of one million gallons or greater of oil). The purpose of this GCS is to determine baseline conditions and flow of groundwater within the geographic boundaries of the facility. The operator's results of the GCS shall be subject to the review and approval of the ~~department~~ board and shall be submitted to the department as part of the Oil Discharge Contingency Plan (ODCP) referenced in Part IV (9VAC25-91-170, Oil Discharge Contingency Plan (ODCP) Requirements) of this chapter. The GCS wells are required by 9VAC25-91-170 A 13 a in the ODCP requirements.

B. Section 62.1-44.34:15.1 of the Code of Virginia requires that the operator of a facility with an aggregate capacity of

one million gallons or greater of oil conduct monthly gauging and inspection, monitoring of well headspace, and quarterly sampling and laboratory analysis of all groundwater monitoring wells located at the facility to determine the presence of petroleum or petroleum by-product contamination. ~~The monitoring requirements of these GCS wells are in 9VAC25-91-190, GCS well monitoring.~~

C. Although GCS monitoring wells may be approved for use as part of a leak detection system, the GCS well monitoring requirement should not be confused with any requirement for leak detection monitoring wells required by 9VAC25-91-170 A 18.

9VAC25-91-200. Reporting; GCS well monitoring report.

A. All observations and data gathered as a result of the requirements in 9VAC25-91-190 and any other data obtained from those same wells shall be maintained at the facility, compiled, and submitted to the ~~board~~ department annually in the following format:

- I. Monthly gauging of GCS groundwater monitoring wells.
 - 1.0 Summary of measurement procedures.
 - 2.0 Table of static water levels recorded from monitoring wells.
- II. Quarterly GCS groundwater vapor monitoring.
 - 1.0 Summary of groundwater and vapor collection procedures.
 - 2.0 Table of vapor measurements from monitoring well headspace.
 - 3.0 Table of groundwater monitoring well visual inspection results.
- III. Annual GCS groundwater quality evaluation.
 - 1.0 Summary of groundwater collection methods.
 - 2.0 Summary of groundwater analytical results and interpretation.
 - 3.0 Table of analytical methods used.
 - 4.0 Table of analytical results.
 - 5.0 Table of field and trip blank results.
 - 6.0 Groundwater laboratory data including chain-of-custody forms.
 - 7.0 Laboratory quality assurance review.

B. The annual GCS monitoring report shall include the facility name and address, operator, and consultant, if any, who prepared the report, contact person and the date the report was submitted.

Part VI

~~Referenced Publications~~ Resources Available

9VAC25-91-220. ~~Referenced publications.~~ Resources available.

A. This chapter (Facility and Aboveground Storage Tank (AST) Regulation (9VAC25-91)) does not contain all requirements for aboveground storage tanks in Virginia. The

resources listed in this section have been included to assist with complying with requirements of this regulation. Section 36-99.6 of the Code of Virginia requires the Board of Housing and Community Development to incorporate, as part of the building code, regulations adopted and promulgated by the State Water Control Board governing the installation, repair, upgrade, and closure of aboveground storage tanks. Portions of this chapter are incorporated into the Virginia Uniform Statewide Building Code (USBC). The USBC referenced model codes and standards apply as promulgated by the Virginia Department of Housing and Community Development.

A. B. The following documents or portions thereof are resources referenced or provide guidance in this chapter:

1. Underwriters Laboratories Standards:
 - a. Specification 142, "Steel Aboveground Tanks for Flammable and Combustible Liquids," ~~Seventh~~ Ninth Edition;
 - b. Standard 2245, "Standard for Below-Grade Vaults for Flammable Liquid Storage Tanks," Second Edition, December 28, 2006;
2. American Petroleum Institute (API) Standards:
 - a. API 12B: Specification 12B and ~~Supplement 2, October 1, 1990, October 2008,~~ "Specification for Bolted Tanks for Storage of Production Liquids," ~~Thirteenth Fifteenth~~ Edition;
 - b. API 12D: Specification 12D, and ~~Supplement 2, 1982 as supplemented 1985, October 2008,~~ "Specification for Field Welded ~~or~~ Tanks for Storage of Production Liquids," ~~Ninth~~ Eleventh Edition;
 - c. API 12F: Specification 12F, and ~~Supplement 1, 1982 as supplemented 1988, October 2008,~~ "Specification for Shop Welded Tanks for Storage of Production Liquids," ~~Tenth~~ Twelfth Edition;
 - d. ~~API 570: Piping Inspection Code, "Inspection, Repair, Alteration, and Retrating of In-Service Piping Systems, First Edition, June 1993;~~
 - e. d. API 575: May 2005, "Inspection of Existing Atmospheric and Low-pressure Storage Tanks," Second Edition, May 2005;
 - e. API 620: Standard 620, ~~1990, February 2008,~~ "Design and Construction of Large, Welded, Low-Pressure Storage Tanks," ~~Eighth~~ includes Addendum 1 (2009), Addendum 2 (2010), and Addendum 3 (2012), Eleventh Edition;
 - f. API 650: Standard 650, ~~1988, June 2001,~~ "Welded Steel Tanks for Oil Storage," ~~Eighth~~ Eleventh Edition;
 - g. API 651: Recommended Practice 651, January 2007, "Cathodic Protection for Above Ground Petroleum Storage Tanks," Third Edition;

- g. ~~h.~~ API 652: Recommended Practice 652, April 1991, October 2005, "Lining of Aboveground Petroleum Storage Tank Bottoms," First Third Edition;
 - h. ~~API 653: API Standard 653, January 1991, "Tank Inspection, Repair, Alteration, and Reconstruction," First Edition, incorporates supplement 1, January 1992;~~
 - i. ~~API 2350: Recommended Practice 2350, March 1987 January 2005, "Overfill Protection for Petroleum Storage Tanks,";~~ Third Edition;
 3. ~~National Fire Protection Association (NFPA) Standards:~~
 - a. ~~NFPA 30, "Flammable and Combustible Liquids Code," 1996 edition;~~
 - b. ~~NFPA 30A, "Automotive and Marine Service Station Code," 1990 edition;~~
 4. ~~National Association of Corrosion Engineers (NACE) Standards: Recommended Practice 0285 95 (1995), "Control of External Corrosion on Metallic Buried, Partially Buried, or Submerged Liquid Storage Systems";~~
 5. ~~40 CFR Part 112 (1997), "Oil Pollution Prevention";~~
 6. ~~29 CFR Part 1910.106 (1997), "Flammable and Combustible Liquids";~~
 7. ~~Uniform Statewide Building Code (USBC), 1996 edition;~~
 8. ~~3. Virginia Statewide Fire Prevention Code (SWFPC), 1996 edition; (March 1, 2011); and~~
 9. ~~Building Officials & Code Administrators International, Inc. (BOCA); BOCA National Building Code, 1996 edition:~~
 - a. ~~Chapter 32—Flammable and Combustible Liquids;~~
 - b. ~~Chapter 23—Hazardous Materials; and~~
 10. ~~4. Steel Tank Institute (STI), Standards and Recommended Practices:~~
 - a. ~~STI Standard for Diked Aboveground Storage Tanks F911 93 F911;~~
 - b. ~~STI Standard for Aboveground Tanks with Integral Secondary Containment F921 93; F921, revised July 2011;~~
 - c. ~~STI Fireguard™ Thermally Insulated Specifications for Fireguard protected Aboveground Storage Tank Standard F941 94 Tanks F941.~~
- ~~B. The issue of the industry specification, standard, or code, including addenda or changes, described in this chapter as referenced publications, shall be used unless circumstances warrant the use of an earlier date and are specifically authorized by the board.~~
- C. Standards and codes listed in [9VAC25-220—A subsection B of this section] are specifically authorized for use by the board. Other standards and codes may be used if specifically authorized by the board.

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D. This chapter refers to resources that may be used to comply with provisions of the regulations. These resources are available through the Internet; therefore, in order to assist the regulated community, the resource reference document owner's contact information, including uniform resource locator or Internet address is provided for each of the resource references listed in this section.

1. Underwriter's Laboratories, [<http://www.ul.com/global/eng/pages/solutions/standards/http://ulstandards.ul.com/access-standards/>], Underwriter's Laboratories, 2600 NW Lake Road, Camas, WA 98607-8542.
2. American Petroleum Institute, <http://api.org>, American Petroleum Institute, 1220 L Street, NW, Washington, DC 20005-4070.
3. National Association of Corrosion Engineers, <http://nace.org>, National Association of Corrosion Engineers, 1440 South Creek Drive, Houston, TX USA 77084-4906.
4. Code of Federal Regulations, <http://www.gpo.gov/fdsys/>.
5. Virginia Uniform Statewide Building Code, [<http://www.dhcd.virginia.gov/StateBuildingCodesandRegulations/VirginiaUniformStatewideBuildingCode.htm> <http://www.dhcd.virginia.gov/index.php/va-building-codes/building-and-fire-codes/regulations/uniform-statewide-building-code-usbc.html>], Virginia Department of Housing and Community Development, Main Street Centre, 600 East Main Street, Suite 300, Richmond, VA 23219.
6. Virginia Statewide Fire Prevention Code, [<http://www.dhcd.virginia.gov/StateBuildingCodesandRegulations/> <http://www.dhcd.virginia.gov/StateBuildingCodesandRegulations/PDFs/2009/Code%20-%20SFPC.pdf>], Virginia Department of Housing and Community Development, Main Street Centre, 600 East Main Street, Suite 300, Richmond, VA 23219.
7. Steel Tank Institute, www.steeltank.com, Steel Tank Institute, 944 Donata Court, Lake Zurich, IL 60047.

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 of a form with a hyperlink to access it. 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 (9VAC25-91)

~~Registration for Facility and Aboveground Storage Tank (AST), DEQ Form 7540-AST (rev. 10/08).~~

~~Registration for Facility and Aboveground Storage Tank (AST), DEQ Form 7540-AST (rev. 7/13)~~

~~Approval Application for Facility Oil Discharge Contingency Plan (rev. 8/07)~~

~~Renewal Application for Facility Oil Discharge Contingency Plan (rev. 8/07)~~

DOCUMENTS INCORPORATED BY REFERENCE (9VAC25-91)

American Petroleum Institute (API) Standard API 570: Piping Inspection Code, November 2009, [In-service] Inspection, [Rating] Repair, [and] Alteration, [and Rerating] of [In-Service] Piping Systems, [~~Alteration of Piping Systems,~~ " First Edition, June 1993;] Third Edition

American Petroleum Institute (API) Standard API 653, April 2009, "Tank Inspection, Repair, Alteration, and Reconstruction," includes Addendum 1 (2010) and Addendum 2 (2012), Fourth Edition

American Petroleum Institute (API) Standard API 1632: Recommended Practice 1632, [2002 reaffirmed 2010] "Cathodic Protection of Underground Petroleum Storage Tanks and Piping Systems," Third Edition

National Association of Corrosion Engineers (NACE) SP0285-2011, [External] Corrosion Control of Underground Storage Tank Systems by Cathodic Protection" [, revised March 13, 2011]

Steel Tank Institute (STI), Standard STI - SP001 "Standard for the Inspection of Aboveground Storage Tanks," Fifth Edition, September 2011

V.A.R. Doc. No. R12-3011; Filed August 4, 2015, 9:54 a.m.



TITLE 12. HEALTH

STATE BOARD OF HEALTH

Final Regulation

Title of Regulation: **12VAC5-90. Regulations for Disease Reporting and Control (amending 12VAC5-90-370).**

Statutory Authority: §§ 32.1-12 and 32.1-35 of the Code of Virginia.

Effective Date: September 25, 2015.

Agency Contact: Diane Woolard, Ph.D., Director, Division of Surveillance and Investigation, Department of Health, 109 Governor Street, Richmond, VA 23219, telephone (804) 864-8124, or email diane.woolard@vdh.virginia.gov.

Summary:

The amendments provide that facilities that report data into the Centers for Disease Control and Prevention's National Healthcare Safety Network (NHSN) for the Centers for Medicare and Medicaid Services Hospital

Inpatient Quality Reporting Program shall share the data, through the NHSN, with the department.

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

Part I
Definitions

EDITOR'S NOTE: The proposed amendments to 12VAC5-90-10 were not adopted; therefore there are no changes to this section.

12VAC5-90-10. Definitions.

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

"Acute care hospital" means a hospital as defined in § 32.1-123 of the Code of Virginia that provides medical treatment for patients having an acute illness or injury or recovering from surgery.

~~"Adult" means a person 18 years of age or more.~~

"Adult intensive care unit" means a nursing care area that provides intensive observation, diagnosis, and therapeutic procedures for persons 18 years of age or more who are critically ill. Such units may also provide intensive care to pediatric patients. An intensive care unit excludes nursing areas that provide step-down, intermediate care, or telemetry only.

"Affected area" means any part or the whole of the Commonwealth, which has been identified as where persons reside, or may be located, who are known to have been exposed to or infected with, or who are reasonably suspected to have been exposed to or infected with, a communicable disease of public health threat. "Affected area" shall include, but not be limited to, cities, counties, towns, and subsections of such areas, public and private property, buildings, and other structures.

"Arboviral infection" means a viral illness that is transmitted by a mosquito, tick, or other arthropod. This includes, but is not limited to, chikungunya, dengue, eastern equine encephalitis (EEE), LaCrosse encephalitis (LAC), St. Louis encephalitis (SLE), and West Nile virus (WNV) infection.

"Board" means the State Board of Health.

"Cancer" means all carcinomas, sarcomas, melanomas, leukemias, and lymphomas excluding localized basal and squamous cell carcinomas of the skin, except for lesions of the mucous membranes.

"Central line-associated bloodstream infection" means a primary bloodstream infection identified by laboratory tests, with or without clinical signs or symptoms, in a patient with a central line device, and meeting the current Centers for Disease Control and Prevention (CDC) surveillance definition for laboratory-confirmed primary bloodstream infection.

"Central line device" means a vascular infusion device that terminates at or close to the heart or in one of the greater vessels. The following are considered great vessels for the purpose of reporting central line infections and counting central line days: aorta, pulmonary artery, superior vena cava, inferior vena cava, brachiocephalic veins, internal jugular veins, subclavian veins, external iliac veins, and common femoral veins.

"Child care center" means a child day center, child day program, family day home, family day system, or registered family day home as defined by § 63.2-100 of the Code of Virginia, or a similar place providing day care of children by such other name as may be applied.

"Clinic" means any facility, freestanding or associated with a hospital, that provides preventive, diagnostic, therapeutic, rehabilitative, or palliative care or services to outpatients.

~~"Clostridium difficile infection, laboratory identified event" means laboratory testing on unformed stool that yields a positive result for Clostridium difficile toxin A or B or a toxin producing Clostridium difficile organism detected in the stool sample by culture or other laboratory means, with duplicate reports on a patient ruled out according to CDC definitions in the NHSN Patient Safety Component Manual, MDRO and CDAD Module (June 2010).~~

"Commissioner" means the State Health Commissioner or his duly designated officer or agent, unless stated in a provision of these regulations that it applies to the State Health Commissioner in his sole discretion.

"Communicable disease" means an illness due to an infectious agent or its toxic products which is transmitted, directly or indirectly, to a susceptible host from an infected person, animal, or arthropod or through the agency of an intermediate host or a vector or through the inanimate environment.

"Communicable disease of public health significance" means an illness caused by a specific or suspected infectious agent that may be transmitted directly or indirectly from one individual to another. This includes but is not limited to infections caused by human immunodeficiency viruses, bloodborne pathogens, and tubercle bacillus. The State Health Commissioner may determine that diseases caused by other pathogens constitute communicable diseases of public health significance.

"Communicable disease of public health threat" means an illness of public health significance, as determined by the State Health Commissioner in accordance with these regulations, caused by a specific or suspected infectious agent that may be reasonably expected or is known to be readily transmitted directly or indirectly from one individual to another and has been found to create a risk of death or significant injury or impairment; this definition shall not, however, be construed to include human immunodeficiency viruses or the tubercle bacilli, unless used as a bioterrorism weapon.

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"Companion animal" means any domestic or feral dog, domestic or feral cat, nonhuman primate, guinea pig, hamster, rabbit not raised for human food or fiber, exotic or native animal, reptile, exotic or native bird, or any feral animal or any animal under the care, custody, or ownership of a person or any animal that is bought, sold, traded, or bartered by any person. Agricultural animals, game species, or any animals regulated under federal law as research animals shall not be considered companion animals for the purpose of this regulation.

"Condition" means any adverse health event, such as a disease, an infection, a syndrome, or as indicated by a procedure (including but not limited to the results of a physical exam, laboratory test, or imaging interpretation) suggesting that an exposure of public health importance has occurred.

"Contact" means a person or animal known to have been in such association with an infected person or animal as to have had an opportunity of acquiring the infection.

"Contact services" means a broad array of services that are offered to persons with infectious diseases and their contacts. Contact services include contact tracing, providing information about current infections, developing risk reduction plans to reduce the chances of future infections, and connecting to appropriate medical care and other services.

"Contact tracing" means the process by which an infected person or health department employee notifies others that they may have been exposed to the infected person in a manner known to transmit the infectious agent in question.

"Decontamination" means the use of physical or chemical means to remove, inactivate, or destroy hazardous substances or organisms from a person, surface, or item to the point that such substances or organisms are no longer capable of causing adverse health effects and the surface or item is rendered safe for handling, use, or disposal.

"Department" means the State Department of Health.

"Designee" or "designated officer or agent" means any person, or group of persons, designated by the State Health Commissioner, to act on behalf of the commissioner or the board.

"Ehrlichiosis/anaplasmosis" means human infections caused by *Ehrlichia chaffeensis* (formerly included in the category "human monocytic ehrlichiosis" or "HME"), *Ehrlichia ewingii* or *Anaplasma phagocytophilum* (formerly included in the category "human granulocytic ehrlichiosis" or "HGE").

"Epidemic" means the occurrence in a community or region of cases of an illness clearly in excess of normal expectancy.

"Essential needs" means basic human needs for sustenance including but not limited to food, water, and health care, e.g., medications, therapies, testing, and durable medical equipment.

"Exceptional circumstances" means the presence, as determined by the commissioner in his sole discretion, of one

or more factors that may affect the ability of the department to effectively control a communicable disease of public health threat. Factors to be considered include but are not limited to: (i) characteristics or suspected characteristics of the disease-causing organism or suspected disease-causing organism such as virulence, routes of transmission, minimum infectious dose, rapidity of disease spread, the potential for extensive disease spread, and the existence and availability of demonstrated effective treatment; (ii) known or suspected risk factors for infection; (iii) the potential magnitude of the effect of the disease on the health and welfare of the public; and (iv) the extent of voluntary compliance with public health recommendations. The determination of exceptional circumstances by the commissioner may take into account the experience or results of investigation in Virginia, another state, or another country.

"Foodborne outbreak" means two or more cases of a similar illness acquired through the consumption of food contaminated with chemicals or an infectious agent or its toxic products. Such illnesses include but are not limited to heavy metal intoxication, staphylococcal food poisoning, botulism, salmonellosis, shigellosis, *Clostridium perfringens* food poisoning, hepatitis A, and *Escherichia coli* O157:H7 infection.

"Healthcare-associated infection" (also known as nosocomial infection) means a localized or systemic condition resulting from an adverse reaction to the presence of an infectious agent or agents or its toxin or toxins that (i) occurs in a patient in a healthcare setting (e.g., a hospital or outpatient clinic), (ii) was not found to be present or incubating at the time of admission unless the infection was related to a previous admission to the same setting, and (iii) if the setting is a hospital, meets the criteria for a specific infection site as defined by CDC in the NHSN Patient Safety Component Manual, Key Terms (June 2010).

~~"Healthcare associated outbreak" means any group of illnesses of common etiology occurring in patients of a healthcare setting acquired by exposure of those patients to the disease agent while in such a facility.~~

"Hepatitis C, acute" means the following clinical characteristics are met: (i) discrete onset of symptoms indicative of viral hepatitis and (ii) jaundice or elevated serum aminotransferase levels and the following laboratory criteria are met: (a) serum alanine aminotransferase levels (ALT) greater than 400 IU/L; (b) IgM anti-HAV negative (if done); (c) IgM anti-HBc negative (if done); and (d) hepatitis C virus antibody (anti-HCV) screening test positive with a signal-to-cutoff ratio predictive of a true positive as determined for the particular assay as defined by CDC, HCV antibody positive by immunoblot (RIBA), or HCV RNA positive by nucleic acid test.

"Hepatitis C, chronic" means that the laboratory criteria specified in clauses (b), (c) and (d) listed above for an acute case are met but clinical signs or symptoms of acute viral

hepatitis are not present and serum alanine aminotransferase (ALT) levels do not exceed 400 IU/L. This category will include cases that may be acutely infected but not symptomatic.

"Immunization" means a procedure that increases the protective response of an individual's immune system to specified pathogens.

"Independent pathology laboratory" means a nonhospital or a hospital laboratory performing surgical pathology, including fine needle aspiration biopsy and bone marrow specimen examination services, which reports the results of such tests directly to physician offices, without reporting to a hospital or accessioning the information into a hospital tumor registry.

"Individual" means a person or companion animal. When the context requires it, "person or persons" shall be deemed to include any individual.

"Infection" means the entry and multiplication or persistence of a disease-causing organism (prion, virus, bacteria, fungus, parasite, or ectoparasite) in the body of an individual. An infection may be inapparent (i.e., without recognizable signs or symptoms but identifiable by laboratory means) or manifest (clinically apparent).

"Influenza A, novel virus" means infection of a human with an influenza A virus subtype that is different from currently circulating human influenza H1 and H3 viruses. Novel subtypes include H2, H5, H7, and H9 subtypes or influenza H1 and H3 subtypes originating from a nonhuman species.

"Invasive" means the organism is affecting a normally sterile site, including but not limited to blood or cerebrospinal fluid.

"Investigation" means an inquiry into the incidence, prevalence, extent, source, mode of transmission, causation of, and other information pertinent to a disease occurrence.

"Isolation" means the physical separation, including confinement or restriction of movement, of an individual or individuals who are infected with, or are reasonably suspected to be infected with, a communicable disease in order to prevent or limit the transmission of the communicable disease to uninfected and unexposed individuals.

"Isolation, complete" means the full-time confinement or restriction of movement of an individual or individuals infected with, or reasonably suspected to be infected with, a communicable disease in order to prevent or limit the transmission of the communicable disease to uninfected and unexposed individuals.

"Isolation, modified" means a selective, partial limitation of freedom of movement or actions of an individual or individuals infected with, or reasonably suspected to be infected with, a communicable disease. Modified isolation is designed to meet particular situations and includes but is not limited to the exclusion of children from school, the prohibition or restriction from engaging in a particular

occupation or using public or mass transportation, or requirements for the use of devices or procedures intended to limit disease transmission.

"Isolation, protective" means the physical separation of a susceptible individual or individuals not infected with, or not reasonably suspected to be infected with, a communicable disease from an environment where transmission is occurring, or is reasonably suspected to be occurring, in order to prevent the individual or individuals from acquiring the communicable disease.

"Laboratory" as used herein means a clinical laboratory that examines materials derived from the human body for the purpose of providing information on the diagnosis, prevention, or treatment of disease.

"Laboratory director" means any person in charge of supervising a laboratory conducting business in the Commonwealth of Virginia.

"Law-enforcement agency" means any sheriff's office, police department, adult or youth correctional officer, or other agency or department that employs persons who have law-enforcement authority that is under the direction and control of the Commonwealth or any local governing body. "Law-enforcement agency" shall include, by order of the Governor, the Virginia National Guard.

"Lead, elevated blood levels" means a confirmed blood level greater than or equal to 10 micrograms of lead per deciliter ($\mu\text{g}/\text{dL}$) of whole blood in a child or children 15 years of age and younger, a venous blood lead level greater than or equal to 25 $\mu\text{g}/\text{dL}$ in a person older than 15 years of age, or such lower blood lead level as may be recommended for individual intervention by the department or the Centers for Disease Control and Prevention.

"Least restrictive" means the minimal limitation of the freedom of movement and communication of an individual while under an order of isolation or an order of quarantine that also effectively protects unexposed and susceptible individuals from disease transmission.

"Medical care facility" means any hospital or nursing home licensed in the Commonwealth, or any hospital operated by or contracted to operate by an entity of the United States government or the Commonwealth of Virginia.

"Midwife" means any person who is licensed as a nurse midwife by the Virginia Boards of Nursing and Medicine or who is licensed by the Board of Medicine as a certified professional midwife.

"National Healthcare Safety Network (NHSN)" means a surveillance system created by the CDC for accumulating, exchanging, and integrating relevant information on infectious adverse events associated with healthcare delivery.

"Nucleic acid detection" means laboratory testing of a clinical specimen to determine the presence of deoxyribonucleic acid (DNA) or ribonucleic acid (RNA) specific for an infectious agent using any method, including

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hybridization, sequencing, or amplification such as polymerase chain reaction.

"Nurse" means any person licensed as a professional nurse or as a licensed practical nurse by the Virginia Board of Nursing.

"Occupational outbreak" means a cluster of illness or disease that is indicative of a work-related exposure. Such conditions include but are not limited to silicosis, asbestosis, byssinosis, pneumoconiosis, and tuberculosis.

"Outbreak" means the occurrence of more cases of a disease than expected.

"Period of communicability" means the time or times during which the etiologic agent may be transferred directly or indirectly from an infected person to another person, or from an infected animal to a person.

"Physician" means any person licensed to practice medicine or osteopathy by the Virginia Board of Medicine.

"Quarantine" means the physical separation, including confinement or restriction of movement, of an individual or individuals who are present within an affected area or who are known to have been exposed, or may reasonably be suspected to have been exposed, to a communicable disease and who do not yet show signs or symptoms of infection with the communicable disease in order to prevent or limit the transmission of the communicable disease of public health threat to unexposed and uninfected individuals.

"Quarantine, complete" means the full-time confinement or restriction of movement of an individual or individuals who do not have signs or symptoms of infection but may have been exposed, or may reasonably be suspected to have been exposed, to a communicable disease of public health threat in order to prevent the transmission of the communicable disease of public health threat to uninfected individuals.

"Quarantine, modified" means a selective, partial limitation of freedom of movement or actions of an individual or individuals who do not have signs or symptoms of the infection but have been exposed to, or are reasonably suspected to have been exposed to, a communicable disease of public health threat. Modified quarantine may be designed to meet particular situations and includes but is not limited to limiting movement to the home, work, and/or one or more other locations, the prohibition or restriction from using public or mass transportation, or requirements for the use of devices or procedures intended to limit disease transmission.

"Reportable disease" means an illness due to a specific toxic substance, occupational exposure, or infectious agent, which affects a susceptible individual, either directly, as from an infected animal or person, or indirectly through an intermediate host, vector, or the environment, as determined by the board.

"SARS" means severe acute respiratory syndrome (SARS)-associated coronavirus (SARS-CoV) disease.

"School" means (i) any public school from kindergarten through grade 12 operated under the authority of any locality within the Commonwealth; (ii) any private or parochial school that offers instruction at any level or grade from kindergarten through grade 12; (iii) any private or parochial nursery school or preschool, or any private or parochial child care center licensed by the Commonwealth; and (iv) any preschool handicap classes or Head Start classes.

"Serology" means the testing of blood, serum, or other body fluids for the presence of antibodies or other markers of an infection or disease process.

~~"Surgical Care Improvement Project (SCIP)" means a national quality initiative supported by The Joint Commission, the Centers for Medicare and Medicaid Services, and other partners in healthcare that is designed to improve surgical care in hospitals.~~

"Surveillance" means the ongoing systematic collection, analysis, and interpretation of outcome-specific data for use in the planning, implementation, and evaluation of public health practice. A surveillance system includes the functional capacity for data analysis as well as the timely dissemination of these data to persons who can undertake effective prevention and control activities.

"Susceptible individual" means a person or animal who is vulnerable to or potentially able to contract a disease or condition. Factors that affect an individual's susceptibility include but are not limited to physical characteristics, genetics, previous or chronic exposures, chronic conditions or infections, immunization history, or use of medications.

"Toxic substance" means any substance, including any raw materials, intermediate products, catalysts, final products, or by-products of any manufacturing operation conducted in a commercial establishment, that has the capacity, through its physical, chemical or biological properties, to pose a substantial risk of death or impairment either immediately or over time, to the normal functions of humans, aquatic organisms, or any other animal but not including any pharmaceutical preparation which deliberately or inadvertently is consumed in such a way as to result in a drug overdose.

"Tubercle bacilli" means disease-causing organisms belonging to the *Mycobacterium tuberculosis* complex and includes *Mycobacterium tuberculosis*, *Mycobacterium bovis*, and *Mycobacterium africanum* or other members as may be established by the commissioner.

"Tuberculin skin test (TST)" means a test for demonstrating infection with tubercle bacilli, performed according to the Mantoux method, in which 0.1 ml of 5 TU strength tuberculin purified protein derivative (PPD) is injected intradermally on the volar surface of the arm. Any reaction is observed 48-72 hours after placement and palpable induration is measured across the diameter transverse to the long axis of the arm. The measurement of the indurated area is recorded in millimeters

and the significance of the measured induration is based on existing national and department guidelines.

"Tuberculosis" means a disease caused by tubercle bacilli.

"Tuberculosis, active disease" (also "active tuberculosis disease" and "active TB disease"), as defined by § 32.1-49.1 of the Code of Virginia, means a disease caused by an airborne microorganism and characterized by the presence of either (i) a specimen of sputum or other bodily fluid or tissue that has been found to contain tubercle bacilli as evidenced by culture or nucleic acid amplification, including preliminary identification by rapid methodologies; (ii) a specimen of sputum or other bodily fluid or tissue that is suspected to contain tubercle bacilli as evidenced by smear, and where sufficient clinical and radiographic evidence of active tuberculosis disease is present as determined by a physician licensed to practice medicine in Virginia; or (iii) sufficient clinical and radiographic evidence of active tuberculosis disease as determined by the commissioner is present, but a specimen of sputum or other bodily fluid or tissue containing, or suspected of containing, tubercle bacilli is unobtainable.

"Tuberculosis infection in children age less than 4 years" means a significant reaction resulting from a tuberculin skin test (TST) or other approved test for latent infection without clinical or radiographic evidence of active tuberculosis disease, in children from birth up to their fourth birthday.

"Vaccinia, disease or adverse event" means vaccinia infection or serious or unexpected events in persons who received the smallpox vaccine or their contacts, including but not limited to bacterial infections, eczema vaccinatum, erythema multiforme, generalized vaccinia, progressive vaccinia, inadvertent inoculation, post-vaccinial encephalopathy or encephalomyelitis, ocular vaccinia, and fetal vaccinia.

"Waterborne outbreak" means two or more cases of a similar illness acquired through the ingestion of or other exposure to water contaminated with chemicals or an infectious agent or its toxic products. Such illnesses include but are not limited to giardiasis, viral gastroenteritis, cryptosporidiosis, hepatitis A, cholera, and shigellosis. A single case of laboratory-confirmed primary amebic meningoencephalitis or of waterborne chemical poisoning is considered an outbreak.

Part XIII

Report Reporting of Healthcare-Associated Infections

12VAC5-90-370. Reporting of healthcare-associated infections.

A. Reportable infections and ~~method and timing of reporting.~~ 1. Acute care hospitals shall collect enter data on the following healthcare-associated infection infections in the specified patient population: into CDC's National Healthcare Safety Network according to CDC protocols in the NHSN Patient Safety Component Manual Modules: Identifying HAIs (November 2009), Device associated Module CLABSI Events (June 2010), MDRO and CDAD Module (June 2010),

and CDC Locations and Descriptions (July 2010). Acute care hospitals shall ensure that accurate and complete data are entered at least quarterly within one month of the close of the calendar year quarter and shall authorize the department to have access to hospital specific data contained in the NHSN database.

central 1. Central line associated bloodstream infections in adult intensive care units, including the number of central-line days in each population at risk, expressed per 1,000 catheter days.

2. Central line associated bloodstream infections outside intensive care, including in one adult inpatient medical ward and one adult inpatient surgical ward. Wards selected should be those with the longest length of stay during the previous calendar year, excluding cardiology, obstetrics, psychiatry, hospice, and step down units. Data shall include the number of central line days in each population at risk.

3. Clostridium difficile infection, laboratory identified events on inpatient units, with the exceptions recommended by CDC protocol in the NHSN Patient Safety Component Manual, MDRO and CDAD Module (June 2010). Data shall be collected year round at the overall facility wide level. Data shall include patient days.

2. All acute care hospitals with adult intensive care units shall (i) participate in CDC's National Healthcare Safety Network by July 1, 2008, (ii) submit data on the above named infection to the NHSN according to CDC protocols and ensure that all data from July 1, 2008, to December 31, 2008, are entered into the NHSN by January 31, 2009, and (iii) ensure accurate and complete data are available quarterly thereafter according to a schedule established by the department.

3. All acute care hospitals reporting the information noted above shall authorize the department to have access to hospital-specific data contained in the NHSN database.

B. Reportable process measures. Acute care hospitals shall report to the department quarterly, within one month of the close of the calendar year quarter, aggregate counts of the Surgical Care Improvement Project (SCIP) Core Measures pertaining to the following surgical procedures: hip arthroplasty, knee arthroplasty, and coronary artery bypass graft. Data shall be collected in accordance with the Specification Manual for National Hospital Inpatient Quality Measures (Version 3.3) and shall include counts of the patient population and the applicable SCIP measures for each of the above designated surgical procedures. Reports shall be submitted to the department's Division of Surveillance and Investigation. [Data reported Facilities that report data] into the Centers for Disease Control and Prevention's National Healthcare Safety Network (NHSN) for the Centers for Medicare and Medicaid Services Hospital Inpatient Quality Reporting Program shall [be

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~~shared~~ share the data], through the NHSN, with the department.

B. Liability protection and data release. Any person making such report as authorized herein shall be immune from liability as provided by § 32.1-38 of the Code of Virginia. Infection rate data may be released to the public by the department upon request. Data shall be aggregated to ensure that no individual patient may be identified.

VA.R. Doc. No. R10-2109; Filed August 3, 2015, 1:45 p.m.

Notice of Extension of Emergency Regulation

Title of Regulation: 12VAC5-610. Sewage Handling and Disposal Regulations (amending 12VAC5-610-30, 12VAC5-610-920 through 12VAC5-610-950; adding 12VAC5-610-955).

Statutory Authority: §§ 32.1-12 and 32.1-164 of the Code of Virginia.

Expiration Date Extended Through: March 13, 2016.

The Governor has approved the State Board of Health's request to extend the expiration date of the above-referenced emergency regulation for six months as provided for in § 2.2-4011 D of the Code of Virginia. Therefore, the emergency regulation will continue in effect through March 14, 2016. The emergency regulation was published in 30:11 VA.R. 1576-1584 January 27, 2014.

Agency Contact: Allen Knapp, Director, Office of Environmental Health Services, Department of Health, 109 Governor Street, Richmond, VA 23219, telephone (804) 864-7458, FAX (804) 864-7475, or email allen.knapp@vdh.virginia.gov.

VA.R. Doc. No. R14-3665; Filed August 3, 2015, 9:22 a.m.

Proposed Regulation

Title of Regulation: 12VAC5-610. Sewage Handling and Disposal Regulations (amending 12VAC5-610-30, 12VAC5-610-920 through 12VAC5-610-950; adding 12VAC5-610-955).

Statutory Authority: §§ 32.1-12, 32.1-164, and 32.1-164.9 of the Code of Virginia.

Public Hearing Information: No public hearings are scheduled.

Public Comment Deadline: October 26, 2015.

Agency Contact: Dwayne Roadcap, Director, Division of Onsite Sewage and Water, Department of Health, 109 Governor Street, Richmond, VA 23219, telephone (804) 864-7458, FAX (804) 864-7475, or email dwayne.roadcap@vdh.virginia.gov.

Basis: Section 32.1-164.9 of the Code of Virginia mandates the Board of Health to promulgate regulations for physical construction, design, and installation of chamber and bundled expanded polystyrene systems. Additionally, the board is authorized pursuant to § 32.1-12 of the Code of Virginia to promulgate and enforce regulations. Section 32.1-164 of the

Code of Virginia authorizes the board to promulgate regulations governing the collection, conveyance, transportation, treatment, and disposal of sewage by onsite sewage systems to protect public health, surface water, and groundwater.

Purpose: The need for the proposed regulation is to implement § 32.1-164.9 of the Code of Virginia and incorporate requirements for gravelless material and drip dispersal. The amendments include construction, design, and installation requirements for gravelless material and drip dispersal systems. Since 2002, the Virginia Department of Health (VDH) has recognized, through policies, that gravelless material is an acceptable means of dispersing effluent. VDH has recognized, through policies, that drip dispersal is an acceptable means of transmitting effluent. The goal of the proposed regulation is to permanently add the construction, design, and installation standards for gravelless material and drip dispersal. The regulations are essential in order to comply with the provisions of the Code of Virginia and protect the health, welfare, and safety of the public.

Substance: The amendments establish construction, design, and installation requirements for gravelless material and drip dispersal systems, as follows:

1. Specifications for the physical construction of gravelless material including minimum exterior width, height, effluent storage capacity, and structural capacity;
2. Requirements for a permeable interface between gravelless material and trench sidewall soil surfaces for the absorption of effluent;
3. Criteria for the allowable slope, maximum length, minimum sidewall depth, and minimum lateral separation of gravelless material absorption trenches;
4. Criteria for determining the minimum absorption area required when utilizing gravelless material;
5. Criteria for the substitution of gravelless material in place of gravel for gravity percolation lines and low pressure distribution systems;
6. Specifications for the physical construction of drip dispersal system components;
7. Minimum requirements for the design of drip dispersal systems; and
8. Minimum installation requirements for drip dispersal systems.

Minor clarifying changes to the proposed amendments from the emergency regulation, published in 30:11 VA.R. 1576 January 27, 2014, are made, including the following: (i) the term "soil gravel or sand interface" used in 12VAC5-610-920 and 12VAC5-610-950 A is modified to ensure inclusion of gravelless material and drip dispersal, and (ii) the proposed regulation establishes minimum physical construction, design, and installation requirements for gravelless material and drip dispersal.

Issues: The proposed regulation poses no disadvantage to the public or the Commonwealth. The proposed revisions permanently incorporate the emergency regulations for gravelless material and drip dispersal. The proposed regulations provide a benefit to the public by providing a clear regulation for use of gravelless material and drip dispersal.

Department of Planning and Budget's Economic Impact Analysis:

Summary of the Proposed Amendments to Regulation.

Pursuant to Chapter 202 of the 2013 Acts of Assembly, the Board of Health (Board) proposes to incorporate requirements for the use of gravelless material¹ and drip dispersal² in onsite sewage systems in this regulation. The legislation specifies that the regulations shall include the following requirements:

- i) Specifications for the physical construction of chamber and bundled expanded polystyrene effluent distribution systems including minimum exterior width, height, effluent storage capacity, and structural capacity;
- ii) Requirements for a permeable interface between chamber and bundled expanded polystyrene effluent distribution systems and trench sidewall soil surfaces for the absorption of wastewater;
- iii) Criteria for the allowable slope, maximum length, minimum sidewall depth, and minimum lateral separation of chamber and bundled expanded polystyrene effluent distribution system absorption trenches;
- iv) Criteria for substituting chamber and bundled expanded polystyrene effluent distribution systems for gravity percolation trenches and gravel and crushed stone low pressure systems;
- v) Criteria for determining the minimum area requirements for chamber and bundled expanded polystyrene effluent distribution system absorption trenches; and
- vi) Such other requirements pertaining to the promulgation of chamber and bundled expanded polystyrene effluent distribution system regulations for onsite sewage systems as may be deemed necessary by the Board.

The Board's proposed regulatory amendments include these requirements and criteria.

Result of Analysis. The benefits likely exceed the costs for all proposed changes.

Estimated Economic Impact. Since 2002, the Virginia Department of Health (VDH) has approved through policies gravelless material as an acceptable means of dispersing effluent. VDH has also approved through policies drip dispersal as an acceptable means of transmitting effluent. The Board's proposed requirements, specifications, and criteria are similar to those set by VDH in practice; although there are some differences. Placing the requirements, specifications,

and criteria in regulation will be beneficial in that it will increase clarity for the public.

In practice VDH has required a \$100,000 letter of credit and a 5-year limited warranty from manufacturers for approval of use of their gravelless (i.e., plastic) systems. VDH believes that the 5-year limited warranty has not been a binding constraint. In other words, it is consistent with what the manufacturers offer anyway. In the 15 plus years that this program has existed, there have been no instances where there has been a need to access any of these letters of credit to pay for failed manufactured product.

Under the proposed regulations, neither the letter of credit nor the warranty will be required. There are currently five manufacturers who have approved gravelless systems, and consequently each hold a \$100,000 letter of credit. Manufacturers will save the cost of maintaining the letter of credit, approximately \$3,250 per year per firm, under the proposed regulations.

In practice VDH has allowed up to 50% reduction in drainage field while using gravelless system, but required an informed consent form signed by homeowner. Under the proposed regulation the drainage field can be reduced by at most 25%, but no signature from the homeowner is required.

Businesses and Entities Affected. The proposed amendments may affect applicants for onsite sewage system construction permits and businesses providing services related to onsite sewage systems; onsite soil evaluators, professional engineers, onsite sewage system installers, and product manufacturers. Applicants and service providers are only affected when gravelless material or drip dispersal components are selected.

In calendar year 2013, VDH processed approximately 13,000 applications. The agency estimates that there are approximately 400 licensed individuals providing site evaluation and design services for onsite sewage systems. Additionally, there are approximately 215 individuals licensed to install onsite sewage systems. The vast majority of these service providers are small businesses. There are also 5 potentially affected manufacturers.

Localities Particularly Affected. The proposed amendment does not disproportionately affect particular localities.

Projected Impact on Employment. The proposed amendments are unlikely to significantly affect employment.

Effects on the Use and Value of Private Property. The proposed elimination of the letter of credit requirement will save manufacturers approximately \$3,250 per year.

Small Businesses: Costs and Other Effects. The proposed elimination of the letter of credit requirement will reduce costs for small manufacturers of products used to disperse effluent within the absorption trench of an onsite sewage system without the use of gravel.

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Small Businesses: Alternative Method that Minimizes Adverse Impact. The proposed amendments will not adversely affect small businesses.

Real Estate Development Costs. The proposed amendments are unlikely to significantly affect real estate development costs.

Legal Mandate.

General: The Department of Planning and Budget (DPB) has analyzed the economic impact of this proposed regulation in accordance with § 2.2-4007.04 of the Code of Virginia and Executive Order Number 17 (2014). Section 2.2-4007.04 requires that such economic impact analyses determine the public benefits and costs of the proposed amendments. Further the report should include but not be limited to:

- the projected number of businesses or other entities to whom the proposed regulatory action would apply,
- the identity of any localities and types of businesses or other entities particularly affected,
- the projected number of persons and employment positions to be affected,
- the projected costs to affected businesses or entities to implement or comply with the regulation, and
- the impact on the use and value of private property.

Small Businesses: If the proposed regulatory action will have an adverse effect on small businesses, § 2.2-4007.04 requires that such economic impact analyses include:

- an identification and estimate of the number of small businesses subject to the proposed regulation,
- the projected reporting, recordkeeping, and other administrative costs required for small businesses to comply with the proposed regulation, including the type of professional skills necessary for preparing required reports and other documents,
- a statement of the probable effect of the proposed regulation on affected small businesses, and
- a description of any less intrusive or less costly alternative methods of achieving the purpose of the proposed regulation.

Additionally, pursuant to § 2.2-4007.1, if there is a finding that a proposed regulation may have an adverse impact on small business, the Joint Commission on Administrative Rules is notified at the time the proposed regulation is submitted to the Virginia Register of Regulations for publication. This analysis shall represent DPB's best estimate for the purposes of public review and comment on the proposed regulation.

¹Gravelless Material means a proprietary product specifically manufactured to disperse effluent within the absorption trench of an onsite sewage system without the use of gravel. Gravelless material may include chamber, bundled expanded polystyrene, and multi-pipe systems.

²Drip Dispersal means an onsite sewage system that applies wastewater in an even and controlled manner over an absorption area. Drip dispersal components may include treatment components, a flow equalization pump tank, a filtration system, a flow measurement method, supply and return piping, small diameter pipe with emitters, air/vacuum release valves, redistribution controls, and electromechanical components or controls.

Agency's Response to Economic Impact Analysis: The Virginia Department of Health concurs with the Department of Planning and Budget's economic impact analysis. The benefits of the regulations likely exceed the costs for all of the proposed changes.

Summary:

The amendments permanently incorporate the requirements for gravelless material and drip dispersal established by emergency regulation (30:11 VA.R. 1576 January 27, 2014) pursuant to Chapter 202 of the 2013 Acts of Assembly, which required the State Board of Health to promulgate regulations for chamber and bundled expanded polystyrene effluent systems. The board may promulgate regulations for other distribution technologies. The Sewage Handling and Disposal Regulations (12VAC5-610) contain construction, design, and installation requirements for gravel and pipe effluent absorption trench, low pressure distribution, elevated sand mound, and sand-on-sand systems. The amendments establish construction, design, and installation requirements for gravelless material and drip dispersal systems, as follows:

1. *Specifications for the physical construction of gravelless material including minimum exterior width, height, effluent storage capacity, and structural capacity;*
2. *Requirements for a permeable interface between gravelless material and trench sidewall soil surfaces for the absorption of wastewater;*
3. *Criteria for the allowable slope, maximum length, minimum sidewall depth, and minimum lateral separation of gravelless material absorption trenches;*
4. *Criteria for determining the minimum absorption area required when utilizing gravelless material;*
5. *Criteria for the substitution of gravelless material in place of gravel for gravity percolation lines and low pressure distribution systems;*
6. *Specifications for the physical construction of drip dispersal system components;*
7. *Minimum requirements for the design of drip dispersal systems; and*
8. *Minimum installation requirements for drip dispersal systems.*

Minor revisions for clarification, based on public comment, were made to the emergency regulation for the proposed amendments. In 12VAC5-610-955 B 6 a requirement that the system design protect from siphoning or backflow was added. In 12VAC5-610-995 C 3, general

parameters for loading rates for sloping absorption areas were made specific requirements.

12VAC5-610-30. Relationship to ~~Virginia Joint Sewerage Regulations~~ other regulations.

~~This chapter is supplemental to the current Virginia Sewerage Regulations, or their successor, which were adopted jointly by the State Board of Health and the Department of Environmental Quality pursuant to § 62.1-44.19 of the Code of Virginia. This chapter addresses the handling and disposal of sewage not regulated by a Virginia Pollutant Discharge Elimination System (VPDES) Permit.~~

A. This chapter addresses the handling and disposal of those portions of sewage flows not regulated by a Virginia Pollutant Discharge Elimination System (VPDES) Permit or a Virginia Pollutant Abatement (VPA) Permit issued in accordance with 9VAC25-31 or 9VAC25-32, respectively.

B. Reclamation and reuse of sewage may be subject to permitting by the Department of Environmental Quality under 9VAC25-740.

12VAC5-610-920. Distribution methods.

The term distribution methods refers to the piping, flow splitting devices, gravel, and other appurtenances beginning at the point of flow splitting and ending at the ~~soil-gravel or sand interface~~ application of effluent to the soil absorption area. Two basic methods are considered:

- A. Gravity; and
- B. Pressure.

12VAC5-610-930. Gravity distribution.

Gravity distribution is the conveyance of effluent from a distribution box through the percolation lines at less than full flow conditions. Flow to the initial distribution box may be initiated by pump, siphon or gravity.

A. Enhanced flow distribution. Enhanced flow distribution is the initiation of the effluent flow to the distribution box by pump or siphon for the purpose of assuring more uniform flow splitting to the percolation lines. Enhanced flow distribution shall be provided on systems where the flow is split more than 12 times or the system contains more than 1200 linear feet of percolation lines. For the purpose of this chapter, enhanced flow distribution is considered to produce unsaturated soil conditions.

B. System size. Distribution systems containing 1800 or more linear feet of percolation piping shall be split into multiple systems containing a maximum of 1200 linear feet of percolation piping per system.

C. Distribution boxes. The distribution box is a device for splitting flow equally by gravity to points in the system. Improperly installed distribution boxes are a cause for absorption field malfunction.

1. Materials. The preferred material for use in constructing distribution boxes is concrete (3000 psi). Other materials may be considered on a case-by-case basis. All materials

must be resistant to both chemical and electrolytic corrosion and must have sufficient structural strength to contain sewage and resist lateral compressive and bearing loads.

2. Design. Each distribution box shall be designed to split the influent flow equally among the multiple effluent ports. All effluent ports shall be at the same elevation and be of the same diameter. The elevation of the effluent ports shall be at a lower elevation than the influent port. The placement of the influent ports shall be such as to prevent short circuiting unless baffling is provided to prevent short circuiting. The minimum inside width of a gravity flow distribution box shall be equal to or greater than 12 inches. The inside bottom shall be at least four inches below the invert of the effluent ports and at least five inches below the invert of the influent port. A minimum of eight inches freeboard above the invert of the effluent piping shall be provided. The distribution box shall be fitted with a watertight, removable lid for access.

3. Installation. The hole for placement of the distribution box shall be excavated to undisturbed soil. The distribution box shall be placed in the excavation and stabilized. The preferred method of stabilizing the distribution box is to bond the distribution box to a four inch poured in place Portland cement concrete pad with dimensions six inches greater than the length and width dimensions of the distribution box. The box shall be permanently leveled and checked by water testing. Conduits passing through the walls of a distribution box shall be provided with a water stop.

D. Lead or header lines. Header or lead lines are watertight, semirigid or rigid lines that convey effluent from a distribution box to another box or to the percolation piping.

1. Size. The lead or header lines shall have an internal diameter of four inches.
2. Slope. Minimum slope shall be two inches per 100 feet.
3. Materials. The lead or header lines shall have a minimum crush strength of 1500 pounds per foot and may be constructed of cast iron, plastic, vitrified clay or other material resistant to the corrosive action of sewage.
4. Appurtenances.

- a. Joints. Lead or header lines shall have joints of the compressions type with the exception of plastic lead or header lines which may be welded sleeve, chemically fused or clamped (noncorrosive) flexible sleeve.

- b. Adapters. Joining of lead or header lines of different size and/or material shall be accomplished by use of a manufactured adapter specifically designed for the purpose.

- c. Valves. Valves shall be constructed of materials resistant to the corrosive action of sewage. Valves placed below ground level shall be provided with a valve box

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and a suitable valve stem so that it may be operated from the ground surface.

5. Construction.

a. Bedding. All lead or header lines shall be bedded to supply uniform support and maintain grade and alignment along the length of the lead or header lines. Special care shall be taken when using semirigid pipe.

b. Backfilling and tamping. Lead and header lines shall be backfilled and tamped as soon as possible after the installation of the lead or header lines has been approved. Material for backfilling shall be free of large stones and debris.

6. Termination. Header or lead lines shall extend for a minimum distance of two feet into the absorption trenches.

E. Gravity percolation lines. Gravity percolation lines are perforated or open joint pipes that are utilized to distribute the effluent along the length of the absorption trenches.

1. Size. All gravity percolation lines shall have an internal diameter of four inches.

2. Slope. The slope of the lines shall be uniform and shall not be less than two inches or more than four inches per 100 feet.

3. Design. Effluent shall be split by the distribution system so that all gravity percolation lines installed shall receive an equal volume of the total design effluent load per square foot of trench, i.e., the fraction of the flow received by each percolation line divided by the length of the gravity percolation lines shall be equal for all gravity percolation lines in a system.

4. Length. No individual gravity percolation line shall exceed 100 feet in length.

5. Materials.

a. Clay. Clay tile shall be extra-strength and meet current ASTM standards for clay tile.

b. Perforated plastic drainage tubing. Perforated plastic drainage tubing shall meet ASTM standards. At not greater than 10 feet intervals the pipe shall be plainly marked, embossed or engraved thereby showing the manufacturer's name or hallmark and showing that the product meets a bearing load of 1,000 lb. per foot. In addition, a painted or other clearly marked line or spot shall be marked at not greater than 10 feet intervals to denote the top of the pipe.

The tubing shall have three holes, 1/2 to 3/4 inch in diameter evenly spaced and placed within an arc of 130 degrees, the center hole being directly opposite the top marking.

Spacing of each set of three holes shall be at four inch intervals along the tube. If there is any break in the continuity of the tubing, an appropriate connection shall be used to join the tubing.

6. Installation

a. Crushed stone or gravel. Clean gravel or crushed stone having a size range from 1/2 inch to 1-1/2 inches shall be utilized to bed the gravity percolation lines.

Minimum depth of gravel or crushed stone beneath the percolation lines shall be six inches. Clean course silica sand (does not effervesce in presence of dilute hydrochloric acid) may be substituted for the first two inches (soil interface) of the ~~require~~ required six inches of gravel beneath the percolation lines. The absorption trench shall be backfilled to a depth of two inches over the gravity percolation lines with the same gravel or crushed stone. Clean sand, gravel or crushed stone shall be free of fines, clay and organic materials.

b. Grade boards and/or stakes. Grade boards and/or stakes placed in the bottom or sidewalls of the absorption trench shall be utilized to maintain the grade on the gravel for placement of the gravity percolation lines. Grade stakes shall not be placed on centers greater than 10 feet.

c. Placement and alignment. Perforated gravity percolation piping shall be placed so that the center hole is in the horizontal plane and interfaces with the minimum six inches of graded gravel. When open joint piping is utilized the upper half of the top of the 1/4-inch open space shall be covered with tar paper or building paper to block the entrance of fines into the pipe during the backfilling operation. All gravity percolating piping shall be placed in the horizontal center of the absorption trench and shall maintain a straight alignment and uniform grade.

d. Backfilling. After the placement of the gravity percolation piping the absorption trench shall be backfilled evenly with crushed stone or gravel to a depth of two inches over the piping. Untreated building paper, or other suitable material shall be placed at the interface of the gravel and soil to prevent migration of fines to the trench bottom. The remainder of the trench shall be backfilled with soil to the ground surface.

F. Gravelless material is a proprietary product specifically manufactured to disperse effluent within the absorption trench of an onsite sewage system without the use of gravel. Gravelless material may include chamber, bundled expanded polystyrene, and multi-pipe systems. The division shall maintain a list of all generally approved gravelless material. Gravelless material on the generally approved list may be used in accordance with Table 5.4 of 12VAC5-610-950.

1. Gravelless material that received general approval as of December 12, 2013, shall retain such status when used in accordance with the requirements of this chapter. After December 12, 2013, the division shall review and evaluate new applications for general approval pursuant to the requirements of this chapter.

a. Any manufacturer of gravelless material may submit an application for general approval to the division using a

form provided by the division. A complete application shall include the manufacturer's contact information, product specifications, product approvals in other states or territories, installation manual, and other information deemed necessary by the division to determine compliance with this chapter.

b. The manufacturer of gravelless material shall identify in the application for general approval any recommendation that deviates from the requirements of this chapter. If the recommendation is approved by the division, then the manufacturer shall include the deviation in the gravelless material's installation manual.

2. Gravelless material shall have the following minimum characteristics for general approval:

a. The minimum exterior width shall be at least 90% of the total width of the absorption trench. The exterior width of a chamber system shall be measured at the edge or outer limit of the product's contact with the trench bottom unless the division determines a different measurement is required based on the gravelless material's design. The exterior width of bundled expanded polystyrene and multi-pipe systems shall be measured using the outside diameter of the bundled gravelless material unless the division determines a different measurement is required based on the gravelless material's design. The division shall establish the exterior width of any gravelless material that is not considered a chamber, bundled expanded polystyrene, or multi-pipe system.

b. Gravelless material shall have a minimum height of eight inches to provide a continuous exchange of air through a permeable interface.

c. Gravelless material shall have a permeable interface that shall be located along the trench bottom and trench sidewalls within the absorption trench.

d. Gravelless material shall provide a minimum storage capacity of 1.3 gallons per square foot of trench bottom area.

e. Gravelless material shall pose no greater risk to surface water and groundwater quality than gravel in absorption trenches. Gravelless material shall be constructed to maintain structural integrity such that it does not decay or corrode when exposed to effluent.

f. Gravelless material shall have a minimum load rating of H-10 or H-20 from the American Association of State Highway and Transportation Officials or equivalent when installed in accordance with the manufacturer's specifications and minimum specified depth of cover in non-traffic or traffic areas, respectively.

3. For designs using gravelless material, the absorption trenches shall receive an equal volume of effluent per square foot of trench. Trench bottom area shall be equal to or greater than the minimum area requirements contained

in Table 5.4 of 12VAC5-610-950. Trench sidewall shall not be included when determining minimum area requirements. When open-bottom gravelless material is utilized, it shall provide a splash plate at the inlet of the trench or other suitable method approved by the manufacturer to reduce effluent velocity.

4. Installation of gravelless material shall comply with this chapter unless the department grants a deviation pursuant to 12VAC5-610-660 or the division has granted a deviation identified in the installation manual.

5. Gravelless material shall contain a pressure percolation line along the entire length of the trench when low pressure distribution is utilized pursuant to 12VAC5-610-940 D.

6. When pumping effluent to overcome gravity, any open-bottom gravelless material shall provide a high-flow splash plate at the inlet of the trench or other suitable method approved by the manufacturer to reduce effluent velocity.

7. When enhanced flow distribution is used, open-bottom gravelless material shall contain a percolation pipe that extends a minimum of 10 feet from the trench's intersection with the header line. The percolation pipe shall be installed in accordance with the manufacturer's approved installation manual. The dosing volume shall be a minimum 39 gallons per 100 linear feet of absorption trench.

8. Gravelless material may be substituted for gravel in accordance with this chapter, provided that the certifying licensed professional engineer or onsite soil evaluator approves the substitution. The certifying licensed professional engineer or onsite soil evaluator shall identify the substitution on the inspection report submitted in accordance with 12VAC5-610-330. A new construction permit pursuant to 12VAC5-610-310 is not required for the substitution.

12VAC5-610-940. Low pressure distribution.

Low pressure distribution is the conveyance of effluent through the pressure percolation lines at full flow conditions into the absorption area with the prime motive force being a pump or siphon. Low pressure systems are limited to a working pressure of from one to four feet of head at the distal end of the pressure percolation lines. For the purpose of this chapter low pressure distribution is considered to provide unsaturated soil conditions.

A. Dosing cycle. Systems shall be designed so that the effluent volume applied to the absorption area per dosing cycle is from seven to 10 times the volume of the distribution piping, however, the volume per dosing cycle should not result in a liquid depth in the absorption trench greater than two inches.

B. Manifold lines. Manifold lines are watertight lines that convey effluent from the initial point of flow splitting to the pressure percolation lines.

Regulations

1. Size. The manifold line shall be sized to provide a minimum velocity of two feet per second and a maximum velocity of eight feet per second.
2. Materials. All pipe used for manifolds shall be of the pressure type with pressure type joints.
3. Bedding. All manifolds shall be bedded to supply uniform support along its length.
4. Backfilling and tamping. Manifold trenches shall be backfilled and tamped as soon as possible after the installation of the manifold has been approved. Material for backfilling shall be free of large stones and debris.
5. Valves. Valves for throttling and check valves to prevent backflow are required wherever necessary. Each valve shall be supplied with a valve box terminating at the surface.

C. Pressure percolation lines. Pressure percolation lines are perforated pipes utilized to distribute the flow evenly along the length of the absorption trench.

1. Size. Pressure percolation lines should normally have a 1-1/4 inch inside diameter.
2. Hole size. Normal hole size shall be 3/16 inch to 1/4 inch.
3. Hole placement. Center to center hole separation shall be between three and five feet.
4. Line length. Maximum line length from manifold should not exceed 50 feet.
5. Percent flow variation. Actual line size, hole size and hole separation shall be determined on a case-by-case basis based on a maximum flow variation of 10% along the length of the pressure percolation lines.
6. Materials and construction. The preferred material is plastic, either PVC or ABS, designed for pressure service. The lines shall have burr free and counter sunk holes (where possible) placed in a straight line along the longitudinal axis of the pipe. Joining of pipes shall be accomplished with manufactured pressure type joints.
7. Installation.

a. Crushed stone or gravel. Clean gravel or crushed stone having a size range from 1/2 inch to 3/4 inch shall be utilized to bed the pressure percolation lines. Minimum depth of gravel or crushed stone beneath the percolation lines shall be 8-1/2 inches. Clean course silica sand (does not effervesce in the presence of dilute hydrochloric acid) may be substituted for the first two inches (soil interface) of the required 8-1/2 inches of gravel beneath the pressure percolation lines. The absorption trench shall be backfilled to a depth of two inches over the pressure percolation lines with the same gravel or crushed stone. Clean sand, gravel or crushed stone shall be free of fines, clay and organic materials.

b. Grade boards and/or stakes. Grade boards and/or stakes placed in the bottom or sidewalls of the absorption

trench shall be utilized to maintain the gravel level for placement of the pressure percolation lines. Grade stakes shall not be placed on centers greater than 10 feet.

c. Placement and alignment. Pressure percolation lines shall be placed so that the holes face vertically downward. All pressure percolation piping shall be placed at the same elevation, unless throttling valves are utilized, and shall be level. The piping shall be placed in the horizontal center of the trench and shall maintain a straight alignment. Normally the invert of the pressure percolation lines shall be placed 8-1/2 inches above the trench bottom. However, under no circumstance shall the invert of the pressure percolation lines be placed closer than 16-1/2 inches to the seasonal water table as defined in ~~12VAC5-610-950 A-3~~ 12VAC5-610-470 D. When the invert of the pressure percolation lines must be placed at an elevation greater than 8-1/2 inches above the trench bottom, landscaping over the absorption area may be required to provide the two inches of gravel and six inches of fill over the pressure percolation lines required in subdivision 7 a of this subsection.

d. Backfilling. After the placement of the pressure percolation piping the absorption trench shall be backfilled evenly with crushed stone or gravel to a depth of two inches over the opening. Untreated building paper or other suitable material shall be placed at the interface of the gravel and soil to prevent migration of fines to the trench bottom. The remainder of the trench shall be backfilled with soil to the ground surface.

8. Appurtenances. The distal (terminal) end of each pressure percolation lines shall be fitted with a vertical riser and threaded cap extending to the ground surface. Systems requiring throttling valves will be supplied with couplings and threaded riser extensions at least four feet long so that the flow may be adjusted in each line.

D. Gravelless material with general approval may be used for low pressure distribution in accordance with the manufacturer's approved installation manual, Table 5.4 of 12VAC5-610-950, and the applicable requirements of this chapter.

12VAC5-610-950. Absorption area design.

A. The absorption area is the undisturbed soil medium ~~beginning at the soil-gravel or sand interface which is~~ utilized for absorption of the effluent. The absorption area includes the infiltrative surface in the absorption trench and the soil between and around the trenches when trenches are used.

B. Suitability of soil horizon. The absorption trench bottom shall be placed in the soil horizon or horizons with an average estimated or measured percolation rate less than 120 minutes per inch. Soil horizons are to be identified in accordance with 12VAC5-610-480. The soil horizon must meet the following minimum conditions:

1. It shall have an estimated or measured percolation rate equal to or less than 120 minutes per inch.
2. The soil horizon or horizons shall be of sufficient thickness so that at least 12 inches of absorption trench sidewall is exposed to act as an infiltrative surface; and
3. If no single horizon meets the conditions in subdivision 2 of this subsection, a combination of adjacent horizons may be utilized to provide the required 12-inch sidewall infiltrative surface. However, no horizon utilized shall have an estimated or measured percolation rate greater than 120 minutes/inch.

C. Placement of absorption trenches below soil restrictions. Placement of the soil absorption trench bottom below soil restrictions as defined in 12VAC5-610-490 D, whether or not there is evidence of a perched water table as indicated by free standing water or gray mottlings or coloration, requires a special design based on the following criteria:

1. The soil horizon into which the absorption trench bottom is placed shall be a Texture Group I, II or III soil or have an estimated or measured percolation rate of less than 91 minutes per inch.
2. The soil horizon shall be a minimum of three feet thick and shall exhibit no characteristics that indicate wetness or restriction of water movement. The absorption trench bottom shall be placed so that at least two feet of the soil horizon separates the trench bottom from the water table and/or rock. At least one foot of the absorption trench side wall shall penetrate the soil horizon.
3. A lateral ground water movement interceptor (LGMI) shall be placed upslope of the absorption area. The LGMI shall be placed perpendicular to the general slope of the land. The invert of the LGMI shall extend into, but not through, the restriction and shall extend for a distance of 10 feet on either side of the absorption area (See 12VAC5-610-700 D 3).
4. Pits shall be constructed to facilitate soil evaluations as necessary.

D. Sizing of absorption trench area.

1. Required area. The total absorption trench bottom area required shall be based on the average estimated or measured percolation rate for the soil horizon or horizons into which the absorption trench is to be placed. If more than one soil horizon is utilized to meet the sidewall infiltrative surface required in subsection B of this section, the absorption trench bottom area shall be based on the average estimated or measured percolation rate of the "slowest" horizon. The trench bottom area required in square feet per 100 gallons (Ft²/100 Gals) of sewage applied for various soil percolation rates is tabulated in Table 5.4. The area requirements are based on the equation:

$$\log y = 2.00 + 0.008 (x)$$

where y = Ft²/100 Gals

x = Percolation rate in minutes/inch

Notwithstanding the above, the minimum absorption area for single family residential dwellings shall be 400 square feet.

2. Area reduction. See Table 5.4 for ~~percent~~ area reduction when gravelless material or low pressure distribution is utilized. A reduction in area shall not be permitted when flow diversion is utilized with low pressure distribution. When gravelless material is utilized, the design width of the trench shall be used to calculate minimum area requirements for absorption trenches.

E. Minimum cross section dimensions for absorption trenches.

1. Depth. The minimum trench sidewall depth as measured from the surface of the mineral soil shall be 12 inches when placed in a landscape with a slope less than 10%. The installation depth shall be measured on the downhill side of the absorption trench. When the installation depth is less than 18 inches, the depth shall be measured from the lowest elevation in the microtopography. All systems shall be provided with at least 12 inches of cover to prevent frost penetration and provide physical protection to the absorption trench; however, this requirement for additional cover shall not apply to systems installed on slopes of 30% or greater. Where additional soil cover must be provided to meet this minimum, it must be added prior to construction of the absorption field, and it must be crowned to provide positive drainage away from the absorption field. The minimum trench depth shall be increased by at least five inches for every 10% increase in slope. Sidewall depth is measured from the ground surface on the downhill side of the trench.

2. Width. All absorption trenches utilized with gravity distribution shall have a width of from 18 inches to 36 inches. All absorption trenches utilized with low pressure distribution shall have a width of eight inches to 24 inches.

F. Lateral separation of absorption trenches. The absorption trenches shall be separated by a center to center distance no less than three times the width of the trench for slopes up to 10%. However, where trench bottoms are two feet or more above rock, pans and impervious strata, the absorption trenches shall be separated by a center to center distance no less than three times the width of the trench for slopes up to 20%. The minimum horizontal separation distance shall be increased by one foot for every 10% increase in slope. In no case shall the center to center distance be less than 30 inches.

G. Slope of absorption trench bottoms.

1. Gravity distribution. The bottom of each absorption trench shall have a uniform slope not less than two inches or more than four inches per 100 feet.
2. Low pressure distribution. The bottom of each absorption trench shall be uniformly level to prevent ponding of effluent.

Regulations

H. Placement of absorption trenches in the landscape.

1. The absorption trenches shall be placed on contour.
2. When the ground surface in the area over the absorption trenches is at a higher elevation than any plumbing fixture or fixtures, sewage from the plumbing fixture or fixtures shall be pumped.

I. Lateral ground water movement interceptors. Where subsurface, laterally moving water is expected to adversely

affect an absorption system, a lateral ground water movement interceptor (LGMI) shall be placed upslope of the absorption area. The LGMI shall be placed perpendicular to the general slope of the land. The invert of the LGMI shall extend into, but not through, the restriction and shall extend for a distance of 10 feet on either side of the absorption area.

Table 5.4.
Area Requirements for Absorption Trenches.

| Percolation Rate (Minutes/Inch) | Area Required (Ft ² /100 Gals) | | | Area Required (Ft ² /Bedroom) | | |
|------------------------------------|--|-------------------------------|------------------------------|---|-------------------------------|------------------------------|
| | Gravity | <u>Gravity Gravelless</u> | Low Pressure Distribution | Gravity | <u>Gravity Gravelless</u> | Low Pressure Distribution |
| 5 | 110 | <u>83</u> | 110 | 165 | <u>124</u> | 165 |
| 10 | 120 | <u>90</u> | 120 | 180 | <u>135</u> | 180 |
| 15 | 132 | <u>99</u> | 132 | 198 | <u>149</u> | 198 |
| 20 | 146 | <u>110</u> | 146 | 218 | <u>164</u> | 218 |
| 25 | 158 | <u>119</u> | 158 | 237 | <u>178</u> | 237 |
| 30 | 174 | <u>131</u> | 164 | 260 | <u>195</u> | 255 |
| 35 | 191 | <u>143</u> | 170 | 286 | <u>215</u> | 260 |
| 40 | 209 | <u>157</u> | 176 | 314 | <u>236</u> | 264 |
| 45 | 229 | <u>172</u> | 185 | 344 | <u>258</u> | 279 |
| 50 | 251 | <u>188</u> | 193 | 376 | <u>282</u> | 293 |
| 55 | 275 | <u>206</u> | 206 | 412 | <u>309</u> | 309 |
| 60 | 302 | <u>227</u> | 217 | 452 | <u>339</u> | 325 |
| 65 | 331 | <u>248</u> | 228 | 496 | <u>372</u> | 342 |
| 70 | 363 | <u>272</u> | 240 | 544 | <u>408</u> | 359 |
| 75 | 398 | <u>299</u> | 251 | 596 | <u>447</u> | 375 |
| 80 | 437 | <u>328</u> | 262 | 656 | <u>492</u> | 394 |
| 85 | 479 | <u>359</u> | 273 | 718 | <u>539</u> | 409 |
| 90 | 525 | <u>394</u> | 284 | 786 | <u>590</u> | 424 |
| 95 | 575 | <u>489</u> | 288 | 862 | <u>733</u> | 431 |
| 100 | 631 | <u>536</u> | 316 | 946 | <u>804</u> | 473 |
| 105 | 692 | <u>588</u> | 346 | 1038 | <u>882</u> | 519 |
| 110 | 759 | <u>645</u> | 379 | 1138 | <u>967</u> | 569 |
| 115 | 832 | <u>707</u> | 416 | 1248 | <u>1061</u> | 624 |
| 120 | 912 | <u>775</u> | 456 | 1368 | <u>1163</u> | 684 |

J. Controlled blasting. When rock or rock outcroppings are encountered during construction of absorption trenches the rock may be removed by blasting in a sequential manner from the top to remove the rock. Percolation piping and sewer lines shall be placed so that at least one foot of compacted clay soil lies beneath and on each side of the pipe where the pipe passes through the area blasted. The area blasted shall not be considered as part of the required absorption area.

12VAC5-610-955. Drip dispersal.

A. Drip dispersal applies wastewater in an even and controlled manner over an absorption area. Drip dispersal system components may include treatment components, a flow equalization pump tank, a filtration system, a flow measurement method, supply and return piping, small diameter pipe with emitters, air/vacuum release valves, redistribution control, and electromechanical components or controls.

B. Drip dispersal system tubing shall be color coded and certified by the manufacturer as designed and manufactured for the dispersal of wastewater. All drip dispersal system tubing shall be equipped with emitters approved for use with wastewater. For the application of septic tank effluent, the tubing must have self-cleaning emitters.

1. The minimum linear feet of tubing in the system shall be one-half of the minimum soil absorption area in square feet.
2. All tubing shall be placed on contour.
3. Except as provided by 12VAC5-613, drip systems dispersing septic tank effluent shall comply with the requirements of 12VAC5-610-594. Drip systems dispersing secondary effluent or better require a minimum of six inches of cover over the tubing. Cover may be achieved by a combination of installation depth and Group II or Group III soil cover or other approved material over the drip field.
4. The discharge rate of any two emitters shall not vary by more than 10% in order to ensure that the effluent is uniformly distributed over the entire drip field or zone.
5. The emitters shall be evenly spaced along the length of the drip tubing at not less than six inches or more than 24 inches apart.
6. The system design shall protect the drip emitters and system from the effects of siphoning or backflow through the emitters.

C. Drip dispersal systems shall comply with the following minimum soil absorption area requirements:

1. For the dispersal of septic tank effluent, the minimum soil absorption area for a drip system shall be calculated by multiplying the trench bottom area required for a low pressure distribution system in Table 5.4 of 12VAC5-610-950 by three.

2. For the dispersal of secondary or better effluent, the minimum soil absorption area shall be calculated by multiplying the trench bottom area for pressure distribution systems in accordance with subdivision 10 of 12VAC5-613-80 by three.

3. Landscape linear loading rates shall be considered for sloping absorption areas. For sites where effluent flow is primarily horizontal, linear loading rates shall be less than four gallons per day per linear foot. For sites where the flow is primarily vertical, the linear loading rates shall be less than 10 gallons per day per linear foot.

4. Air/vacuum release valves shall be located at the high points of the supply and return manifolds to each zone.

D. All drip dispersal systems shall be equipped with devices or methods to restrict effluent from draining by gravity to portions of a zone or laterals lower in elevation. Variable distribution due to gravity drainage shall be 10% or less within a zone.

E. A minimum of six hours of emergency storage above the high water alarm in the pump chamber shall be provided. The equalization volume shall be equal to 18 hours of storage. The equalization volume shall be measured from the pump off level to the high water alarm level. An audio/visual alarm meeting the requirements of 12VAC5-610-880 B 8 shall be provided for the pump chamber.

F. Each drip dispersal zone shall be time-dosed over a 24-hour period. The dose volume and interval shall be set to provide unsaturated flow conditions. Demand dosing is prohibited. Minimum dose volume per zone shall be 3.5 times the liquid capacity of the drip laterals in the zone plus the liquid capacity of the supply and return manifold lines (which drain between doses) accounting for instantaneous loading and drain back.

1. At each dosing cycle, the system design shall only allow a full dose volume to be delivered.
2. For design flows greater than 1,000 gallons per day, a means to take each zone off line separately shall be provided. The system shall have the capability to bypass each zone that is taken out of service such that each subsequent dose is dispersed to the next available zone in sequence.

G. Filtration shall be provided to remove suspended solids and prevent clogging of emitters. The filtration design shall meet the drip tubing manufacturer's particle size requirements for protection of the emitters at a flow rate equal to or greater than the rate of forward flushing. Filter flush water shall be returned to the treatment system at a point where the residuals and volume of the flush water do not negatively impact the effluent quality or exceed the hydraulic design capacity of the treatment system.

H. A means for measuring or estimating total flow dispersed to the soil absorption area and to verify field dosing and field flushing rates shall be provided.

Regulations

I. The system shall provide forward field flushing to achieve scouring velocity as specified by the drip tubing manufacturer. Field flushing shall occur on a routine schedule to prevent excessive solids accumulation and clogging. Flush water shall be returned to the treatment system at a point where the residuals and volume of the flush water do not negatively impact the effluent quality or exceed the hydraulic design capacity of the treatment system.

J. Electrical components shall be Underwriters Laboratory (UL) listed for the intended purpose. The designer shall provide a description with a schematic diagram of the electrical and control functions in the operation and maintenance manual. The electrical control equipment shall be mounted within a National Electrical Manufacturers Association (NEMA) 4X rated enclosure with a rigid latching door. All switches shall be clearly identified, and all internal wiring shall be factory installed. All wiring shall be installed according to applicable electrical safety codes and the manufacturer's installation schematic.

K. All components in a drip dispersal system shall be rated to withstand contact with wastewater and recommended for this application by the manufacturer. All components shall be protected from freezing.

L. The designer of the drip dispersal system shall verify the dosing rates, the flushing rates, and other parameters critical to the proper operation of the system at the startup inspection. A summary of the startup inspection shall be included in the operation and maintenance manual and shall include, at a minimum, the dosing volume, the forward flow flushing rate, the pressure head of the system, and verification of proper cycling between zones.

NOTICE: The following form used in administering the regulation was filed by the agency. The form is not being published; however, online users of this issue of the Virginia Register of Regulations may click on the name of a form with a hyperlink to access it. The form is 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 (12VAC5-610)

Application for a Sewage Disposal System Construction Permit, C.H.S. 200 (rev. 4/83)

Sewage Disposal System Construction Permit, C.H.S. 202A (rev. 6/84)

Schematic Drawing of Sewage Disposal System and Topographic, C.H.S. 202B (rev. 6/84)

Application for Sewage Handling Permit, B.W.E. 23-1

Application for Pump and Haul, B.W.E. 25-1

Pump and Haul Storage Facility Construction Permit, B.W.E. 26-1

Soil Evaluation Form, C.H.S. 201 (rev. 4/83)

Soils Evaluation Percolation Test Data

Record of Inspection - Non-Public Drinking Water Supply System

Completion Statement, C.H.S. 204 (rev. 4/83)

[Gravelless Material: Application for General Approval \(undated\)](#)

V.A.R. Doc. No. R14-3665; Filed August 3, 2015, 1:47 p.m.

DEPARTMENT OF MEDICAL ASSISTANCE SERVICES

Proposed Regulation

Titles of Regulations: 12VAC30-50. Amount, Duration, and Scope of Medical and Remedial Care Services (amending 12VAC30-50-226).

12VAC30-60. Standards Established and Methods Used to Assure High Quality Care (amending 12VAC30-60-143).

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

Public Hearing Information: No public hearings are scheduled.

Public Comment Deadline: October 23, 2015.

Agency Contact: Emily McClellan, Regulatory Supervisor, Department of Medical Assistance Services, 600 East Broad Street, Richmond, VA 23219, telephone (803) 371-4300, or email emily.mcclellan@dmas.virginia.gov.

Basis: Section 32.1-325 of the Code of Virginia grants to the Board of Medical Assistance Services the authority to administer and amend the Plan for Medical Assistance. Sections 32.1-324 and 32.1-325 of the Code of Virginia authorize the Director of the Department of Medical Assistance Services (DMAS) to administer and amend the Plan for Medical Assistance according to the board's requirements. The Medicaid authority as established by § 1902 (a) of the Social Security Act (42 USC § 1396a) provides governing authority for payments for services.

Item 307 LL of Chapter 3 of the 2012 Special Session I Acts of the Assembly directed DMAS to make programmatic changes in community mental health rehabilitative services and to consider all available options including, but not limited to, prior authorization, utilization review, and provider qualifications. DMAS was directed to promulgate regulations to implement these changes. In response, DMAS promulgated emergency regulations for this issue.

Item 307 RR (f) of Chapter 3 of the 2012 Special Session I Acts of Assembly directed DMAS to implement a mandatory care coordination model for behavioral health services. The goals of Item 307 RR (e) include the achievement of cost savings and simplification of the administration of community mental health rehabilitative services through the use of the behavioral health services administrator.

Item 307 DD of Chapter 806 of the 2013 Acts of Assembly directed DMAS to implement service authorization and utilization review for community-based mental health

rehabilitative services for children and adults. Mental health skill-building services are one of the included services.

Purpose: The Medicaid covered service that is affected by this action is Mental Health Support Services (MHSS), renamed Mental Health Skill-Building Services to better reflect the intent of the service. DMAS always intended this service to have a rehabilitative focus and defined it as training and support to enable individuals to achieve and maintain stability and independence in their communities. The application of imprecise eligibility criteria and service definitions has resulted in providers misunderstanding of DMAS' intent and of the slow evolution of MHSS into services other than rehabilitation, which has contributed to the \$138 million increase in expenditures for this service. Most of this expenditure increase has been attributed to adult Medicaid individuals. Although this service was not intended to be a standalone service, but rather to be coupled with other services that the target population would most likely benefit from, it has been used to provide a wide variety of interventions. Stakeholders note that this service has been used to provide crisis intervention; counseling/therapy; transportation; recreation; companion-like services, which is of significant concern; and general supervision.

DMAS' goal is that individuals receive the correct level of service at the correct time for the treatment (service) needs related to the individual's medical/psychiatric condition. Community mental health rehabilitative services are behavioral health interventions in nature and are intended to provide clinical treatment to those individuals with significant mental illness or children with, or at risk of developing, serious emotional disturbances. Clinical treatment differs from community social assistance and child welfare programs in that behavioral health services are designed to provide treatment to a mental illness rather than offer assistance for hardship due to socio-economic conditions, age, or physical disability. Stakeholders' feedback supported and DMAS' observations concluded, without clarifying the service definition and eligibility requirements, that MHSS would continue its evolution into a social service level of support rather than remain a psychiatric treatment modality.

DMAS intends, in this action, to more accurately discuss the agency's intentions for this service by clarifying the Medicaid individuals' eligibility criteria, service definitions, and reimbursement requirements.

Substance: Currently, 12VAC30-50-226 sets out the coverage limits for community mental health rehabilitative services, which includes therapeutic day treatment/partial hospitalization, psychosocial rehabilitation, crisis services, intensive community treatment, and mental health support services.

At the present time, MHSS is a Medicaid community mental health treatment service with a rehabilitative focus and is defined as goal-directed training to enable individuals to achieve and maintain stability and independence in their

communities in the most appropriate, least restrictive environments. Currently, MHSS includes the following components:

- Training in or reinforcement of functional skills and appropriate behavior related to the individuals' health and safety, training in the performance of activities of daily living, and use of community resources;
- Training about medication management; and
- Self-monitoring of health, nutrition, and physical conditions.

Imprecise Medicaid eligibility criteria and service definitions have allowed individuals who have not been diagnosed with either a serious mental illness or serious emotional disturbance to access Medicaid's MHSS. DBHDS licensing specialists and DMAS auditors report that MHSS services have become more like companion care and less like mental health skills training with a rehabilitative and maintenance focus.

Community mental health rehabilitative services are behavioral health interventions. They are intended to provide clinical treatment to those individuals with significant mental illness or children either with, or at risk of developing, serious emotional disturbances. Clinical treatment differs from community social assistance and child welfare programs in that behavioral health services are designed to provide treatment of a mental illness rather than assisting with hardships due to socio-economic conditions, age, or physical disabilities. Stakeholders feedback and DMAS observations concluded that without clarifying the service definition and eligibility requirements, MHSS would continue to evolve into a social service level of support rather than a psychiatric treatment service.

Based on public comments received during the Notice of Intended Regulatory Action comment period, DMAS believes that some providers have billed this service for reimbursement when the service actually rendered involved driving the Medicaid individual to medical appointments (sometimes over long distances) and remaining with the individual to later return him home. Neither transportation nor companion services were ever intended to be covered as part of MHSS. If a MHSS provider is transporting an individual, the provider may only bill for MHSS if skill-building training takes place for the entire time. Direct time spent with the individual is billable to DMAS as long as training in skills related to resolving functional limitations deriving directly from mental illness occurs during the entire time that is billed. Medicaid already provides transportation to medical appointments via its Logisticare contract.

DMAS believes that the use of the term "and supports" in this original service definition has contributed to providers misunderstanding this service, which has contributed to the increase in expenditures. Most of this increase has been attributable to adult Medicaid individuals.

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The intent of this service has always been to provide training to individuals who have severe, chronic mental illness or emotional disturbances so that they can successfully and independently live in their communities in the least restrictive environments possible. To help resolve the discrepancy between the intent of the service and the way in which it is currently being provided, DMAS is changing the service's name to Mental Health Skill-Building Service to emphasize the rehabilitative nature of the service.

The proposed changes also seek to significantly strengthen the service eligibility criteria for MHSS. By clarifying the service definition, DMAS anticipates that individuals who previously received nonskill-building interventions via this service will now more appropriately be directed to resources that can meet those nonskill-building needs (i.e., social services, crisis intervention, case management, etc.).

Because this service may be provided by qualified mental health paraprofessionals and is training focused, DMAS has adjusted the rate structure. The regulations also change the rate structure to a 15-minute billing unit and decrease the number of units per day that an individual may receive the service (decreasing from seven hours to up to five hours allowable at a maximum of 20 15-minute billing units per day) to ensure that the service is not overutilized. This change was implemented July 1, 2014, due to the logistics of putting in place the new billing unit and service limitation systems.

In the past, providers were permitted to bill seven or more hours of service per day but the annual limit of 372 units per year was quite low. This created an imbalance, such that if an individual continued to need this service over the course of a year, he would reach his annual limit well before the end of the year. The current annual limit of 372 units yields approximately one unit per day. However, the daily billing allowance is up to four billing units per day with varying time values per unit billed. The current unit value is able to allow services in hourly ranges such as 1-2.99 hours and 3-4.99, 5-6.99 and 7+ hours per unit, which creates an incentive to bill for more time than provided because of the imprecise unit value. The new unit value and new unit allowance would yield a maximum of five hours per day, five days per week for a total of 5,200 15-minute units per year. The changes in the daily, weekly, and annual limits align services so that they may be provided consistently over the course of a year. This change was also implemented July 1, 2014.

The regulations also prohibit overlaps of MHSS with other similar services that would be duplicative and not therapeutically beneficial. For example, MHSS will no longer be available to individuals who are also receiving in-home residential services or congregate residential services provided through the intellectual disability or individual and family developmental disability support home-based and community based waivers.

Similarly, MHSS will no longer be available to individuals who are receiving treatment foster care or independent living

services through programs offered by the Department of Social Services or the Office of Comprehensive Services. Any overlap in these services with MHSS is considered duplicative and clinically ineffective.

The regulations also reduce the number of hours of MHSS that may be provided in an assisted living facility (AFL) and Level A or Level B group homes. This change is recommended to ensure that MHSS is not duplicative of services that are already being provided in residential placements, such as assistance with medication management. The regulations propose that providers offer half of each week's authorized MHSS hours to ALF/group home residents outside of their residential setting. This new requirement is intended to assist with training these individuals to achieve and maintain community stability and independence. The regulations also specify that MHSS may not be provided to residents of intermediate care facilities for individuals with intellectual disability or hospitals to prohibit inappropriate overlaps of MHSS with these providers.

MHSS may be provided to nursing facility residents who are being discharged, but only during the last 60 days of the nursing facility stay. The service may be reauthorized once for another 60 days only if discharge to the community is planned. This allows individuals to access MHSS to transition from a nursing facility into an independent living arrangement. This new limitation also prevents individuals remaining in a nursing facility on a long-term basis from accessing MHSS since they do not require training in community independent living skills.

Similarly, in order for individuals in residential treatment facilities to transfer to their communities, the MHSS assessment may be performed in the last seven days before discharge allowing service onset upon discharge.

The regulations seek to improve the quality of the services provided by ensuring that MHSS providers communicate important information to other health care professionals who are providing care to the same individuals. In the past, there has been very little communication with other health care practitioners and virtually no communication with prescribing physicians. These regulatory changes seek to bridge this gap. For example, if an individual who receives MHSS under the new criteria fails to adhere to his prescribed medication regimen, it could have a significant, negative impact on the individual's mental health. If a paraprofessional providing MHSS to an individual learns of the nonadherence to the prescribed medication regimen, he is now required in these regulations to notify his supervisory staff of the individual's medication issues. Supervisory staff is also being required to communicate this information to the individual's treating physician, so that he is aware of the problem and therefore is enabled to address it at the next visit.

Further, as providers have adjusted to recent regulatory requirements implemented by DMAS, including an independent clinical assessment for individuals younger than

21 years of age, they have begun to expand their businesses into other service areas that they may be able to provide. As a result, there has been significant expenditure growth in the two crisis services offered in the community – crisis intervention and crisis stabilization. These services are the only two community mental health rehabilitative services that to date have been exempt from service authorization. DMAS is now seeking to require service authorization for these services. DMAS believes this step is necessary to preserve the integrity and quality of the services by ensuring that only individuals who are truly in crisis receive these services. DMAS is ensuring that service authorization does not delay or prevent services to those individuals who truly are in crisis by permitting providers to request authorization within a brief period of time after initiating services.

Issues: The primary advantage to the Commonwealth for these changes, aside from reduced expenditures for MHSS, is that the individuals receiving these services will make functional gains and achieve enhanced tenure in their communities.

Individual private citizens will neither benefit nor be harmed by these recommended changes.

The Medicaid individuals who have become accustomed to the previous services from providers may feel harmed by the clearer criteria and change in service limits as now they may not qualify for these redefined services or as much of the service as they had been getting. However, responsible providers are expected to refer these individuals to more appropriate community resources. Providers allege that the rate and reimbursement changes will cause their business harm.

Efforts were made so the rate and unit changes would be budget neutral. It was learned during this process that some providers were using the funding for this service to pay for other non-Medicaid services, which suggests a misalignment of the billing structure and delivery of the service. The restructured reimbursement allows compensation for all Medicaid-covered care that is delivered.

Local human service agencies may see an increase in referrals as former MHSS individuals seek to have their social service-related needs met, which have been previously inappropriately addressed by MHSS providers.

Department of Planning and Budget's Economic Impact Analysis:

Summary of the Proposed Amendments to Regulation. The proposed changes clarify the intent of Medicaid Mental Health Support Services (MHSS); amend the eligibility criteria, provider and service standards; establish service authorization requirements for certain services; and change limits, unit system, and rate structure used in the reimbursement methodology.

Result of Analysis. Although there is insufficient data to accurately compare the magnitude of the benefits versus the

costs, the benefits likely exceed the costs at the aggregate level due to well-known abuses in the provision and utilization of MHSS.

Estimated Economic Impact. These regulations establish eligibility criteria, provider and service standards, and reimbursement rules for MHSS. MHSS are community mental health treatment services with a rehabilitative focus and defined as goal-directed training to enable individuals to achieve and maintain stability and independence in their communities in the most appropriate, least restrictive environments. MHSS include training in or reinforcement of functional skills and appropriate behavior related to the individuals' health and safety; training in the performance of activities of daily living, and use of community resources; training about medication management; and self-monitoring of health, nutrition, and physical conditions.

According to the Department of Medical Assistant Services (DMAS), the intent of this service has always been to provide training to individuals, who have severe, chronic mental illness or emotional disturbances, so that they can successfully and independently live in their communities in the least restrictive environments possible. DMAS believes that the use of the term "support" in the service definition has contributed to providers' misunderstanding the purpose of this service which has led to the provision of services without the training or rehabilitation focus. In addition, imprecise eligibility criteria have allowed individuals who have not been diagnosed with either a serious mental illness or serious emotional disturbance to access these services. The Department of Behavioral Health and Developmental Services (DBHDS) licensing specialists and DMAS auditors have reported that MHSS have become more like companion care and less like mental health skills training with a rehabilitative and maintenance focus.

Community mental health rehabilitative services are behavioral health interventions. They are intended to provide clinical treatment to those individuals with significant mental illness or children either with, or at risk of developing, serious emotional disturbances. Clinical treatment differs from community social assistance and/or child welfare programs in that behavioral health services are designed to provide treatment to a mental illness rather than assisting with hardships due to socio-economic conditions, age, or physical disabilities.

Although MHSS were not intended to be a stand-alone service, but rather to be coupled with other services that the target population would most likely benefit from, it has been used to provide a wide variety of interventions. According to DMAS, utilization reviews conducted and stakeholder comments noted during the Notice of Intended Regulatory Action comment period indicate that these services have been inappropriately utilized to provide crisis intervention, counseling/therapy, transportation, recreation, and of significant concern, companion-like services, and general

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supervision. For example, some providers have billed these services for reimbursement when the service actually rendered involved driving the Medicaid recipient to medical appointments (sometimes over long distances) and remaining with the individual to later return him home. Neither transportation nor companion services were ever intended to be covered as part of MHSS. If a MHSS provider is transporting an individual, the provider may only bill for MHSS if skill-building training takes place for the entire time. Direct time spent with the individual is billable to DMAS as long as training in skills related to resolving functional limitations deriving directly from mental illness occurs during the entire time that is billed. Medicaid already provides transportation to medical appointments via its Logisticare contract.

As a result of misunderstandings about the purpose of these services and imprecise eligibility criteria, the Medicaid expenditures for these services have increased from \$46.4 million in fiscal year (FY) 2008 to \$224.4 million in FY 2013, a \$178 million increase which represents a 384% growth.

Stakeholders' feedback and DMAS observations concluded that without clarifying the service definition and eligibility requirements, MHSS would continue to evolve into a social service level of support rather than a psychiatric treatment service. To address these concerns, the General Assembly directed DMAS to make changes through the 2012 Special Session I Acts of the Assembly, Chapter 3, Item 307 LL and Item 307 RR (f); and the 2013 Acts of the Assembly, Chapter 806, Item 307 DD. Consistent with these statutory mandates, DMAS promulgated emergency regulations that went into effect on December 1, 2013. The proposed regulations will make the existing emergency regulations permanent.

One of the changes re-names and re-defines MHSS to Mental Health Skill-building Services in order to emphasize the rehabilitative nature that DMAS always intended for this service to have. As explained above, these services were never intended to be interpreted as long-term companion care, or community social assistance.

In order to make sure MHSS services are provided to individuals who have severe, chronic mental illness or emotional disturbances, proposed changes revise the eligibility criteria as follows:

Adults (individuals 21 years of age and older) must (i) have at least one of several listed diagnoses in Diagnostic and Statistical Manual of Mental Disorders (DSM); (ii) shall require individualized training in basic community living skills in order to successfully remain independent in the community; (iii) have a prior history of psychiatric illnesses that required institutionalization or have a history of certain behavioral health treatment; and (iv) shall have had a prescription for psychotropic medications.

Young people (individuals younger than 21 years of age) must (i) have at least one of the several listed DSM

diagnoses; (ii) shall require individualized training in basic community living skills in order to successfully live in the community; (iii) have a prior history of psychiatric illnesses that required institutionalization or have a history of certain behavioral health treatment; (iv) shall have had a prescription for psychotropic medications; (v) be living independently or actively transitioning (within 6 months) to independent living; and (vi) have had completed for them an Independent Clinical Assessment (known as VICAP).

The proposed changes also require providers to document the diagnoses making the individuals eligible for MHSS and provision of services.

The proposed clarification of the service definition, revised eligibility criteria, and documentation requirements are expected to make sure correct services are provided for the treatment needs related to an individual's medical/psychiatric condition. Individuals with a qualifying diagnosis will continue to receive appropriate skill building services while individuals who previously received non-skill building interventions via this service will be appropriately directed to resources that can meet those non-skill-building needs; i.e., social services, crisis intervention, case management, etc. In addition, the proposed documentation requirements are expected to reduce the number of adverse audit results and overpayments to providers.

The proposed changes also modify provider qualifications to ensure that appropriately trained/licensed professionals are caring for these individuals with serious mental illness. According to DMAS, when care is rendered by inadequately trained or non-licensed professionals, great harm can be created to these individuals. Supportive in-home licensed providers are now limited to providing non-clinical services under a Medicaid waiver for persons with developmental disabilities. Due to the clinical nature of MHSS, it was decided in conjunction with the DBHDS Office of Licensure to discontinue allowing providers with the supportive in home license to provide MHSS. Also, MHSS is a non-center or home and community based service. The assertive community treatment (ACT) and intensive community treatment (ICT) licenses are restricted to center based service providers. They are not relevant licenses to provide the more flexible community based MHSS.

Under the proposed changes, providers licensed as ACT or ICT would have to update their agency license based on their current staffing patterns. According to DMAS, this update is a formality and the change would easily be accomplished by the provider who employs staff who meet the ICT/ACT credentials. The supportive in-home providers would not be able to make the switch to the MH Community Support License without hiring clinically licensed staff who meet the licensed mental health professional criteria as defined by DBHDS and also the direct services staff would have to meet a more stringent qualified mental health professional criteria that includes college degrees and one year of clinical service.

Supportive in-home providers were able to use staff that did not have a college degree.

DMAS reports that there were 265 providers in December 2013. Currently, there are 316 providers. While the changes in provider qualifications most likely have had some adverse impact on some providers, DMAS does not believe that these changes have prevented any providers continuing to provide MHSS to eligible individuals.

The proposed changes also prohibit overlaps of MHSS with other similar services that would be duplicative and not therapeutically beneficial. MHSS are no longer available under certain conditions and for certain individuals as follows: individuals in group homes and assisted living facilities may no longer receive MHSS from the providers residing in the same facility; individuals who are also receiving in-home residential services or congregate residential services provided through the Intellectual Disability or Individual and Family Developmental Disability Support home and community based waivers; individuals who are receiving services under the Department of Social Services' independent living program, independent living services, or independent living arrangement or any Comprehensive Services Act for At-Risk Youth and Families-funded independent living skills programs; individuals who are receiving treatment foster care; individuals who reside in Intermediate Care Facilities for Individuals with Intellectual Disabilities or hospitals; individuals who reside in nursing facilities, except for up to 60 days prior to discharge; individuals who are residents of Residential Treatment Centers-Level C facilities, except for individuals with certain intake codes in the seven days immediately prior to discharge; individuals who receive personal care services or attendant care services; individuals who have organic disorders, such as delirium, dementia, or other cognitive disorders not elsewhere classified, unless their physicians issue signed and dated statements indicating that the individuals can benefit from MHSS. DMAS considers any overlap in these services with MHSS duplicative and clinically ineffective.

The proposed regulations also seek to improve the quality of the services provided by ensuring that MHSS providers communicate important information to other healthcare professionals who are providing care to the same individuals. According to DMAS, in the past, there has been very little communication with other health care practitioners, and virtually no communication with prescribing physicians. These regulatory changes seek to bridge this gap. For example, if an individual who receives MHSS under the new criteria fails to adhere to his prescribed medication regimen, it could have a significant, negative impact on the individual's mental health. If a paraprofessional providing MHSS to an individual learns of the non-adherence to the prescribed medication regimen, he or she is now required in these regulations to notify his or her supervisory staff of the individual's medication issues. Supervisory staff is also being

required to communicate this information to the individual's treating physician, so that he or she is aware of the problem and therefore is enabled to address it at the next visit.

As it should be clear from the description of changes discussed so far, this regulatory action is comprehensive and touches many aspects of MHSS. These changes undoubtedly have a significant economic impact on providers, individuals receiving services, and DMAS. The main economic impact is a decrease in utilization and therefore expenditures reimbursed for MHSS. However, there are serious data limitations and confounding issues making it impossible to produce a precise estimate.

First, the proposed changes discussed so far had become effective in December 2013. In that month, there were prior authorizations that would continue to be valid in the coming months. In addition, due to the comprehensive and complex nature of the changes, there have been likely delays in implementation. Thus, while we can compare expenditure levels before December 2013 and most recent months to get a sense of the economic impact up to this date, the downward trend in expenditures may well continue into the future. If the downward trend continues, the reduction in expenditures so far would underestimate the actual reduction that would be achieved when all changes are fully implemented.

Second, at the time these regulatory changes went into effect, the behavioral services administrator also changed. The change in claims administrator is not a part of this regulatory action and consequently its economic effects cannot be attributed to the change in this action. Thus, some of the reduction in expenditures is attributable to more efficient administration of the claims process. However since the change in regulations and the claims administrator took place simultaneously, there is no way to isolate the impact of the proposed regulations from the impact of administrator change with the data available.

The average monthly MHSS expenditures from September to November 2013 (over a three month period) were approximately \$22 million. The average monthly expenditures from January to March 2015 were \$15.5 million. Thus, the average monthly expenditures have decreased by approximately \$6.5 million per month (a 30% reduction) which would imply a reduction of \$78.7 million per year. The accuracy of this estimate somewhat bolstered by the change in the number of recipients. The number of unduplicated recipient population has decreased from 14,830 in December 2013 to 10,851 in December 2014, a decrease of 27%. However, as discussed above, some of the reduction in expenditures is likely due to change in claims administrator.

These estimates imply that providers of MHSS would see approximately 30% or about \$78.7 million per year and perhaps more (if the impact of changes has not been fully materialized yet) reduction in their Medicaid MHSS revenues. Due to federal matching funds, only one half of these savings would be realized by the state and retained in

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the Commonwealth perhaps for other state expenditures. The other half of the funds is savings to the federal government. The lost federal matching funds would have a net contractionary impact on the Commonwealth's economy.

These changes also represent a negative impact on individuals who used to be receiving these services under previous regulations. Approximately 27% of the number of recipients, or about 4,000 recipients, would no longer be accessing MHSS.

In addition to the changes that have already been implemented, there are some other changes that will go into effect when these regulations are finalized. DMAS reports that as providers have adjusted to recent regulatory requirements implemented, they have begun to expand their businesses into other service areas that they may be able to provide. As a result, there has been an expenditure growth in the two crisis services offered in the community – crisis intervention and crisis stabilization. These services are the only two community mental health rehabilitative services that, to date, have been exempt from service authorization. Thus, DMAS is now seeking to require service authorization for them. DMAS believes this step is necessary to preserve the integrity and quality of these services by ensuring that only individuals who are truly in crisis receive them. DMAS is ensuring that service authorization does not delay or prevent services to those individuals who truly are in crisis by permitting providers to request authorization within a brief period of time after initiating services.

The recent trend in the data over January 2014 to February 2015 indicates that the total crisis intervention and stabilization expenditures are currently increasing approximately \$13,000 per month. The average monthly expenditures for these two services over December 2014 to February 2015 were about \$1.37 million. While a \$13,000 increase per month for services that range about \$1.37 million monthly may seem small, the data confirms that the expenditures are steadily increasing. The proposed service authorization requirements may curtail the trend down, stop growth, or even reverse the trend. Even though there is no data to estimate the magnitude of the impact, it is likely there will be some savings from the proposed service authorization requirement.

Similar to the changes that have already been implemented, the proposed service authorization requirement, would reduce provider revenues, restrict recipient's access to services, and result in loss of federal funds coming into the Commonwealth.

Finally, DMAS proposes limits in utilization in assisted living facilities and in group homes and certain changes in unit and rate structure. However, due to the 2014 Acts of the Assembly, Chapter 5002, Item 301 ZZZ, the changes described below will not be implemented until the General Assembly has reviewed the impact of the proposed regulations.

The number of hours of MHSS provided in an assisted living facility and in group homes will not exceed 4,160 fifteen-minute units per fiscal year, 80 fifteen-minute units per week, and 20 fifteen-minute units per day. This change is proposed to ensure that MHSS is not duplicative of services that are already being provided in residential placements, such as assistance with medication management. DMAS proposes that providers offer half of each week's authorized MHSS hours to assisted living facilities/group home residents outside of their residential setting. This new requirement is intended to assist with training these individuals to achieve and maintain community stability and independence.

Changes in current unit system are also proposed. The current unit value system allows services in hourly ranges as follows: one unit = 1 to 2.99 hours; two units = 3 to 4.99 hours, three units = 5 to 6.99 hours; four units = 7 plus hours. According to DMAS, the current system creates an incentive to bill for more time than provided because of the imprecise unit value. In addition, there is a 372-units limit per year which yields approximately one unit per day. However, the daily billing allowance is up to four billing units per day with varying time values per unit billed. Thus, providers are permitted to bill seven or more hours of service per day. This creates an imbalance, such that if an individual continued to need this service over the course of a year, he or she would reach his annual limit well before the end of the year.

The proposed regulations would change the unit structure to a 15 minute billing unit and decrease the number of units per day that an individual may receive the service (decreasing from seven hours to up to 5 hours allowable as a maximum of twenty 15-minute billing units per day) to ensure that the service is not over-utilized. The new unit value and new unit allowance would yield a maximum of 5 hours per day, 5 days per week for a total of 5,200 fifteen-minute units per year. The changes in the daily, weekly, and annual limits would stagger services so that they may be provided consistently over the course of a year.

The current reimbursement rate is \$91 per unit in urban areas and \$83 per unit in rural areas. Under the new system, the rate for one 15-minute unit would be \$14.77 in urban areas and \$13.47 in rural areas. According to DMAS, under the new unit and rate structure, the total expenditures would increase if the maximum limits are billed. However, with the new daily and weekly limits in the unit structure maximum yearly limit would be more difficult to achieve.

The proposed changes in the limits, units, and rates are designed according to a budget neutral methodology and may not affect total MHSS expenditures. While the new changes may be budget neutral overall, the impact on each provider and individual would certainly be specific and different. However, as mentioned above the changes in the limits, the unit of service, and the rate of reimbursement will not be implemented until the General Assembly has reviewed the impact of the proposed regulations. Thus, no economic

impact is expected from these changes until they are implemented.

Businesses and Entities Affected. The proposed regulations primarily effect MHSS providers, recipients, DMAS, and the state and federal government. Per DBHDS Office of Licensing, there were 265 MH Support providers as of July 2013 and there are 316 providers currently. The number of unduplicated recipients was 14,830 in December 2013 and 10,851 in December 2014.

Localities Particularly Affected. The regulations do not affect any particular locality more than others.

Projected Impact on Employment. The proposed changes are estimated to curtail MHSS expenditures by about \$78.7 million or more per year. Reduction of this magnitude in revenues of MHSS providers would undoubtedly have a negative impact on their demand for labor and have a negative impact on employment in the Commonwealth.

Effects on the Use and Value of Private Property. Similarly, estimated impact of \$78.7 million reduction in revenues would have a negative impact on profitability and therefore the asset value of MHSS providers.

Small Businesses: Costs and Other Effects. The proposed amendments primarily affect MHSS providers. Most of the providers are believed to be small businesses. Thus, the effects discussed above apply to them.

Small Businesses: Alternative Method that Minimizes Adverse Impact. The proposed changes are designed to curtail the abuse in provision and utilization of MHSS. There is no known alternative method that would minimize the adverse impact on providers while accomplishing the same goals.

Real Estate Development Costs. The proposed amendments are unlikely to affect real estate development costs.

Legal Mandate.

General: The Department of Planning and Budget (DPB) has analyzed the economic impact of this proposed regulation in accordance with § 2.2-4007.04 of the Code of Virginia and Executive Order Number 17 (2014). Section 2.2-4007.04 requires that such economic impact analyses determine the public benefits and costs of the proposed amendments. Further the report should include but not be limited to:

- the projected number of businesses or other entities to whom the proposed regulation would apply,
- the identity of any localities and types of businesses or other entities particularly affected,
- the projected number of persons and employment positions to be affected,
- the projected costs to affected businesses or entities to implement or comply with the regulation, and
- the impact on the use and value of private property.

Small Businesses: If the proposed regulation will have an adverse effect on small businesses, § 2.2-4007.04 requires that such economic impact analyses include:

- an identification and estimate of the number of small businesses subject to the proposed regulation,
- the projected reporting, recordkeeping, and other administrative costs required for small businesses to comply with the proposed regulation, including the type of professional skills necessary for preparing required reports and other documents,
- a statement of the probable effect of the proposed regulation on affected small businesses, and
- a description of any less intrusive or less costly alternative methods of achieving the purpose of the proposed regulation.

Additionally, pursuant to § 2.2-4007.1, if there is a finding that a proposed regulation may have an adverse impact on small business, the Joint Commission on Administrative Rules is notified at the time the proposed regulation is submitted to the Virginia Register of Regulations for publication. This analysis shall represent DPB's best estimate for the purposes of public review and comment on the proposed regulation.

Agency's Response to Economic Impact Analysis: The agency has reviewed the economic impact analysis prepared by the Department of Planning and Budget regarding the regulations concerning Mental Health Skill-building Services (12VAC30-50-226; 12VAC30-60-143). The agency concurs with this analysis.

Summary:

The proposed amendments (i) change the service's name from "mental health support services" to "mental health skill-building services"; (ii) change the rate structure to an hourly unit and decrease the number of hours per day that an individual may receive this service; (iii) increase the annual limits; (iv) prohibit overlap with similar services; (v) reduce the number of hours of services that may be provided in an assisted living facility and Level A or Level B group home; (vi) require that providers communicate important information to other health care professionals who are providing care to the same individuals; and (vii) require service authorization for crisis intervention and crisis stabilization services.

12VAC30-50-226. Community mental health services.

A. Definitions. The following words and terms when used in this section shall have the following meanings unless the context clearly indicates otherwise:

"Activities of daily living" or "ADLs" means personal care tasks such as bathing, dressing, toileting, transferring, and eating or feeding. An individual's degree of independence in performing these activities is a part of determining appropriate level of care and service needs.

"Affiliated" means any entity or property in which a provider or facility has a direct or indirect ownership interest of 5.0% or more, or any management, partnership, or control of an entity.

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"Behavioral health services administrator" or "BHSA" means an entity that manages or directs a behavioral health benefits program under contract with DMAS. DMAS' designated BHSA shall be authorized to constitute, oversee, enroll, and train a provider network; perform service authorization; adjudicate claims; process claims; gather and maintain data; reimburse providers; perform quality assessment and improvement; conduct member outreach and education; resolve member and provider issues; and perform utilization management including care coordination for the provision of Medicaid-covered behavioral health services. Such authority shall include entering into or terminating contracts with providers in accordance with DMAS authority pursuant to 42 CFR Part 1002 and § 32.1-325 D and E of the Code of Virginia. DMAS shall retain authority for and oversight of the BHSA entity or entities.

"Certified prescriber" means an employee of either the local community services board/behavioral health authority or its designee who is skilled in the assessment and treatment of mental illness and who has completed a certification program approved by DBHDS.

~~"Clinical experience" means practical experience in providing direct services on a full-time basis (or the equivalent part-time experience as determined by DBHDS in the document entitled Human Services and Related Fields Approved Degrees/Experience, issued March 12, 2013, revised May 3, 2013) to individuals with medically documented diagnoses of mental illness or intellectual/developmental disability or the provision of direct geriatric services or full-time (or the equivalent part-time experience) special education services, for the purpose of rendering (i) mental health day treatment/partial hospitalization, (ii) intensive community treatment, (iii) psychosocial rehabilitation, (iv) mental health support skill building, (v) crisis stabilization, or (vi) crisis intervention services, practical experience in providing direct services to individuals with diagnoses of mental illness or intellectual disability or the provision of direct geriatric services or special education services. Experience shall include supervised internships, supervised practicums, or supervised field experience. Experience shall not include unsupervised internships, unsupervised practicums, and unsupervised field experience. This required clinical experience shall be calculated as set forth in DBHDS document entitled Human Services and Related Fields Approved Degrees/Experience, issued March 12, 2013, revised May 3, 2013. The equivalency of part-time hours to full-time hours for the purpose of this requirement shall be established by DBHDS in the document titled Human Services and Related Fields Approved Degrees/Experience, issued March 12, 2013, revised May 3, 2013.~~

"Code" means the Code of Virginia.

"DBHDS" means the Department of Behavioral Health and Developmental Services consistent with Chapter 3 (§ 37.2-300 et seq.) of Title 37.2 of the Code of Virginia.

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

"DSM-IV-TR" means the Diagnostic and Statistical Manual of Mental Disorders, Fourth Edition, Text Revision, copyright 2000, American Psychiatric Association.

"DSM-5" means the Diagnostic and Statistical Manual of Mental Disorders, Fifth Edition, copyright 2013, American Psychiatric Association.

"Human services field" means the same as the term is defined by DBHDS in the guidance document entitled Human Services and Related Fields Approved Degrees/Experience, issued March 12, 2013, revised May 3, 2013.

"Instrumental activities of daily living skills" or "IADLS" means tasks such as meal preparation, shopping, housekeeping, and laundry. An individual's degree of independence in performing these activities is a part of determining appropriate level of care and service needs.

"Individual" means the patient, client, or recipient of services described in this section.

"Individual service plan" or "ISP" means a comprehensive and regularly updated treatment plan specific to the individual's unique treatment needs as identified in the clinical assessment service-specific provider intake. The ISP contains, but is not limited to, his the individual's treatment or training needs, his the individual's goals and measurable objectives to meet the identified needs, services to be provided with the recommended frequency to accomplish the measurable goals and objectives, the estimated timetable for achieving the goals and objectives, and an individualized discharge plan that describes transition to other appropriate services. The individual shall be included in the development of the ISP and the ISP shall be signed by the individual. If the individual is a minor child, the ISP shall also be signed by the individual's parent/legal guardian. Documentation shall be provided if the individual, who is a minor child or an adult who lacks legal capacity, is unable or unwilling to sign the ISP.

"Individualized training" means training in functional skills and appropriate behavior related to the individual's health and safety, instrumental activities of daily living skills, and use of community resources; assistance with medical management; and monitoring health, nutrition, and physical condition. The training shall be based on a variety of approaches or tools to organize and guide the individual's life planning and shall be rooted in what is important to the individual while taking into account all other factors that affect his life, including effects of the disability and issues of health and safety.

"Licensed mental health professional" or "LMHP" means a ~~licensed physician, licensed clinical psychologist, licensed professional counselor, licensed clinical social worker, licensed substance abuse treatment practitioner, licensed marriage and family therapist, or certified psychiatric clinical nurse specialist~~ the same as defined in 12VAC35-105-20.

"LMHP-resident" or "LMHP-R" means the same as "resident" as defined in (i) 18VAC115-20-10 for licensed professional counselors; (ii) 18VAC115-50-10 for licensed marriage and family therapists; or (iii) 18VAC115-60-10 for licensed substance abuse treatment practitioners. An LMHP-resident shall be in continuous compliance with the regulatory requirements of the applicable counseling profession for supervised practice and shall not perform the functions of the LMHP-R or be considered a "resident" until the supervision for specific clinical duties at a specific site has been preapproved in writing by the Virginia Board of Counseling. For purposes of Medicaid reimbursement to their supervisors for services provided by such residents, they shall use the title "Resident" in connection with the applicable profession after their signatures to indicate such status.

"LMHP-resident in psychology" or "LMHP-RP" means the same as an individual in a residency, as that term is defined in 18VAC125-20-10, program for clinical psychologists. An LMHP-resident in psychology shall be in continuous compliance with the regulatory requirements for supervised experience as found in 18VAC125-20-65 and shall not perform the functions of the LMHP-RP or be considered a "resident" until the supervision for specific clinical duties at a specific site has been preapproved in writing by the Virginia Board of Psychology. For purposes of Medicaid reimbursement by supervisors for services provided by such residents, they shall use the title "Resident in Psychology" after their signatures to indicate such status.

"LMHP-supervisee in social work," "LMHP-supervisee," or "LMHP-S" means the same as "supervisee" is defined in 18VAC140-20-10 for licensed clinical social workers. An LMHP-supervisee in social work shall be in continuous compliance with the regulatory requirements for supervised practice as found in 18VAC140-20-50 and shall not perform the functions of the LMHP-S or be considered a "supervisee" until the supervision for specific clinical duties at a specific site is preapproved in writing by the Virginia Board of Social Work. For purposes of Medicaid reimbursement to their supervisors for services provided by supervisees, these persons shall use the title "Supervisee in Social Work" after their signatures to indicate such status.

"Qualified mental health professional-adult" or "QMHP-A" means the same as defined in 12VAC35-105-20.

"Qualified mental health professional-child" or "QMHP-C" means the same as defined in 12VAC35-105-20.

"Qualified mental health professional-eligible" or "QMHP-E" means the same as defined in 12VAC35-105-20.

"Qualified paraprofessional in mental health" or "QPPMH" means the same as defined in 12VAC35-105-20.

"Register" or "registration" means notifying DMAS or its contractor that an individual will be receiving services that do not require service authorization.

"Review of ISP" means that the provider evaluates and updates the individual's progress toward meeting the individualized service plan objectives and documents the outcome of this review. For DMAS to determine that these reviews are satisfactory and complete, the reviews shall (i) update the goals, objectives, and strategies of the ISP to reflect any change in the individual's progress and treatment needs as well as any newly identified problems; (ii) be conducted in a manner that enables the individual to participate in the process; and (iii) be documented in the individual's medical record no later than 15 calendar days from the date of the review.

"Service authorization" means the process to approve specific services for an enrolled Medicaid, FAMIS Plus, or FAMIS individual by a DMAS service authorization contractor prior to service delivery and reimbursement in order to validate that the service requested is medically necessary and meets DMAS and DMAS contractor criteria for reimbursement. Service authorization does not guarantee payment for the service.

"Service-specific provider intake" means the same as defined in 12VAC30-50-130 and also includes individuals who are older than 21 years of age.

B. Mental health services. The following services, with their definitions, shall be covered: day treatment/partial hospitalization, psychosocial rehabilitation, crisis services, intensive community treatment (ICT), and mental health ~~supports~~ skill building. Staff travel time shall not be included in billable time for reimbursement.

1. These services, in order to be covered, shall meet medical necessity criteria based upon diagnoses made by LMHPs who are practicing within the scope of their licenses and are reflected in provider records and on providers' claims for services by recognized diagnosis codes that support and are consistent with the requested professional services.

2. These services are intended to be delivered in a person-centered manner. The individuals who are receiving these services shall be included in all service planning activities. All services which do not require service authorization require registration. This registration shall transmit to DMAS or its contractor (i) the individual's name and Medicaid identification number; (ii) the specific service to be provided, the relevant procedure code and begin date of the service; and (iii) the provider's name and NPI, a provider contact name and phone number, and email address.

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3. Day treatment/partial hospitalization services shall be provided in sessions of two or more consecutive hours per day, which may be scheduled multiple times per week, to groups of individuals in a nonresidential setting. These services, limited annually to 780 units, include the major diagnostic, medical, psychiatric, psychosocial, and psychoeducational treatment modalities designed for individuals who require coordinated, intensive, comprehensive, and multidisciplinary treatment but who do not require inpatient treatment. One unit of service shall be defined as a minimum of two but less than four hours on a given day. Two units of service shall be defined as at least four but less than seven hours in a given day. Three units of service shall be defined as seven or more hours in a given day. Authorization is required for Medicaid reimbursement.

a. Day treatment/partial hospitalization services shall be time limited interventions that are more intensive than outpatient services and are required to stabilize an individual's psychiatric condition. The services are delivered when the individual is at risk of psychiatric hospitalization or is transitioning from a psychiatric hospitalization to the community. ~~The service-specific provider intake, as defined at 12VAC30-50-130, shall document the individual's behavior and describe how the individual is at risk of psychiatric hospitalization or is transitioning from a psychiatric hospitalization to the community.~~

b. Individuals qualifying for this service must demonstrate a clinical necessity for the service arising from mental, behavioral, or emotional illness that results in significant functional impairments in major life activities. Individuals must meet at least two of the following criteria on a continuing or intermittent basis:

(1) Experience difficulty in establishing or maintaining normal interpersonal relationships to such a degree that they are at risk of hospitalization or homelessness or isolation from social supports;

(2) Experience difficulty in activities of daily living such as maintaining personal hygiene, preparing food and maintaining adequate nutrition, or managing finances to such a degree that health or safety is jeopardized;

(3) Exhibit such inappropriate behavior that the individual requires repeated interventions or monitoring by the mental health, social services, or judicial system that have been documented; or

(4) Exhibit difficulty in cognitive ability such that they are unable to recognize personal danger or recognize significantly inappropriate social behavior.

c. Individuals shall be discharged from this service when they are no longer in an acute psychiatric state and other less intensive services may achieve psychiatric stabilization.

d. Admission and services for time periods longer than 90 calendar days must be authorized based upon a face-to-face evaluation by a physician, psychiatrist, licensed clinical psychologist, licensed professional counselor, licensed clinical social worker, or psychiatric clinical nurse specialist.

e. These services may only be rendered by either an LMHP, LMHP-supervisee, LMHP-resident, LMHP-RP, QMHP-A, QMHP-C, QMHP-E, or a QPPMH.

4. Psychosocial rehabilitation shall be provided at least two or more hours per day to groups of individuals in a nonresidential setting. These services, limited annually to 936 units, include assessment, education to teach the patient about the diagnosed mental illness and appropriate medications to avoid complication and relapse, opportunities to learn and use independent living skills and to enhance social and interpersonal skills within a supportive and normalizing program structure and environment. One unit of service is defined as a minimum of two but less than four hours on a given day. Two units are defined as at least four but less than seven hours in a given day. Three units of service shall be defined as seven or more hours in a given day. Authorization is required for Medicaid reimbursement. The service-specific provider intake, as defined at 12VAC30-50-130, shall document the individual's behavior and describe how the individual meets criteria for this service.

a. Individuals qualifying for this service must demonstrate a clinical necessity for the service arising from mental, behavioral, or emotional illness that results in significant functional impairments in major life activities. Services are provided to individuals: (i) who without these services would be unable to remain in the community or (ii) who meet at least two of the following criteria on a continuing or intermittent basis:

(1) Experience difficulty in establishing or maintaining normal interpersonal relationships to such a degree that they are at risk of psychiatric hospitalization, homelessness, or isolation from social supports;

(2) Experience difficulty in activities of daily living such as maintaining personal hygiene, preparing food and maintaining adequate nutrition, or managing finances to such a degree that health or safety is jeopardized;

(3) Exhibit such inappropriate behavior that repeated interventions documented by the mental health, social services, or judicial system are or have been necessary; or

(4) Exhibit difficulty in cognitive ability such that they are unable to recognize personal danger or significantly inappropriate social behavior.

b. These services may only be rendered by either an LMHP, LMHP-supervisee, LMHP-resident, LMHP-RP, QMHP-A, QMHP-C, QMHP-E, or a QPPMH.

5. Crisis intervention shall provide immediate mental health care, available 24 hours a day, seven days per week, to assist individuals who are experiencing acute psychiatric dysfunction requiring immediate clinical attention. This service's objectives shall be to prevent exacerbation of a condition, to prevent injury to the client or others, and to provide treatment in the context of the least restrictive setting. Crisis intervention activities shall include assessing the crisis situation, providing short-term counseling designed to stabilize the individual, providing access to further immediate assessment and follow-up, and linking the individual and family with ongoing care to prevent future crises. Crisis intervention services may include office visits, home visits, preadmission screenings, telephone contacts, and other client-related activities for the prevention of institutionalization. The service-specific provider intake, as defined at 12VAC30-50-130, shall document the individual's behavior and describe how the individual meets criteria for this service. The provision of this service to an individual shall be registered with either DMAS or the BHSA within one business day or the completion of the service-specific provider intake to avoid duplication of services and to ensure informed care coordination. Authorization shall be required for Medicaid reimbursement.

a. Individuals qualifying for this service must demonstrate a clinical necessity for the service arising from an acute crisis of a psychiatric nature that puts the individual at risk of psychiatric hospitalization. Individuals must meet at least two of the following criteria at the time of admission to the service:

(1) Experience difficulty in establishing or maintaining normal interpersonal relationships to such a degree that they are at risk of psychiatric hospitalization, homelessness, or isolation from social supports;

(2) Experience difficulty in activities of daily living such as maintaining personal hygiene, preparing food and maintaining adequate nutrition, or managing finances to such a degree that health or safety is jeopardized;

(3) Exhibit such inappropriate behavior that immediate interventions documented by mental health, social services, or the judicial system are or have been necessary; or

(4) Exhibit difficulty in cognitive ability such that they are unable to recognize personal danger or significantly inappropriate social behavior.

b. The annual limit for crisis intervention is 720 units per year. A unit shall equal 15 minutes.

c. These services may only be rendered by an LMHP, an LMHP-supervisee, LMHP-resident, LMHP-RP, or a certified prescriber.

6. Intensive community treatment (ICT), initially covered for a maximum of 26 weeks based on an initial service-

specific provider intake and may be reauthorized for up to an additional 26 weeks annually based on written intake and certification of need by a licensed mental health provider (LMHP), shall be defined by 12VAC35-105-20 or LMHP-S, LMHP-R, and LMHP-RP and shall include medical psychotherapy, psychiatric assessment, medication management, and care coordination activities offered to outpatients outside the clinic, hospital, or office setting for individuals who are best served in the community. Authorization is required for Medicaid reimbursement.

a. To qualify for ICT, the individual must meet at least one of the following criteria:

(1) The individual must be at high risk for psychiatric hospitalization or becoming or remaining homeless due to mental illness or require intervention by the mental health or criminal justice system due to inappropriate social behavior.

(2) The individual has a history (three months or more) of a need for intensive mental health treatment or treatment for co-occurring serious mental illness and substance use disorder and demonstrates a resistance to seek out and utilize appropriate treatment options.

b. A written, service-specific provider intake, as defined at 12VAC30-50-130, that documents the individual's eligibility and the need for this service must be completed prior to the initiation of services. This intake must be maintained in the individual's records.

c. An individual service plan shall be initiated at the time of admission and must be fully developed, as defined in this section, within 30 days of the initiation of services.

d. The annual unit limit shall be 130 units with a unit equaling one hour.

e. These services may only be rendered by a team that meets the requirements of 12VAC35-105-1370.

7. Crisis stabilization services for nonhospitalized individuals shall provide direct mental health care to individuals experiencing an acute psychiatric crisis which may jeopardize their current community living situation. Authorization shall be required for Medicaid reimbursement. Services may be authorized for up to a 15-day period per crisis episode following a face-to-face service-specific provider intake by an LMHP, LMHP-supervisee, LMHP-resident, or LMHP-RP. Only one unit of service shall be reimbursed for this intake. The provision of this service to an individual shall be registered with either DMAS or the BHSA within one calendar day of the completion of the service-specific provider intake to avoid duplication of services and to ensure informed care coordination. See 12VAC30-50-226 B for registration requirements.

a. The goals of crisis stabilization programs shall be to avert hospitalization or rehospitalization, provide normative environments with a high assurance of safety

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and security for crisis intervention, stabilize individuals in psychiatric crisis, and mobilize the resources of the community support system and family members and others for on-going maintenance and rehabilitation. The services must be documented in the individual's records as having been provided consistent with the ISP in order to receive Medicaid reimbursement.

b. The crisis stabilization program shall provide to individuals, as appropriate, psychiatric assessment including medication evaluation, treatment planning, symptom and behavior management, and individual and group counseling.

c. This service may be provided in any of the following settings, but shall not be limited to: (i) the home of an individual who lives with family or other primary caregiver; (ii) the home of an individual who lives independently; or (iii) community-based programs licensed by DBHDS to provide residential services but which are not institutions for mental disease (IMDs).

d. This service shall not be reimbursed for (i) individuals with medical conditions that require hospital care; (ii) individuals with primary diagnosis of substance abuse; or (iii) individuals with psychiatric conditions that cannot be managed in the community (i.e., individuals who are of imminent danger to themselves or others).

e. The maximum limit on this service is 60 days annually.

f. Services must be documented through daily progress notes and a daily log of times spent in the delivery of services. The service-specific provider intake, as defined at 12VAC30-50-130, shall document the individual's behavior and describe how the individual meets criteria for this service. Individuals qualifying for this service must demonstrate a clinical necessity for the service arising from an acute crisis of a psychiatric nature that puts the individual at risk of psychiatric hospitalization. Individuals must meet at least two of the following criteria at the time of admission to the service:

- (1) Experience difficulty in establishing and maintaining normal interpersonal relationships to such a degree that the individual is at risk of psychiatric hospitalization, homelessness, or isolation from social supports;
- (2) Experience difficulty in activities of daily living such as maintaining personal hygiene, preparing food and maintaining adequate nutrition, or managing finances to such a degree that health or safety is jeopardized;
- (3) Exhibit such inappropriate behavior that immediate interventions documented by the mental health, social services, or judicial system are or have been necessary; or
- (4) Exhibit difficulty in cognitive ability such that the individual is unable to recognize personal danger or significantly inappropriate social behavior.

g. These services may only be rendered by an LMHP, LMHP-supervisee, LMHP-resident, LMHP-RP, QMHP-A, QMHP-C, QMHP-E or a certified prescriber.

8. Mental health ~~support~~ skill-building services (MHSS) shall be defined as goal-directed training and supports to enable individuals to achieve and maintain community stability and independence in the most appropriate, least restrictive environment. Authorization is required for Medicaid reimbursement. Services that are rendered before the date of service authorization shall not be reimbursed. These services may be authorized up to six consecutive months as long as the individual meets the coverage criteria for this service. The service-specific provider intake, as defined at 12VAC30-50-130, shall document the individual's behavior and describe how the individual meets criteria for this service. ~~This program~~ These services shall provide goal-directed training in the following services areas in order to be reimbursed by Medicaid or the BHSA: training in or reinforcement of (i) functional skills and appropriate behavior related to the individual's health and safety, instrumental activities of daily living, and use of community resources; (ii) assistance with medication management; and (iii) monitoring of health, nutrition, and physical condition with goals towards self-monitoring and self-regulation of all of these activities. Providers shall be reimbursed only for training activities defined in the ISP and only where services meet the service definition, eligibility, and service provision criteria and this section. Service-specific provider intakes shall be repeated for all individuals who have received at least six months of MHSS to determine the continued need for this service.

a. Individuals qualifying for this service ~~must~~ shall demonstrate a clinical necessity for the service arising from a condition due to mental, behavioral, or emotional illness that results in significant functional impairments in major life activities. ~~Services are provided to individuals who without these services would be unable to remain in the community. The individual must meet at least two of the following criteria on a continuing or intermittent basis: Services are provided to individuals who require individualized goal-directed training in order to achieve or maintain stability and independence in the community.~~

~~(1) Have difficulty in establishing or maintaining normal interpersonal relationships to such a degree that the individual is at risk of psychiatric hospitalization or homelessness or isolation from social supports;~~

~~(2) Require help in basic living skills such as maintaining personal hygiene, preparing food and maintaining adequate nutrition or managing finances to such a degree that health or safety is jeopardized;~~

~~(3) Exhibit such inappropriate behavior that repeated interventions documented by the mental health, social~~

services, or judicial system are or have been necessary; or

~~(4) Exhibit difficulty in cognitive ability such that they are unable to recognize personal danger or recognize significantly inappropriate social behavior.~~

~~b. The individual must demonstrate functional impairments in major life activities. This may include individuals with a dual diagnosis of either mental illness and intellectual disability, or mental illness and substance abuse disorder. Individuals ages 21 and older shall meet all of the following criteria in order to be eligible to receive mental health skill-building services:~~

~~(1) The individual shall have one of the following as a primary mental health diagnosis:~~

~~(a) Schizophrenia or other psychotic disorder as set out in the DSM-IV-TR or DSM-5;~~

~~(b) Major depressive disorder;~~

~~(c) Recurrent Bipolar I or Bipolar II; or~~

~~(d) Any other serious mental health disorder that a physician has documented specific to the identified individual within the past year and that includes all of the following: (i) is a serious mental illness; (ii) results in severe and recurrent disability; (iii) produces functional limitations in the individual's major life activities that are documented in the individual's medical record; and (iv) requires individualized training for the individual in order to achieve or maintain independent living in the community.~~

~~(2) The individual shall require individualized goal-directed training in order to acquire or maintain self-regulation of basic living skills, such as symptom management; adherence to psychiatric and physical health medication treatment plans; appropriate use of social skills and personal support systems; skills to manage personal hygiene, food preparation, and the maintenance of personal adequate nutrition; money management; and use of community resources.~~

~~(3) The individual shall have a prior history of any of the following: (i) psychiatric hospitalization; (ii) either residential or nonresidential crisis stabilization; (iii) intensive community treatment (ICT) or program of assertive community treatment (PACT) services; (iv) placement in a psychiatric residential treatment facility (RTC-Level C) as a result of decompensation related to the individual's serious mental illness; or (v) a temporary detention order (TDO) evaluation, pursuant to § 37.2-809 B of the Code of Virginia. This criterion shall be met in order to be initially admitted to services and not for subsequent authorizations of service. Discharge summaries from prior providers that clearly indicate (i) the type of treatment provided, (ii) the dates of the treatment previously provided, and (iii) the name of the treatment provider shall be sufficient to meet this~~

requirement. Family member statements shall not suffice to meet this requirement.

~~(4) The individual shall have had a prescription for antipsychotic, mood stabilizing, or antidepressant medications within the 12 months prior to the service-specific provider intake date. If a physician or other practitioner who is authorized by his license to prescribe medications indicates that antipsychotic, mood stabilizing, or antidepressant medications are medically contraindicated for the individual, the provider shall obtain medical records signed by the physician or other licensed prescriber detailing the contraindication. This documentation shall be maintained in the individual's mental health skill-building services record, and the provider shall document and describe how the individual will be able to actively participate in and benefit from services without the assistance of medication. This criterion shall be met upon admission to services and shall not be required for subsequent authorizations of service. Discharge summaries from prior providers that clearly indicate (i) the type of treatment provided, (ii) the dates of the treatment previously provided, and (iii) the name of the treatment provider shall be sufficient to meet this requirement. Family member statements shall not suffice to meet this requirement.~~

~~c. Individuals younger than 21 years of age shall meet all of the following criteria in order to be eligible to receive mental health skill-building services:~~

~~(1) The individual, aged 16 years up to 21 years, shall not be living in a supervised setting (such as a foster home, group home, or other paid placement) and is providing for his own financial support or such an individual shall be actively transitioning into an independent living situation that is not a supervised setting (such as a foster home, group home, or other paid placement) and is providing for his own financial support. If the individual is transitioning into an independent living situation, MHSS shall only be authorized for up to six months prior to the date of transition;~~

~~(2) The individual shall have at least one of the following as a primary mental health diagnosis:~~

~~(a) Schizophrenia or other psychotic disorder as set out in the DSM-IV-TR or DSM-5;~~

~~(b) Major depressive disorder;~~

~~(c) Recurrent Bipolar-I or Bipolar II; or~~

~~(d) Any other serious mental health disorder that a physician has documented specific to the identified individual within the past year and that includes all of the following: (i) is a serious mental illness or serious emotional disturbance; (ii) results in severe and recurrent disability; (iii) produces functional limitations in the individual's major life activities that are documented in the individual's medical record; and (iv) requires~~

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individualized training for the individual in order to achieve or maintain independent living in the community;

(3) The individual shall require individualized goal-directed training in order to acquire or maintain self-regulation of basic living skills such as symptom management; adherence to psychiatric and physical health medication treatment plans; appropriate use of social skills and personal support systems; skills to manage personal hygiene, food preparation, and the maintenance of personal adequate nutrition; money management; and use of community resources.

(4) The individual shall have a prior history of any of the following: (i) psychiatric hospitalization; (ii) either residential or nonresidential crisis stabilization; (iii) intensive community treatment (ICT) or program of assertive community treatment (PACT) services; (iv) placement in a psychiatric residential treatment facility (RTC-Level C) as a result of decompensation related to the individual's serious mental illness; or (v) temporary detention order (TDO) evaluation pursuant to § 37.2-809 B of the Code of Virginia. This criterion shall be met in order to be initially admitted to services and not for subsequent authorizations of service. Discharge summaries from prior providers that clearly indicate (i) the type of treatment provided, (ii) the dates of the treatment previously provided, and (iii) the name of the treatment provider shall be sufficient to meet this requirement. Family member statements shall not suffice to meet this requirement.

(5) The individual shall have had a prescription for antipsychotic, mood stabilizing, or antidepressant medications, within the 12 months prior to the assessment date. If a physician or other practitioner who is authorized by his license to prescribe medications indicates that antipsychotic, mood stabilizing, or antidepressant medications are medically contraindicated for the individual, the provider shall obtain medical records signed by the physician or other licensed prescriber detailing the contraindication. This documentation of medication management shall be maintained in the individual's mental health skill-building services record. For individuals not prescribed antipsychotic, mood stabilizing, or antidepressant medications, the provider shall have documentation from the medication management physician describing how the individual will be able to actively participate in and benefit from services without the assistance of medication. This criterion shall be met in order to be initially admitted to services and not for subsequent authorizations of service. Discharge summaries from prior providers that clearly indicate (i) the type of treatment provided, (ii) the dates of the treatment previously provided, and (iii) the name of the treatment provider shall be sufficient to meet this requirement.

Family member statements shall not suffice to meet this requirement.

(6) An independent clinical assessment, established in 12VAC30-130-3020, shall be completed for the individual.

e. d. Service-specific provider intakes shall be required at the onset of services and individual service plans (ISPs) shall be required during the entire duration of services. Services based upon incomplete, missing, or outdated service-specific provider intakes or ISPs shall be denied reimbursement. Requirements for ~~provider-specific~~ service-specific provider intakes and ISPs are set out in 12VAC30-50-130.

d. e. The yearly limit for mental health ~~support skill-building~~ services is 372 units. Only direct face-to-face contacts and services to the individual shall be reimbursable. One unit is at least one hour but less than three hours.

e. f. These services may only be rendered by an LMHP, LMHP-supervisee, LMHP-resident, QMHP-A, QMHP-C, QMHP-E, or QPPMH.

g. The provider shall clearly document details of the services provided during the entire amount of time billed.

h. The ISP shall not include activities that contradict or duplicate those in the treatment plan established by the group home or assisted living facility. The provider shall attempt to coordinate mental health skill-building services with the treatment plan established by the group home or assisted living facility and shall document all coordination activities in the medical record.

i. Limits and exclusions.

(1) Group home (Level A or B) and assisted living facility providers shall not serve as the mental health skill-building services provider for individuals residing in the provider's respective facility. Individuals residing in facilities may, however, receive MHSS from another MHSS agency not affiliated with the owner of the facility in which they reside.

(2) Mental health skill-building services shall not be reimbursed for individuals who are receiving in-home residential services or congregate residential services through the Intellectual Disability Waiver or Individual and Family Developmental Disabilities Support Waiver.

(3) Mental health skill-building services shall not be reimbursed for individuals who are also receiving services under the Department of Social Services independent living program (22VAC40-151), independent living services (22VAC40-151 and 22VAC40-131), or independent living arrangement (22VAC40-131) or any Comprehensive Services Act-funded independent living skills programs.

(4) Mental health skill-building services shall not be available to individuals who are receiving treatment foster care (12VAC30-130-900 et seq.).

(5) Mental health skill-building services shall not be available to individuals who reside in intermediate care facilities for individuals with intellectual disabilities or hospitals.

(6) Mental health skill-building services shall not be available to individuals who reside in nursing facilities, except for up to 60 days prior to discharge. If the individual has not been discharged from the nursing facility during the 60-day period of services, mental health skill-building services shall be terminated and no further service authorizations shall be available to the individual unless a provider can demonstrate and document that mental health skill-building services are necessary. Such documentation shall include facts demonstrating a change in the individual's circumstances and a new plan for discharge requiring up to 60 days of mental health skill-building services.

(7) Mental health skill-building services shall not be available for residents of residential treatment centers (Level C facilities) except for the intake code H0032 (modifier U8) in the seven days immediately prior to discharge.

(8) Mental health skill-building services shall not be reimbursed if personal care services or attendant care services are being received simultaneously, unless justification is provided why this is necessary in the individual's mental health skill-building services record. Medical record documentation shall fully substantiate the need for services when personal care or attendant care services are being provided. This applies to individuals who are receiving additional services through the Intellectual Disability Waiver (12VAC30-120-1000 et seq.), Individual and Family Developmental Disabilities Support Waiver (12VAC30-120-700 et seq.), the Elderly or Disabled with Consumer Direction Waiver (12VAC30-120-900 et seq.), and EPSDT services (12VAC30-50-130).

(9) Mental health skill-building services shall not be duplicative of other services. Providers shall be required to ensure that if an individual is receiving additional therapeutic services that there will be coordination of services by either the LMHP, LMHP-supervisee, LMHP-resident, LMHP-resident in psychology, QMHP-A, QMHP-C, or QMHP-E to avoid duplication of services.

(10) Individuals who have organic disorders, such as delirium, dementia, or other cognitive disorders not elsewhere classified, will be prohibited from receiving mental health skill-building services unless their physicians issue signed and dated statements indicating that the individuals can benefit from this service.

(11) Individuals who are not diagnosed with a serious mental health disorder but who have personality disorders or other mental health disorders, or both, that may lead to chronic disability shall not be excluded from the mental health skill-building services eligibility criteria provided that the individual has a primary mental health diagnosis from the list included in subdivision B 8 b (1) or B 8 c (2) of this section and that the provider can document and describe how the individual is expected to actively participate in and benefit from mental health skill-building services.

DOCUMENTS INCORPORATED BY REFERENCE (12VAC30-50)

Diagnostic and Statistical Manual of Mental Disorders, Fourth Edition DSM-IV-TR, copyright 2000, American Psychiatric Association

[Diagnostic and Statistical Manual of Mental Disorders, Fifth Edition, DSM-5, 2013, American Psychiatric Association](#)

Length of Stay by Diagnosis and Operation, Southern Region, 1996, HCIA, Inc.

Guidelines for Perinatal Care, 4th Edition, August 1997, American Academy of Pediatrics and the American College of Obstetricians and Gynecologists

Virginia Supplemental Drug Rebate Agreement Contract and Addenda

Office Reference Manual (Smiles for Children), prepared by DMAS' Dental Benefits Administrator, copyright 2005 (www.dmas.virginia.gov/downloads/pdfs/dental-office_reference_manual_06-09-05.pdf)

Patient Placement Criteria for the Treatment of Substance-Related Disorders ASAM PPC-2R, Second Edition, copyright 2001, American Society of Addiction Medicine

[Virginia Medicaid Durable Medical Equipment and Supplies Provider Manual, Appendix B \(rev. 1/11\), Department of Medical Assistance Services](#)

[Human Services and Related Fields Approved Degrees/Experience, Department of Behavioral Health and Developmental Services \(rev. 5/13\)](#)

12VAC30-60-143. Mental health services utilization criteria; definitions.

~~A. This section sets out the utilization criteria and standards relative to the community mental health services set out in 12VAC30-50-226.~~ **Definitions.** The following words and terms when used in this section shall have the following meanings unless the context indicates otherwise:

"Licensed mental health professional" or "LMHP" means the same as defined in 12VAC30-50-130.

"LMHP-resident" or "LMHP-R" means the same as defined in 12VAC30-50-130.

"LMHP-resident in psychology" or "LMHP-RP" means the same as defined in 12VAC30-50-130.

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"LMHP-supervisee in social work," "LMHP-supervisee," or "LMHP-S" means the same as defined in 12VAC30-50-130.

"Qualified mental health professional-adult" or "QMHP-A" means the same as defined in 12VAC30-50-130.

"Qualified mental health professional-child" or "QMHP-C" means the same as defined in 12VAC30-50-130.

"Qualified mental health professional-eligible" or "QMHP-E" means the same as defined in 12VAC30-50-130.

B. Utilization reviews shall include determinations that providers meet the following requirements:

1. The provider shall meet the federal and state requirements for administrative and financial management capacity. The provider shall obtain, prior to the delivery of services, and shall maintain and update periodically as the Department of Medical Assistance Services (DMAS) or its contractor requires, a current provider enrollment agreement for each Medicaid service that the provider offers. DMAS shall not reimburse providers who do not enter into a provider enrollment agreement for a service prior to offering that service.

2. The provider shall document and maintain individual case records in accordance with state and federal requirements.

3. The provider shall ensure eligible individuals have free choice of providers of mental health services and other medical care under the Individual Service Plan.

4. Providers shall comply with DMAS marketing requirements as set out in 12VAC30-130-2000. Providers that DMAS determines have violated these marketing requirements shall be terminated as a Medicaid provider pursuant to 12VAC30-130-2000 E. Providers whose contracts are terminated shall be afforded the right of appeal pursuant to the Administrative Process Act (§ 2.2-4000 et seq. of the Code of Virginia).

5. If an individual receiving community mental health rehabilitative services is also receiving case management services pursuant to 12VAC30-50-420 or 12VAC30-50-430, the provider shall collaborate with the case manager by notifying the case manager of the provision of community mental health rehabilitative services and sending monthly updates on the individual's treatment status. A discharge summary shall be sent to the care coordinator/case manager within 30 calendar days of the discontinuation of services. Service providers and case managers who are using the same electronic health record for the individual shall meet requirements for delivery of the notification, monthly updates, and discharge summary upon entry of this documentation into the electronic health record.

6. The provider shall determine who the primary care provider is and inform him of the individual's receipt of community mental health rehabilitative services. The

documentation shall include who was contacted, when the contact occurred, and what information was transmitted.

7. The provider shall include the individual and the family/caregiver, as may be appropriate, in the development of the ISP. To the extent that the individual's condition requires assistance for participation, assistance shall be provided. The ISP shall be updated annually or as the needs and progress of the individual changes. An ISP that is not updated either annually or as the treatment interventions based on the needs and progress of the individual change shall be considered outdated. An ISP that does not include all required elements specified in 12VAC30-50-226 shall be considered incomplete. All ISPs shall be completed, signed, and contemporaneously dated by the LMHP, LMHP-supervisee, LMHP-resident, LMHP-RP, QMHP-A, QMHP-C, or QMHP-E preparing the ISP within a maximum of 30 days of the date of the completed intake unless otherwise specified. The child's or adolescent's ISP shall also be signed by the parent/legal guardian and the adult individual shall sign his own. If the individual, whether a child, adolescent, or an adult, is unwilling to sign the ISP, then the service provider shall document the clinical or other reasons why the individual was not able or willing to sign the ISP. Signatures shall be obtained unless there is a clinical reason that renders the individual unable to sign the ISP.

C. Day treatment/partial hospitalization services shall be provided following a ~~service specific provider intake and be authorized by the LMHP, LMHP supervisee, LMHP resident, or LMHP RP. An ISP, as defined in 12VAC30-50-226, shall be fully completed, signed, and dated by either the LMHP, LMHP supervisee, LMHP resident, LMHP RP, the QMHP-A, QMHP-E, or QMHP-C and reviewed/approved by the LMHP, LMHP supervisee, LMHP resident, or LMHP RP within 30 days of service initiation.~~ a diagnostic assessment and be authorized by the physician, licensed clinical psychologist, licensed professional counselor, licensed clinical social worker, or licensed clinical nurse specialist-psychiatric. An ISP shall be fully completed by either the LMHP or the QMHP-A or QMHP-C as defined in 12VAC35-105-20 within 30 days of service initiation.

1. The enrolled provider of day treatment/partial hospitalization shall be licensed by DBHDS as providers of day treatment services.

2. Services shall only be provided by an LMHP, LMHP-supervisee, LMHP-resident, or LMHP-RP, QMHP-A, QMHP-C, QMHP-E, or a qualified paraprofessional under the supervision of a QMHP-A, QMHP-C, QMHP-E, or an LMHP, LMHP-supervisee, LMHP-resident, or LMHP-RP as defined at 12VAC35-105-20, except for LMHP-supervisee, LMSP-resident, and LMHP-RP, which are defined in 12VAC30-50-226.

3. The program shall operate a minimum of two continuous hours in a 24-hour period.

4. Individuals shall be discharged from this service when other less intensive services may achieve or maintain psychiatric stabilization.

D. Psychosocial rehabilitation services shall be provided to those individuals who have experienced long-term or repeated psychiatric hospitalization, or who experience difficulty in activities of daily living and interpersonal skills, or whose support system is limited or nonexistent, or who are unable to function in the community without intensive intervention or when long-term services are needed to maintain the individual in the community.

1. Psychosocial rehabilitation services shall be provided following a service-specific provider intake that clearly documents the need for services. This intake ~~that~~ shall be completed by either an LMHP, LMHP-supervisee, LMHP-resident, or LMHP-RP. An ISP shall be completed by either the LMHP, LMHP-supervisee, LMHP-resident, or LMHP-RP, or the QMHP-A, QMHP-E, or QMHP-C and be reviewed/approved by either an LMHP, LMHP-supervisee, LMHP-resident, or LMHP-RP within 30 calendar days of service initiation. At least every three months, the LMHP, LMHP-supervisee, LMHP-resident, LMHP-RP, the QMHP-A, QMHP-C, or QMHP-E must review, modify as appropriate, and update the ISP.

2. Psychosocial rehabilitation services of any individual that continue more than six months shall be reviewed by an LMHP, LMHP-supervisee, LMHP-resident, or LMHP-RP who shall document the continued need for the service. The ISP shall be rewritten at least annually.

3. The enrolled provider of psychosocial rehabilitation services shall be licensed by DBHDS as a provider of psychosocial rehabilitation or clubhouse services.

4. Psychosocial rehabilitation services may be provided by an LMHP, LMHP-supervisee, LMHP-resident, LMHP-RP, QMHP-A, QMHP-C, QMHP-E, or a qualified paraprofessional under the supervision of a QMHP-A, a QMHP-C, a QMHP-E, or an LMHP, LMHP-supervisee, LMHP-resident, or LMHP-RP.

5. The program shall operate a minimum of two continuous hours in a 24-hour period.

6. Time allocated for field trips may be used to calculate time and units if the goal is to provide training in an integrated setting, and to increase the individual's understanding or ability to access community resources.

E. Crisis Admission to crisis intervention services shall be indicated following a marked reduction in the individual's psychiatric, adaptive or behavioral functioning or an extreme increase in personal distress.

1. The crisis intervention services provider shall be licensed as a provider of emergency services by DBHDS ~~pursuant to 12VAC35-105-30.~~

2. Client-related activities provided in association with a face-to-face contact are reimbursable.

3. An individual service plan (ISP) shall not be required for newly admitted individuals to receive this service. Inclusion of crisis intervention as a service on the ISP shall not be required for the service to be provided on an emergency basis.

4. For individuals receiving scheduled, short-term counseling as part of the crisis intervention service, an ISP shall be developed or revised ~~by the fourth face to face contact~~ to reflect the short-term counseling goals by the fourth face-to-face contact.

5. Reimbursement shall be provided for short-term crisis counseling contacts occurring within a 30-day period from the time of the first face-to-face crisis contact. Other than the annual service limits, there are no restrictions (regarding number of contacts or a given time period to be covered) for reimbursement for unscheduled crisis contacts.

6. Crisis intervention services may be provided to eligible individuals outside of the clinic and billed, provided the provision of out-of-clinic services is clinically/programmatically appropriate. Travel by staff to provide out-of-clinic services shall not be reimbursable. Crisis intervention may involve contacts with the family or significant others. If other clinic services are billed at the same time as crisis intervention, documentation must clearly support the separation of the services with distinct treatment goals.

7. An LMHP, LMHP-supervisee, LMHP-resident, LMHP-RP, or a certified prescriber, ~~as defined in 12VAC30-50-226,~~ shall conduct a face-to-face service-specific provider intake. The assessment shall document the need for and the anticipated duration of the crisis service. Crisis intervention will be provided by an LMHP or a certified prescriber.

8. Crisis intervention shall be provided by either an LMHP, LMHP-supervisee, LMHP-resident, LMHP-RP, or a certified prescriber.

9. For an admission to a freestanding inpatient psychiatric facility for individuals younger than age 21, federal regulations (42 CFR 441.152) require certification of the admission by an independent team. The independent team must include mental health professionals, including a physician. These preadmission screenings cannot be billed unless the requirement for an independent team certification, with a physician's signature, is met.

10. Services shall be documented through daily notes and a daily log of time spent in the delivery of services.

F. Case management services pursuant to 12VAC30-50-420 (seriously mentally ill adults and emotionally disturbed children) or 12VAC30-50-430 (youth at risk of serious emotional disturbance).

1. Reimbursement shall be provided only for "active" case management clients, as defined. An active client for case

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management shall mean an individual for whom there is an ISP in effect that requires regular direct or client-related contacts or activity or communication with the individuals or families, significant others, service providers, and others including a minimum of one face-to-face individual contact within a 90-day period. Billing can be submitted only for months in which direct or client-related contacts, activity or communications occur.

2. The Medicaid eligible individual shall meet the DBHDS criteria of serious mental illness, serious emotional disturbance in children and adolescents, or youth at risk of serious emotional disturbance.

3. There shall be no maximum service limits for case management services. Case management shall not be billed for persons in institutions for mental disease.

4. The ISP shall document the need for case management and be fully completed within 30 calendar days of initiation of the service. The case manager shall review the ISP at least every three months. The review will be due by the last day of the third month following the month in which the last review was completed. A grace period will be granted up to the last day of the fourth month following the month of the last review. When the review was completed in a grace period, the next subsequent review shall be scheduled three months from the month the review was due and not the date of actual review.

5. The ISP shall also be updated at least annually.

6. The provider of case management services shall be licensed by DBHDS as a provider of case management services.

G. Intensive community treatment (ICT).

1. A service-specific provider intake that documents eligibility and the need for this service shall be completed by either the LMHP, LMHP-supervisee, LMHP-resident, or LMHP-RP prior to the initiation of services. This intake documentation shall be maintained in the individual's records. ~~Proper completion of the service specific provider intake shall comport with the requirements of 12VAC30-50-130.~~

2. An individual service plan, based on the needs as determined by the service-specific provider intake, must be initiated at the time of admission and must be fully developed by either the LMHP, LMHP-supervisee, LMHP-resident, LMHP-RP, QMHP-A, QMHP-C, or QMHP-E and approved by the LMHP, LMHP-supervisee, LMHP-resident, or LMHP-RP within 30 days of the initiation of services.

3. ICT may be billed if the individual is brought to the facility by ICT staff to see the psychiatrist. Documentation must be present in the individual's record to support this intervention.

4. The enrolled ICT provider shall be licensed by the DBHDS as a provider of intensive community services or

as a program of assertive community treatment, and must provide and make available emergency services 24-hours per day, seven days per week, 365 days per year, either directly or on call.

5. ICT services must be documented through a daily log of time spent in the delivery of services and a description of the activities/services provided. There must also be at least a weekly note documenting progress or lack of progress toward goals and objectives as outlined on the ISP.

H. Crisis stabilization services.

1. This service shall be authorized following a face-to-face service-specific provider intake by either an LMHP, LMHP-supervisee, LMHP-resident, LMHP-RP, or a certified prescriber, as defined in 12VAC30-50-226.

2. The service-specific provider intake must document the need for crisis stabilization services.

3. The Individual Service Plan (ISP) must be developed or revised within three calendar days of admission to this service. The LMHP, LMHP-supervisee, LMHP-resident, LMHP-RP, certified prescriber, QMHP-A, QMHP-C, or QMHP-E shall develop the ISP.

4. Room and board, custodial care, and general supervision are not components of this service.

5. Clinic option services are not billable at the same time crisis stabilization services are provided with the exception of clinic visits for medication management. Medication management visits may be billed at the same time that crisis stabilization services are provided but documentation must clearly support the separation of the services with distinct treatment goals.

6. Individuals qualifying for this service must demonstrate a clinical necessity for the service arising from a condition due to an acute crisis of a psychiatric nature which puts the individual at risk of psychiatric hospitalization.

7. Providers of residential crisis stabilization shall be licensed by DBHDS as providers of ~~mental health residential or nonresidential~~ crisis stabilization services. Providers of community-based crisis stabilization shall be licensed by DBHDS as providers of mental health nonresidential crisis stabilization.

~~1. Mental health support skill-building services as defined in 12VAC30-50-226 B 8. Refer to 12VAC30-50-226 for criteria, service authorization requirements, and service-specific provider intakes that shall apply for individuals in order to qualify for this service.~~

~~1. Prior to At admission, an appropriate face-to-face service-specific provider intake must be ~~completed, conducted, documented, signed, and dated,~~ and documented by the LMHP, LMHP-supervisee, LMHP-resident, or LMHP-RP ~~indicating that service needs can best be met through mental health support services.~~ Providers shall be reimbursed one unit for each intake utilizing the appropriate billing code. Service-specific~~

~~provider intakes shall be repeated when the individual receives six months of continual care and upon any lapse in services of more than 30 calendar days.~~

~~2. The ISP, as defined in 12VAC30-50-226, shall be completed, signed, and dated by either a LMHP, LMHP-supervisee, LMHP resident, LMHP RP, QMHP A, QMHP C, or QMHP E within 30 calendar days of service initiation, and shall indicate the specific supports and services to be provided and the goals and objectives to be accomplished. The LMHP, LMHP-supervisee, LMHP resident, or LMHP RP or QMHP A, QMHP C, or QMHP E shall supervise the care if delivered by the qualified paraprofessional. If the care is supervised by the QMHP A, QMHP E, or QMHP C, then the LMHP, LMHP-supervisee, LMHP resident, or LMHP RP shall review and approve the supervision of the care delivered by the qualified paraprofessional.~~

~~3. Every three months, the LMHP, LMHP-supervisee, LMHP resident, LMHP RP, QMHP A, QMHP C, or QMHP E shall review, modify as appropriate, and update the ISP showing a new signature and date of each revision. If the ISP review is conducted by the QMHP A, QMHP C, or QMHP E, then it shall be reviewed/approved/signed/dated by the LMHP, LMHP-supervisee, LMHP resident, or LMHP RP. The ISP shall be rewritten, signed, and dated by either a QMHP A, QMHP C, QMHP E, an LMHP, LMHP-supervisee, LMHP resident, or LMHP RP at least annually.~~

~~4. Only direct face to face contacts and services to individuals shall be reimbursable.~~

~~5. Any services provided to the individual that are strictly academic in nature shall not be billable. These include, but are not limited to, such basic educational programs as instruction in reading, science, mathematics, or the individual's work towards obtaining a GED.~~

~~6. Any services provided to individuals that are strictly vocational in nature shall not be billable. However, support activities and activities directly related to assisting an individual to cope with a mental illness to the degree necessary to develop appropriate behaviors for operating in an overall work environment shall be billable.~~

~~7. Room and board, custodial care, and general supervision are not components of this service.~~

~~8. This service is not billable for individuals who reside in facilities where staff are expected to provide such services under facility licensure requirements.~~

~~9. Provider qualifications. The enrolled provider of mental health support services shall be licensed by DBHDS as a provider of supportive in home services, intensive community treatment, or as a program of assertive community treatment. Individuals employed or contracted by the provider to provide mental health support services shall have training in the characteristics of mental illness~~

~~and appropriate interventions, training strategies, and support methods for persons with mental illness and functional limitations.~~

~~10. Mental health support services, which continue for six consecutive months, shall be reviewed and renewed at the end of the six month period of authorization by an LMHP, LMHP-supervisee, LMHP resident, or LMHP RP who shall document the continued need for the services.~~

~~11. Mental health support services shall be documented through a daily log of time involved in the delivery of services and a minimum of a weekly summary note of services provided.~~

~~2. The primary psychiatric diagnosis shall be documented as part of the intake. The LMHP, LMHP-supervisee, or LMHP-resident performing the intake shall document the primary mental health diagnosis on the intake form.~~

~~3. The LMHP, LMHP-supervisee, or LMHP-resident shall complete, sign, and date the ISP within 30 days of the admission to this service. The ISP shall include documentation of how many days per week and how many hours per week are required to carry out the goals in the ISP. The total time billed for the week shall not exceed the frequency established in the individual's ISP. The ISP shall indicate the dated signature of the LMHP, LMHP-supervisee, or LMHP-resident and the individual. The ISP shall indicate the specific training and services to be provided, the goals and objectives to be accomplished, and criteria for discharge as part of a discharge plan that includes the projected length of service. If the individual refuses to sign the ISP, this shall be noted in the individual's medical record documentation.~~

~~4. Every three months, the LMHP, LMHP-supervisee, LMHP-resident, QMHP-A, QMHP-C, or QMHP-E shall review with the individual in a manner in which he may participate with the process, modify as appropriate, and update the ISP. The ISP must be rewritten at least annually.~~

~~a. The goals, objectives, and strategies of the ISP shall be updated to reflect any change or changes in the individual's progress and treatment needs as well as any newly identified problem.~~

~~b. Documentation of this review shall be added to the individual's medical record no later than the last day of the month in which this review is conducted, as evidenced by the dated signatures of the LMHP, LMHP-supervisee, LMHP-resident, QMHP-A, QMHP-C, or QMHP-E and the individual.~~

~~5. The ISP shall include discharge goals that will enable the individual to achieve and maintain community stability and independence. The ISP shall fully support the need for interventions over the length of the period of service requested from the service authorization contractor.~~

~~6. Reauthorizations for service shall only be granted if the provider demonstrates to either DMAS or the service~~

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authorization contractor that the individual is benefitting from the service as evidenced by updates and modifications to the ISP that demonstrate progress toward ISP goals and objectives.

7. If the provider knows or has reason to know of the individual's nonadherence to a regimen of prescribed medication, medication adherence shall be a goal in the individual's ISP. If the care is delivered by the qualified paraprofessional, the supervising LMHP, LMHP-supervisee, LMHP-resident, QMHP-A, or QMHP-C shall be informed of any medication regimen nonadherence. The LMHP, LMHP-supervisee, LMHP-resident, QMHP-A, or QMHP-C shall coordinate care with the prescribing physician regarding any medication regimen nonadherence concerns. The provider shall document the following minimum elements of the contact between the LMHP, LMHP-supervisee, LMHP-resident, QMHP-A, or QMHP-C and the prescribing physician:

- a. Name and title of caller;
- b. Name and title of professional who was called;
- c. Name of organization that the prescribing professional works for;
- d. Date and time of call;
- e. Reason for the care coordination call;
- f. Description of medication regimen issue or issues to be discussed; and
- g. Whether or not there was a resolution of medication regimen issue or issues.

8. Discharge summaries shall be prepared by providers for all of the individuals in their care. Documentation of prior psychiatric services history shall be maintained in the individual's mental health skill-building services medical record.

9. Documentation of prior psychiatric services history shall be maintained in the individual's mental health skill-building services medical record. The provider shall document evidence of the individual's prior psychiatric services history, as required by 12VAC30-50-226 B 8 b (3) and 12VAC30-50-226 B 8 c (4), by contacting the prior provider or providers of such health care services after obtaining written consent from the individual. Documentation of telephone contacts with the prior provider shall include the following minimum elements:

- a. Name and title of caller;
- b. Name and title of professional who was called;
- c. Name of organization that the professional works for;
- d. Date and time of call;
- e. Specific placement provided;
- f. Type of treatment previously provided;
- g. Name of treatment provider; and
- h. Dates of previous treatment.

10. The provider shall document evidence of the psychiatric medication history, as required by 12VAC30-50-226 B 8 b (4) and 12VAC30-50-226 B 8 c (5), by maintaining a photocopy of prescription information from a prescription bottle or by contacting a prior provider of health care services or pharmacy after obtaining written consent from the individual. Prescription lists or medical records obtained from the pharmacy or provider of health care services that contain (i) the name of the prescribing physician, (ii) the name of the medication with dosage and frequency, and (iii) the date of the prescription shall be sufficient to meet these criteria.

11. In the absence of such documentation, the current provider shall document all contacts (i.e., telephone, faxes) with the pharmacy or provider of health care services with the following minimum elements: (i) name and title of caller, (ii) name and title of prior professional who was called, (iii) name of organization that the professional works for, (iv) date and time of call, (v) specific prescription confirmed, (vi) name of prescribing physician, (vii) name of medication, and (viii) date of prescription.

12. Only direct face-to-face contacts and services to an individual shall be reimbursable.

13. Any services provided to the individual that are strictly academic in nature shall not be billable. These include, but are not limited to, such basic educational programs as instruction or tutoring in reading, science, mathematics, or GED.

14. Any services provided to individuals that are strictly vocational in nature shall not be billable. However, support activities and activities directly related to assisting an individual to cope with a mental illness to the degree necessary to develop appropriate behaviors for operating in an overall work environment shall be billable.

15. Room and board, custodial care, and general supervision are not components of this service.

16. Provider qualifications. The enrolled provider of mental health skill-building services must be licensed by DBHDS as a provider of mental health community support. Individuals employed or contracted by the provider to provide mental health skill-building services must have training in the characteristics of mental illness and appropriate interventions, training strategies, and support methods for persons with mental illness and functional limitations. Mental health skill-building services shall be provided by either an LMHP, LMHP-supervisee, LMHP-resident, QMHP-A, QMHP-C, QMHP-E, or QMHP-P. The LMHP, LMHP-supervisee, LMHP-resident, QMHP-A, or QMHP-C will supervise the care weekly if delivered by the QMHP-E or QMHP-P. Documentation of supervision shall be maintained in the mental health skill-building services record.

17. Mental health skill-building services, which may continue for up to six consecutive months, must be

reviewed and renewed at the end of the period of authorization by an LMHP, LMHP-supervisee, or LMHP-resident who must document the continued need for the services.

18. Mental health skill-building services must be documented through a daily log of time involved in the delivery of services and a minimum of a weekly summary note of services provided. The provider shall clearly document services provided to detail what occurred during the entire amount of the time billed.

19. If mental health skill-building services are provided in a group home (Level A or B) or assisted living facility, effective July 1, 2014, there shall be a yearly limit of up to 4160 units per fiscal year and a weekly limit of up to 80 units per week, with at least half of each week's services provided outside of the group home or assisted living facility. There shall be a daily limit of a maximum of 20 units. Prior to July 1, 2014, the previous limits shall apply. The ISP shall not include activities that contradict or duplicate those in the treatment plan established by the group home or assisted living facility. The provider shall attempt to coordinate mental health skill-building services with the treatment plan established by the group home or assisted living facility and shall document all coordination activities in the medical record.

20. Limits and exclusions.

a. Group home (Level A or B) and assisted living facility providers shall not serve as the mental health skill-building services provider for individuals residing in the provider's respective facility. Individuals residing in facilities may, however, receive MHSS from another MHSS agency not affiliated with the owner of the facility in which they reside.

b. Mental health skill-building services shall not be reimbursed for individuals who are receiving in-home residential services or congregate residential services through the Intellectual Disability Waiver or Individual and Family Developmental Disabilities Support Waiver.

c. Mental health skill-building services shall not be reimbursed for individuals who are also receiving independent living skills services, the Department of Social Services independent living program (22VAC40-151), independent living services (22VAC40-151 and 22VAC40-131), or independent living arrangement (22VAC40-131) or any Comprehensive Services Act-funded independent living skills programs.

d. Mental health skill-building services shall not be available to individuals who are receiving treatment foster care (12VAC30-130-900 et seq.).

e. Mental health skill-building services shall not be available to individuals who reside in intermediate care facilities for individuals with intellectual disabilities or hospitals.

f. Mental health skill-building services shall not be available to individuals who reside in nursing facilities, except for up to 60 days prior to discharge. If the individual has not been discharged from the nursing facility during the 60-day period of services, mental health skill-building services shall be terminated and no further service authorizations shall be available to the individual unless a provider can demonstrate and document that mental health skill-building services are necessary. Such documentation shall include facts demonstrating a change in the individual's circumstances and a new plan for discharge requiring up to 60 days of mental health skill-building services.

g. Mental health skill-building services shall not be available for residents of residential treatment centers (Level C facilities) except for the intake code H0032 (modifier U8) in the seven days immediately prior to discharge.

h. Mental health skill-building services shall not be reimbursed if personal care services or attendant care services are being received simultaneously, unless justification is provided why this is necessary in the individual's mental health skill-building services record. Medical record documentation shall fully substantiate the need for services when personal care or attendant care services are being provided. This applies to individuals who are receiving additional services through the Intellectual Disability Waiver (12VAC30-120-1000 et seq.), Individual and Family Developmental Disabilities Support Waiver (12VAC30-120-700 et seq.), the Elderly or Disabled with Consumer Direction Waiver (12VAC30-120-900 et seq.), and EPSDT services (12VAC30-50-130).

i. Mental health skill-building services shall not be duplicative of other services. Providers have a responsibility to ensure that if an individual is receiving additional therapeutic services that there will be coordination of services by either the LMHP, LMHP-supervisee, LMHP-resident, QMHP-A, QMHP-C, or QMHP-E to avoid duplication of services.

j. Individuals who have organic disorders, such as delirium, dementia, or other cognitive disorders not elsewhere classified, will be prohibited from receiving mental health skill-building services unless their physicians issue a signed and dated statement indicating that the individuals can benefit from this service.

k. Individuals who are not diagnosed with a serious mental health disorder but who have personality disorders or other mental health disorders, or both, that may lead to chronic disability, will not be excluded from the mental health skill-building services eligibility criteria provided that the individual has a primary mental health diagnosis from the list included in 12VAC30-50-226 B 8 b (1) or 12VAC30-50-226 B 8 c (2) and that the

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provider can document and describe how the individual is expected to actively participate in and benefit from mental health support services.

J. Except as noted in subdivision I 20 of this section and in 12VAC30-50-226 B 6 d, the limits described in this regulation and all others identified in 12VAC30-50-226 shall apply to all service authorization requests submitted to either DMAS or the BHSA as of [the effective date of this regulation]. As of [the effective date of these regulations], all annual limits, weekly limits, daily limits, and reimbursement for services shall apply to all services described in 12VAC30-50-226 regardless of the date upon which service authorization was obtained.

VA.R. Doc. No. R14-3451; Filed August 3, 2015, 9:18 a.m.

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TITLE 18. PROFESSIONAL AND OCCUPATIONAL LICENSING

BOARD OF FUNERAL DIRECTORS AND EMBALMERS

Final Regulation

REGISTRAR'S NOTICE: The Board of Funeral Directors and Embalmers is claiming an exemption from Article 2 of the Administrative Process Act in accordance with § 2.2-4006 A 4 a of the Code of Virginia, which excludes regulations that are necessary to conform to changes in Virginia statutory law or the appropriation act where no agency discretion is involved. The Board of Funeral Directors and Embalmers will receive, consider, and respond to petitions by any interested person at any time with respect to reconsideration or revision.

Title of Regulation: 18VAC65-20. **Regulations of the Board of Funeral Directors and Embalmers (amending 18VAC65-20-60, 18VAC65-20-400).**

Statutory Authority: §§ 54.1-2400 and 54.1-2819 of the Code of Virginia.

Effective Date: September 23, 2015.

Agency Contact: Lisa Russell Hahn, Executive Director, Board of Funeral Directors and Embalmers, 9960 Mayland Drive, Suite 300, Richmond, VA 23233-1463, telephone (804) 367-4424, FAX (804) 527-4637, or email lisa.hahn@dhp.virginia.gov.

Summary:

Pursuant to Chapter 110 of the 2015 Acts of Assembly, the amendments require a surface transportation and removal service to notify the Board of Funeral Directors and Embalmers within 30 days of any change in the manager of record and to include the name of a manager of record on its application for registration.

18VAC65-20-60. Accuracy of information.

A. All changes in the address of record or the public address, if different from the address of record, or in the name of a licensee or registrant shall be furnished to the board within 30 days after the change occurs.

B. Any change in ownership or manager of record for an establishment or crematory shall be reported to the board within 14 days of the change.

C. A surface transportation and removal service shall notify the board within 30 days of any change in the name of the manager on record with the board.

C. D. All notices required by law and by this chapter to be mailed by the board to any registrant or licensee shall be validly given when mailed to the latest address of record on file with the board and shall not relieve the licensee, funeral service intern, establishment, crematory, or firm of obligation to comply.

Part IV Registration

18VAC65-20-400. Registration of surface transportation and removal services.

All persons applying to own or operate a surface transportation and removal service, according to requirements of § 54.1-2819 of the Code of Virginia, shall submit an application package for registration which shall include:

1. A completed and signed application;
2. The fee prescribed in 18VAC65-20-70 A 3; ~~and~~
3. Additional documentation as may be required by the board to determine eligibility of the applicant, including, but not limited to, evidence of training in compliance with standards of the Occupational Safety and Health Administration (OSHA) for universal precautions and blood-borne pathogens; and
4. The name of the manager for the service.

VA.R. Doc. No. R15-4315; Filed July 27, 2015, 2:52 p.m.

BOARD OF OPTOMETRY

Final Regulation

REGISTRAR'S NOTICE: The Board of Optometry is claiming an exemption from Article 2 of the Administrative Process Act in accordance with § 2.2-4006 A 4 a of the Code of Virginia, which excludes regulations that are necessary to conform to changes in Virginia statutory law where no agency discretion is involved. The Board of Optometry will receive, consider, and respond to petitions from any interested person at any time with respect to reconsideration or revision.

Title of Regulation: 18VAC105-20. **Regulations Governing the Practice of Optometry (amending 18VAC105-20-47).**

Statutory Authority: §§ 54.1-2400 and 54.1-3223 of the Code of Virginia.

Effective Date: September 23, 2015.

Agency Contact: Leslie L. Knachel, Executive Director, Board of Optometry, 9960 Mayland Drive, Suite 300, Richmond, VA 23233, telephone (804) 367-4508, FAX (804) 527-4471, or email leslie.knachel@dhp.virginia.gov.

Summary:

The amendment conforms to Chapter 355 of the 2015 Acts of Assembly by adding Schedule II controlled substances consisting of hydrocodone in combination with acetaminophen to the list of oral analgesics that may be prescribed by optometrists.

18VAC105-20-47. Therapeutic pharmaceutical agents.

A. A TPA-certified optometrist, acting within the scope of his practice, may procure, administer and prescribe medically appropriate therapeutic pharmaceutical agents (or any therapeutically appropriate combination thereof) to treat diseases and abnormal conditions of the human eye and its adnexa within the following categories:

1. Oral analgesics -- Schedule II controlled substances consisting of hydrocodone in combination with acetaminophen and Schedule III, IV and VI narcotic and nonnarcotic agents.
2. Topically administered Schedule VI agents:
 - a. Alpha-adrenergic blocking agents;
 - b. Anesthetic (including esters and amides);
 - c. Anti-allergy (including antihistamines and mast cell stabilizers);
 - d. Anti-fungal;
 - e. Anti-glaucoma (including carbonic anhydrase inhibitors and hyperosmotics);
 - f. Anti-infective (including antibiotics and antivirals);
 - g. Anti-inflammatory;
 - h. Cycloplegics and mydratics;
 - i. Decongestants; and
 - j. Immunosuppressive agents.
3. Orally administered Schedule VI agents:
 - a. Aminocaproic acids (including antifibrinolytic agents);
 - b. Anti-allergy (including antihistamines and leukotriene inhibitors);
 - c. Anti-fungal;
 - d. Anti-glaucoma (including carbonic anhydrase inhibitors and hyperosmotics);
 - e. Anti-infective (including antibiotics and antivirals);
 - f. Anti-inflammatory (including steroidal and nonsteroidal);
 - g. Decongestants; and
 - h. Immunosuppressive agents.

B. Schedule I, II and V drugs are excluded from the list of therapeutic pharmaceutical agents.

C. Over-the-counter topical and oral medications for the treatment of the eye and its adnexa may be procured for administration, administered, prescribed or dispensed.

VA.R. Doc. No. R15-4313; Filed August 3, 2015, 8:52 a.m.

Final Regulation

REGISTRAR'S NOTICE: The Board of Optometry is claiming an exemption from Article 2 of the Administrative Process Act in accordance with § 2.2-4006 A 6 of the Code of Virginia, which excludes regulations of the regulatory boards served by the Department of Health Professions pursuant to Title 54.1 of the Code of Virginia that are limited to reducing fees charged to regulants and applicants. The Board of Optometry will receive, consider, and respond to petitions by any interested person at any time with respect to reconsideration or revision.

Title of Regulation: 18VAC105-20. Regulations Governing the Practice of Optometry (amending 18VAC105-20-20).

Statutory Authority: §§ 54.1-2400 and 54.1-3223 of the Code of Virginia.

Effective Date: September 23, 2015.

Agency Contact: Leslie L. Knachel, Executive Director, Board of Optometry, 9960 Mayland Drive, Suite 300, Richmond, VA 23233, telephone (804) 367-4508, FAX (804) 527-4471, or email leslie.knachel@dhp.virginia.gov.

Summary:

The amendments reduce renewal fees for an optometrist with certification in therapeutic pharmaceutical agents (TPA), for an optometrist without certification in TPA, and for a professional designation for the renewal year of 2015.

18VAC105-20-20. Fees.

A. Required fees.

| | |
|---|-------|
| Initial application and licensure (including TPA certification) | \$250 |
| Application for TPA certification | \$200 |
| Annual licensure renewal without TPA certification | \$150 |
| Annual licensure renewal with TPA certification | \$200 |
| Late renewal without TPA certification | \$50 |
| Late renewal with TPA certification | \$65 |
| Returned check | \$35 |
| Professional designation application | \$100 |
| Annual professional designation renewal (per location) | \$50 |
| Late renewal of professional designation | \$20 |

Regulations

| | |
|---|-------|
| Reinstatement application fee (including renewal and late fees) | \$400 |
| Reinstatement application after disciplinary action | \$500 |
| Duplicate wall certificate | \$25 |
| Duplicate license | \$10 |
| Licensure verification | \$10 |

B. Unless otherwise specified, all fees are nonrefundable.

C. From October 31, 2015, to December 31, 2015, the following fees shall be in effect:

| | |
|---|--------------|
| <u>Annual licensure renewal without TPA certification</u> | <u>\$100</u> |
| <u>Annual licensure renewal with TPA certification</u> | <u>\$135</u> |
| <u>Annual professional designation renewal (per location)</u> | <u>\$30</u> |

VA.R. Doc. No. R15-4440; Filed August 3, 2015, 8:51 a.m.

DEPARTMENT OF PROFESSIONAL AND OCCUPATIONAL REGULATION

Final Regulation

REGISTRAR'S NOTICE: The Department of Professional and Occupational Regulation is claiming an exemption from Article 2 of the Administrative Process Act in accordance with § 2.2-4006 A 4 a of the Code of Virginia, which excludes regulations that are necessary to conform to changes in Virginia statutory law where no agency discretion is involved. The Department of Professional and Occupational Regulation will receive, consider, and respond to petitions from any interested person at any time with respect to reconsideration or revision.

Title of Regulation: **18VAC120-40. Virginia Professional Boxing and Wrestling Events Regulations (amending 18VAC120-40-10).**

Statutory Authority: § 54.1-831 of the Code of Virginia.

Effective Date: October 1, 2015.

Agency Contact: Kathleen R. Nosbisch, Executive Director, Department of Professional and Occupational Regulation, 9960 Mayland Drive, Suite 400, Richmond, VA 23233, telephone (804) 367-8514, FAX (866) 465-6206, or email boxing@dpor.virginia.gov.

Summary:

The amendment conforms to Chapters 216 and 264 of the 2015 Acts of Assembly, which authorize the Director of the Department of Professional and Occupational Regulation to approve sanctioning organizations to oversee the conduct of amateur boxing and martial arts events. Specifically, the amendment removes language exempting

certain amateur boxing and wrestling contests from Chapter 8.1 (§ 54.1-828 et seq.) of Title 54.1 of the Code of Virginia and from the provisions of this regulation.

Part I Scope

18VAC120-40-10. Scope.

This chapter contains procedures and requirements for the licensure of individuals and firms to engage in the conduct of professional boxing and wrestling events as provided for in Chapter 8.1 (§ 54.1-828 et seq.) of Title 54.1 of the Code of Virginia.

~~Amateur boxing and wrestling contests, where the participants receive no money, compensation, including a promise of participation in a future nonamateur event, or reward other than a suitably inscribed memento are exempt from the provisions of Chapter 8.1 of Title 54.1 of the Code of Virginia and from the provisions of this chapter. Amateurs may participate in licensed events only if the portion of the event containing amateur matches is sanctioned by a nationally recognized sanctioning organization. The department will not exercise any control over amateur contests that take place during a licensed event.~~

The director of the department is empowered to (i) promulgate this chapter, (ii) issue licenses, (iii) investigate to determine compliance with this chapter, and (iv) take disciplinary action, in accordance with the Virginia Administrative Process Act, against those who fail to comply with this chapter. Furthermore, to the extent applicable, this chapter shall be construed in accordance with and governed by Virginia's Administrative Process Act. The director is also empowered to contract with a vendor to perform certain tasks on the director's behalf. These tasks include examining and recommending licensure, investigating and ensuring that events are conducted in compliance with statutes and regulations, performing clerical duties, collecting fees, maintaining records, developing proposed regulations, and recommending enforcement actions.

VA.R. Doc. No. R15-4460; Filed July 31, 2015, 11:11 a.m.

REAL ESTATE BOARD

Final Regulation

Title of Regulation: **18VAC135-20. Virginia Real Estate Board Licensing Regulations (amending 18VAC135-20-10 through 18VAC135-20-45, 18VAC135-20-60, 18VAC135-20-70, 18VAC135-20-80, 18VAC135-20-101, 18VAC135-20-120, 18VAC135-20-140, 18VAC135-20-155 through 18VAC135-20-240, 18VAC135-20-260 through 18VAC135-20-310, 18VAC135-20-360; adding 18VAC135-20-55, 18VAC135-20-165, 18VAC135-20-225; repealing 18VAC135-20-100, 18VAC135-20-105).**

Statutory Authority: §§ 54.1-201 and 54.1-2105 of the Code of Virginia.

Effective Date: November 1, 2015.

Agency Contact: Christine Martine, Executive Director, Real Estate Board, 9960 Mayland Drive, Suite 400, Richmond, VA 23233, telephone (804) 367-8552, FAX (804) 527-4299, or email reboard@dpor.virginia.gov.

Summary:

The amendments (i) establish voluntary compliance and mandatory audit procedures; (ii) require a reciprocity licensee to pass the board's written examination within 12 months prior to applying for a license; (iii) require initial license applicants to submit to fingerprinting; (iv) allow a licensee to carryover excess continuing education credits into the next renewal period; (v) pursuant to Chapter 692 of the 2015 Acts of Assembly, require curricula for brokers and salespersons who are new licensees of the board and continuing education curricula for salespersons to include information on flood hazard areas and the National Flood Insurance Program beginning January 1, 2016; (vi) make clear that the board can discipline both licensees and certificate holders; (vii) allow a broker to exchange his license to that of a salesperson; (viii) remove the \$90 cap on the license examination fee; (ix) require that a proprietary school applicant demonstrate a minimum net worth; (x) offer more options to qualify for prelicense instructor certification; (xi) change requirements for maintenance and management of financial records and amend the list of actions that constitute improper dealing; (xii) change the requirements for maintenance and management of escrow accounts; and (xiii) remove proposed language regarding courses needing distance education certification from the Association of Real Estate License Law Officials or substantially equivalent certification.

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

Part I
General

18VAC135-20-10. Definitions.

The following words and terms when used in this chapter unless a different meaning is provided or is plainly required by the context shall have the following meanings:

"Active" means any broker or salesperson who is under the supervision of a principal or supervising broker of a firm or sole proprietor and who is performing those activities defined in §§ 54.1-2100 and 54.1-2101 of the Code of Virginia.

"Actively engaged" means active licensure with a licensed real estate firm or sole proprietorship in performing those activities as defined in §§ 54.1-2100 and 54.1-2101 of the Code of Virginia for an average of at least 40 hours per week. This requirement may be waived at the discretion of the board in accordance with § 54.1-2105 of the Code of Virginia.

"Actively engaged in the brokerage business" means anyone who holds an active real estate license.

"Associate broker" means any individual licensee of the board holding a broker's license other than one who has been designated as the principal broker.

"Client" means a person who has entered into a brokerage relationship with a licensee as defined by § 54.1-2130 of the Code of Virginia.

"Firm" means any sole proprietorship (nonbroker owner), partnership, association, limited liability company, or corporation, other than a sole proprietorship (principal broker owner), which is required by 18VAC135-20-20 B to obtain a separate brokerage firm license. The firm's licensed name may be any assumed or fictitious name properly filed with the board.

"Inactive status" refers to any broker or salesperson who is not under the supervision of a principal broker or supervising broker, who is not active with a firm or sole proprietorship and who is not performing any of the activities defined in §§ 54.1-2100 and 54.1-2101 of the Code of Virginia.

"Independent contractor" means a licensee who acts for or represents a client other than as a standard agent and whose duties and obligations are governed by a written contract between the licensee and the client.

"Licensee" means real estate brokers and salespersons as defined in Chapter 21 (§ 54.1-2100 et seq.) of Title 54.1 of the Code of Virginia [or real estate firms].

"Principal broker" means the individual broker who shall be designated by each firm to assure compliance with Chapter 21 (§ 54.1-2100 et seq.) of Title 54.1 of the Code of Virginia, and this chapter, and to receive communications and notices from the board which may affect the firm or any licensee active with the firm. In the case of a sole proprietorship, the licensed broker who is the sole proprietor shall have the responsibilities of the principal broker. The principal broker shall have responsibility for the activities of the firm and all its licensees. The principal broker shall have signatory authority on all escrow accounts maintained by the firm.

"Principal to a transaction" means a party to a real estate transaction including without limitation a seller or buyer, landlord or tenant, optionor or optionee, licensor or licensee. For the purposes of this chapter, the listing or selling broker, or both, are not by virtue of their brokerage relationship, principals to the transaction.

"Sole proprietor" means any individual, not a corporation, limited liability company, partnership, or association, who is trading under the individual's name, or under an assumed or fictitious name pursuant to the provisions of Chapter 5 (§ 59.1-69 et seq.) of Title 59.1 of the Code of Virginia.

"Standard agent" means a licensee who acts for or represents a client in an agency relationship. A standard agent shall have the obligations as provided in Article 3 (§ 54.1-2130 et seq.) of Chapter 21 of Title 54.1 of the Code of Virginia.

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"Supervising broker" means (i) the individual broker who shall be designated by the principal broker to supervise the provision of real estate brokerage services by the associate brokers and salespersons assigned to branch offices or (ii) the broker, who may be the principal broker, designated by the principal broker to supervise a designated agent as stated in § 54.1-2130 of the Code of Virginia.

Part II Entry

18VAC135-20-20. Necessity for license. (Refer to § 54.1-2106.1 of the Code of Virginia.)

A. Sole proprietor (principal broker owner). A real estate broker's license shall be issued to an individual trading under an assumed or fictitious name, that is, a name other than the individual's full name, only after the individual signs and acknowledges a certificate provided by the board, setting forth the name under which the business is to be organized and conducted, the address of the individual's residence, and the address of the individual's place of business. Each certificate must be attested by the clerk of court of the county or jurisdiction wherein the business is to be conducted. The attention of all applicants and licensees is directed to §§ 59.1-69 through 59.1-76 of the Code of Virginia.

B. Sole proprietor (nonbroker owner), partnership, association, limited liability company, or corporation. Every sole proprietor (nonbroker owner), partnership, association, limited liability company, or corporation must secure a real estate license for its firm before transacting real estate business. This license is separate and distinct from the individual broker license required of each partner, associate, manager of a limited liability company, and officer of a corporation who is active in the firm's brokerage business. Each applicant for such license shall disclose, and the license shall be issued to, the name under which the applicant intends to do or does business and holds itself out to the public. Each applicant shall also disclose the business address of the firm. The board will consider the application of any partnership, association, corporation or limited liability company only after the entity is authorized to conduct business in accordance with §§ 59.1-69 through 59.1-76 of the Code of Virginia.

C. Each real estate firm is required to have a principal broker whose license is in good standing with the board in order to transact real estate business.

D. Branch office license. If a real estate broker maintains more than one place of business within the state, a branch office license shall be issued for each place of business maintained. Application for the license shall be made on forms provided by the board and shall reveal the name of the firm, the location of the branch office, and the name of the supervising broker for that branch office. The branch office license shall be maintained at the branch office location.

18VAC135-20-30. Qualifications for licensure.

Every applicant to the Real Estate Board for an individual salesperson's or broker's license shall have the following qualifications:

1. The applicant shall have a good reputation for honesty, truthfulness, and fair dealing, and be competent to transact the business of a real estate broker or a real estate salesperson in such a manner as to safeguard the interests of the public.

2. The applicant shall meet the current educational requirements by achieving a passing grade in all required courses of § 54.1-2105 of the Code of Virginia prior to the time the applicant sits for the licensing examination and applies for licensure.

3. The applicant shall be in good standing as a licensed real estate broker or salesperson in every jurisdiction where licensed and the applicant shall not have had a license as a real estate broker or real estate salesperson which was suspended, revoked or surrendered in connection with a disciplinary action or which has been the subject of discipline in any jurisdiction prior to applying for licensure in Virginia. The applicant shall be in compliance with all the terms of all board orders, including but not limited to paying imposed monetary penalties and costs, plus any accrued interest and other fees, and completing imposed education.

4. In accordance with § 54.1-204 of the Code of Virginia, each applicant shall submit to fingerprinting and shall disclose the following information:

a. All misdemeanor convictions involving moral turpitude, sexual offense, drug distribution or physical injury within five years of the date of the application; and

b. All felony convictions during his lifetime.

Any plea of nolo contendere shall be considered a conviction for purposes of this subsection. The record of a conviction received from a court shall be accepted as prima facie evidence of a conviction or finding of guilt. The board, in its discretion, may deny licensure to any applicant in accordance with § 54.1-204 of the Code of Virginia.

5. The applicant shall be at least 18 years old.

6. The applicant shall have a high school diploma or its equivalent.

7. The applicant, within 12 months prior to [making submitting a] complete application for a license, shall have passed a written examination provided by the board or by a testing service acting on behalf of the board.

8. The applicant shall follow all procedures established with regard to conduct at the examination. Failure to comply with all procedures established with regard to conduct at the examination may be grounds for denial of application.

9. Applicants for licensure who do not meet the requirements set forth in subdivisions 3 and 4 of this section may be approved for licensure following consideration by the board.

18VAC135-20-40. Additional qualifications for brokers.

An applicant for an individual license as a real estate broker shall meet the following requirements in addition to those set forth in 18VAC135-20-30:

1. The applicant shall meet the current educational requirements of § 54.1-2105 of the Code of Virginia.
2. The applicant shall have been actively engaged as defined in 18VAC135-20-10 as a real estate salesperson for a period of 36 of the 48 months immediately preceding application. This requirement may be waived at the discretion of the board in accordance with § 54.1-2105 of the Code of Virginia.
3. The applicant's experience must be verified by the principal or supervising broker for whom the licensee worked at the time of obtaining that experience.

18VAC135-20-45. Additional qualifications for salesperson's or ~~associate~~ broker's license as a business entity.

An applicant for a salesperson's license as a business entity shall meet the following requirements in addition to those set forth in 18VAC135-20-30:

1. Every owner or officer who actively participates in the real estate business shall hold a license as a salesperson or ~~associate~~ broker. The business entity license does not replace the individual license. More than one licensee may be a participant of the business entity.
2. When one licensee is the owner or officer, the business entity shall be named in accordance with § 54.1-2106.1 C of the Code of Virginia.
3. The board will consider the application of any partnership, association, corporation or limited liability company only after the entity is authorized to do business in accordance with §§ 59.1-69 through 59.1-76 of the Code of Virginia.

18VAC135-20-55. [~~Downgrade~~ Exchange] to salesperson's license.

A broker who wants to [~~downgrade~~ exchange] his license(s) [~~to~~ for] that of a salesperson must submit a complete application with appropriate fee. When [~~downgrading~~ exchanging] the license(s), the licensee agrees his current broker's license(s) ceases to exist, and if he chooses to become licensed as a broker again, he must pass the current broker examination and must meet the current education and experience requirements in [~~place~~ effect] at the time of application.

18VAC135-20-60. Qualifications for licensure by reciprocity.

An individual who is currently licensed as a real estate salesperson or broker in another jurisdiction may obtain a Virginia real estate license by meeting the following requirements:

1. The applicant shall be at least 18 years of age.
2. The applicant shall have a high school diploma or its equivalent.
3. The applicant shall have received the salesperson's or broker's license by virtue of having passed in the jurisdiction of licensure a written examination deemed to be substantially equivalent to the Virginia examination.
4. The applicant shall sign a statement verifying that he has read and understands the provisions of this chapter and Chapter 21 (§ 54.1-2100 et seq.) of Title 54.1 of the Code of Virginia.
5. The applicant, within 12 months prior to [~~making~~ submitting] a complete application for a license, shall have passed a written examination provided by the board or by a testing service acting on behalf of the board covering Virginia real estate license law and regulations of the Real Estate Board.
6. The applicant shall follow all procedures established with regard to conduct at the examination. Failure to comply with all procedures established by the board with regard to conduct at the examination may be grounds for denial of application.
- ~~6.~~ 7. The applicant shall be in good standing as a licensed real estate broker or salesperson in every jurisdiction where licensed and the applicant shall not have had a license as a real estate broker or real estate salesperson which was suspended, revoked, or surrendered in connection with a disciplinary action or which has been the subject of discipline in any jurisdiction prior to applying for licensure in Virginia. The applicant shall be in compliance with all the terms of all board orders, including but not limited to paying imposed monetary penalties and costs, plus any accrued interest and other fees, and completing imposed education.
- ~~7.~~ 8. At the time of application for a salesperson's license, the applicant must have been actively engaged as defined by 18VAC135-20-10 for 12 of the preceding 36 months or have met educational requirements that are substantially equivalent to those required in Virginia. At the time of application for a broker's license, the applicant must have met educational requirements that are substantially equivalent to those required in Virginia, and the applicant must have been actively engaged as defined by 18VAC135-20-10 for 36 of the preceding 48 months. The broker applicant's experience must be verified by an individual who has direct knowledge of the applicant's activities as defined in §§ 54.1-2100 and 54.1-2101 of the

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Code of Virginia. These requirements may be waived at the discretion of the board in accordance with § 54.1-2105 of the Code of Virginia.

~~8.~~ 9. The applicant shall have a good reputation for honesty, truthfulness, and fair dealing, and be competent to transact the business of a real estate salesperson or broker in such a manner as to safeguard the interests of the public.

~~9.~~ 10. In accordance with § 54.1-204 of the Code of Virginia, each applicant shall submit to fingerprinting and shall disclose the following information:

a. All misdemeanor convictions involving moral turpitude, sexual offense, drug distribution or physical injury within five years of the date of the application; and

b. All felony convictions during his lifetime.

Any plea of nolo contendere shall be considered a conviction for purposes of this subsection. The record of a conviction received from a court shall be accepted as prima facie evidence of a conviction or finding of guilt. The board, in its discretion, may deny licensure to any applicant in accordance with § 54.1-204 of the Code of Virginia.

~~10.~~ 11. Applicants for licensure who do not meet the requirements set forth in subdivisions ~~6~~ 7 and ~~9~~ 10 of this ~~subsection~~ section may be approved for licensure following consideration by the board.

18VAC135-20-70. Activation or transfer of license.

A. Any inactive licensee may activate that license with a licensed real estate firm or sole proprietorship by completing an activate form prescribed by the board. [A licensee who submits an activate application to the board shall not conduct business with the real estate firm or sole proprietorship set forth in the application until the application is processed and the license is issued by the board.] Continuing education pursuant to § ~~54.1-2105~~ 54.1-2105.03 of the Code of Virginia shall be completed within two years prior to activation of a license when the license has been inactive for more than 30 days. Any licensee who has not been active with a licensed real estate firm or sole proprietorship for a period of greater than three years shall be required to meet the existing prelicense educational requirements.

B. Any licensee may transfer from one licensed real estate firm or sole proprietorship to another by completing and submitting to the board a transfer application and the fee as set forth in 18VAC135-20-80. [The transfer application shall include the signature of the new principal broker or supervising broker with signature authority who will be responsible for the licensee's real estate activities and shall be effective upon the principal broker or supervising broker's execution of the transfer application.]

[C. A licensee who submits an activate application to the board shall not conduct business with the real estate firm or sole proprietorship set forth in the application until the

application is processed and the license is issued by the board.]

18VAC135-20-80. Application fees.

A. All application fees for licenses are nonrefundable and the date of receipt by the board or its agent is the date that will be used to determine whether it is on time.

B. Application fees are as follows:

| | |
|---|-------|
| Salesperson by education and examination | \$150 |
| Salesperson by reciprocity | \$150 |
| Salesperson's or [associate] broker's license as a business entity | \$190 |
| Broker by education and examination | \$190 |
| Broker by reciprocity | \$190 |
| Broker concurrent license | \$140 |
| Firm license | \$250 |
| Branch office license | \$190 |
| Transfer application | \$60 |
| Activate application | \$60 |

C. The fee for examination or reexamination is subject to contracted charges to the board by an outside vendor. These contracts are competitively negotiated and bargained for in compliance with the Virginia Public Procurement Act (§ 2.2-4300 et seq. of the Code of Virginia). Fees may be adjusted and charged to the candidate in accordance with these contracts. ~~The fee shall not exceed \$90 per candidate.~~

18VAC135-20-100. Qualification for renewal; continuing education requirements. (Repealed.)

~~Effective until June 30, 2008, as a condition of renewal, and pursuant to § 54.1-2105 of the Code of Virginia, all active brokers and salespersons, resident or nonresident, except those called to active duty in the Armed Forces of the United States, shall be required to satisfactorily complete a course or courses of not less than a total of 16 classroom, correspondence, or other distance learning instruction hours during each licensing term, except for salespersons who are renewing for the first time and are required to complete 30 hours of postlicense education regardless of whether his license is active or inactive. Active licensees called to active duty in the Armed Forces of the United States may complete these courses within six months of their release from active duty. Inactive brokers and salespersons are not required to complete the continuing education course as a condition of renewal (see 18VAC135-20-70, Activation of license).~~

~~1. Providers shall be those as defined in 18VAC135-20-350.~~

~~2. Eight of the 16 required hours shall include two hours of training in fair housing laws, and a minimum of one hour each in state real estate laws and regulations, ethics and~~

standards of conduct, agency and contracts for brokers. Eight of the 16 required hours shall include two hours of training in fair housing laws, three hours in ethics and standards of conduct and a minimum of one hour each in state real estate laws and regulations, agency, and contracts for salespersons. If the licensee submits a notarized affidavit to the board which certifies that he does not practice residential real estate brokerage, residential management or residential leasing and shall not do so during the licensing term, training in fair housing shall not be required; instead such licensee shall receive training in other applicable federal and state discrimination laws and regulations. The remaining hours shall be on subjects from the following list:

- a. Property rights;
- b. Contracts;
- c. Deeds;
- d. Mortgages and deeds of trust;
- e. Types of mortgages;
- f. Leases;
- g. Liens;
- h. Real property and title insurance;
- i. Investment;
- j. Taxes in real estate;
- k. Real estate financing;
- l. Brokerage and agency contract responsibilities;
- m. Real property management;
- n. Search, examination and registration of title;
- o. Title closing;
- p. Appraisal of real property;
- q. Planning subdivision developments and condominiums;
- r. Regulatory statutes;
- s. Housing legislation;
- t. Fair housing;
- u. Real Estate Board regulations;
- v. Land use;
- w. Business law;
- x. Real estate economics;
- y. Real estate investments;
- z. Federal real estate law;
- aa. Commercial real estate;
- bb. Americans With Disabilities Act;
- cc. Environmental issues impacting real estate;
- dd. Building codes and design;
- ee. Local laws and zoning;
- ff. Escrow requirements;

- gg. Ethics and standards of conduct; and
- hh. Common interest ownership.

3. Licensees holding licenses in other jurisdictions must complete eight hours, which shall include fair housing laws, state real estate laws and regulations, ethics and standards of conduct, agency and contracts and may substitute education completed in their jurisdiction for the remaining hours required by subdivision 2 of this subsection.

4. The board may approve additional subjects at its discretion and in accordance with § 54.1-2105 of the Code of Virginia.

5. Credit for continuing education course completion is given for each class hour/clock hour as defined in 18VAC135-20-350.

6. Licensees are responsible for retaining for three years and providing proof of continuing education. Proof of course completion shall be made on a form prescribed by the board. Failure to provide documentation of completion as directed by the board will result in the license not being renewed and/or disciplinary action pursuant to this chapter.

7. Instructors who are also licensees of the board may earn continuing education credit for teaching continuing education courses.

18VAC135-20-101. Qualification for renewal; continuing education requirements.

Effective July 1, 2008, as As a condition of renewal, and pursuant to § 54.1-2105 54.1-2105.03 of the Code of Virginia, all active salespersons, resident or nonresident, except those called to active duty in the Armed Forces of the United States, shall be required to satisfactorily complete a course or courses of not less than a total of 16 classroom, correspondence, or other distance learning instruction hours during each licensing term, except for salespersons who are renewing for the first time and are required to complete 30 hours of post-license education regardless of whether his license is active or inactive. All active brokers, resident or nonresident, except those called to active duty in the Armed Forces of the United States, shall be required to satisfactorily complete a course or courses of not less than a total of 24 classroom, correspondence, or other distance learning instruction hours during each licensing term. Active licensees called to active duty in the Armed Forces of the United States may complete these courses within six months of their release from active duty. Inactive brokers and salespersons are not required to complete the continuing education course as a condition of renewal (see 18VAC135-20-70, Activation of license).

1. Providers shall be those as defined in 18VAC135-20-350;

2. [~~For Effective until January 1, 2016, for~~] salespersons, eight of the required 16 hours shall include two hours of ~~training~~ in fair housing laws, three hours in ethics and

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standards of conduct and a minimum of one hour each in ~~state real estate laws and regulations~~ legal updates and emerging trends, real estate agency and real estate contracts. For brokers, 16 of the 24 required hours shall include eight hours in supervision and management of real estate agents and the management of real estate brokerage firms, two hours ~~of training~~ in fair housing laws, three hours in ethics and standards of conduct and a minimum of one hour each in ~~state real estate laws and regulations~~ legal updates and emerging trends, real estate agency and real estate contracts. [Effective January 1, 2016, for salespersons, eight of the required 16 hours shall include two hours in fair housing laws, three hours in ethics and standards of conduct, and a minimum of one hour each in legal updates and emerging trends, to include flood zone areas and the National Flood Insurance Program, real estate agency and real estate contracts. For brokers, 16 of the 24 required hours shall include eight hours in supervision and management of real estate agents and the management of real estate brokerage firms, two hours in fair housing laws, three hours in ethics and standards of conduct, and a minimum of one hour each in legal updates and emerging trends, to include flood zone areas and the National Flood Insurance Program, real estate agency and real estate contracts.] If the licensee submits a notarized affidavit to the board that certifies that he does not practice residential real estate brokerage, residential management or residential leasing and shall not do so during the licensing term, training in fair housing shall not be required; instead such licensee shall receive training in other applicable federal and state discrimination laws and regulations. The remaining hours shall be on subjects from the following list:

- a. Property rights;
- b. Contracts;
- c. Deeds;
- d. Mortgages and deeds of trust;
- e. Types of mortgages;
- f. Leases;
- g. Liens;
- h. Real property and title insurance;
- i. Investment;
- j. Taxes in real estate;
- k. Real estate financing;
- l. Brokerage and agency contract responsibilities;
- m. Real property management;
- n. Search, examination and registration of title;
- o. Title closing;
- p. Appraisal of real property;
- q. Planning subdivision developments and condominiums;

- r. Regulatory statutes;
- s. Housing legislation;
- t. Fair housing;
- u. Real Estate Board regulations;
- v. Land use;
- w. Business law;
- x. Real estate economics;
- y. Real estate investments;
- z. Federal real estate law;
- aa. Commercial real estate;
- bb. Americans With Disabilities Act;
- cc. Environmental issues impacting real estate;
- dd. Building codes and design;
- ee. Local laws and zoning;
- ff. Escrow requirements;
- gg. Ethics and standards of conduct; and
- hh. Common interest ownership.

3. [Salespersons Effective until January 1, 2016, salespersons] holding licenses in other jurisdictions must complete eight hours, which shall include fair housing laws, ~~state real estate laws and regulations~~ legal updates and emerging trends, ethics and standards of conduct, and real estate agency and real estate contracts and may substitute education completed in their jurisdiction for the remaining hours required by subdivision 2 of this ~~subsection~~ section. Brokers holding licenses in other jurisdictions must complete 16 hours that shall include supervision and management of real estate agents and the management of real estate brokerage firms, fair housing laws, ~~state real estate laws and regulations~~ legal updates and emerging trends, ethics and standards of conduct, and real estate agency and real estate contracts and may substitute education completed in their jurisdiction for the remaining hours required by subdivision 2 of this ~~subsection~~ section. [Effective January 1, 2016, salespersons holding licenses in other jurisdictions must complete eight hours, which shall include fair housing laws, legal updates and emerging trends, to include flood zone areas and the National Flood Insurance Program, ethics and standards of conduct, and real estate agency and real estate contracts and may substitute education completed in their jurisdiction for the remaining hours required by subdivision 2 of this section. Brokers holding licenses in other jurisdictions must complete 16 hours that shall include supervision and management of real estate agents and the management of real estate brokerage firms, fair housing laws, legal updates and emerging trends, to include flood zone areas and the National Flood Insurance Program, ethics and standards of conduct, and real estate agency and real estate contracts and may substitute

education completed in their jurisdiction for the remaining hours required by subdivision 2 of this section.]

4. The board may approve additional subjects at its discretion and in accordance with ~~§ 54.1-2105~~ 54.1-2105.03 of the Code of Virginia.

5. Credit for continuing education course completion is given for each class hour/clock hour as defined in 18VAC135-20-350.

6. Licensees are responsible for retaining for three years and providing proof of continuing education. Proof of course completion shall be made on a form prescribed by the board. Failure to provide documentation of completion as directed by the board will result in the license not being renewed and/or disciplinary action pursuant to this chapter.

7. Instructors who are also licensees of the board may earn continuing education credit for teaching continuing education courses.

8. Any continuing education credits completed by the licensee in excess of that required in the current license term that are obtained in the six months immediately prior to the license expiration date shall carry over into the next two-year renewal period.

18VAC135-20-105. Additional qualifications for renewal of a reciprocal license. (Repealed.)

~~In addition to the requirements set forth in 18VAC135-20-100, all licensees, including those licensees who upgrade to broker prior to renewal, who obtained their license by reciprocity in accordance with 18VAC135-20-60 must pass a written examination provided by the board or a testing service acting on behalf of the board covering Virginia real estate license law and regulations of the Real Estate Board.~~

18VAC135-20-120. Fees for renewal.

A. All fees for renewals are nonrefundable, and the date of receipt by the board or its agent is the date that will be used to determine whether it is on time.

B. Renewal fees are as follows:

| | |
|--|-------|
| Salesperson | \$65 |
| Salesperson's or associate broker's license as a business entity | \$90 |
| Broker | \$80 |
| Concurrent broker | \$80 |
| Firm | \$160 |
| Branch office | \$90 |

Part IV
Reinstatement

18VAC135-20-140. Failure to renew; reinstatement required.

A. All applicants for reinstatement must meet all requirements set forth in ~~18VAC135-20-100~~ 18VAC135-20-

101. Applicants for reinstatement of an active who want to activate their license must have completed the continuing education requirement in order to reinstate and activate the license. Applicants for reinstatement of an inactive license are not required to complete the continuing education requirement for license reinstatement.

B. If the requirements for renewal of a license, including receipt of the fee by the board, are not completed by the licensee within 30 days of the expiration date noted on the license, a reinstatement fee is required as follows:

| | |
|--|-------|
| Salesperson | \$100 |
| Salesperson's or associate broker's license as a business entity | \$135 |
| Broker | \$120 |
| Concurrent Broker | \$120 |
| Firm | \$245 |
| Branch Office | \$135 |

C. A license may be reinstated for up to one year following the expiration date with payment of the reinstatement fee. After one year, the license may not be reinstated under any circumstances and the applicant must meet all current educational and examination requirements and apply as a new applicant.

D. [A licensee may not perform activities defined in §§ 54.1-2100 and 54.1-2101 of the Code of Virginia with an expired license.] Any real estate activity conducted subsequent to the expiration date may constitute unlicensed activity and be subject to prosecution under Chapter 1 (§ 54.1-100 et seq.) of Title 54.1 of the Code of Virginia.

Part V
Standards of Practice and Conduct

18VAC135-20-155. Grounds for disciplinary action.

The board has the power to fine any licensee [or certificate holder] and to suspend or revoke any license [or certificate] issued under the provisions of Chapter 21 (§ 54.1-2100 et seq.) of Title 54.1 of the Code of Virginia and this chapter in accordance with subdivision A 7 of § 54.1-201 and § 54.1-202 of the Code of Virginia and the provisions of the Administrative Process Act, Chapter 40 (§ 2.2-4000 et seq.) of Title 2.2 of the Code of Virginia, where the licensee [or certificate holder] has been found to have violated or cooperated with others in violating any provision of ~~Chapter~~ Chapters 1 (§ 54.1-100 et seq.), 2 (§ 54.1-200 et seq.), 3 (§ 54.1-300 et seq.), and 21 (§ 54.1-2100 et seq.) of Title 54.1 of the Code of Virginia, Chapter ~~4.3~~ 27.3 (§ 6.1-2.19 55-525.16 et seq.) of Title ~~6.1~~ 55 of the Code of Virginia, or any regulation of the board. Any licensee failing to comply with the provisions of Chapter 21 (§ 54.1-2100 et seq.) of Title 54.1 of the Code of Virginia or the regulations of the Real Estate Board in performing any acts covered by §§ 54.1-2100 and 54.1-2101 of the Code of Virginia may be charged with

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~~improper dealings~~ a violation, regardless of whether those acts are in the licensee's personal capacity or in his capacity as a real estate licensee.

18VAC135-20-160. Place of business.

A. Within the meaning and intent of § 54.1-2110 of the Code of Virginia, a place of business shall be an office where:

1. The principal broker, either through his own efforts or through the efforts of his employees or associates, regularly transacts the business of a real estate broker as defined in § 54.1-2100 of the Code of Virginia; and
2. The principal broker and his employees or associates can receive business calls and direct business calls to be made.

B. No place of business shall be in a [~~physical~~] residence unless it is separate and distinct from the living quarters of the residence with its own entrance and is accessible by the public.

C. Every principal broker shall have readily available to the public in the main place of business the firm license, the principal broker license and the license of every salesperson and broker active with the firm. The branch office license and a roster of every salesperson or broker assigned to the branch office shall be posted in a conspicuous place in each branch office.

18VAC135-20-165. Duties of supervising broker.

~~D.~~ Each place of business and each branch office shall be supervised by a supervising broker. The supervising broker shall exercise reasonable and adequate supervision of the provision of real estate brokerage services by associate brokers and salespersons assigned to the branch office. The supervising broker may designate another broker to assist in administering the provisions of this ~~subsection~~ section. The supervising broker does not relinquish overall responsibility for the supervision of the acts of all licensees assigned to the branch office. Factors to be considered in determining whether the supervision is reasonable and adequate include but are not limited to the following:

1. The availability of the supervising broker to all licensees under the supervision of the broker to review and approve all documents, including but not limited to leases, contracts affecting the firm's clients, brokerage agreements, and advertising;
2. The availability of training and written procedures and policies ~~which that~~ provide, without limitation, clear guidance in the following areas:
 - a. Proper handling of escrow deposits;
 - b. Compliance with federal and state fair housing laws and regulations if the firm engages in residential brokerage, residential leasing, or residential property management;
 - c. Advertising;
 - d. Negotiating and drafting of contracts, leases, and brokerage agreements;

- e. Use of unlicensed individuals;
- f. Agency [or independent contractor] relationships;
- g. Distribution of information on new or changed statutory or regulatory requirements;
- h. Disclosure of matters relating to the condition of the property; and
- i. Such other matters as necessary to assure the competence of licensees to comply with this chapter and Chapter 21 (§ 54.1-2100 et seq.) of Title 54.1 of the Code of Virginia.

3. The availability of the supervising broker in a timely manner to supervise the management of the brokerage services;

4. The supervising broker ensures the brokerage services are carried out competently and in accordance with the provisions of this chapter and Chapter 21 (§ 54.1-2100 et seq.) of Title 54.1 of the Code of Virginia;

5. The supervising broker undertakes reasonable steps to ensure compliance by all licensees assigned to the branch office; including but not limited to ensuring the licensees have an active, current license [;]

6. The supervising broker [ensures ~~undertakes~~ reasonable steps to ensure] only licensees undertake activities requiring a license, including but are not limited to:

a. Show property;

b. Hold an open house;

c. Answer questions on listings, title, financing, closing, contracts, brokerage agreements, and legal documents;

d. Discuss, explain, interpret, or negotiate a contract, listing, lease agreement, or property management agreement with anyone outside the firm; and

e. Negotiate or agree to any commission, commission split, management fee, or referral fee.

7. [~~A~~ The] supervising broker shall provide adequate supervision over the unlicensed employee(s) or assistants under the supervision of a broker as they perform the following permitted activities:

a. Perform general clerical duties, including answering the phones [, responding by electronic media,] and [~~reading~~ providing] information shown on the listing;

b. Submit listings and changes to MLS;

c. Follow up on loan commitments after contracts have been ratified;

d. Have keys made for listings;

e. Compute commission checks;

f. Place signs on properties;

g. Act as a courier service;

h. Schedule appointments;

- i. Record and deposit earnest money deposits, security deposits, and advance rents;
- j. Prepare contract forms for approval of the licensee and supervising broker;
- k. Prepare promotional materials and advertisements for approval of the licensee and supervising broker;
- l. Assemble closing documents;
- m. Obtain required public information from governmental entities;
- n. Monitor license and personnel files;
- o. Order routine repairs as directed by licensee;
- p. Are compensated for their work at a predetermined rate that is not contingent upon the occurrence of a real estate transaction; and
- q. Perform any other activities undertaken in the regular course of business for which a license is not required.

6. 8. If a supervising broker is located more than 50 miles from the place of business or the branch office and there are licensees who regularly conduct business assigned to the branch office or at the place of business, the supervising broker must certify in writing on a quarterly basis on a form provided by the board that the supervising broker complied with the requirements ~~in~~ of ~~this subsection~~ section; and

7. 9. The supervising broker must maintain the records required in this ~~subsection~~ section for three years. The records must be furnished to the board's agent upon request.

18VAC135-20-170. Maintenance of licenses.

A. Name and address.

1. Salespersons and individual brokers shall at all times keep the board informed of their current name and home address. Changes of name and address must be reported to the board in writing within 30 calendar days of such change. The board shall not be responsible for the licensee's failure to receive notices, communications and correspondence caused by the licensee's failure to promptly notify the board of any change of address. A licensee may use a professional name other than a legal name if that professional name is filed with the board prior to its use. The professional name shall include the licensee's first or last name and shall not include any titles.
2. Salespersons and brokers shall be issued a license only to the place of business of the sole proprietorship or firm with which the salesperson or broker is active.
3. Principal brokers must at all times keep the board informed of their current firm and branch office name and addresses and changes of name and address must be reported to the board in writing within 30 calendar days of such change. A physical address is required. A post office box will not be accepted.

B. Discharge or termination of active status.

1. When any salesperson or broker is discharged or in any way terminates his active status with a sole proprietorship or firm, it shall be the duty of the sole proprietor or principal broker to return the license ~~by certified mail~~ to the board so that it is received within 10 calendar days of the date of termination or [being notified of the] status change. The sole proprietor or principal broker shall indicate on the license the date of termination, and shall sign the license before returning it.
2. When any principal broker is discharged or in any way terminates his active status with a firm, it shall be the duty of the firm to notify the board and return the license ~~by certified mail~~ to the board within three business days of termination or [being notified of the] status change. The firm shall indicate on the license the date of termination, and shall sign the license before returning it. See § 54.1-2109 of the Code of Virginia for termination relating to the death or disability of the principal broker.

18VAC135-20-180. Maintenance and management of escrow accounts.

A. Maintenance of escrow accounts.

1. If money is to be held in escrow, each firm or sole proprietorship shall maintain in the name by which it is licensed one or more federally insured separate escrow accounts in a federally insured depository ~~in Virginia~~ into which all down payments, earnest money deposits, money received upon final settlement, [application deposits as defined by § 55-248.4 of the Code of Virginia,] rental payments, rental security deposits, money advanced by a buyer or seller for the payment of expenses in connection with the closing of real estate transactions, money advanced by the broker's client or expended on behalf of the client, or other escrow funds received by him or his associates on behalf of his client or any other person shall be deposited unless all principals to the transaction have agreed otherwise in writing. The balance in the escrow accounts shall be sufficient at all times to account for all funds that are designated to be held by the firm or sole proprietorship. The principal broker shall be held responsible for these accounts, including having signatory authority on these accounts. The supervising broker and any other licensee with escrow account authority may be held responsible for these accounts. All such accounts, checks and bank statements shall be labeled "escrow" and the account(s) shall be designated as "escrow" accounts with the financial institution where such accounts are established.

2. Funds to be deposited in the escrow account may include moneys which shall ultimately belong to the licensee, but such moneys shall be separately identified in the escrow account records and shall be paid to the firm by a check drawn on the escrow account when the funds become due to the licensee. Funds in an escrow account

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shall not be paid directly to the licensees of the firm. The fact that an escrow account contains money which may ultimately belong to the licensee does not constitute "commingling of funds" as set forth by subdivision C 2 of this section, provided that there are periodic withdrawals of said funds at intervals of not more than six months, and that the licensee can at all times accurately identify the total funds in that account which belong to the licensee and the firm.

3. If escrow funds are used to purchase a certificate of deposit, the pledging or hypothecation of such certificate, or the absence of the original certificate from the direct control of the principal or supervising broker, shall constitute commingling as prohibited by subdivision C 2 of this section.

[4. Lease transactions: application deposits. Any application deposit as defined by § 55-248.4 of the Code of Virginia paid by a prospective tenant for the purpose of being considered as a tenant for a dwelling unit to a licensee acting on behalf of a landlord client shall be placed in escrow by the end of the fifth business banking day following approval of the rental application by the landlord unless all principals to the lease transaction have agreed otherwise in writing.]

B. Disbursement of funds from escrow accounts.

1. a. Purchase transactions. Upon the ratification of a contract, earnest money deposits and down payments received by the principal broker or supervising broker or his associates must be placed in an escrow account by the end of the fifth business banking day following ratification, unless otherwise agreed to in writing by the ~~parties~~ principals to the transaction, and shall remain in that account until the transaction has been consummated or terminated. In the event the transaction is not consummated (nonconsummation), the principal broker or supervising broker shall hold such funds in escrow until (i) all principals to the transaction have agreed in writing as to their disposition, and the [money funds] shall be returned to the agreed upon principal within [30 20] days of the agreement, or (ii) a court of competent jurisdiction orders such disbursement of the funds, or (iii) the funds are successfully interpleaded into a court of competent jurisdiction pursuant to this section, or (iv) the broker can pay the funds to the principal to the transaction who is entitled to receive them in accordance with the clear and explicit terms of the contract which established the deposit. In the latter event, prior to disbursement, the broker shall give written notice to the principal to the transaction not to receive the deposit by either (i) hand delivery receipted for by the addressee, or (ii) by certified mail return receipt requested, with a copy to the other party, that this payment will be made unless a written protest from that principal to the transaction is received by the broker within 30 days of the hand delivery or mailing, as appropriate, of that notice.

If the notice is sent within 90 days of the date of nonconsummation, the broker may send the notice by receiptable email or facsimile if such email address or facsimile information is set forth in the contract or otherwise provided by the recipient. In all events, the broker may send the notice to the notice address, if any, set forth in the contract. If the contract does not contain a notice address and the broker does not have another address for the recipient of the notice, the broker may send it to the last known address of the recipient. No broker shall be required to make a determination as to the party entitled to receive the earnest money deposit. The broker shall not be deemed to violate any obligation to any client by virtue of making such a determination. A broker who has carried out the above procedure shall be construed to have fulfilled the requirements of this chapter.

A principal broker or supervising broker holding escrow funds for a principal to the transaction may seek to have a court of competent jurisdiction take custody of disputed or unclaimed escrow funds via an interpleader action pursuant to § 16.1-77 of the Code of Virginia.

If a principal broker or supervising broker is holding escrow funds for the owner of real property and such property is foreclosed upon by a lender, the principal broker or supervising broker shall have the right to file an interpleader action pursuant to § 16.1-77 of the Code of Virginia.

If there is in effect at the date of the foreclosure sale a real estate purchase contract to buy the property foreclosed upon and the real estate purchase contract provides that the earnest money deposit held in escrow by a firm or sole proprietorship shall be paid to a principal to the contract in the event of a termination of the real estate purchase contract, the foreclosure shall be deemed a termination of the real estate purchase contract, and the principal broker or supervising broker may, absent any default on the part of the purchaser, disburse the earnest money deposit to the purchaser pursuant to such provisions of the real estate purchase contract without further consent from, or notice to, the principals.

b. Lease transactions: security deposits. Any security deposit held by a firm or sole proprietorship shall be placed in an escrow account by the end of the fifth business banking day following receipt, unless otherwise agreed to in writing by the principals to the transaction. Each such security deposit shall be treated in accordance with the security deposit provisions of the Virginia Residential Landlord and Tenant Act, Chapter 13.2 (§ 55-248.2 et seq.) of Title 55 of the Code of Virginia, unless exempted therefrom, in which case the terms of the lease or other applicable law shall control. Notwithstanding anything in this section to the contrary, unless the landlord has otherwise become entitled to receive the security deposit or a portion thereof, the

security deposit shall not be removed from an escrow account required by the lease without the written consent of the tenant. If there is in effect at the date of the foreclosure sale a tenant in a residential dwelling unit foreclosed upon and the landlord is holding a security deposit of the tenant, the landlord shall handle the security deposit in accordance with applicable law, which requires the holder of the landlord's interest in the dwelling unit at the time of termination of tenancy to return any security deposit and any accrued interest that is duly owed to the tenant, whether or not such security deposit is transferred with the landlord's interest by law or equity, and regardless of any contractual agreements between the original landlord and his successors in interest. Nothing herein shall be construed to prevent the landlord from making lawful deductions from the security deposit in accordance with applicable law.

c. Lease transactions: [~~rents prepaid rent~~] or escrow fund advances. Unless otherwise agreed in writing by all principals to the transaction, all [~~rents prepaid rent~~] and other money paid to the licensee in connection with the lease shall be placed in an escrow account by the end of the fifth business banking day following receipt [~~, unless otherwise agreed to in writing by the principals to the transaction,~~] and remain in that account until paid in accordance with the terms of the lease and the property management agreement, as applicable [~~, except the prepaid rent, which shall be treated in accordance with the prepaid rent provision of the Virginia Residential Landlord and Tenant Act, Chapter 13.2 (§ 55-248.2 et seq.) of Title 55 of the Code of Virginia.~~]

2. a. Purchase transactions. Unless otherwise agreed in writing by all principals to the transaction, a licensee shall not be entitled to any part of the earnest money deposit or to any other money paid to the licensee in connection with any real estate transaction as part of the licensee's commission until the transaction has been consummated.

b. Lease transactions. Unless otherwise agreed in writing by the principals to the lease or property management agreement, as applicable, a licensee shall not be entitled to any part of the security deposit or to any other money paid to the licensee in connection with any real estate lease as part of the licensee's commission except in accordance with the terms of the lease or the property management agreement, as applicable. Notwithstanding anything in this section to the contrary, unless the landlord has otherwise become entitled to receive the security deposit or a portion thereof, the security deposit shall not be removed from an escrow account required by the lease without the written consent of the tenant.

3. On funds placed in an account bearing interest, written disclosure in the contract of sale or lease at the time of contract or lease writing shall be made to the principals to the transaction regarding the disbursement of interest.

4. A licensee shall not disburse or cause to be disbursed moneys from an escrow or property management escrow account unless sufficient money is on deposit in that account to the credit of the individual client or property involved.

5. Unless otherwise agreed in writing by all principals to the transaction, expenses incidental to closing a transaction, e.g., fees for appraisal, insurance, credit report, etc., shall not be deducted from a deposit or down payment.

C. Actions including improper maintenance of escrow funds include:

1. Accepting any note, nonnegotiable instrument, or anything of value not readily negotiable, as a deposit on a contract, offer to purchase, or lease, without acknowledging its acceptance in the agreement;

2. Commingling the funds of any person by a principal or supervising broker or his employees or associates or any licensee with his own funds, or those of his corporation, firm, or association;

3. Failure to deposit escrow funds in an account or accounts designated to receive only such funds as required by subdivision A 1 of this section;

4. Failure to have sufficient balances in an escrow account or accounts at all times for all funds that are designated to be held by the firm or sole proprietorship as required by this chapter; and

5. Failing, as principal broker, to report to the board within three business days instances where the principal broker reasonably believes the improper conduct of a licensee, independent contractor, or employee has caused noncompliance with this section.

18VAC135-20-185. Maintenance and management of financial records.

A. A complete record of financial transactions conducted under authority of the principal broker's Virginia license shall be maintained in the principal broker's place of business, or in a designated branch office. When the principal broker's office is located outside of Virginia and the firm has a branch office in Virginia, a copy of these records shall be maintained in the Virginia office. These records shall show, in addition to any other requirements of the regulations, the following information: from whom money was received; the date of receipt; the place of deposit; the date of deposit; and, after the transaction has been completed, the final disposition of the funds.

B. The principal broker shall maintain a bookkeeping or recordkeeping system which shall accurately and clearly disclose full compliance with the requirements outlined in this section. Accounting records which are in sufficient detail to provide necessary information to determine such compliance shall be maintained.

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C. Actions constituting improper recordkeeping by a principal broker or supervising broker include:

1. ~~Failing, as a principal or supervising broker, to retain for a period of three years from the date of the closing or ratification, if the transaction fails to close, a complete and legible copy of each disclosure of a brokerage relationship, and each executed contract, agreement, and closing statement related to a real estate transaction, in the broker's control or possession, unless prohibited by law execution, each brokerage agreement, [each disclosure of a brokerage relationship to an unrepresented party,] each disclosure and consent to dual agency or dual representation, and each disclosure and consent to designated agency or designated representation [. Each disclosure of a brokerage relationship to an unrepresented party shall be retained for three years from the date provided to the party];~~

2. ~~Having received moneys on behalf of others and failed to maintain Failing to retain for a period of three years from the date of closing or from ratification, if the transaction fails to close, a complete and legible copy of each executed contract of sale, any executed release from contract, any executed lease agreement, any executed property management agreement, and each settlement statement related to a real estate transaction, in the broker's control or possession unless prohibited by law;~~

3. ~~Failing to maintain~~ a complete and accurate record of such receipts and their disbursements for moneys received on behalf of others for a period of three years from the date of the closing or termination of the sales transaction or termination of a lease or conclusion of the licensee's involvement in the lease; and

3. 4. ~~Failing, within a reasonable time, to account for or to remit any moneys coming into a licensee's possession which belong to others to maintain any records required by this section for three years.~~

18VAC135-20-190. Advertising by licensees.

A. Definitions. The following definitions apply unless a different meaning is plainly required by the context:

"Advertising" means all forms of representation, promotion and solicitation disseminated in any manner and by any means of communication to consumers for any purpose related to licensed real estate activity.

"Contact information" means telephone number or web address.

"Disclosure" in the context of online electronic media advertising means (i) advertising [by the firm] that contains the firm's licensed name, ~~the city and state in which the firm's main office is located and the jurisdiction in which the firm holds a license [and the city and state in which the firm's main office or branch office is located]~~ or (ii) advertising [by an affiliated licensee] that contains the licensee licensee's name [, and] the name of the firm with which the licensee is active [, and] the city and state in which the

~~licensee's office is located and the jurisdiction in which the licensee holds a license [place of business is located,] and [is this disclosure shall be viewable on the main page or no more than] one click away from the main page. "Disclosure" in the context of [all] other advertising means (a) (i) advertising by the firm that contains the firm's licensed name and the firm's address or (b) (ii) advertising by an affiliated licensee that contains the licensee's name, and the name of the firm with which the licensee is active and the firm's address.~~

~~"Institutional advertising" means advertising in which no real property is identified.~~

"Viewable page" means a page that may or may not scroll beyond the borders of the screen and includes the use of framed pages.

B. All advertising must be under the direct supervision of the principal broker or supervising broker, in the name of the firm and, when applicable, comply with the disclosure required by § 54.1-2138.1 of the Code of Virginia. The firm's licensed name must be clearly and legibly displayed on all advertising.

C. ~~Online~~ Electronic media advertising.

1. Any ~~online~~ electronic media advertising undertaken for the purpose of any licensed activity is subject to the provisions of this chapter.

2. All ~~online~~ electronic media advertising that can be viewed or experienced as a separate unit (i.e., e-mail email messages and web pages) must contain disclosure [as follows: a. ~~The web. If a firm or licensee owns a webpage or controls its content, the viewable page must include disclosure or a link to disclosure that shall be viewable on the main page or is no more than one click away from the main page]~~.

~~b. E mail, newsgroups, discussion lists, bulletin boards. All such formats shall include disclosure at the beginning or end of each message. The provisions of this subsection do not apply to correspondence in the ordinary course of business [All other electronic media. Firm's name, licensee's name and license number, and contact information. The disclosure must be prominently displayed on the viewable page.]~~

~~e. Instant messages. Disclosure is not necessary in this format if the firm or licensee provided the disclosures via another format prior to providing, or offering to provide, licensed services.~~

~~d. Chat/Internet based dialogue. Disclosure is required prior to providing, or offering to provide, licensable services during the chat session, or in text visible on the same webpage that contains the chat session if the licensee controls the website hosting the chat session.~~

~~e. Voice Over Net (VON). Disclosure is required prior to advertising or the disclosure text must be visible on the same webpage that contains the VON session.~~

~~f. Banner ads. A link to disclosure is required unless the banner ad contains the disclosure.~~

3. All ~~online~~ electronic media listings advertised must be kept current and consistent as follows:

a. ~~Online~~ Electronic media listing information must be consistent with the property description and actual status of the listing. The licensee shall update in a timely manner material changes to the listing status authorized by the seller or property description when the licensee controls the ~~online~~ electronic media site.

b. The licensee shall make timely written requests for updates reflecting material changes to the listing status or property descriptions when a third party ~~online~~ electronic media listing service controls the website displaying the listing information.

~~e. All listing information shall indicate in a readily visible manner the date that the listing information shown was last updated.~~

D. Other advertising.

1. [Signage For sale and for lease signs placed on the property] shall include but not be limited to the firm's name and the firm's primary or branch office telephone number.

2. Business cards shall include but not be limited to the licensee's name, the firm name, and contact information.

~~D.~~ **E.** The following activities shall be prohibited:

1. Implying that property listed by a licensee's firm and advertised by the firm or licensee is for sale, exchange, rent or lease by the owner or by an unlicensed person;

2. Failing to include a notice in all advertising that the owner is a real estate licensee if the licensee owns or has any ownership interest in the property advertised ~~and is not using the services of a licensed real estate entity;~~

3. Failing to include the firm's licensed name on any sign displayed outside each place of business;

4. Failing to obtain the written consent of the seller, landlord, optionor or licensor prior to advertising a specific identifiable property; and

5. Failing to identify the type of services offered when advertising by general description a property not listed by the party making the advertisement.

18VAC135-20-210. Disclosure of interest.

If a licensee knows or should have known that he, any member of his family, his firm, any member of his firm, or any entity in which he has an ownership interest, is acquiring or attempting to acquire or is selling or leasing real property through purchase, sale, or lease and the licensee is a party to the transaction, the licensee must disclose in writing that information he is a licensee and that he, any member of his family, his firm, any member of his firm, or any entity in which he has an ownership interest has or will have an ownership interest to the ~~owner, purchaser or lessee in writing~~

~~in the offer to purchase, the application, the offer to lease or lease other parties to the transaction.~~ This disclosure shall be made to the purchaser, seller [lessor,] or lessee upon having substantive discussions about specific real property.

18VAC135-20-220. Disclosure of brokerage relationships.

A. Purchase transactions.

1. Unless disclosure has been previously made by a licensee, a licensee shall disclose to an actual or prospective buyer or seller who is not the client of the licensee and who is not represented by another licensee and with whom the licensee has substantive discussions about a specific property or properties, the person whom the licensee represents ~~in~~ pursuant to a brokerage relationship agreement, as that term is defined in § 54.1-2130 of the Code of Virginia.

2. Except as otherwise provided in subdivision 3 of this subsection, such disclosure shall be made in writing at the earliest practical time, but in no event later than the time specific real estate assistance is first provided. Any disclosure complying with the provisions of § 54.1-2138 A of the Code of Virginia shall be deemed in compliance with this disclosure requirement.

3. A licensee acting as a dual or designated agent or as a dual or designated representative shall obtain the written consent of all clients to the transaction at the earliest practical time. Such consent shall be presumed to have been given by a client who signs a disclosure complying with the provisions of §§ 54.1-2139 [.54.1-2139.01,] and 54.1-2139.1 of the Code of Virginia. Such disclosure shall be given to, and consent obtained from, (i) the buyer not later than the time an offer to purchase is presented to the licensee who will present the offer to the listing agent or seller, and (ii) the seller not later than the time the offer to purchase is presented to the seller.

4. Any disclosure required by this subsection may be given in combination with other disclosures or information, but, if so, the disclosure must be conspicuous, printed in bold lettering, all capitals, underlined, or within a separate box or as otherwise provided by § 54.1-2138 of the Code of Virginia.

B. Lease transactions.

1. Unless disclosure has been previously made by a licensee, a licensee shall disclose to an actual or prospective landlord or tenant who is not the client of the licensee and who is not represented by another licensee, that the licensee has a brokerage relationship with another party or parties to the transaction. Such disclosure shall be in writing and included in the application for lease or the lease itself, whichever occurs first. If the terms of the lease do not provide for such disclosure, the disclosure shall be made in writing not later than the signing of the lease.

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2. This disclosure requirement shall not apply to lessors or lessees in single or multi-family residential units for lease terms of less than two months.

18VAC135-20-225. [Voluntary compliance Audits].

A. Procedures for [voluntary compliance,] self audit, or third-party audit; broker immunity.

1. A principal broker or supervising broker may conduct, or may have another person conduct, an audit of the practices, policies, and procedures of his firm or sole proprietorship in accordance with § 54.1-2111.1 of the Code of Virginia. [A principal broker or supervising broker shall conduct an audit at least once during each license term in accordance with § 54.1-2106.2 of the Code of Virginia.] The methods and findings of the audit shall be documented as described in this subsection.

2. A principal broker or supervising broker shall notify the board in writing within 30 days following the conclusion of a self audit, or within 30 days from the receipt of the final report of a third-party audit, of any matter he believes to constitute noncompliance with the provisions of Real Estate Board regulations or law. The principal broker or supervising broker shall also submit (i) a statement that such noncompliance has been remediated or (ii) a plan to correct such noncompliance within 90 days. Failure to comply with these requirements may result in loss of immunity from regulatory enforcement action.

3. A principal broker or supervising broker shall sign and date any report made pursuant to subdivision 2 of this subsection. Such report, properly submitted, shall provide immunity from enforcement against the principal broker or supervising broker by the board for the matters reported therein.

4. Immunity from enforcement action provided by this section shall not apply if the noncompliance with provisions of Real Estate Board regulations or law by the principal broker or supervising broker was intentional or was the result of gross negligence by the principal broker or supervising broker.

5. Immunity from enforcement [action] provided by this section shall apply only to the principal broker and supervising broker who conduct an audit and submit a voluntary compliance plan in accordance with this section and shall not extend to any other broker or salesperson who may not be in compliance with Real Estate Board regulations or law.

6. Failure to complete the voluntary compliance program within 90 days from the date of plan submission shall result in the loss of immunity from regulatory enforcement action. Repeated instances of a violation found as a result of an audit that was subject to the voluntary compliance program may be deemed by the board to constitute a failure to complete the prior voluntary compliance program.

~~B. [Information needed for audit. In conducting an audit of practices, policies, and procedures of a broker, the principal broker or supervising broker or a third party shall examine and document all matters regarding the compliance by the firm or sole proprietorship with law and regulation regarding: Procedures for mandatory audit.~~

1. A principal broker or supervising broker shall conduct or have a third party conduct an audit at least once during each license term in accordance with § 54.1-2106.2 of the Code of Virginia. Such audit shall be documented on a form developed by the board.

2. In conducting an audit of practices, policies, and procedures of the firm or sole proprietorship, the principal broker or supervising broker or a third party shall examine and document all matters regarding the compliance by the firm or sole proprietorship with law and regulation regarding:

~~1-~~ a.] Proper handling of escrow deposits and maintenance of a complete record of financial transactions;

[~~2-~~ b.] Compliance with federal and state fair housing laws and regulations if the firm or sole proprietorship engages in residential brokerage, residential leasing, or residential property management;

[~~3-~~ c.] Advertising in all forms and media;

[~~4-~~ d.] Negotiation and drafting of contracts, leases, and brokerage agreements;

[~~5-~~ e.] Use of unlicensed individuals;

[~~6-~~ f.] Agency [or independent contractor] relationships;

[~~7-~~ g.] Distribution of information on new or changed statutory or regulatory requirements;

[~~8-~~ h.] Proper documentation of required disclosures; and

[~~9-~~ i.] Such other matters as necessary to assure the competence of licensees to comply with this chapter and Chapter 21 (§ 54.1-2100 et seq.) of Title 54.1 of the Code of Virginia.

[3. If at the conclusion of a mandatory audit the principal broker or supervising broker or third party believes there is noncompliance with the provisions of the Real Estate Board regulations or law, the principal broker or supervising broker may avail himself of the procedures for voluntary compliance described in subsection A of this section.]

Upon request by any investigator, or by another agent of the board, a broker shall cooperate in the provision of records and documents pursuant to 18VAC135-20-240 within 10 days of receipt of the request, and for other requests by the board and its agents pursuant to 18VAC135-20-250, within 21 days of receipt.

18VAC135-20-240. Provision of records to the board.

Unless otherwise specified by the board, or as set forth in § 54.1-2108 of the Code of Virginia, a licensee of the Real Estate Board shall produce to the board or any of its agents within 10 days of the request evidence of signature cards or bank records, any document, book, or record concerning any real estate transaction in which the licensee was involved, or for which the licensee is required to maintain records for inspection and copying by the board or its agents. The board may extend such time frame upon a showing of extenuating circumstances prohibiting delivery within such 10-day period.

18VAC135-20-260. Unworthiness and incompetence Prohibited acts.

~~Actions constituting unworthy and incompetent conduct include~~ The following are prohibited acts:

1. Obtaining a license by false or fraudulent representation
Furnishing substantially inaccurate or incomplete information to the board in obtaining, renewing, reinstating, or maintaining a license;
2. Holding more than one license as a real estate broker or salesperson in Virginia except as provided in this chapter;
3. As a currently licensed real estate salesperson, sitting for the licensing examination for a salesperson's license;
4. As a currently licensed real estate broker, sitting for a real estate licensing examination;
5. Signing an experience verification form without direct supervision or actual knowledge of the applicant's activities as defined in §§ 54.1-2100 and 54.1-2101 of the Code of Virginia [or unreasonably refusing to sign an experience verification form];
6. Having been convicted or found guilty regardless of the manner of adjudication in any jurisdiction of the United States of a misdemeanor involving moral turpitude, sexual offense, drug distribution or physical injury, or any felony, there being no appeal pending therefrom or the time for appeal having elapsed. Review of convictions shall be subject to the requirements of § 54.1-204 of the Code of Virginia. Any plea of nolo contendere shall be considered a conviction for the purposes of this subdivision. ~~[The record of a conviction certified or authenticated in such form as to be admissible in evidence under the laws of the jurisdiction where convicted shall be admissible as prima facie evidence of such conviction or guilt];~~
7. ~~7.~~ Failing to inform the board in writing within 30 days of pleading guilty or nolo contendere or being convicted or found guilty regardless of adjudication of any convictions as stated in subdivision 5 6 of this section;
8. ~~8.~~ Having had a license as a real estate broker or real estate salesperson that was suspended, revoked, or surrendered in connection with a disciplinary action or that has been the subject of discipline in any jurisdiction;

~~8.~~ 9. Failing to inform the board in writing within 30 days of a disciplinary action as stated in subdivision 7 8 of this section;

~~9.~~ 10. Having been found in a court or an administrative body of competent jurisdiction to have violated the Virginia Fair Housing Act, the Fair Housing Laws of any jurisdiction of the United States, including without limitation Title VIII of the Civil Rights Act of 1968 (82 Stat. 73), or the Civil Rights Act of 1866 (14 Stat. 27), there being no appeal therefrom or the time for appeal having elapsed;

~~10.~~ Failing 11. Actions constituting failing to act as a real estate broker or salesperson in such a manner as to safeguard the interests of the public, including but not limited to the following:

- a. A [principal broker or supervising] broker failing to ensure proper supervision and accountability over the firm's day-to-day financial dealings, escrow account or accounts, and daily operations;
- b. A broker failing to [ensure the transaction was properly released and the money disbursed disburse funds from an escrow account] according to the regulations [or failing to properly retain documents relating to the basis for disbursement];
- c. A broker failing to ensure [salespersons working at the firm or sole proprietorship the licensees for whom the broker has oversight responsibility] hold active licenses while practicing real estate;
- d. A broker failing to provide accurate and timely reports to the board about a licensee's compliance with the board's laws and regulations;
- e. A broker failing to have signatory authority on all accounts;
- f. A broker failing to account for or remit any moneys coming into a licensee's possession that belong to another;
- g. A licensee failing to submit to the broker in a timely manner, all earnest money deposits, contracts, listing agreements, deeds of lease, or any other documents for which the broker has oversight [duties responsibility];
- h. A [salesperson licensee] negotiating leases [or collecting security deposits, and receiving management fees for managing properties for a third party] through an unlicensed firm [or] without a principal broker;
- i. A [salesperson licensee] operating an unlicensed firm [or] acting as a principal broker;
- j. A licensee practicing real estate with an inactive [or expired] license;
- k. A licensee [knowingly] providing the broker with an earnest money deposit check from an account with insufficient funds [causing an escrow shortage];

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l. A licensee [providing lockbox codes to an unlicensed person] allowing unsupervised access to a home [without the owner's authorization];

m. A licensee failing to inform the broker of a transaction; and

n. A licensee submitting [unauthorized] altered copies of a contract or contracts to the broker; and

11. Engaging 12. Actions constituting engaging in improper, fraudulent, or dishonest conduct, including but not limited to the following:

a. A licensee attempting to divert commission from the firm or sole proprietorship and direct payment to a licensee or an unlicensed individual who is not a party to the transaction;

b. A licensee fabricating or altering any document with the intent to mislead;

c. A licensee [failing to obtain signing any documents on a client's behalf without first obtaining] a client's [proper] written [or legal] permission or authorization to sign [said] documents [on his behalf];

d. A licensee making an earnest money deposit payable to himself or [cashing negotiating] the check without written [authorization authority];

e. A licensee misrepresenting ownership of a property;

f. A licensee submitting copies of the same earnest money deposit check for inclusion with multiple offers;

g. A licensee entering into agreements to be compensated for real estate services while his license is inactive;

h. A licensee representing in offers he received the earnest money deposit when he [has not or he] knows the check is worthless; and

i. A licensee misrepresenting who is holding the earnest money deposit.

18VAC135-20-270. Conflict of interest.

Actions constituting a conflict of interest include:

1. Being active with ~~or receiving compensation from~~ a real estate broker other than the licensee's principal broker, without the written consent of the principal broker;

2. Acting for more than one client in a transaction governed by the provisions of §§ 54.1-2139, 54.1-2139.01, and 54.1-2139.1 of the Code of Virginia without first obtaining the written consent of all clients; and

3. ~~Acting~~ Performing regulated activities as a standard agent, limited service agent, or independent contractor for any client outside the licensee's brokerage firm(s) or sole proprietorship(s) [without the written consent of the principal broker].

18VAC135-20-280. Improper brokerage commission.

Actions resulting in an improper brokerage commission include:

~~1. Offering to pay or paying a commission transaction-based fee, fees, or other valuable consideration to any person for acts or services performed in violation of Chapter 21 (§ 54.1-2100 et seq.) of Title 54.1 of the Code of Virginia, or this chapter; provided, however, that referral fees and shared commissions may be paid to any real estate entity licensed in this or another jurisdiction, or to any referral entity in the United States, the members of which are brokers licensed in this or another jurisdiction and which only disburses commissions or referral fees to its licensed member brokers not licensed in this or any jurisdiction for services that require a real estate license;~~

~~2. Accepting a commission, fee, or other valuable consideration, as a real estate salesperson or associate broker, for any real estate services from any person or entity except the licensee's principal broker [or supervising broker] at the time of the transaction, for the performance of any of the acts specified in Chapter 21 (§ 54.1-2100 et seq.) of Title 54.1 of the Code of Virginia or the regulations of the board or related to any real estate transaction, without the consent of that broker. Unless he has notified the broker in writing of the activity or activities to be pursued and obtained the prior written consent of the principal broker, no salesperson or associate broker shall (i) use any information about the property, the transaction or the parties to the transaction, gained as a result of the performance of acts specified in Chapter 21 (§ 54.1-2100 et seq.) of Title 54.1 of the Code of Virginia or (ii) act as an employee of a company providing real estate settlement services as defined in the Real Estate Settlement Procedures Act (12 USC § 2601 et seq.) or pursuant to a license issued by the Commonwealth of Virginia to provide real estate settlement services to clients or customers of the firm;~~

~~3. Receiving a fee or portion thereof including a referral fee or a commission or other valuable consideration for services required by the terms of the real estate contract when such costs are to be paid by either one or more principals to the transaction unless such fact is revealed in writing to the principal(s) prior to the time of ordering or contracting for the services financial benefit from the use of any information about the property, the transaction, or the parties to the transaction, when the information is gained as a result of the performance of acts specified in Chapter 21 (§ 54.1-2100 et seq.) of Title 54.1 of the Code of Virginia without the prior written consent of the licensee's principal broker;~~

~~4. Offering or paying any money or other valuable consideration for services required by the terms of the real estate contract to any party other than the principals to a transaction which results in a fee being paid to the licensee; without such fact being revealed in writing to the principal(s) prior to the time of ordering or contracting for the services Receiving financial benefit from any person other than the licensee's principal broker at the time of the~~

transaction, for the performance of any of the acts specified in Chapter 21 (§ 54.1-2100 et seq.) of Title 54.1 of the Code of Virginia without the prior written consent of the licensee's principal broker;

5. Receiving financial benefit or other valuable consideration for any work or service related to a transaction without the prior written acknowledgment of the person paying for such work or service; and

6. Making a listing contract or lease which provides for a "net" return to the seller/lessor, leaving the licensee free to sell or lease the property at any price he can obtain in excess of the "net" price named by the seller/lessor; and

~~6. Charging money or other valuable consideration to or accepting or receiving money or other valuable consideration from any person or entity other than the licensee's client for expenditures made on behalf of that client without the written consent of the client.~~

18VAC135-20-290. Improper dealing.

Actions constituting improper dealing include:

~~1. Entering a brokerage relationship that (i) does not specify a definite termination date; (ii) does not provide a mechanism for determining the termination date; or (iii) is not terminable by the client;~~

~~2. 1.~~ Offering real property for sale or for lease without the knowledge and consent of the owner or the owner's authorized representative, or on any terms other than those authorized by the owner or the owner's authorized representative;

~~3. 2.~~ Placing a sign on any property without the consent of the owner of the property or the owner's authorized representative; and

~~4. 3.~~ Causing any advertisement for sale, rent, or lease to appear in any ~~newspaper, periodical, or sign~~ format or medium without including in the advertisement the name of the firm or sole proprietorship.

18VAC135-20-300. Misrepresentation/omission.

Actions constituting misrepresentation or omission, or both, include:

1. Using "bait and switch" tactics by advertising or offering real property for sale or rent with the intent not to sell or rent at the price or terms advertised, unless the advertisement or offer clearly states that the property advertised is limited in specific quantity [or for a specified time period] and the licensee did in fact have at least that quantity for sale or rent [at that price or terms at the time of advertising];

2. Failure by a licensee representing a seller or landlord as a standard agent to disclose in a timely manner to a prospective purchaser or tenant all material adverse facts pertaining to the physical condition of the property which are actually known by the licensee;

3. Failing as a licensee to tender promptly to the buyer and seller every written offer, every written counteroffer, and every written rejection to purchase, option or lease obtained on the property involved;

4. Failure by a licensee acting as a ~~standard~~ an agent to disclose in a timely manner to the licensee's client all material facts related to the property or concerning the transaction when the failure to so disclose would constitute failure by the licensee to exercise ordinary care as defined in the brokerage agreement;

5. Notwithstanding the provisions of subdivision 4 of this section, a licensee acting as a dual representative shall not disclose to one client represented in the dual representation confidential information relating to the transaction obtained during the representation of another client in the same dual representation unless otherwise provided by law;

6. Failing to include the complete terms and conditions of the real estate transaction, including but not limited to any lease, property management agreement or offer to purchase;

7. Failing to include in any application, lease, or offer to purchase identification of all those holding any deposits;

8. Knowingly making any false statement or report, or willfully misstating the value of any land, property, or security for the purpose of influencing in any way the action of any lender upon:

a. Applications, advance discounts, purchase agreements, repurchase agreements, commitments or loans;

b. Changes in terms or extensions of time for any of the items listed in this subdivision 8 whether by renewal, deferment of action, or other means without the prior written consent of the principals to the transaction;

c. Acceptance, release, or substitution of security for any of the items listed in subdivision 8 a of this section without the prior written consent of the principals to the transaction;

9. Knowingly making any material misrepresentation [~~or making a material misrepresentation~~]; and

10. Making a false promise through agents, salespersons, advertising, or other means.

18VAC135-20-310. [~~Delivery~~ Improper delivery] of instruments.

Actions constituting improper delivery of instruments include:

1. Failing to make prompt delivery to each principal to a transaction, complete and legible copies of any written disclosures required by §§ 54.1-2138, ~~and 54.1-2139, 54.1-2139.01, and 54.1-2139.1~~ of the Code of Virginia, listings, lease, offers to purchase, counteroffers, addenda and ratified agreements, and other documentation required by the agreement;

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2. Failing to provide in a timely manner to all principals to the transaction written notice of any material changes to the transaction;

3. Failing to deliver to the seller and buyer, at the time a real estate transaction is completed, a complete and accurate statement of receipts and disbursements of moneys received by the licensee, duly signed and certified by the principal or supervising broker or his authorized agent; provided, however, if the transaction is closed by a settlement agent other than the licensee or his broker, and if the disbursement of moneys received by the licensee is disclosed on the applicable settlement statement, the licensee shall not be required to provide the separate statement of receipts and disbursements; and

4. Refusing or failing without just cause to surrender to the rightful owner, upon demand, any document or instrument which the licensee possesses.

18VAC135-20-360. Proprietary school standards, instructor qualifications and course requirements.

A. Every applicant to the Real Estate Board for a proprietary school certificate shall meet the standards provided in subsection A of § ~~54.1-2105~~ 54.1-2105.02 of the Code of Virginia by submitting a CPA-certified letter attesting to the applicant's net worth or a balance sheet or financial statement certified to be accurate by the applicant. Such applicant shall show a minimum net worth of \$2,000.

B. Every applicant to the Real Estate Board for ~~approval certification~~ as an instructor for prelicense education ~~shall have one~~ must meet two of the ~~following~~ qualifications outlined in subdivisions 1 through 6 of this subsection:

1. ~~Baccalaureate~~ A baccalaureate degree, a an active Virginia real estate broker's license, and two consecutive years of discipline-free active real estate experience immediately prior to application;

2. ~~Five~~ An active Virginia real estate broker's license and five consecutive years of discipline-free active real estate experience ~~acquired in the real estate field~~ immediately prior to application ~~and an active Virginia broker's license;~~ ~~or~~

3. ~~Expertise in a specific field of real estate with at least three years of active experience in that field. Such applicants will teach only in the area of their expertise and will be required to furnish proof of their expertise including, but not limited to, educational transcripts, professional certificates and letters of reference which will verify the applicant's expertise. A professional designation such as, but not limited to, Accredited Land Consultant (ALC), Certified Residential Specialist (CRS), Certified Commercial Investment Member (CCIM), Certified Property Manager (CPM), Certified Residential Broker (CRB), Counselor Real Estate (CRE), Member Appraisal Institute (MAI), Society Industrial Office Realtors (SIOR),~~

Senior Residential Appraiser (SRA), or Senior Real Estate Property Appraiser (SRPA);

4. A fully designated membership of the Real Estate Educators Association holding the Designated Real Estate Instructor (DREI) designation;

5. Possession of a valid teaching credential or certificate issued by the Commonwealth of Virginia, or any other state with qualifications that are equal to or exceed Virginia teacher qualifications, or at least five years of teaching experience in an accredited public, private, or parochial school, or an accredited junior college, college, or university; and

6. An attorney member of the Virginia State Bar who is engaged in the field of real estate-related law.

7. The board shall also consider evaluations from previous education courses the applicant has instructed and recommendations of course providers, coordinators, administrators, and institutions who have employed the applicant.

8. The board may waive the requirements of subdivisions 1 through 6 of this subsection upon review of proof of experience in related fields of real estate. The board has discretion to deny an applicant who has been the subject of a disciplinary action.

C. Every applicant to the Real Estate Board for approval as an instructor for continuing education and ~~postlicense post~~ license education shall have expertise in a specific field of real estate with at least three years of active experience and will teach only in the area of their expertise. Such applicants will be required to furnish proof of their expertise, possibly including, but not limited to, educational transcripts, professional certificates, ~~and~~ letters of reference (a maximum of three), a resume, or any other type of documentation that will verify the applicant's expertise.

D. Prelicense courses must be acceptable to the board, be taught by a certified prelicense instructor, and are required to have a monitored, final written examination. [~~Distance learning prelicense courses may be considered as meeting the board's standard of quality if they have Association of Real Estate License Law Officials (ARELLO) distance education certification, or a substantially equivalent distance education certification, and online~~ Online] distance learning courses must include a timer requiring licensees to be actively engaged online learning course content for at least 50 minutes to receive one hour of credit. Those schools which propose to offer prelicensing courses (Principles and Practices of Real Estate, Real Estate Brokerage, Real Estate Finance, Real Estate Law or Real Estate Appraisal, etc.) must submit a request, in writing, to the board prior to offering the course(s) and supply the following information:

1. Course content. All Principles and Practices of Real Estate courses must include the 25 topic areas specified in

18VAC135-20-400. All requests to offer broker courses must include a course syllabus acceptable to the board;

2. Name of the course's text and any research materials used for study assignments;
3. Description of any research assignments;
4. Copies of test or quizzes;
5. Information explaining how the "Principles" course will require 60 hours of study, or how each broker related course will require 45 hours of study, in compliance with § 54.1-2105 of the Code of Virginia; and
6. Information about recordkeeping for the type of course delivery.

E. Providers of continuing education and post license education courses shall submit all subjects to the board for approval prior to initially offering the course. Correspondence and other distance learning courses offered by an approved provider must include appropriate testing procedures to verify completion of the course, including requiring licensees who complete correspondence or other distance learning courses to file a notarized affidavit certifying compliance with the course requirements with the education provider or with the licensee's own records. [~~Distance learning continuing education and post license education courses may be considered as meeting the board's standard of quality if they have Association of Real Estate License Law Officials (ARELLO) distance education certification, or a substantially equivalent distance education certification, and online~~ Online] distance learning courses must include a timer requiring licensees to be actively engaged online learning course content for at least 50 minutes to receive one hour of credit. The board shall approve courses and the number of hours approved for each course based on the relevance of the subject to the performance of the duties set forth in §§ 54.1-2100 and 54.1-2101 of the Code of Virginia.

F. Approval of prelicense, continuing education and ~~postlicense~~ post license education courses shall expire on December 31 ~~five~~ three years from the year in which the approval was issued, as indicated on the approval document.

G. All schools must establish and maintain a record for each student. The record shall include: the student's name and address, the course name and clock hours attended, the course syllabus or outline, the name or names of the instructor, the date of successful completion, and the board's course code. Records shall be available for inspection during normal business hours by authorized representatives of the board. Schools must maintain all student and class records for a minimum of five years.

H. All schools must provide each student with a certificate of course completion or other documentation that the student may use as proof of course completion. Such documentation shall contain the student's name, school name, course name, course approval number, course completion date, hours of

credit completed, and a statement that the course is "Approved by the Real Estate Board."

I. All providers of continuing education or post license education courses shall electronically transmit course completion data to the board in an approved format within five business days of the completion of each individual course. The transmittal will include each student's name, license number or social security number; the date of successful completion of the course; the school's code; and the board's code.

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 of a form with a hyperlink to access it. 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 (18VAC135-20)

- ~~Activate/Transfer Application, 02AT (rev. 8/07)~~
- ~~Add-on Business Entity License Application, 02ADDBUS (rev. 8/07)~~
- ~~Broker Education Requirements for Non Reciprocal Examinees, 02BEDREQ (rev. 6/07)~~
- ~~Branch Office License Application, 02BRANCH (rev. 8/07)~~
- ~~Business Entity License Application, 02BUSENT (rev. 8/07)~~
- ~~Business Entity License Transfer Application, 02BUSTR (rev. 8/07)~~
- ~~Certificate of Ownership/Individual Trading Under an Assumed or Fictitious Name Application, 02CRTOWN (rev. 8/07)~~
- ~~Certification Request, 02CRTREQ (rev. 8/07)~~
- ~~Concurrent Broker Application, 02CONCUR (rev. 8/07)~~
- ~~Consent To Suits and Service of Process Form, 02CTS (rev. 8/07)~~
- ~~Experience Verification Form, 02EXP (rev. 8/07)~~
- ~~Firm License Application, 02FIRM (rev. 8/07)~~
- ~~Firm Name/Address Change Form, 02FNACHG (rev. 8/07)~~
- ~~Firm Principal Broker/Officer Change Form, 02PBOCHG (rev. 8/07)~~
- ~~Principal Broker and Sole Proprietor By Exam & Upgrade License Application, 02PBSPLIC (rev. 8/07)~~
- ~~Reciprocity Applicant Instructions, 02RECINS (rev. 5/07)~~
- ~~Salesperson and Associate Broker License By Reciprocity & Upgrade Application, 02SABPKG (rev. 8/07)~~
- ~~Supervising Broker for Branch Office/Change Form, 02SBCHG (rev. 8/07)~~
- ~~Virginia Salesperson Upgrading to Associate Broker License by Exam Application, 02UABLIC (rev. 8/07)~~
- ~~Post License Education and Continuing Education Course Approval Application, 02CRS (rev. 8/07)~~

Regulations

~~Pre-licensing Education Instructor Application, 02INSTR (rev. 8/07).~~

~~Principal Broker and Sole Proprietor License by Reciprocity Application, 02PBPKG (rev. 8/07)~~

~~Proprietary School Certification Application, 02SCHL (rev. 8/07).~~

~~Salesperson License by Exam Application, 02SALIC (rev. 8/07)~~

~~Place License Inactive Form, 02INA (rev. 8/07)~~

~~Supervising Broker Certification Form, 02SBCERT (eff. 4/08)]~~

[Exchange to Salesperson License Application, A490-02DLIC-v3 \(eff. 11/2015\)](#)

[Pre-license Education Instructor Certification Application, A490-0230INSTR-v5 \(rev. 11/2015\)](#)

[Proprietary School Certification Application, A490-0211SCHL-v2 \(rev. 11/2015\)](#)

[Real Estate Firm/Sole Proprietorship Audit, F490-02AUD \(rev. 7/2014\)](#)

[Individual - Name/Address Change Form, A954640-02NACHG-v2 \(rev. 5/2015\)](#)

[Firm License Application, A490-0226FLIC-v2 \(rev. 2/2013\)](#)

[Branch Office License Application, A490-0226BRLIC-v2 \(rev. 2/2013\)](#)

[Business Entity License Transfer Application, A490-0226BETR-v2 \(rev. 2/2013\)](#)

[Business Entity License/Reinstatement Application, A490-0226BELIC-v3 \(rev. 4/2013\)](#)

[Add-on/Removal of Business Entity Member Application, A490-0226ARBEM-v2 \(rev. 2/2013\)](#)

[Salesperson License Application, A490-0225SLIC-v2 \(rev. 2/2013\)](#)

[Salesperson - Activate/Transfer Application, A490-0225SAT-v2 \(rev. 4/2015\)](#)

[Place License Inactive Application, A490-0225INACT-v1 \(rev. 1/2013\)](#)

[Concurrent Broker License Application, A490-0225CONCUR-v3 \(rev. 6/2013\)](#)

[Concurrent Broker Acknowledgment Form, A490-0225CBA-v1 \(rev. 2/2015\)](#)

[Broker License Application, A490-0225BLIC-v2 \(rev. 2/2013\)](#)

[Broker - Activate/Transfer Application, A490-0225BAT-v2 \(rev. 4/2015\)](#)

[Online Approval - Broker Acknowledgment Form, A490-0225BACK-v1 \(rev. 12/2014\)](#)

[In-State Experience Verification Form, A490-02VAEXP-v2 \(rev. 2/2013\)](#)

[Signature Authority Application, A460-02SIG_AUT-v2 \(rev. 1/2013\)](#)

[Branch Office - Supervising Broker Change Form, A490-02SBCHG-v2 \(rev. 2/2013\)](#)

[Firm Principal Broker/Officer Change Form, A490-02PBOCHG-v2 \(rev. 2/2013\)](#)

[Out-of-State Experience Verification Form, A490-02OSEXP-v2 \(rev. 2/2013\)](#)

[Firm Name/Address Change Form, A490-02FNACHG-v1 \(rev. 1/2013\)](#)

[Supervising Broker Certification Form, A490-02CERTFRM-v1 \(rev. 1/2013\)](#)

[Prelicense Education Course Approval Application, A490-0214PRE-v2 \(rev. 1/2014\)](#)

[Additional Instructor Approval Application, A490-0214ADD-v3 \(rev. 5/2013\)](#)

[Continuing Education Course Approval Application, A490-0214CRS-v5 \(rev. 6/2015\)](#)

[Post License Education Course Approval Application, A490-0214PLE-v5 \(rev. 6/2015\) \]](#)

VA.R. Doc. No. R12-3250; Filed August 4, 2015, 5:13 p.m.

GOVERNOR

EXECUTIVE ORDER NUMBER 46 (2015)

Supporting Virginians with Disabilities in the New Virginia Economy

Importance of the Issue

In the New Virginia Economy there is a need for qualified workers, including those with disabilities. The Commonwealth's vocational rehabilitation programs, administered by the Department for Aging and Rehabilitative Services (DARS) and the Department for the Blind and Vision Impaired (DBVI), annually assist more than 4,000 clients with securing jobs in businesses like Amazon, The Hershey Company, and Bon Secours Health System. These workers not only meet the demands placed on them by their employers, but inspire their coworkers and positively impact the corporate culture and workplace behaviors of all employees. Yet, not enough job seekers with disabilities find full-time, competitively-waged jobs and not enough young people with disabilities find career pathways through education or training that lead to full-time, competitively-waged jobs.

It is the policy of this Commonwealth, as set forth in § 51.5-1 of the Code of Virginia, "to encourage and enable persons with disabilities to participate fully and equally in the social and economic life of the Commonwealth and to engage in remunerative employment." Yet, according to the 2014 Disability Statistics Annual Report, only 35.3% of Virginians with disabilities were employed in 2013, while 77.9% of Virginians without a disability were employed during the same time period. All qualified workers in Virginia must be given the same opportunities to seek and gain employment and utilize their talents in growing our economy.

Establishment of the Initiative

By virtue of the authority vested in me as Governor under Article V of the Constitution of Virginia and under the laws of the Commonwealth, including but not limited to § 2.2-103 of the Code of Virginia, and consistent with my Executive Order 23, I hereby direct the Secretary of Commerce and Trade, serving as my Chief Workforce Development Advisor, to take the following immediate actions:

1. The Chief Workforce Development Advisor, in conjunction with the Secretary of Health and Human Resources, shall work with DARS and DBVI to offer to all executive branch agencies (including institutions of higher education, boards, and commissions) training designed to expand existing efforts to recruit, accommodate, retain and advance Virginians with disabilities in the Commonwealth's workforce. Training shall commence no later than October 1, 2015, and will address:

- Identifying and creating career pathway opportunities for Virginians with disabilities, including mentoring

opportunities, workplace learning, and paid internships that build on acquired workforce credentials;

- Using assistive technology and supportive employment to promote employment of individuals with disabilities in the Commonwealth in integrated settings and for competitive wages; and
- Using § 2.2-4344 A 1 b of the Code of Virginia to directly purchase goods and services from Virginia's Employment Service Organizations; that employ Virginians with disabilities.

2. The Chief Workforce Development Advisor, in conjunction with the Secretary of Health and Human Resources, shall work with the Department of Behavioral Health and Developmental Services (DBHDS) to develop strategies to enhance the DBHDS Employment First Strategic Plan no later than December 1, 2015. DBHDS shall issue an initial progress report to the Chief Workforce Development Advisor no later than July 1, 2016, and subsequent progress reports by July 1st each year thereafter.

3. The Chief Workforce Advisor, in conjunction with the Secretary of Health and Human Resources, shall work with DARS and DBVI to develop a strategy, no later than November 1, 2015, to promote and incentivize the hiring of qualified Virginians with disabilities by new and existing Virginia businesses and companies seeking to relocate to the Commonwealth.

4. The Chief Workforce Advisor, in conjunction with the Secretary of Administration, shall work with the Department of General Services to develop a strategy, no later than November 1, 2015, to increase the use by state agencies of the purchasing exemption provided in § 2.2-1118 of the Code of Virginia to purchase goods and non-professional services from Employment Services Organizations that employ individuals with disabilities.

5. The Chief Workforce Development Advisor shall prepare and deliver a report to the governor no later than December 31, 2015, and each December 31st thereafter, detailing compliance with this Executive Order and providing performance metrics from the prior fiscal year.

Effective Date of the Executive Order

This Executive Order shall be effective upon its signing and shall remain in full force and effect until amended or rescinded by further executive order.

Given under my hand and under the Seal of the Commonwealth of Virginia this 27th day of July, 2015.

/s/ Terence R. McAuliffe
Governor

GENERAL NOTICES/ERRATA

AIR POLLUTION CONTROL BOARD

State Implementation Plan Revision - Emission Standards for Volatile Organic Compounds from Petroleum Liquid Storage and Transfer Operations

Notice of action: The Department of Environmental Quality (DEQ) is announcing an opportunity for public comment on a proposed revision to the Commonwealth of Virginia State Implementation Plan (SIP). The SIP is a plan developed by the Commonwealth in order to fulfill its responsibilities under the federal Clean Air Act to attain and maintain the ambient air quality standards promulgated by the U.S. Environmental Protection Agency (EPA) under the Act. The Commonwealth intends to submit the regulation to EPA as a revision to the SIP in accordance with the requirements of § 110(a) of the federal Clean Air Act.

Regulations affected: Article 37, Emission Standards for Petroleum Liquid Storage and Transfer Operations (Rule 4-37), of Part II of 9VAC5-40 (Existing Stationary Sources), Revision C14.

Purpose of notice: DEQ is seeking comment on the issue of whether the regulation amendments should be submitted as a revision to the SIP.

Public comment period: August 24, 2015, to September 23, 2015.

Public hearing: A public hearing may be conducted if a request is made in writing to the contact listed at the end of this notice. In order to be considered, the request must include the full name, address, and telephone number of the person requesting the hearing and be received by DEQ by the last day of the comment period. Notice of the date, time, and location of any requested public hearing will be announced in a separate notice, and another 30-day comment period will be conducted.

Public comment stage: Because the amendments have been adopted and are exempt from administrative procedures for the adoption of regulations, DEQ is accepting comment only on the issue cited above under "purpose of notice" and not on the content of the regulation amendments.

Description of proposal: Section 182 (b)(3) of the federal Clean Air Act required the implementation of Stage II vapor recovery in ozone nonattainment and maintenance areas, including Northern Virginia and Richmond. Since then, in accordance with § 202(a)(6) of the Act, EPA has determined that onboard refueling vapor recovery (ORVR) is in widespread use throughout the motor vehicle fleet, thus obviating the need to maintain Stage II vapor recovery programs (see 77 FR 28772). The department has examined whether Stage II is still necessary for ozone control purposes and has determined that Stage II is no longer needed. Removing this control requirement will not interfere with maintenance of any ozone standard. Therefore, on November

12, 2013, and March 18, 2014, the department submitted revisions to the state implementation plan (SIP) that satisfy all requirements of the federal Clean Air Act and EPA guidance regarding the removal of Stage II requirements from the Northern Virginia and Richmond area attainment and maintenance plans. Virginia's specific Stage II requirements are found in Article 37 (9VAC5-40-5200 et seq.) of 9VAC5-40, and have been amended accordingly.

Federal information: This notice is being given to satisfy the public participation requirements of federal regulations (40 CFR 51.102) and not any provision of state law. The proposal will be submitted as a revision to the Commonwealth of Virginia SIP under § 110(a) of the federal Clean Air Act in accordance with 40 CFR 51.104. It is planned to submit all provisions of the proposal as a revision to the SIP.

How to comment: DEQ accepts written comments by email, fax, and postal mail. In order to be considered, comments must include the full name, address, and telephone number of the person commenting and be received by DEQ by the last day of the comment period. All materials received are part of the public record.

To review regulation documents: The proposal and any supporting documents are available on the DEQ Air Public Notices for Plans website at <http://www.deq.state.va.us/Programs/Air/PublicNotices/airplansandprograms.aspx>. The documents may also be obtained by contacting the DEQ representative named below. The public may review the documents between 8:30 a.m. and 4:30 p.m. of each business day until the close of the public comment period at the following DEQ locations:

- 1) Main Street Office, 8th Floor, 629 East Main Street, Richmond, VA, telephone (804) 698-4070,
- 2) Southwest Regional Office, 355 Deadmore Street, Abingdon, VA, telephone (276) 676-4800,
- 3) Blue Ridge Regional Office, Roanoke Location, 3019 Peters Creek Road, Roanoke, VA, telephone (540) 562-6700,
- 4) Blue Ridge Regional Office, Lynchburg Location, 7705 Timberlake Road, Lynchburg, VA, telephone (434) 582-5120,
- 5) Valley Regional Office, 4411 Early Road, Harrisonburg, VA, telephone (540) 574-7800,
- 6) Piedmont Regional Office, 4949-A Cox Road, Glen Allen, VA, telephone (804) 527-5020,
- 7) Northern Regional Office, 13901 Crown Court, Woodbridge, VA, telephone (703) 583-3800, and
- 8) Tidewater Regional Office, 5636 Southern Boulevard, Virginia Beach, VA, telephone (757) 518-2000.

Contact Information: Karen G. Sabasteanski, Department of Environmental Quality, 629 East Main Street, P.O. Box 1105, Richmond, VA 23218, telephone (804) 698-4426, FAX (804) 698-4510, or email karen.sabasteanski@deq.virginia.gov.

DEPARTMENT OF HEALTH

Drinking Water State Revolving Fund Program - Intended Use Plan for FY 2016

Under the Safe Drinking Water Act, Congress authorizes capitalization grants to the states through the Drinking Water State Revolving Loan Fund (DWSRF) Program. As part of the annual DWSRF grant application process Virginia seeks meaningful public involvement through input, review, and comments. The VDH's Office of Drinking Water (ODW) has prepared a draft intended use plan (IUP) that explains the goals of the program, funding priorities, how VDH intends to use the grant funds, and other important information submitted from the funding requests and set-aside suggestions.

The Virginia Department of Health (VDH) received numerous funding requests and set-aside suggestions following the January 2016 DWSRF funding solicitation announcement. The draft 2016 IUP and draft project lists are open for review and comment by the public for a period of 60 days. The document entitled "Virginia Drinking Water State Revolving Fund Program Design Manual" (dated January, 2015) is a part of the Intended Use Plan and was mailed to eligible waterworks in January 2015, announced in the Virginia Register of Regulations, and placed on the office's website. The Program Design Manual provides information on VDH's project prioritization criteria and methodologies.

The VDH will hold a public meeting to solicit comments and recommendations regarding the IUP on Thursday, October 8th, 2015, from 10 a.m. to 12 p.m. at the ODW's East Central Satellite Office, 300 Turner Road, Richmond, VA 23225. Those individuals planning to attend the public meeting should contact Theresa Hewlett at (804) 864-7501 by the close of business on September 30, 2015.

Any written comments from the public are to be submitted by October 23, 2015, the close of the public comment period. VDH will consider all meaningful public input and comments and make revisions to the IUP and project priority lists if necessary. Please direct requests for information and forward written comments to Steven Pelli, PE, Virginia Department of Health, Office of Drinking Water, James Madison Building, 109 Governor Street, Richmond, VA 23219, telephone (804) 864-7500, or FAX (804) 864-7521.

The following information is provided at VDH's website: <http://www.vdh.virginia.gov/ODW/financial/IntendedUsePlan16.htm>

VDH's 2016 Draft Intended Use Plan (IUP)

VDH's 2016 Preliminary Project Priority List/2016 Comprehensive Project List

VDH's Planning and Design Grants – July 2015

The IUP is subject to change depending on EPA's 2016 award allocations.

VIRGINIA LOTTERY

Director's Orders

The following Director's Orders of the Virginia Lottery were filed with the Virginia Registrar of Regulations on August 4, 2015. The orders may be viewed at the Virginia Lottery, 900 East Main Street, Richmond, VA, or at the office of the Registrar of Regulations, 201 North 9th Street, 2nd Floor, Richmond, VA.

Director's Order Number One Hundred Two (15)

Virginia's Instant Game Lottery 1572 "Deuces Wild" Final Rules for Game Operation (effective July 30, 2015)

Director's Order Number One Hundred Three (15)

Virginia's Instant Game Lottery 1580 "Cash Club" Final Rules for Game Operation (effective July 30, 2015)

Director's Order Number One Hundred Seven (15)

Virginia's Instant Game Lottery 1568 "On The Money" Final Rules for Game Operation (effective July 30, 2015)

Director's Order Number One Hundred Eleven (15)

Virginia's Instant Game Lottery 1581 "Treasure Hunt" Final Rules for Game Operation (effective August 3, 2015)

Director's Order Number One Hundred Twelve (15)

Virginia's Instant Game Lottery 1561 "\$2,500,000 Cash Winfall" Final Rules for Game Operation (effective August 3, 2015)

BOARD OF PHARMACY

Placement of Substances in Schedule I

Pursuant to subsection D of § 54.1-3443 of the Code of Virginia, the Board of Pharmacy is giving notice of a public hearing to consider placement of chemical substances in Schedule I of the Drug Control Act. The public hearing will be conducted at 9 a.m. on September 29, 2015, at the Perimeter Center, 9960 Mayland Drive, Suite 201, Richmond, VA 23233. Public comment may also be submitted electronically or in writing prior to June 1, 2015, to Caroline Juran, Executive Director of the Board of Pharmacy to caroline.juran@dhp.virginia.gov.

As specified in § 54.1-3443 of the Code of Virginia, the Virginia Department of Forensic Science (DFS) has identified six (6) compounds for recommended inclusion by the Board of Pharmacy into Schedule I in the Code of Virginia. A brief

General Notices/Errata

description and chemical name for each compound is as follows:

Acetyl fentanyl (other name: desmethylfentanyl) - Acetyl fentanyl is a powerful synthetic opioid similar in structure to fentanyl and has been identified in DFS laboratories; however, acetyl fentanyl has not been approved for medical use in the United States. The Drug Enforcement Administration (DEA) issued a notice of intent on May 21, 2015 to temporarily place acetyl fentanyl into Schedule I. Upon finalization of this proposed action, DFS recommends placing acetyl fentanyl into Schedule I (§ 54.1-3446(1)).

Etizolam - Etizolam is chemically related to the class of drugs referred to as benzodiazepines, which are central nervous system depressants. Etizolam has been approved for medical use in some countries; however, Etizolam has not been approved for medical use in the United States and has been identified in DFS laboratories. Other drugs of this type have been placed in Schedule I (subdivision 4 of § 54.1-3446 of the Code of Virginia) in previous legislative sessions.

4-Iodo-2,5-dimethoxy-N-[(2-hydroxyphenyl) methyl]-benzeneethanamine (other name: 25I-NBOH) - 25I-NBOH is classified as a research chemical and is similar in structure to 25I-NBOMe, a schedule I compound. 25I-NBOH has been identified in DFS laboratories including postmortem toxicology cases. Other drugs of this type have been placed in Schedule I (subdivision 3 of § 54.1-3446 of the Code of Virginia) in previous legislative sessions.

alpha-Pyrrolidinohexiophenone (other name: alpha-PHP) - Alpha-PHP is classified as a research chemical and has been identified in DFS laboratories. Other drugs of this type have been placed in Schedule I (subdivision 3 of § 54.1-3446 of the Code of Virginia) in previous legislative sessions.

alpha-Pyrrolidinoheptiophenone (other name: PV8) - PV-8 is classified as a research chemical and has been identified in DFS laboratories. Other drugs of this type have been placed in Schedule I (subdivision 3 of § 54.1-3446 of the Code of Virginia) in previous legislative sessions.

1-(5-fluoropentyl)-3-(4-methyl-1-naphthoyl) indole (MAM-2201) - MAM-2201 is classified as a cannabimimetic agent and has been identified in DFS laboratories. Other drugs of this type have been placed in Schedule I (subdivision 7 b of § 54.1-3446 of the Code of Virginia) in previous legislative sessions.

If approved by the Board of Pharmacy, the placement of these substances in Schedule I in the Virginia Drug Control Act shall remain in effect for a period of 18 months from the date of board action and shall then be de-scheduled unless the Drug Control Act is amended by enactment of legislation by the General Assembly.

Contact Information: Caroline Juran, RPh, Executive Director, Board of Pharmacy, Department of Health

Professions, 9960 Mayland Drive, Suite 300, Richmond, VA 23233, telephone (804) 367-4416, FAX (804) 527-4472, or email caroline.juran@dhp.virginia.gov.

STATE WATER CONTROL BOARD

Total Maximum Daily Loads for the Hardware River and North Fork Hardware River Watersheds

The Virginia Department of Environmental Quality (DEQ) seeks written and oral comments from interested persons on the modification of total maximum daily loads (TMDLs) for the Hardware River and North Fork Hardware River watersheds in Albemarle and Fluvanna Counties. The North Fork Hardware River and the Hardware River were first listed as impaired on the Virginia's 303(d) TMDL Priority List and Report due to violations of the state's water quality standard for bacteria in 2006. The creeks have remained on the § 303(d) list for these impairments since then.

The impaired segment of the North Fork Hardware River extends 10.42 miles from the headwaters downstream to its confluence with the South Fork Hardware River. The impaired segment of Hardware River extends 23.03 miles from its confluence with the North Fork downstream to its confluence with the James River.

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. DEQ completed bacteria TMDLs for the Hardware River and the North Fork in July 2007. The TMDLs were approved by the U.S. Environmental Protection Agency on April 10, 2008. The TMDL report is available on the DEQ website at <http://www.deq.virginia.gov/Programs/Water/WaterQualityInformationTMDLs/TMDL/TMDLDevelopment/ApprovedTMDLReports.aspx>.

In addition, § 62.1-44.19:7 C of the Code of Virginia requires expeditious implementation of total maximum daily loads when appropriate. Upon initiating development of a TMDL implementation plan (IP) for the Hardware River in March 2015, several errors were identified in watershed modeling performed in support of TMDL development. As a result, the Hardware River and North Fork Hardware River TMDLs have been modified in order to correct these errors. A public meeting will be held on Wednesday, September 2, 2015, at 3 p.m. at the Thomas Jefferson Soil and Water Conservation District Office, 706 Forest Street #G, Charlottesville, VA. The purpose of this meeting is to present the modified TMDLs and to review the errors found in the original TMDLs and associated corrections made.

A 30-day public comment period for the meeting and modified TMDLs will begin September 3, 2015, and end October 2, 2015. Written comments should include the name, address, and telephone number of the person submitting the

comments and should be sent to Nesha McRae, Department of Environmental Quality, P.O. Box 3000, Harrisonburg, VA, 22801, telephone (540) 574-7850, or email nesha.mcrae@deq.virginia.gov.

Proposed Consent Special Order for Honeywell Resins & Chemicals LLC

A consent special order has been proposed for Honeywell Resins & Chemicals LLC for violations of the State Water Control Law at its Hopewell facility. The enforcement action requires payment of a \$300,000 civil charge and repairs to the facility's process wastewater system. A description of the proposed action is available at the Department of Environmental Quality (DEQ) office named below or online at www.deq.virginia.gov. DEQ staff member Kathleen O'Connell will accept comments by email at kathleen.oconnell@deq.virginia.gov, by FAX at (804) 698-4277, or by postal mail at the Department of Environmental Quality, 629 East Main Street, Richmond, VA 23223, from August 24, 2015, to September 23, 2015.

VIRGINIA CODE COMMISSION

Notice to State Agencies

Contact Information: *Mailing Address:* Virginia Code Commission, General Assembly Building, 201 North 9th Street, 2nd Floor, Richmond, VA 23219; *Telephone:* Voice (804) 786-3591; *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/connect/commonwealth-calendar>.

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/documents/cumultab.pdf>.

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.

