



VIRGINIA

REGISTER OF REGULATIONS

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THE VIRGINIA REGISTER INFORMATION PAGE

THE VIRGINIA REGISTER OF REGULATIONS is an official state publication issued every other week throughout the year. Indexes are published quarterly, and are cumulative for the year. The *Virginia Register* has several functions. The new and amended sections of regulations, both as proposed and as finally adopted, are required by law to be published in the *Virginia Register*. In addition, the *Virginia Register* is a source of other information about state government, including petitions for rulemaking, emergency regulations, executive orders issued by the Governor, and notices of public hearings on regulations.

ADOPTION, AMENDMENT, AND REPEAL OF REGULATIONS

Unless exempted by law, an agency wishing to adopt, amend, or repeal regulations must follow the procedures in the Administrative Process Act (§ 2.2-4000 et seq. of the Code of Virginia). Typically, this includes first publishing 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 proposed regulation 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 of Regulations 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 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 the final regulation contains changes made after publication of the proposed regulation that 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*. Pursuant to § 2.2-4007.06 of the Code of Virginia, any person may request that the agency solicit additional public comment on certain changes made after publication of the proposed regulation. The agency shall suspend the regulatory process for 30 days upon such request from 25 or more individuals, 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 alternative to the standard process set forth in the Administrative Process Act for regulations deemed by the Governor to be noncontroversial. To use this process, the Governor's concurrence is required and advance notice must be provided to certain legislative committees. Fast-track regulations become effective on the date noted in the regulatory action if fewer than 10 persons object to using the process in accordance with § 2.2-4012.1.

EMERGENCY REGULATIONS

Pursuant to § 2.2-4011 of the Code of Virginia, an agency may adopt emergency regulations if necessitated by an emergency situation or when Virginia statutory law or the appropriation act or federal law or federal regulation requires that a regulation be effective in 280 days or fewer from its enactment. In either situation, approval of the Governor is required. The emergency regulation is effective upon its filing with the Registrar of Regulations, unless a later date is specified per § 2.2-4012 of the Code of Virginia. Emergency regulations are limited to no more than 18 months in duration; however, may be extended for six months under the circumstances noted in § 2.2-4011 D. Emergency regulations are published as soon as possible in the *Virginia Register* and are on the Register of Regulations website at register.dls.virginia.gov.

During the time the emergency regulation is in effect, the agency may proceed with the adoption of permanent regulations in accordance with the Administrative Process Act. 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. **34:8 VA.R. 763-832 December 11, 2017**, refers to Volume 34, Issue 8, pages 763 through 832 of the *Virginia Register* issued on December 11, 2017.

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: **Marcus B. Simon, Chair; Russet W. Perry, Vice Chair; Katrina E. Callsen; Nicole Cheuk; Richard E. Gardiner; Ryan T. McDougle; Michael Mullin; Christopher R. Nolen; Steven Popps; Charles S. Sharp; Malfourd W. Trumbo; Amigo R. Wade.**

Staff of the Virginia Register: **Holly Trice, Registrar of Regulations; Anne Bloomsburg, Assistant Registrar; Nikki Clemons, Managing Editor; Erin Comerford, Regulations Analyst.**

PUBLICATION SCHEDULE AND DEADLINES

This schedule is available on the Virginia Register of Regulations website (<http://register.dls.virginia.gov>).

September 2024 through October 2025

<u>Volume: Issue</u>	<u>Material Submitted By Noon*</u>	<u>Will Be Published On</u>
41:3	September 4, 2024	September 23, 2024
41:4	September 17, 2024 (Tuesday)	October 7, 2024
41:5	October 2, 2024	October 21, 2024
41:6	October 16, 2024	November 4, 2024
41:7	October 30, 2024	November 18, 2024
41:8	November 13, 2024	December 2, 2024
41:9	November 26, 2024 (Tuesday)	December 16, 2024
41:10	December 11, 2024	December 30, 2024
41:11	December 23, 2024 (Monday)	January 13, 2025
41:12	January 8, 2025	January 27, 2025
41:13	January 22, 2025	February 10, 2025
41:14	February 5, 2025	February 24, 2025
41:15	February 19, 2025	March 10, 2025
41:16	March 5, 2025	March 24, 2025
41:17	March 19, 2025	April 7, 2025
41:18	April 2, 2025	April 21, 2025
41:19	April 16, 2025	May 5, 2025
41:20	April 30, 2025	May 19, 2025
41:21	May 14, 2025	June 2, 2025
41:22	May 28, 2025	June 16, 2025
41:23	June 11, 2025	June 30, 2025
41:24	June 25, 2025	July 14, 2025
41:25	July 9, 2025	July 28, 2025
41:26	July 23, 2025	August 11, 2025
42:1	August 6, 2025	August 25, 2025
42:2	August 20, 2025	September 8, 2025
42:3	September 3, 2025	September 22, 2025
42:4	September 17, 2025	October 6, 2025

*Filing deadlines are Wednesdays unless otherwise specified.

PETITIONS FOR RULEMAKING

TITLE 18. PROFESSIONAL AND OCCUPATIONAL LICENSING

BOARD OF COUNSELING

Initial Agency Notice

Titles of Regulations: **18VAC115-20. Regulations Governing the Practice of Professional Counseling.**

18VAC115-50. Regulations Governing the Practice of Marriage and Family Therapy.

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

Name of Petitioner: James Honeycutt.

Nature of Petitioner's Request: The petitioner requests that the Board of Counseling amend 18VAC115-20-52 C 3 and 18VAC115-50-60 C 3 to allow previous clinical experience obtained by a licensed professional counselor or licensed marriage and family therapist who is also a licensed psychologist, licensed clinical social worker, or psychiatrist to satisfy the requirements for two years of post-licensure clinical experience.

Agency Plan for Disposition of Request: The petition for rulemaking will be published in the Virginia Register of Regulations on September 23, 2024. The petition will also be published on the Virginia Regulatory Town Hall at www.townhall.virginia.gov to receive public comment, which opens September 23, 2024, and closes October 23, 2024. The board will consider the petition and all comments in support or opposition at the next meeting after the close of public comment, currently scheduled for January 24, 2025. The petitioner will be notified of the board's decision after that meeting.

Public Comment Deadline: October 23, 2024.

Agency Contact: Jaime Hoyle, Executive Director, Board of Counseling, 9960 Mayland Drive, Suite 300, Henrico, VA 23233, telephone (804) 367-4406, or email jaime.hoyle@dhp.virginia.gov.

VA.R. Doc. No. PFR25-05; Filed August 26, 2024, 8:42 a.m.

PERIODIC REVIEWS AND SMALL BUSINESS IMPACT REVIEWS

TITLE 8. EDUCATION

STATE BOARD OF EDUCATION

Agency Notice

Pursuant to §§ 2.2-4007.1 and 2.2-4017 of the Code of Virginia, the following regulations are undergoing a periodic review and small business impact review: **8VAC20-40, Regulations Governing Educational Services for Gifted Students; 8VAC20-70, Regulations Governing Pupil Transportation; 8VAC20-100, Regulations Governing Literary Loan Applications in Virginia; 8VAC20-120, Regulations Governing Career and Technical Education; and 8VAC20-281, Regulations Governing Jointly Owned and Operated Schools and Jointly Operated Programs.** The review of each regulation will be guided by the principles in Executive Order 19 (2022). The purpose of a periodic review is to determine whether the regulation should be repealed, amended, or retained in its current form. Public comment is sought on the review of any issue relating to this regulation, including whether each regulation (i) is necessary for the protection of public health, safety, and welfare or for the economical performance of important governmental functions; (ii) minimizes the economic impact on small businesses in a manner consistent with the stated objectives of applicable law; and (iii) is clearly written and easily understandable.

Public comment period begins September 23, 2024, and ends October 14, 2024.

Comments must include the commenter's name and address (physical or email) information in order to receive a response to the comment from the agency.

Following the close of the public comment period, a report of both reviews will be posted on the Virginia Regulatory Town Hall and published in the Virginia Register of Regulations.

Contact Information: Jim Chapman, Director of Board Relations, Department of Education, James Monroe Building, 101 North 14th Street, 25th Floor, Richmond, VA 23219, telephone (804) 750-8750, or email jim.chapman@doe.virginia.gov.

Report of Findings

Pursuant to §§ 2.2-4007.1 and 2.2-4017 of the Code of Virginia, the State Board of Education conducted a periodic review and a small business impact review of **8VAC20-110, Regulations Governing Pupil Accounting Records**, and determined that this regulation should be amended. The board is publishing its report of findings dated May 7, 2024, to support this decision.

This regulation is necessary for the protection of public health, safety, and welfare. The regulation is required by statute and seeks to address the recording of student attendance,

enrollment, and withdrawal, which benefits society in numerous ways. While the regulation is clearly written and easily understandable, it would benefit from additional definitions and updates to its terminology. The regulation is consistent with statutory requirements, but certain amendments are needed to ensure that current terminology is being used.

There is a continued need for the regulation due to the statutory mandate. The Department of Education is not aware of any complaints regarding this regulation and received no comments during the periodic review. This regulation is slightly complex, but not so it cannot be understood by regulated parties. There is overlap between this regulatory chapter and 8VAC20-730. The extent of any further overlap, duplication, or conflict with federal or state law or regulation is not apparent at this time. The promulgation of 8VAC20-110 occurred in 1988. 8VAC20-110-20, 8VAC20-110-60, and 8VAC20-110-140 were repealed in 2001. It appears that the rest of the chapter has not been revised since it was promulgated in 1988. Certain amendments to this regulation are warranted. These amendments are (i) adding definitions for "pupil accounting system," "excused absence," and "unexcused absence"; (ii) deleting "civil defense alert"; (iii) revising "COE" to "CTE"; and (iv) revising "days" to "teaching days," where appropriate.

There is little to no economic impact on small businesses resulting from this regulation.

Contact Information: Jim Chapman, Director of Board Relations, Department of Education, James Monroe Building, 101 North 14th Street, 25th Floor, Richmond, VA 23219, telephone (804) 750-8750, or email jim.chapman@doe.virginia.gov.

Report of Findings

Pursuant to §§ 2.2-4007.1 and 2.2-4017 of the Code of Virginia, the State Board of Education conducted a periodic review and a small business impact review of **8VAC20-250, Regulations Governing the Testing of Sight and Hearing of Pupils**, and determined that this regulation should be amended. The board is publishing its report of findings dated May 7, 2024, to support this decision.

This regulation is necessary for the protection of public health, safety, and welfare in that it seeks to ensure that any defects in hearing or vision is detected in students, and that parents are notified of any defect that is discovered. The regulation is clearly written and easily understandable.

The regulation will be repealed and its content shifted to 8VAC20-690, as both chapters share the same end users.

The regulation is required by the Code of Virginia, thus demonstrating a continued need for it. There are no known complaints or comments concerning the regulation. There are no known conflicts with federal or state law or regulations. The

Periodic Reviews and Small Business Impact Reviews

regulation was last amended in 2021. The agency's decision to combine the chapter with 8VAC20-690 will not have any impact on small business.

Contact Information: Jim Chapman, Director of Board Relations, Department of Education, James Monroe Building, 101 North 14th Street, 25th Floor, Richmond, VA 23219, telephone (804) 750-8750, or email jim.chapman@doe.virginia.gov.

Report of Findings

Pursuant to §§ 2.2-4007.1 and 2.2-4017 of the Code of Virginia, the State Board of Education conducted a periodic review and a small business impact review of **8VAC20-290, Regulations Governing School Lunch Sale of Food Items**, and determined that this regulation should be repealed. The board is publishing its report of findings dated May 9, 2024, to support this decision.

This regulation is no longer necessary for the protection of public health, safety, and welfare since it is outdated. One comment was received during the periodic review, the substance of which was outside the scope of the periodic review. The regulation is not overly complex. The regulation does not appear to have been amended since it became effective on September 1, 1980, and contains references to outdated law and terminology. The agency's decision to repeal the regulation will have minimal impact on small businesses.

Contact Information: Jim Chapman, Director of Board Relations, Department of Education, James Monroe Building, 101 North 14th Street, 25th Floor, Richmond, VA 23219, telephone (804) 750-8750, or email jim.chapman@doe.virginia.gov.

TITLE 18. PROFESSIONAL AND OCCUPATIONAL LICENSING

BOARD OF PHARMACY

Report of Findings

Pursuant to §§ 2.2-4007.1 and 2.2-4017 of the Code of Virginia, the Board of Pharmacy conducted a periodic review and a small business impact review of **18VAC110-11, Public Participation Guidelines**, and determined that this regulation should be retained as is. The board is publishing its report of findings dated August 30, 2024, to support this decision.

This regulation is necessary for the protection of public health, safety, and welfare because the regulation sets forth procedures for participation of the public in the development of board regulations. Additionally, this regulation is required by statute, and the board has no discretion not to maintain this regulation. The

board has reviewed this regulation and determined that it is clearly written and understandable.

The board has decided to retain the regulation as is. The regulation is based upon model regulations provided by the Department of Planning and Budget. The Department of Planning and Budget has not updated its model regulations; therefore, the board has not adopted any changes to the regulation.

The board is required to maintain this regulation; therefore, there is a continued need for it. There have been no complaints received related to this regulation, which is not complex. The regulation does not overlap with any other law and has not changed since approximately 2017. The board will alter the regulation if and when the Department of Planning and Budget recommends changes to the model regulations.

Contact Information: Caroline Juran, RPh, Executive Director, Board of Pharmacy, 9960 Mayland Drive, Suite 300, Henrico, VA 23233, telephone (804) 367-4456, or email caroline.juran@dhp.virginia.gov.

BOARD OF SOCIAL WORK

Report of Findings

Pursuant to §§ 2.2-4007.1 and 2.2-4017 of the Code of Virginia, the Board of Social Work conducted a periodic review and a small business impact review of **18VAC140-11, Public Participation Guidelines**, and determined that this regulation should be retained as is. The board is publishing its report of findings dated August 30, 2024, to support this decision.

This regulation is necessary for the protection of public health, safety, and welfare because the regulation sets forth procedures for participation of the public in the development of board regulations. Additionally, this regulation is required by statute, and the board has no discretion not to maintain this regulation. The board has reviewed this regulation and determined that it is clearly written and understandable.

The board has decided to retain the regulation as is. The regulation is based upon model regulations provided by the Department of Planning and Budget. The Department of Planning and Budget has not updated its model regulations; therefore, the board has not adopted any changes to the regulation.

The board is required to maintain this regulation; therefore, there is a continued need for it. There have been no complaints received related to this regulation, which is not complex. The regulation does not overlap with any other law and has not changed since approximately 2017. The board will alter the regulation if and when the Department of Planning and Budget recommends changes to the model regulations.

Contact Information: Jaime Hoyle, Executive Director, Board of Social Work, 9960 Mayland Drive, Suite 300, Henrico, VA 23233, telephone (804) 367-4441, FAX (804) 977-9915, or email jaime.hoyle@dhp.virginia.gov.

NOTICES OF INTENDED REGULATORY ACTION

TITLE 9. ENVIRONMENT

STATE WATER CONTROL BOARD

Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 2.2-4007.01 of the Code of Virginia that the State Water Control Board intends to consider amending **9VAC25-32, Virginia Pollution Abatement (VPA) Permit Regulation**. The purpose of the proposed action is to establish procedures for addressing administrative, staging, signage, and additional onsite and alternative storage site requirements when routine and onsite storage facility capacity and holding times are anticipated to be exceeded in order to provide permittees a way to plan in advance with regulatory certainty for alternative storage and handling solutions when extreme weather conditions result in long periods of time when biosolids cannot be land-applied. The amendments are mandated by Chapter 209 of the 2024 Acts of Assembly.

The agency does not intend to hold a public hearing on the proposed action after publication in the Virginia Register.

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

Public Comment Deadline: October 23, 2024.

Agency Contact: Jeanette Ruiz, Regulatory Analyst, Department of Environmental Quality, P.O. Box 1105, Richmond, VA 23218, telephone (804) 494-9636, or email jeanette.ruiz@deq.virginia.gov.

VA.R. Doc. No. R25-8036; Filed September 4, 2024, 9:19 a.m.

TITLE 18. PROFESSIONAL AND OCCUPATIONAL LICENSING

BOARD OF FUNERAL DIRECTORS AND EMBALMERS

Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 2.2-4007.01 of the Code of Virginia that the Board of Funeral Directors and Embalmers intends to consider amending **18VAC65-20, Regulations of the Board of Funeral Directors and Embalmers; 18VAC65-30, Regulations for Preneed Funeral Planning; and 18VAC65-40, Regulations for the Funeral Service Intern Program**. The purpose of the proposed action is to undertake a general review of the regulation in accordance with the regulatory reduction goal of Executive Order 19 (2022). The board reviewed the regulations and identified potential reductions, which may be made without impacting the health, safety, or welfare of citizens. These include (i) eliminating the restriction on reinstatement

of expired licenses and registrations; (ii) increasing the type of documents that can be provided to the board for approval of continuing education; (iii) removing redundant language regarding documentation of compliance with continuing education requirements; (iv) removing date restrictions regarding when an establishment or crematory must apply for a license or registration; (v) updating references where appropriate to the state rules and regulations examination; (vi) allowing a funeral director to apply for license by endorsement by demonstrating active practice in another jurisdiction if the applicant did not receive education that meets Virginia's regulatory requirement for education; (vii) clarifying that crematories must follow requirements regarding refrigeration; (viii) reorganizing the list of requirements for internships and applications; and (ix) allowing the board discretion to deny a supervisor registration in certain circumstances rather than require that the board deny the supervisor registration.

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

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

Public Comment Deadline: October 23, 2024.

Agency Contact: Corie Tillman Wolf, Executive Director, Board of Funeral Directors and Embalmers, 9960 Mayland Drive, Suite 300, Henrico, VA 23233, telephone (804) 367-4479, FAX (804) 527-4471, or email fanbd@dhp.virginia.gov.

VA.R. Doc. No. R25-7556; Filed August 22, 2024, 9:23 a.m.

BOARD OF PSYCHOLOGY

Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 2.2-4007.01 of the Code of Virginia that the Board of Psychology intends to consider amending **18VAC125-20, Regulations Governing the Practice of Psychology**. The purpose of the proposed action is to amend the regulation following the receipt and consideration of a petition for rulemaking. The board voted to grant the petition and initiate rulemaking to accept evidence of retired licenses of psychology in other jurisdictions and make additional changes to licensure by endorsement requirements as well to reduce the burden on applicants.

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

Statutory Authority: §§ 54.1-2400 and 54.1-3605 of the Code of Virginia.

Public Comment Deadline: October 23, 2024.

Agency Contact: Jaime Hoyle, Executive Director, Board of Psychology, 9960 Mayland Drive, Suite 300, Henrico, VA 23233, telephone (804) 367-4406, FAX (804) 327-4435, or email jaime.hoyle@dhp.virginia.gov.

VA.R. Doc. No. R24-12; Filed August 22, 2024, 10:48 a.m.

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 1. ADMINISTRATION

DEPARTMENT OF VETERANS SERVICES

Final Regulation

REGISTRAR'S NOTICE: The Department of Veterans Services is claiming an exemption from the Administrative Process Act in accordance with § 2.2-4002 A 24 of the Code of Virginia, which excludes the department when promulgating regulations pursuant to § 58.2-3219.7 or 58.1-3219.11 of the Code of Virginia.

Title of Regulation: **1VAC80-10. 100% Disabled Veteran Real Property Tax Exemption (amending 1VAC80-10-90).**

Statutory Authority: § 58.1-3219.7 of the Code of Virginia.

Effective Date: September 23, 2024.

Agency Contact: Steven Combs, Deputy Commissioner, Department of Veterans Services, James Monroe Building, 101 North 14th Street, Richmond, VA 23219, telephone (804) 786-0294, or email steven.combs@dvs.virginia.gov.

Summary:

The amendments remove a limitation period regarding when veterans are eligible for a refund of paid real property tax that conflicts with § 58.1-3219.5 of the Code of Virginia.

1VAC80-10-90. Application.

A. A veteran claiming the real property tax exemption shall file with the Commissioner of the Revenue, or other assessing official, in the veteran's respective locality:

1. A summary of benefits letter issued by the VA, or its successor agency, indicating that the veteran has a 100% service-connected, permanent, and total disability;
2. An affidavit or application on a form provided by the locality that:
 - a. Sets forth the name of the veteran and the name of the spouse, if any, also occupying the real property;
 - b. Indicates whether the real property is jointly owned by two spouses; and
 - c. Certifies that the real property is occupied as the veteran's principal place of residence; and
3. Proof of residence occupancy acceptable to the applicable locality, such as a valid Virginia driver's license or other proof of residency acceptable to the locality.

B. A surviving spouse of a veteran claiming the real property tax exemption shall file with the Commissioner of the Revenue, or other assessing official, in the surviving spouse's respective locality:

1. A summary of benefits letter issued by the VA, or its successor agency, indicating that the veteran had a 100% service-connected, permanent, and total disability;
2. An affidavit or application on a form provided by the locality that:
 - a. Sets forth the name of the deceased veteran and the name of the spouse;
 - b. Indicates whether the real property is jointly owned by the two spouses; and
 - c. Certifies that the real property is occupied as the surviving spouse's principal place of residence;
3. Proof of residence occupancy acceptable to the applicable locality, such as a valid Virginia driver's license, or other proof of residency acceptable to the locality;
4. Death certification to confirm veteran's date of death is on or after January 1, 2011; and
5. A certificate of marriage from the appropriate state office of records.

C. The veteran or surviving spouse may complete the local tax exemption application before receipt of the VA Summary of Benefits letter. The Commissioner of Revenue, or other assessing official, shall ensure that the veteran is aware the application is not complete without the required VA letter. When the application is complete, the assessing official shall inform the veteran or surviving spouse by mail whether or not the application is approved, the veteran or surviving spouse is exempt from the real property tax, and if exempted, the amount of the exemption.

D. The veteran or surviving spouse shall be required to re-file the application and notify the previous jurisdiction, required by this section only, if the principal place of residence changes.

~~E. While there is no deadline to apply for the exemption, the Commissioner of the Revenue, or assessing official, may only correct and refund (without interest) the past assessments of an initially qualified applicant for no more than the current tax year, plus up to three prior tax years after January 1, 2011.~~

~~F. E.~~ No county, city, or town shall be liable for any interest on any refund due to the veteran or surviving spouse for taxes paid prior to the filing of the application required by § 58.1-3219.6 of the Code of Virginia.

Regulations

G. F. In the determination of the exemption, no locality may implement income or asset limitations or a deadline for application.

H. G. This chapter does not prohibit the locality's ability to require an annual confirmation of continued residence from the qualifying veteran or surviving spouse.

VA.R. Doc. No. R25-7933; Filed September 3, 2024, 5:05 p.m.



TITLE 4. CONSERVATION AND NATURAL RESOURCES

MARINE RESOURCES COMMISSION

Final Regulation

REGISTRAR'S NOTICE: The Marine Resources Commission is claiming an exemption from the Administrative Process Act in accordance with § 2.2-4006 A 11 of the Code of Virginia; however, the commission is required to publish the full text of final regulations.

Title of Regulation: 4VAC20-490. Pertaining to Sharks (amending 4VAC20-490-20).

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

Effective Date: September 1, 2024.

Agency Contact: Jennifer Farmer, Regulatory Coordinator, Marine Resources Commission, 380 Fenwick Road, Building 96, Fort Monroe, VA 23651, telephone (757) 247-2248, FAX (757) 247-2002, or email jennifer.farmer@mrc.virginia.gov.

Summary:

The amendments move the oceanic whitetip shark from the commercially and recreationally permitted shark species lists to the commercially and recreationally prohibited shark species lists.

4VAC20-490-20. Definitions.

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

"Agent" means any person who possesses the Commercial Fisherman Registration License, fishing gear license, or fishing permit of a registered commercial fisherman in order to fish that commercial fisherman's gear or sell that commercial fisherman's harvest.

"Annual quota" means Virginia's 10.795% share of the annual coastwide commercial spiny dogfish quota managed by the Atlantic States Marine Fisheries Commission.

"Carcass length" means that length measured in a straight line from the anterior edge of the first dorsal fin to the posterior end of the shark carcass.

"Circle Hook" means a non-offset, non-stainless steel hook with the point turned sharply and straight back toward the shank.

"COLREGS Line" means the COLREGS Demarcation Line, as defined in the Code of Federal Regulations (33 CFR 80.510 Chesapeake Bay Entrance, VA).

"Commercial shark fisherman" means any commercial fisherman permitted to land or possess sharks (excluding spiny dogfish) that has landed and sold one pound of shark or more (excludes spiny dogfish) in that calendar year (January 1 through December 31).

"Commercially permitted aggregated large coastal shark" means any of the following species:

Blacktip, *Carcharhinus limbatus*

Bull, *Carcharhinus leucas*

Lemon, *Negaprion brevirostris*

Nurse, *Ginglymostoma cirratum*

Silky, *Carcharhinus falciformis*

Spinner, *Carcharhinus brevipinna*

Tiger, *Galeocerdo cuvier*

"Commercially permitted hammerhead shark" means any of the following species:

Great hammerhead, *Sphyrna mokarran*

Scalloped hammerhead, *Sphyrna lewini*

Smooth hammerhead, *Sphyrna zygaena*

"Commercially permitted nonblacknose small coastal shark" means any of the following species:

Atlantic sharpnose, *Rhizoprionodon terraenovae*

Bonnethead, *Sphyrna tiburo*

Finetooth, *Carcharhinus isodon*

"Commercially permitted pelagic shark" means any of the following species:

Blue, *Prionace glauca*

Oceanic whitetip, *Carcharhinus longimanus*

Porbeagle, *Lamna nasus*

Thresher, *Alopias vulpinus*

"Commercially prohibited shark" means any of the following species:

Atlantic angel, *Squatina dumeril*

Basking, *Cetorhinus maximus*

Bigeye sand tiger, *Odontaspis noronhai*

Bigeye sixgill, *Hexanchus nakamurai*

Bigeye thresher, *Alopias superciliosus*

Bignose, *Carcharhinus altimus*
 Blacknose, *Carcharhinus acronotus*
 Caribbean reef, *Carcharhinus perezii*
 Caribbean sharpnose, *Rhizoprionodon porosus*
 Dusky, *Carcharhinus obscurus*
 Galapagos, *Carcharhinus galapagensis*
 Longfin mako, *Isurus paucus*
 Narrowtooth, *Carcharhinus brachyurus*
 Night, *Carcharhinus signatus*
Oceanic whitetip, *Carcharhinus longimanus*
 Sand tiger, *Carcharias taurus*
 Sevengill, *Heptranchias perlo*
 Shortfin mako, *Isurus oxyrinchus*
 Sixgill, *Hexanchus griseus*
 Smalltail, *Carcharhinus porosus*
 Whale, *Rhincodon typus*
 White, *Carcharodon carcharias*

"Control rule" means a time-certain date, past, present, or future, used to establish participation in a limited entry fishery and may or may not include specific past harvest amounts.

"Dressed weight" means the result from processing a fish by removal of head, viscera, and fins, but does not include removal of the backbone, halving, quartering, or otherwise further reducing the carcass.

"Finning" means removing the fins and returning the remainder of the shark to the sea.

"Fork length" means the length of a fish measured from the most forward projection of the snout, with the mouth closed, to the fork of the tail along the midline, using a straight-line measure, not measured over the curve of the body.

"Large mesh gill net" means any gill net with a stretched mesh of greater than five inches.

"Longline" means any fishing gear that is set horizontally, either anchored, floating, or attached to a vessel, and that consists of a mainline or groundline, greater than 1,000 feet in length, with multiple leaders (gangions) and hooks, whether retrieved by hand or mechanical means.

"Movable gill net" means any gill net other than a staked gill net.

"Permitted commercial gear" means rod and reel, handlines, shark shortlines, small mesh gill nets, large mesh gill nets, pound nets, and weirs.

"Recreational shore angler" means a person neither fishing from a vessel nor transported to or from a fishing location by a vessel.

"Recreational vessel angler" means a person fishing from a vessel or transported to or from a fishing location by a vessel.

"Recreationally permitted shark" means any of the following species:

Atlantic sharpnose, *Rhizoprionodon terraenovae*
 Blacknose, *Carcharhinus acronotus*
 Blacktip, *Carcharhinus limbatus*
 Blue, *Prionace glauca*
 Bonnethead, *Sphyrna tiburo*
 Bull, *Carcharhinus leucas*
 Finetooth, *Carcharhinus isodon*
 Great hammerhead, *Sphyrna mokarran*
 Lemon, *Negaprion brevirostris*
 Nurse, *Ginglymostoma cirratum*
~~Oceanic whitetip, *Carcharhinus longimanus*~~

Porbeagle, *Lamna nasus*
 Scalloped hammerhead, *Sphyrna lewini*
 Smooth dogfish, *Mustelus canis*
 Smooth hammerhead, *Sphyrna zygaena*
 Spinner, *Carcharhinus brevipinna*
 Thresher, *Alopias vulpinus*
 Tiger, *Galeocerdo cuvier*

"Recreationally prohibited shark" means any of the following species:

Atlantic angel, *Squatina dumeril*
 Basking, *Cetorhinus maximus*
 Bigeye sand tiger, *Odontaspis noronhai*
 Bigeye sixgill, *Hexanchus nakamurai*
 Bigeye thresher, *Alopias superciliosus*
 Bignose, *Carcharhinus altimus*
 Caribbean reef, *Carcharhinus perezii*
 Caribbean sharpnose, *Rhizoprionodon porosus*
 Dusky, *Carcharhinus obscurus*
 Galapagos, *Carcharhinus galapagensis*
 Longfin mako, *Isurus paucus*
 Narrowtooth, *Carcharhinus brachyurus*
 Night, *Carcharhinus signatus*

Oceanic whitetip, *Carcharhinus longimanus*

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Sand tiger, *Carcharias taurus*
Sandbar, *Carcharhinus plumbeus*
Sevengill, *Heptranchias perlo*
Shortfin mako, *Isurus oxyrinchus*
Silky, *Carcharhinus falciformis*
Sixgill, *Hexanchus griseus*
Smalltail, *Carcharhinus porosus*
Whale, *Rhincodon typus*
White, *Carcharodon carcharias*

"Research only shark" means any of the following species:

Sandbar, *Carcharhinus plumbeus*

"Shark shortline" means a fish trotline that is set horizontally, either anchored, floating, or attached to a vessel, and that consists of a mainline or groundline, 1,000 feet in length or less, with multiple leaders (gangions) and no more than 50 corrodible circle hooks, whether retrieved by hand or mechanical means.

"Small mesh gill net" means any gill net with a stretched mesh of equal to or less than five inches.

"Smooth dogfish" means any shark of the species *Mustelus canis*. Smooth dogfish are also known as "smoothhound shark."

"Snout" means the most forward projection from a fish's head that includes the upper and lower jaw.

"Spiny dogfish" means any shark of the species *Squalus acanthias*.

VA.R. Doc. No. R25-7976; Filed August 27, 2024, 4:45 p.m.

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TITLE 8. EDUCATION

STATE BOARD OF EDUCATION

Final Regulation

REGISTRAR'S NOTICE: The State Board of Education 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 will receive, consider, and respond to petitions by any interested person at any time with respect to reconsideration or revision.

Title of Regulation: 8VAC20-23. Licensure Regulations for School Personnel (amending 8VAC20-23-10, 8VAC20-23-100, 8VAC20-23-270).

Statutory Authority: §§ 22.1-16, 22.1-253.13:2, and 22.1-298.1 of the Code of Virginia.

Effective Date: October 25, 2024.

Agency Contact: Jim Chapman, Director of Board Relations, Department of Education, 101 North 14th Street, 25th Floor, Richmond, VA 23219, telephone (804) 225-2540, or email jim.chapman@doe.virginia.gov.

Summary:

Pursuant to Chapters 642 and 672 of the 2024 Acts of Assembly, the amendments (i) establish universal licensure by reciprocity as a category of teacher licensure; (ii) allow a division superintendent, rather than the board, to issue a career and technical education teacher a provisional license to allow time for the teacher to attain the industry credential required by law; and (iii) require the Department of Education to compile, publicly post on its website, and update as necessary data on teacher licensure standards and requirements for each state for the purposes of facilitating the determination of the compatibility of out-of-state teacher licenses with requirements for teacher licensure by reciprocity in the Commonwealth.

8VAC20-23-10. Definitions.

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

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

"Accredited virtual school or program" means a virtual school or program accredited by one of the accrediting agencies recognized by the Virginia Department of Education. School divisions operating as multi-division online providers may be deemed as meeting accreditation requirements if a majority of their schools are fully accredited by the Virginia Board of Education.

"Alternate route to licensure" means a nontraditional route to licensure available to individuals who meet the criteria specified in guidelines developed by the board or 8VAC20-23-90.

"Approved program" means a professional education program recognized as meeting state standards for the content and operation of such programs so that graduates of the program will be eligible for state licensure. The Virginia Board of Education has the authority to approve programs in Virginia.

"Cancellation" means the withdrawal of a license following the voluntary return of the license by the license holder.

"Career and Technical Education License" means a three-year license available to qualified individuals to teach, either full time or part time, high school career and technical education courses in specific subject areas who meet requirements set forth in this chapter. Individuals issued a three-year Career and Technical Education License shall not be eligible for

continuing contract status while teaching under such license and shall be subject to the probationary terms of employment specified in § 22.1-303 of the Code of Virginia.

"Certified program provider" means a provider certified by the Virginia Department of Education to provide preparation and training for applicants seeking the Provisional License specified in 8VAC20-23-90.

"Career and Technical Education or Dual Enrollment License" means a three-year license to solely teach career and technical education courses or dual enrollment courses at public high schools in the Commonwealth issued to any individual who (i) is employed as an instructor by an institution of higher education that is accredited by a nationally recognized regional accreditation body, (ii) is teaching in the specific career and technical education or dual enrollment subject area at such institution in which the individual seeks to teach at a public school, and (iii) complies with the requirements set forth in subdivisions D 1 and D 3 of § 22.1-298.1 of the Code of Virginia. The Virginia Board of Education shall require any such instructor to maintain continuous employment in such position at the institution of higher education as a condition of continued license. ~~The provisions of this regulation shall expire on July 1, 2021, however, any license issued pursuant to the act prior to July 1, 2021, shall remain in effect for three years from the date it was issued unless such license is revoked by the Virginia Board of Education.~~

"Collegiate Professional License" means a 10-year, renewable teaching license available to an individual who has satisfied all requirements for licensure set forth in this chapter, including an earned baccalaureate degree from a regionally accredited college or university and the professional teacher's assessments prescribed by the Virginia Board of Education.

"Denial" means the refusal to grant a license.

"Division Superintendent License" means a 10-year, renewable license available to an individual who has completed an earned master's degree from a regionally accredited college or university and meets the requirements specified in 8VAC20-23-630. The individual's name shall be listed on the Virginia Board of Education's list of eligible division superintendents.

"Experiential learning" means a process of applying for an initial license through the alternate route as prescribed by the Virginia Board of Education and meeting the criteria specified in 8VAC20-23-90 E to be eligible to request experiential learning credits in lieu of the coursework for the endorsement (teaching) content area.

"Industry certification credential" means an active career and technical education credential that is earned by successfully completing a Virginia Board of Education-approved industry certification examination, being issued a professional license

in the Commonwealth, or successfully completing an occupational competency examination.

"International Educator License" means a professional teaching license issued for no more than five years to an exchange teacher with citizenship in a nation other than the United States of America who meets requirements by a state-approved, federally-designated Exchange Visitor Program and who is employed as a teacher in a Virginia public school or an accredited nonpublic school.

"Licensure by reciprocity" means a process used to issue a license to an individual coming into Virginia from another state when that individual meets certain conditions specified in this chapter.

"Mentor" means a classroom teacher hired by the local school division who has achieved continuing contract status or other instructional personnel including retired teachers who meet local mentor selection criteria. The mentor should work in the same building as the beginning teacher or be instructional personnel who is assigned solely as a mentor. A mentor should be assigned a limited number of teachers at any time. Instructional personnel who are not assigned solely as mentors should not be assigned to more than four teachers at any time. Mentors guide teachers in the program through demonstrations, observations, and consultations.

"One-Year High School License" means a license valid for ~~one year~~ one year and renewable thereafter in one-year increments to teach in public high schools for individuals who have met requirements for such license as set forth in this chapter.

"Online Teacher License" means a 10-year, renewable license valid only for teaching online courses. Teachers who hold a five-year or 10-year renewable license issued by the Virginia Board of Education may teach online courses for which they are properly endorsed and do not need to seek this license.

"Postgraduate Professional License" means a 10-year, renewable license available to an individual who has qualified for the Collegiate Professional License and who holds an appropriate earned graduate degree from a regionally accredited college or university.

"Professional studies" means courses and other learning experiences designed to prepare individuals in the areas of human development and learning, curriculum and instruction, assessment of and for learning, classroom and behavior management, foundations of education and the teaching profession, language and literacy, and supervised clinical experiences.

"Professional teacher assessment" means those tests or other requirements mandated for licensure as prescribed by the Virginia Board of Education.

"Provisional License" means a nonrenewable license valid for a specified period of time not to exceed three years issued to

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an individual who has allowable deficiencies for full licensure as set forth in this chapter.

"Pupil Personnel Services License" means a 10-year, renewable license available to an individual who has earned an appropriate graduate degree from a regionally accredited college or university with an endorsement as a school counselor, school psychologist, school social worker, or vocational evaluator. This license does not require teaching experience unless otherwise outlined under the specific endorsement's requirements.

"Renewable license" means a license issued by the Virginia Board of Education for 10 years, unless otherwise specified, to an individual who meets all requirements specified in this chapter.

"Reprimand" means a written admonishment of a license holder that does not result in the withdrawal of a license.

"Revocation" means the withdrawal of a license.

"School Manager License" means a 10-year, renewable license intended to provide for a differentiation of administrative responsibilities in a school setting. A school manager is licensed to administer noninstructional responsibilities in an educational setting. A school manager is restricted from evaluating teachers, supervising instruction, developing and evaluating curriculum, and serving as a school's student disciplinarian. The license is available to a candidate who holds a baccalaureate degree from a regionally accredited college or university; has three years of successful managerial experience; and is recommended for the license by a Virginia school division superintendent.

"Suspension" means the temporary withdrawal of a license.

"Technical Professional License" means a 10-year, renewable license available to an individual who has graduated from a public or accredited nonpublic high school (or possesses a Virginia Board of Education-approved high school equivalency credential); has exhibited academic proficiency, technical competency, and successful occupational experience; and meets the requirements specified in 8VAC20-23-50 A 4.

"Teach For America License" means a two-year provisional license available to an individual who is a participant in Teach For America and meets the requirements specified in 8VAC20-23-50.

"Universal licensure by reciprocity" means the issuance of a license as a teacher in the Commonwealth to any individual who holds a valid out-of-state teaching license with full credentials and without deficiencies that has been in force and in use by the individual as an employed teacher in a nonvirtual classroom setting at a public or private elementary or secondary school for at least three years prior to and is in force at the time the department receives the individual's application for license as a teacher in the Commonwealth.

8VAC20-23-100. Conditions for licensure for out-of-state candidates by reciprocity.

A. An individual coming into Virginia from any state may qualify for a Virginia teaching license with comparable endorsement areas if the individual (i) has completed a state-approved teacher preparation program through a regionally accredited four-year college or university or (ii) holds a valid out-of-state teaching license (full credential without deficiencies) that shall be in force at the time the application for a Virginia license is made. An individual shall meet licensure requirements set forth in the Code of Virginia. An individual seeking licensure shall establish a file in the Virginia Department of Education by submitting a complete application packet that includes official student transcripts. Unless exempted by the criteria in this chapter, professional teacher's assessment requirements prescribed by the Virginia Board of Education shall be satisfied.

B. An individual coming into Virginia will qualify for a Virginia teaching license with comparable endorsement areas if the individual holds an active national certification from the National Board for Professional Teaching Standards (NBPTS) or a nationally recognized certification program approved by the Virginia Board of Education.

C. Licensure by reciprocity is provided for any spouse of an active duty or reserve member of the Armed Forces of the United States or a member of the Virginia National Guard who has obtained a valid out-of-state license, with full credentials and without deficiencies, that is in force at the time the application for a Virginia license is received by the Virginia Department of Education. Each such individual shall establish a file in the Virginia Department of Education by submitting a complete application packet, which shall include official student transcripts and an official copy of the military permanent assignment orders of the individual's spouse. No service requirements or licensing assessments shall be required for any such individual. The Virginia Department of Education shall determine and communicate such individual's eligibility for licensure by reciprocity within 15 business days of receipt of the complete application packet.

~~D. Licensure Universal licensure by reciprocity is shall be provided for individuals any individual who have obtained holds a valid out-of-state teaching license, with full credentials and without deficiencies, that is has been in force for at least three years prior to and is in force at the time the of application for a Virginia license is received by the Virginia Department of Education. Each such individual shall establish a file in the Virginia Department of Education by submitting a complete application packet, which shall include official student transcripts. No service requirements or licensing assessments shall be required for any such individual. No service requirements or licensing assessments shall be required for any such individual who applies for universal licensure by reciprocity. Any individual who applies for universal licensure~~

by reciprocity shall provide a copy of the individual's out-of-state teaching license that meets the criteria set forth in this subsection. Any such individual shall be subject to the provisions of §§ 22.1-296.2 and 22.1-296.4 of the Code of Virginia. The department shall prioritize applications for universal licensure by reciprocity.

E. For licensure by reciprocity, applicants may submit third-party employment verification forms.

F. For licensure by reciprocity, the board shall grant special consideration to individuals who have successfully completed a program offered by a provider that is accredited by the Council for the Accreditation of Educator Preparation.

8VAC20-23-270. Career and technical education – technology education.

Endorsement requirements. The candidate shall have:

1. Earned a baccalaureate degree from a regionally accredited college or university and graduated from an approved teacher preparation program in technology education; or
2. Earned a baccalaureate degree from a regionally accredited college or university and completed a major in technology education or 33 semester hours in technology education distributed in the following areas:
 - a. The nature of technology. Experiences shall include those that promote an understanding of the characteristics, scope, and core concepts of physical, biological, and informational technologies, the relationships among these technologies, and their connections to other science, technology, engineering, and mathematics (STEM) fields: ~~6~~ six semester hours;
 - b. Technology and society. Experiences shall include those that develop a working knowledge of the cultural, social, economic, and political effects of technology, its effect on the environment, and the role of society in the history, development, and use of physical, biological, and informational technologies: ~~3~~ three semester hours;
 - c. Engineering. Experiences shall include those that develop comprehension of the attributes of technological design, inclusive of constraints, optimization, predictive analysis, problem solving, critical thinking, technical writing, and integrative mathematics and science: ~~6~~ six semester hours;
 - d. Abilities for a technological world. Experiences shall include those that develop the capacity to utilize the design process, to use and maintain technological products and systems, and to assess their impact: ~~9~~ nine semester hours; and
 - e. The designed world. Experiences shall include those that promote an understanding of current and emerging physical, biological, and informational technologies: ~~9~~ nine semester hours; or
3. Earned a baccalaureate degree from a regionally accredited college or university with a major in one of the following fields of study: architecture, design, engineering,

engineering technology, industrial technology, or physics and completed a minimum of 15 semester hours of technology education content coursework, including at least ~~3~~ three semester hours in each of the following areas:

- a. The nature of technology;
- b. Technology and society;
- c. Engineering;
- d. Abilities for a technological world; and
- e. The designed world.

If an individual is seeking an initial license in the Commonwealth with an endorsement in the area of career and technical education, an industry certification credential as defined in 8VAC20-23-10 in the area in which the teacher seeks endorsement is required. If a teacher seeking an initial license in the Commonwealth has not attained an industry certification credential in the area in which the teacher seeks endorsement, the ~~Virginia Board of Education~~ division superintendent may, ~~upon request of the employing school division or educational agency,~~ issue the teacher a provisional license to allow time for the teacher to attain such credential.

VA.R. Doc. No. R25-7928; Filed September 4, 2024, 9:03 a.m.



TITLE 9. ENVIRONMENT

VIRGINIA WASTE MANAGEMENT BOARD

Forms

Title of Regulation: **9VAC20-121. Regulated Medical Waste Management Regulations.**

Agency Contact: Jenny Poland, Solid Waste Permit Coordinator, Department of Environmental Quality, 901 Russell Drive, Salem, VA 24153, telephone (540) 759-9840, or email jenny.poland@deq.virginia.gov.

REGISTRAR'S NOTICE: Forms used in administering the regulation have been 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, 201 North Ninth Street, Fourth Floor, Richmond, Virginia 23219.

FORMS (9VAC20-121)

[Solid Waste Management Facility Permit Applicant's Disclosure Statement \(Cover Sheet\), DEQ Form DISC 01 \(rev. 9/2020\)](#)

[Solid Waste Management Facility Permit Applicant's Disclosure Statement - Key Personnel Statement, DEQ Form DISC 02 \(rev. 9/2020\)](#)

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[Local Government Certification Request, DEQ Form CERT 01 \(rev. 8/2018\)](#)

[Regulated Medical Waste Management Facility Permit by Rule Form, DEQ Form RMW PBR \(rev. 3/2023\)](#)

~~[Application for Evaluation and Approval of Regulated Medical Waste Treatment Technology, DEQ Form RMWTP 01 \(rev. 3/2023\)](#)~~

[Application for Evaluation and Approval of Regulated Medical Waste Treatment Technology, DEQ Form RMWTP 01 \(rev. 8/2024\)](#)

VA.R. Doc. No. R25-8052; Filed August 29, 2024, 3:42 p.m.

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TITLE 12. HEALTH

DEPARTMENT OF MEDICAL ASSISTANCE SERVICES

Final Regulation

REGISTRAR'S NOTICE: The following regulatory action is exempt from Article 2 of the Administrative Process Act in accordance with § 2.2-4006 A 4 c of the Code of Virginia, which excludes regulations that are necessary to meet the requirements of federal law or regulations, provided such regulations do not differ materially from those required by federal law or regulation. The Department of Medical Assistance Services will receive, consider, and respond to petitions by any interested person at any time with respect to reconsideration or revision.

Title of Regulation: 12VAC30-130. Amount, Duration and Scope of Selected Services (amending 12VAC30-130-5020, 12VAC30-130-5050, 12VAC30-130-5060, 12VAC30-130-5090, 12VAC30-130-5100, 12VAC30-130-5120 through 12VAC30-130-5150).

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

Effective Date: October 23, 2024.

Agency Contact: Meredith Lee, Policy, Regulations, and Manuals Supervisor, Department of Medical Assistance Services, 600 East Broad Street, Suite 1300, Richmond, VA 23219, telephone (804) 371-0552, FAX (804) 786-1680, TDD (800) 343-0634, or email meredith.lee@dmass.virginia.gov.

Background: Section 1262 of the federal Consolidated Appropriations Act of 2023 made substantial regulatory changes to remove barriers and promote access to evidence-based treatment of substance use disorders, including removing a requirement that practitioners obtain a special federal waiver, the DATA-Waiver or X-Waiver, to prescribe buprenorphine for the treatment of opioid use disorder. To conform to this federal rule change, the Department of Medical

Assistance Services submitted a state plan amendment (SPA) to the Centers for Medicare and Medicaid Services that removed the X-Waiver requirement. The SPA was approved on September 21, 2023.

Summary:

The amendments allow providers who have a current license to practice and prescribe and a Drug Enforcement Administration registration authorizing the prescribing of Schedule III drugs to prescribe buprenorphine for the treatment of opioid use disorder without the federal X-Waiver.

12VAC30-130-5020. Definitions.

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

"Abstinence" means the intentional and consistent restraint from the pathological pursuit of reward or relief, or both, that involves the use of substances.

"Addiction" means a primary, chronic disease of brain reward, motivation, memory, and related circuitry. Addiction is defined as the inability to consistently abstain, impairment in behavioral control, persistence of cravings, diminished recognition of significant problems with one's behaviors and interpersonal relationships, and a dysfunctional emotional response. Like other chronic diseases, addiction often involves cycles of relapse and remission. Without treatment or engagement in recovery activities, addiction is progressive and can result in disability or premature death.

"Addiction-credentialed physician" means a physician who holds a board certification in addiction medicine from the American Board of Addiction Medicine, a subspecialty board certification in addition to certification in psychiatry from the American Board of Psychiatry and Neurology, or subspecialty board certification in addiction medicine from the American Osteopathic Association. DMAS also recognizes ~~physicians with the DATA 2000 buprenorphine waiver and~~ physicians treating addiction who have specialty training or experience in addiction medicine or addiction psychiatry. If treating adolescents, "addiction-credentialed physician" means an addiction-credentialed physician who also has experience and specialty training with adolescent medicine.

"Adherence" means the individual receiving treatment has demonstrated his ability to cooperate with, follow, and take personal responsibility for the implementation of his treatment plans.

"Adolescent" means an individual from 12 years of age to 20 years of age.

"Allied health professional" means counselor aides or group living workers who meet the DBHDS licensing requirements for unlicensed staff in residential settings.

"ARTS" means addiction and recovery treatment services.

"ARTS care coordinator" means an employee of DMAS, its contractor, or an MCO who is a licensed practitioner of the healing arts, including a physician or medical director, licensed clinical psychologist, licensed clinical social worker, licensed professional counselor, licensed substance abuse treatment practitioner, licensed marriage and family therapist, nurse practitioner, or registered nurse with two years of clinical experience in the treatment of substance use disorders. The ARTS care coordinator performs independent assessments of requests for all ARTS intensive outpatient programs (ASAM Level 2.1); partial hospitalization programs (ASAM Level 2.5); residential treatment services (ASAM Levels 3.1, 3.3, 3.5, and 3.7); and inpatient services (ASAM Levels 3.7 and 4.0).

"ASAM" means the American Society of Addiction Medicine.

"ASAM criteria" means the six different life areas used by the ASAM Patient Placement Criteria to develop a holistic biopsychosocial assessment of an individual that is used for service planning, level of care, and length of stay treatment decisions.

"BHA" means behavioral health authority.

"Biomedical" means biological or physical aspects of a member's condition that require assessment and services that are delivered by appropriately credentialed medical staff, who are available to assess and treat co-occurring biomedical disorders that may be the result of, or independent of, a substance use disorder.

~~"Buprenorphine waived practitioner" means a health care provider licensed under Virginia law and registered with the Drug Enforcement Administration (DEA) to prescribe Schedule III, IV, or V medications for treatment of pain. More specifically, a buprenorphine waived physician has obtained the buprenorphine waiver through the Drug Addiction Treatment Act of 2000 (DATA 2000), while a buprenorphine-waivered nurse practitioner or physician assistant has obtained the buprenorphine waiver through DATA 2000. A buprenorphine waived practitioner meets all federal and state requirements and is supervised by or works in collaboration with a qualifying physician in accordance with the applicable regulatory board. In accordance with § 54.1-2957 of the Code of Virginia, a nurse practitioner may practice without a written or electronic practice agreement with a qualifying physician. All buprenorphine waived practitioners have a DEA X number to prescribe buprenorphine for the treatment of opioid use disorder.~~

"Care coordination" means collaboration and sharing of information among health care providers who are involved with an individual's health care to assist in improving the care of the individual. This includes e-consultations from primary care providers to specialists.

"Certified substance abuse counselor" or "CSAC" means the same as that term is defined in § 54.1-3507.1 of the Code of Virginia.

"Certified substance abuse counseling assistant" or "CSAC-A" means the same as that term is defined in § 54.1-3507.2 of the Code of Virginia.

"Certified substance abuse counselor-supervisee" means an individual who has completed the educational requirements described in clause (i) of § 54.1-3507.1 C of the Code of Virginia, but who has not completed the practice hours described in clause (ii) of § 54.1-3507.1 C of the Code of Virginia.

"Child" means an individual from birth up to 12 years of age.

"Clinical experience" means, for the purpose of these ARTS requirements, practical experience in providing direct services to individuals with diagnoses of substance use disorder. Clinical experience shall include supervised internships, supervised practicums, or supervised field experience. Clinical experience shall not include unsupervised internships, unsupervised practicums, and unsupervised field experience.

"Counseling" means the same as that term is defined in § 54.1-3500 of the Code of Virginia.

"Credentialed addiction treatment professional" or "CATP" means an individual licensed or registered with the appropriate board in the following roles: (i) an addiction-credentialed physician or physician with experience or training in addiction medicine; (ii) physician extenders with experience or training in addiction medicine; (iii) a licensed psychiatrist; (iv) a licensed clinical psychologist; (v) a licensed clinical social worker; (vi) a licensed professional counselor; (vii) a certified psychiatric clinical nurse specialist; (viii) a licensed psychiatric nurse practitioner; (ix) a licensed marriage and family therapist; (x) a licensed substance abuse treatment practitioner; (xi) a resident who is under the supervision of a licensed professional counselor (18VAC115-20-10), licensed marriage and family therapist (18VAC115-50-10), or licensed substance abuse treatment practitioner (18VAC115-60-10) and is registered with the Virginia Board of Counseling; (xii) a resident in psychology who is under supervision of a licensed clinical psychologist and is registered with the Virginia Board of Psychology (18VAC125-20-10); or (xiii) a supervisee in social work who is under the supervision of a licensed clinical social worker and is registered with the Virginia Board of Social Work (18VAC140-20-10).

"CSB" means community services board.

"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.

"DEA" means Drug Enforcement Administration.

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

"DSM-5" means the Diagnostic and Statistical Manual of Mental Disorders, Fifth Edition, copyright 2013, American Psychiatric Association.

"Evidence-based" means an ~~empirically supported~~ empirically supported clinical practice or intervention with a proven ability to produce positive outcomes.

"Face-to-face" means encounters that occur in person or through telemedicine.

"FQHC" means federally qualified health center.

"Individual" means the patient, client, beneficiary, or member who receives services set out in 12VAC30-130-5000 et seq. These terms are used interchangeably.

"Individual service plan" or "ISP" means an initial and comprehensive treatment plan that is regularly updated and specific to an individual's unique treatment needs as identified in the assessment. An ISP contains an individual's treatment or training needs, the individual's goals and ~~measurable~~ measurable objectives to meet the identified needs, services to be provided with the recommended frequency to accomplish the measurable goals and objectives, and an individualized discharge plan that describes transition to other appropriate services. An individual is included in the development of the ISP, and the ISP is signed by the individual. If the individual is a minor, the ISP is also signed by the individual's parent or legal guardian. An ISP includes documentation if the individual is a minor child or an adult who lacks legal capacity and is unable or unwilling to sign the ISP.

"Induction phase" means the medically monitored initiation of buprenorphine, buprenorphine and naloxone, naltrexone, or methadone treatment performed in a qualified practitioner's office or licensed OTP. The goal of the induction phase is to find the individual's ideal dose of buprenorphine, buprenorphine and naloxone, naltrexone, or methadone. The ideal dose minimizes both side effects and drug craving.

"Licensed practical nurse" means a professional who is licensed by the Commonwealth as a practical nurse or holds a multistate licensure privilege to practice practical nursing according to 18VAC90-19-80.

"Managed care organization" or "MCO" means an organization that offers managed care health insurance plans (MCHIP), as defined by § 38.2-5800 of the Code of Virginia, which means an arrangement for the delivery of health care in which a health carrier undertakes to provide, arrange for, pay for, or reimburse any of the costs of health care services for a covered person on a prepaid or insured basis that (i) contains one or more incentive arrangements, including any credentialing requirements intended to influence the cost or level of health care services between the health carrier and one

or more providers with respect to the delivery of health care services and (ii) requires or creates benefit payment differential incentives for covered persons to use providers that are directly or indirectly managed, owned, under contract with, or employed by the health carrier.

"Medication assisted treatment" or "MAT" means the same as that term is defined in 42 CFR 8.2.

"Multidimensional assessment" or "assessment" means the individualized, person-centered biopsychosocial assessment performed face-to-face, in which the provider obtains comprehensive information from the individual, and family members and significant others as needed, including history of the present illness; family history; developmental history; alcohol, tobacco, and other drug use or addictive behavior history; personal or social history; legal history; psychiatric history; medical history; spiritual history as appropriate; review of systems; mental status exam; physical examination; formulation and diagnoses; survey of assets, vulnerabilities, and supports; and treatment recommendations. The ASAM multidimensional assessment is a theoretical framework for this individualized, person-centered assessment that includes the following dimensions: (i) acute intoxication or likelihood of withdrawal, or both; (ii) medical conditions and complications, both historical and current; (iii) emotional, behavioral, or cognitive status and any identified issues; (iv) an individual's readiness to change; (v) risks for relapse or continued use; and (vi) home environment. The level of care determination, ISP, and recovery strategies development may be based upon this multidimensional assessment.

"Opioid" means any psychoactive chemical that resembles morphine in pharmacological effects, including opiates and synthetic or semisynthetic agents that exert their effects by binding to highly selective receptors in the brain where morphine and endogenous opioids affect their actions.

"Opioid treatment program" or "OTP" means the same as that term is defined in 42 CFR 8.2.

"Opioid treatment services" or "OTS" means preferred office-based opioid treatment (OBOT) and OTPs that encompass a variety of pharmacological and nonpharmacological treatment modalities, including substance use disorder counseling and psychotherapy.

"Overdose" means the inadvertent or deliberate consumption of a dose of a chemical substance much larger than either habitually used by the individual or ordinarily used for treatment of an illness that is likely to result in a serious toxic reaction or death.

"Physician extenders" means licensed nurse practitioners as defined in § 54.1-3000 of the Code of Virginia and licensed physician assistants as defined in § 54.1-2900 of the Code of Virginia.

"Preferred office-based opioid treatment" or "preferred OBOT" means addiction treatment services for individuals with a primary opioid use disorder provided by ~~buprenorphine-waivered practitioners~~ physicians and physician extenders who have a current DEA registration authorizing the prescribing of scheduled drugs, including Schedule III drugs, working in collaboration with CATPs providing psychotherapy and substance use disorder counseling in public and private practice settings.

"Program of assertive community treatment" or "PACT" means the same as that term is defined in 12VAC35-105-20.

"Psychoeducation" means (i) a specific form of education aimed at helping individuals who have a substance use disorder or mental illness and their family members or caregivers to access clear and concise information about substance use disorders or mental illness and (ii) a way of accessing and learning strategies to deal with substance use disorders or mental illness and its effects in order to design effective treatment plans and strategies.

"Psychotherapy" or "therapy" means the use of psychological methods in a professional relationship to assist a person to acquire great human effectiveness or to modify feelings, conditions, attitudes, and behaviors that are emotionally, intellectually, or socially ineffectual or maladaptive.

"Recovery" means a process of sustained effort that addresses the biological, psychological, social, and spiritual disturbances inherent in addiction and consistently pursues abstinence, behavior control, dealing with cravings, recognizing problems in one's behaviors and interpersonal relationships, and more effective coping with emotional responses leading to reversal of negative, self-defeating internal processes and behaviors and allowing healing of relationships with self and others. The concepts of humility, acceptance, and surrender are useful in this process.

"Registered nurse" or "RN" means the same as "professional nurse" is defined in § 54.1-3000 of the Code of Virginia.

"Relapse" means a process in which an individual who has established abstinence or sobriety experiences recurrence of signs and symptoms of active addiction, often including resumption of the pathological pursuit of reward or relief through the use of substances and other behaviors often leading to disengagement from recovery activities. Relapse can be triggered by exposure to (i) rewarding substances and behaviors, (ii) environmental cues to use, and (iii) emotional stressors that trigger heightened activity in brain stress circuits. The event of using or acting out is the latter part of the process, which can be prevented by early intervention.

"RHC" means rural health clinic.

"SBIRT" means screening, brief intervention, and referral to treatment. SBIRT services are an evidence-based and

community-based practice designed to identify, reduce, and prevent problematic substance use disorders.

"Service authorization" means the process to approve specific services for an enrolled Medicaid, FAMIS Plus, or FAMIS individual by DMAS or its contractor, or an MCO 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.

"Substance use care coordinator" means staff in an OTP or preferred OBOT setting who have:

1. At least a bachelor's degree in one of the following fields: social work, psychology, psychiatric rehabilitation, sociology, counseling, vocational rehabilitation, or human services counseling, and at least either (i) one year of substance use disorder related direct experience or training or a combination of experience or training in providing services to individuals with a diagnosis of substance use disorder or (ii) a minimum of one year of clinical experience or training in working with individuals with co-occurring diagnoses of substance use disorder and mental illness; ~~or~~
2. Licensure by the Commonwealth as a registered nurse with at least either (i) one year of direct experience or training or a combination of experience and training in providing services to individuals with a diagnosis of substance use disorder or (ii) a minimum of one year of clinical experience or training or a combination of experience and training in working with individuals with co-occurring diagnoses of substance use disorder and mental illness; or
3. Certification as a CSAC or a CSAC-A.

"Substance use case management" means the same as set out in 12VAC30-50-491.

"Substance use disorder" or "SUD" means a substance-related addictive disorder, as defined in the DSM-5 with the exception of tobacco-related disorders and non-substance-related disorders, marked by a cluster of cognitive, behavioral, and physiological symptoms indicating that the individual continues to use, is seeking treatment for the use of, or is in active recovery from the use of alcohol or other drugs despite significant related problems.

"Substance use disorder counseling" means the same as "substance abuse counseling" is defined in 18VAC115-30-10.

"Telemedicine" means the real-time, two-way transfer of medical data and information using an interactive audio-video connection for the purposes of medical diagnosis and treatment. The member is located at the originating site, while the provider renders services from a remote location via the audio-video connection. Equipment utilized for telemedicine shall be of sufficient audio quality and visual clarity as to be

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functionally equivalent to a face-to-face encounter for professional medical services.

"Tolerance" or "tolerate" means a state of adaptation in which exposure to a drug induces changes that result in diminution of one or more of the drug's effects over time.

"Withdrawal management" means services to assist an individual's withdrawal from the use of substances.

12VAC30-130-5050. Covered services: clinic services - opioid treatment program services.

A. Settings for opioid treatment program (OTP) services. The agency-based OTP provider shall be licensed by DBHDS and contracted by DMAS or its contractor or an MCO. The staffing requirements for OTP providers shall follow the DBHDS licensing requirements set forth in 12VAC35-105-925 and in the DBHDS guidance document entitled "Opioid Medication Assisted Treatment License and Oversight" (March, 2017). The interdisciplinary team shall include CATPs acting within the scope of practice in accordance to their professional regulatory board and state and federal requirements, including an addiction-credentialed physician as defined in 12VAC30-130-5020. OTP services are allowed simultaneously for members in other ASAM Levels, including 1.0 through 3.7 (excluding inpatient services). OTPs shall meet the service components, staff requirements, and risk management requirements.

B. OTP service components.

1. Linking the individual to psychological, medical, and psychiatric consultation as necessary to meet the individual's needs.
2. Access to emergency medical and psychiatric care through connections with more intensive levels of care.
3. Access to evaluation and ongoing primary care.
4. Ability to conduct or arrange for appropriate laboratory and toxicology tests including drug screenings, using either urine or blood serums.
5. Physicians who are available to evaluate and monitor (i) use of methadone, buprenorphine products, or naltrexone products and (ii) pharmacists and nurses to dispense and administer these medications and who follow the Board of Medicine guidance for treatment of individuals with buprenorphine for addiction.
6. Individualized, patient-centered assessment and treatment.
7. Ability to assess, order, administer, reassess, and regulate medication and dose levels appropriate to the individual; supervise withdrawal management from opioid analgesics, including methadone, buprenorphine products, or naltrexone products; and oversee and facilitate access to appropriate treatment for opioid use disorder.

8. Medication for other physical and mental health illness is provided as needed either ~~onsite~~ on site or through collaboration with other providers.

9. Cognitive, behavioral, and other substance use disorder-focused psychotherapies and substance use disorder counseling by a CATP reflecting a variety of treatment approaches, provided to the individual on an individual, group, or family basis. CSACs and CSAC-supervisees are recognized to provide substance use disorder counseling in these settings as allowed within scopes of practice as defined in § 54.1-3507.1 of the Code of Virginia.

10. Optional substance use care coordination that includes integrating behavioral health into primary care and specialty medical settings through interdisciplinary care planning and monitoring individual progress and tracking individual outcomes; supporting conversations between ~~buprenorphine-waivered practitioners~~ physicians and physician extenders who have a current DEA registration authorizing the prescribing of scheduled drugs, including Schedule III drugs, and behavioral health professionals to develop and monitor individualized treatment plans; linking individuals with community resources to facilitate referrals and respond to social service needs; and tracking and supporting individuals when they obtain medical, behavioral health, or social services outside the practice.

11. Provision of onsite screening or the ability to refer for screening for infectious diseases such as human immunodeficiency virus, hepatitis B and C, and tuberculosis at treatment initiation and then at least annually or more often based on risk factors and the ability to provide or refer for treatment of infectious diseases as necessary.

12. Onsite medication administration treatment during the induction phase, which must be provided by a physician, nurse practitioner, physician assistant, or registered nurse. Medication administration during the maintenance phase may be provided either by a registered nurse or licensed practical nurse.

13. Prescription of naloxone for each member receiving methadone, buprenorphine products, or naltrexone products.

14. Ability to provide pregnancy testing for women of childbearing age.

15. For individuals of childbearing age, the ability to provide family planning services or to refer the individual for family planning services.

C. OTP staff requirements.

1. Staff requirements shall meet the licensing requirements of 12VAC35-105-925. The interdisciplinary team shall include CATPs trained in the treatment of opioid use disorder, including an addiction credentialed physician or physician extender and CATPs as defined in 12VAC30-130-5020. OTPs may utilize CSACs and CSAC-supervisees to

provide substance use disorder counseling and psychoeducational services within their scopes of practice as defined in § 54.1-3507.1 of the Code of Virginia. OTPs may also utilize CSAC-As pursuant to § 54.1-3507.2 of the Code of Virginia as well as registered peer recovery specialists within their scopes of practice. A registered peer recovery specialist shall meet the definition in § 54.1-3500 of the Code of Virginia.

2. Staff shall be knowledgeable in the assessment, interpretation, and treatment of the biopsychosocial dimensions of alcohol or other substance use disorders.

3. A physician or physician extender as defined in 12VAC30-130-5020 shall be available during medication dispensing and clinical operating hours in person or by telephone.

D. OTP risk management shall be clearly and adequately documented in each individual's record and shall include:

1. Random drug screening, using either urine or blood serums, for all individuals, conducted at least eight times during a 12-month period as described in 12VAC35-105-980. Definitive screenings shall only be utilized when clinically indicated. Outcomes of the drug screening shall be used to support positive patient outcomes and recovery.

2. A check of the Virginia Prescription Monitoring Program prior to initiation of buprenorphine products or naltrexone products and at least quarterly for all individuals.

3. Prescription of naloxone.

4. Opioid overdose prevention education, including the purpose of and the administration of naloxone and the impact of polysubstance use. Education shall include discussion of the role of medication assisted treatment and the opportunity to reduce harm associated with polysubstance use. The goal is to help individuals remain in treatment to reduce the risk for harm.

5. Clinically indicated infectious disease testing for diseases such as HIV; hepatitis A, B, and C; syphilis; and tuberculosis at treatment initiation and then annually or more frequently, depending on the clinical scenario and the patient's risk. Those who test positive shall be treated either ~~onsite~~ on site or through referral.

6. For individuals without immunity to the hepatitis B virus, vaccination, either ~~onsite~~ on site or through referral, shall be offered.

7. For individuals without HIV infection, pre-exposure prophylaxis to prevent HIV infection, either ~~onsite~~ on site or through referral, shall be offered.

8. Pregnancy testing for women of childbearing age, and contraceptive services, either ~~onsite~~ on site or through referral, shall be offered.

12VAC30-130-5060. Covered services: clinic services - preferred office-based addiction treatment.

A. Preferred office-based addiction treatment (OBAT) shall be provided by a ~~buprenorphine-waivered practitioner~~ physician or physician extender who has a current DEA registration authorizing the prescribing of scheduled drugs, including Schedule III drugs, and may be provided in a variety of practice settings, including primary care clinics, outpatient health system clinics, psychiatry clinics, FQHCs, CSBs, BHAs, local health department clinics, and physician offices. The practitioner shall be contracted by DMAS or its contractor or an MCO to perform OBAT services. OBAT services shall meet the criteria established in this section.

B. OBAT service components.

1. Access to emergency medical and psychiatric care.

2. Affiliations with more intensive levels of care such as intensive outpatient programs and partial hospitalization programs to which individuals can be referred when clinically indicated.

3. Individualized, patient-centered multidimensional assessment and treatment.

4. Assessing, ordering, administering, reassessing, and regulating medication and dose levels appropriate to the individual; supervising withdrawal management from opioid analgesics and other substances; and overseeing and facilitating access to appropriate treatment for substance use disorder.

5. Medication for other physical and mental health disorders shall be provided as needed either ~~onsite~~ on site or through collaboration with other providers.

6. Assurance that medications for opioid use disorder and alcohol use disorder are only dispensed ~~onsite~~ on site during the induction phase. After the induction phase, medications shall be prescribed to the member.

7. Assurance that buprenorphine monoprodukt is only prescribed in accordance with Board of Medicine rules related to the prescribing of buprenorphine for addiction.

8. Cognitive, behavioral, and other substance use disorder-focused counseling and psychotherapies, reflecting a variety of treatment approaches, shall be provided to the individual on an individual, group, or family basis and shall be provided by CATPs working in collaboration with ~~the buprenorphine-waivered practitioner~~ a physician or physician extender who has a current DEA registration authorizing the prescribing of scheduled drugs, including Schedule III drugs. These therapies can be provided via telemedicine as long as they meet DMAS requirements for an OBAT and for the use of telemedicine. Preferred OBATs may utilize CSACs and CSAC-supervisees to provide substance use disorder counseling and psychoeducational

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services within their scope of practice as defined in § 54.1-3507.1 of the Code of Virginia.

9. Substance use care coordination provided, including interdisciplinary care planning between the ~~buprenorphine-waivered practitioner~~ physicians or physician extenders who have a current DEA registration authorizing the prescribing of scheduled drugs, including Schedule III drugs, and the treatment team to develop and monitor individualized and personalized treatment plans focused on the best outcomes for the individual. This care coordination includes monitoring individual progress, tracking individual outcomes, linking the individual with community resources to facilitate referrals and respond to social service needs, and tracking and supporting the individual's medical, behavioral health, or social services received outside the practice.

10. Provision of onsite screening or referral for screening for clinically indicated infectious disease testing for diseases such as HIV; hepatitis A, B, and C; syphilis; and tuberculosis at treatment initiation and then at least annually or more often based on risk factors and the ability to provide or refer for treatment of infectious diseases as necessary.

11. Onsite medication administration treatment during the induction phase, which shall be provided by a physician, nurse practitioner, physician assistant, registered nurse, or licensed practical nurse.

12. Ability to provide pregnancy testing for women of childbearing age.

13. For individuals of childbearing age, the ability to provide family planning services or to refer the individual for family planning services.

C. OBAT staff requirements.

1. ~~Buprenorphine-waivered practitioners~~ Physicians or physician extenders who have a current DEA registration authorizing the prescribing of scheduled drugs, including Schedule III drugs, are required.

2. CATPs are required and shall work in collaboration with the ~~buprenorphine-waivered practitioner~~ a physician or physician extender who has a current DEA registration authorizing the prescribing of scheduled drugs, including Schedule III drugs. This collaboration can be in person or via telemedicine as long as it meets the department's requirements for the OBAT setting and for telemedicine. CSACs, CSAC-supervisees, and CSAC-As are also recognized in the preferred OBAT setting as well as registered peer recovery specialists. A registered peer recovery specialist shall meet the definition in § 54.1-3500 of the Code of Virginia.

D. OBAT risk management shall be documented in each individual's record and shall include:

1. Random drug screening, using either urine or blood serums, for all individuals, conducted at a minimum of eight times per year. Drug screenings include presumptive and definitive screenings and shall be accurately interpreted. Definitive screenings shall only be utilized when clinically indicated. Outcomes of the drug screening shall be used to support positive patient outcomes and recovery.

2. A check of the Virginia Prescription Monitoring Program prior to initiation of buprenorphine products or naltrexone products and at least quarterly for all individuals thereafter.

3. Prescription of naloxone.

4. Overdose prevention education, including the purpose of and the administration of naloxone and the impact of polysubstance use. Education shall include discussion of the role of medication assisted treatment and the opportunity to reduce harm associated with polysubstance use. The goal is to help individuals remain in treatment to reduce the risk for harm.

5. Periodic monitoring of unused medication and opened medication wrapper counts when clinically indicated.

6. Clinically indicated infectious disease testing for diseases such as HIV; hepatitis A, B, and C; syphilis; and tuberculosis at treatment initiation and then annually or more frequently, depending on the clinical scenario and the patient's risk. Those individuals who test positive shall be treated either ~~onsite~~ on site or through referral.

7. For individuals without immunity to the hepatitis B virus, vaccination either ~~onsite~~ on site or through referral.

8. For patients without HIV infection, pre-exposure prophylaxis to prevent HIV infection shall be offered either ~~onsite~~ on site or through referral.

9. Women of child-bearing age shall be tested for pregnancy and shall be offered contraceptive services either ~~onsite~~ on site or through referral.

12VAC30-130-5090. Covered services: community based services - intensive outpatient services (ASAM Level 2.1).

A. Intensive outpatient services (ASAM Level 2.1) shall be a structured program of skilled treatment services for adults, children, and adolescents delivering a minimum of three service hours per service day for adults to achieve an average of nine to 19 hours of services per week and a minimum of two service hours per service day for children and adolescents to achieve an average of six to 19 hours of services per week. Withdrawal management services may be provided as necessary. The following service components shall be provided weekly as directed by the ISP for reimbursement:

1. Medical, psychological, psychiatric, laboratory, and toxicology services, which are available through consultation or referral.

2. Psychiatric and other individualized treatment planning.
3. Individual, family, and group psychotherapy, substance use disorder counseling, medication management, and psychoeducation.
4. Medication assisted treatment that is provided onsite on site or through referral.
5. Occupational and recreational therapies, motivational interviewing, enhancement, and engagement strategies to inspire an individual's motivation to change behaviors.
6. Psychiatric and medical consultation, which shall be available within 24 hours of the requested consult by telephone and preferably within 72 hours of the requested consult in person or via telemedicine.
7. Psychopharmacological consultation.
8. Addiction medication management and 24-hour crisis services.
9. Medical, psychological, psychiatric, laboratory, and toxicology services.

B. Intensive outpatient services (ASAM Level 2.1) shall be provided by agency-based providers that shall be licensed by DBHDS as a substance abuse intensive outpatient service for adults, children, and adolescents and contracted with DMAS or its contractor or an MCO to provide this service. Intensive outpatient service providers shall meet the ASAM Level 2.1 service components and staff requirements as follows:

1. Interdisciplinary team of CATPs shall be required. ASAM Level 2.1 may utilize CSACs or CSAC-supervisees to provide substance use disorder counseling and psychoeducational services within their scopes of practice as defined in § 54.1-3507.1 of the Code of Virginia.
2. Generalist physicians or physicians with experience in addiction medicine are permitted to provide general medical evaluations and concurrent or integrated general medical care.
3. Physicians and physician extenders who have a current DEA registration authorizing the prescribing of scheduled drugs, including Schedule III drugs, who are either employed by or contracted with the agency or through referral arrangements with the agency ~~and who shall have a DEA X number to prescribe buprenorphine.~~
4. Staff who shall be cross-trained to understand signs and symptoms of psychiatric disorders and be able to understand and explain the uses of psychotropic medications and understand interactions with substance use and other addictive disorders.
5. Emergency services, which shall be available, when necessary, by telephone 24 hours per day and seven days per week when the treatment program is not in session.

6. Direct affiliation with, or close coordination through referrals to, higher and lower levels of care and supportive housing services.

C. Intensive outpatient services (ASAM Level 2.1) co-occurring enhanced programs.

1. Co-occurring capable programs offer these therapies and support systems in intensive outpatient services described in this section to individuals with co-occurring addictive and psychiatric disorders who are able to tolerate and benefit from a planned program of therapies.
2. Individuals who are not able to benefit from a full program of therapies will be offered enhanced program services to match the intensity of hours in ASAM Level 2.1, including substance use case management, program of assertive community treatment (PACT), medication management, and psychotherapy.

12VAC30-130-5100. Covered services: community based care - partial hospitalization services (ASAM Level 2.5).

A. Partial hospitalization services (ASAM Level 2.5) components. Partial hospitalization services components shall include the following, as defined in the ISP and provided on a weekly basis:

1. Individualized treatment planning.
2. A minimum of 20 hours per week and at least five service hours per service day of skilled treatment services with a planned format, including individual and group psychotherapy, substance use disorder counseling, medication management, education groups, occupational and recreational therapy, and other therapies. Withdrawal management services may be provided as necessary. Time not spent in skilled, clinically intensive treatment is not billable.
3. Family psychotherapy and substance use disorder counseling involving family members, guardians, or significant others in the assessment, treatment, and continuing care of the individual.
4. Motivational interviewing, enhancement, and engagement strategies.
5. Medication assisted treatment that is provided onsite on site or through referral.

B. Partial hospitalization services (ASAM Level 2.5). The substance use partial hospitalization service provider shall be licensed by DBHDS as a substance abuse partial hospitalization program or substance abuse or mental health partial hospitalization program and contracted with DMAS or its contractor or an MCO. Partial hospitalization service providers shall meet the ASAM Level 2.5 support systems and staff requirements as follows:

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1. Interdisciplinary team comprised of CATPs, which shall include an addiction-credentialed physician or physician with experience in addiction medicine, or physician extenders as defined in 12VAC30-130-5020. ASAM Level 2.5 may utilize CSACs or CSAC-supervisees to provide substance use disorder counseling and psychoeducational services within their scopes of practice as defined in § 54.1-3507.1 of the Code of Virginia.
 2. Physicians shall have specialty training or experience, or both, in addiction medicine or addiction psychiatry. Physicians who treat adolescents shall have experience with adolescent medicine.
 3. Physicians and physician extenders who have a current DEA registration authorizing the prescribing of scheduled drugs, including Schedule III drugs, who are either employed by or contracted with the agency ~~and who shall have a DEA-X number to prescribe buprenorphine.~~
 4. Program staff shall be cross-trained to understand signs and symptoms of mental illness and be able to understand and explain the uses of psychotropic medications and understand interactions with substance use and other addictive disorders.
 5. Medical, psychological, psychiatric, laboratory, and toxicology services that are available by consult or referral.
 6. Psychiatric and medical formal agreements to provide medical consult within eight hours of the requested consult by telephone or within 48 hours in person or via telemedicine.
 7. Emergency services are available ~~24 hours~~ 24 hours a day and seven days a week.
 8. Direct affiliation with or close coordination through referrals to higher and lower levels of care and supportive housing services.
- C. Partial hospitalization services (ASAM Level 2.5) co-occurring enhanced programs shall offer:
1. Therapies and support systems as described in this section to individuals with co-occurring addictive and psychiatric disorders who are able to tolerate and benefit from a full program of therapies. Other individuals who are not able to benefit from a full program of therapies (who are severely or chronically mentally ill) will be offered enhanced program services to constitute intensity of hours in ASAM Level 2.5, including substance use case management, PACT, medication management, and psychotherapy.
 2. Psychiatric services as appropriate to meet the individual's mental health condition. Services may be available by telephone and ~~onsite~~ on site, or closely coordinated ~~offsite~~ off site, or via telemedicine within a shorter time than in a co-occurring capable program.

3. Clinical leadership and oversight and, at a minimum, capacity to consult with an addiction psychiatrist via telephone, via telemedicine, or in person.
4. CATPs with experience assessing and treating co-occurring mental illness.

12VAC30-130-5120. Covered services: clinically managed population - specific high intensity residential service (ASAM Level 3.3).

A. Clinically managed population-specific high intensity residential service (ASAM Level 3.3). The facility-based provider shall be licensed by DBHDS as (i) a supervised residential treatment service for adults; (ii) a substance abuse residential treatment service for adults; (iii) a substance abuse residential treatment service for women with children; (iv) a substance abuse and mental health residential treatment service for adults that has substance abuse listed on its license or within the "licensed as" statement or be a Level C (psychiatric residential treatment facility) service provider; or (v) a "mental health residential-children" provider that has substance abuse listed on its license or within the "licensed as" statements. All providers shall be contracted by DMAS or its contractor or an MCO. ASAM Level 3.3 settings do not include sober houses, boarding houses, or group homes where treatment services are not provided. Residential treatment service providers for clinically managed population-specific high intensity residential service (ASAM Level 3.3) shall meet the service components and staff requirements in this section.

B. Clinically managed population-specific high intensity residential service (ASAM Level 3.3) service components.

1. Clinically managed population-specific high intensity residential service components shall include:
 - a. Access to a consulting physician or physician extender who is either employed by or contracted with the agency or through referral arrangements with the agency ~~and who has a DEA-X number to prescribe buprenorphine and who~~ has a current DEA registration authorizing the prescribing of scheduled drugs, including Schedule III drugs, and emergency services 24 hours a day and seven days a week;
 - b. Arrangements for higher and lower levels of care;
 - c. Arrangements for laboratory and toxicology services appropriate to the severity of need; and
 - d. Arrangements for addiction pharmacotherapy, including medication assisted treatment that is provided ~~onsite~~ on site or through referral.
2. The following therapies shall be provided as directed by the ISP for reimbursement:
 - a. ~~Clinically directed~~ Clinically directed treatment to facilitate recovery skills, relapse prevention, and emotional coping strategies. Services shall promote personal responsibility and reintegration of the individual

into the network systems of work, education, and family life;

b. Addiction pharmacotherapy, including medication assisted treatment that is provided ~~onsite~~ on site or through referral;

c. Drug screening, using either urine or blood serums;

d. A range of cognitive and behavioral psychotherapies administered individually and in family and group settings as appropriate to the individual's needs to assist the individual in initial involvement or re-engagement in regular productive daily activity;

e. Substance use disorder counseling and psychoeducation activities provided individually or in family and group settings to promote recovery;

f. Recreational therapy, art, music, physical therapy, and vocational rehabilitation;

g. Motivational enhancement and engagement strategies;

h. Regular monitoring of the individual's medication adherence;

i. Recovery support services;

j. Services for the individual's family and significant others, as appropriate to advance the individual's treatment goals and objectives identified in the ISP;

k. Education on benefits of medication assisted treatment and referral to treatment as necessary; and

l. Withdrawal management services may be provided as necessary.

C. Clinically managed population-specific high intensity residential service (ASAM Level 3.3) staff requirements.

1. The interdisciplinary team shall include CATPs and allied health professionals in an interdisciplinary team. ASAM Level 3.3 may utilize CSACs or CSAC-supervisees to provide substance use disorder counseling and psychoeducational services within their scopes of practice as defined in § 54.1-3507.1 of the Code of Virginia.

2. Staff shall provide awake 24-hour onsite supervision. The provider's staffing plan must be in compliance with DBHDS licensing regulations for staffing plans set forth in 12VAC35-46-870 and 12VAC35-105-590.

3. Clinical or credentialed staff shall be experienced and knowledgeable about the biopsychosocial dimensions and treatment of substance use disorders and who are available ~~onsite~~ on site or by telephone 24 hours per day. Licensed clinical staff shall be able to identify acute psychiatric conditions and decompensation.

4. Substance use case management is included in this level of care.

5. Appropriately credentialed medical staff shall be available to assess and treat co-occurring biomedical disorders and to

monitor the individual's administration of prescribed medications.

D. Clinically managed population-specific high intensity residential service co-occurring enhanced programs, as required by ASAM.

1. Appropriate psychiatric services, including medication evaluation and laboratory services, shall be provided ~~onsite~~ on site or through a closely coordinated offsite provider, as appropriate to the severity and urgency of the individual's mental condition.

2. CATPs shall be available to assess and treat co-occurring substance use and mental illness using specialized training in behavior management techniques.

3. Credentialed addiction treatment professionals shall be cross-trained in addiction and mental health to understand the signs and symptoms of mental illness and be able to provide education to the individual on the interactions with substance use and psychotropic medications.

12VAC30-130-5130. Covered services: clinically managed high intensity residential services (adult) and clinically managed medium intensity residential services (adolescent) (ASAM Level 3.5).

A. Clinically managed high intensity residential services (adult) and clinically managed medium intensity residential services (adolescent) (ASAM Level 3.5) settings for services. The facility based residential treatment service provider (ASAM Level 3.5) shall be licensed as (i) a substance abuse residential treatment service for adults or children, (ii) a psychiatric unit that has substance abuse listed on its license or within the "licensed as" statements, (iii) a substance abuse residential treatment service for women with children, (iv) a substance abuse and mental health residential treatment service for adults and children that has substance abuse listed on its license or within the "licensed as" statements, (v) a Level C (psychiatric residential treatment facility) provider, or (vi) a "mental health residential-children" provider that has substance abuse on its license or within the "licensed as" statements and shall be contracted by DMAS or its contractor or an MCO. Residential treatment providers (ASAM Level 3.5) shall meet the service components and staff requirements in this section.

B. Clinically managed high intensity residential services (adult) and clinically managed medium intensity residential services (adolescent) (ASAM Level 3.5) service components.

1. These residential treatment services, as required by ASAM, include:

a. Telephone or in-person consultation with a physician or physician extender who shall be available to perform required physician services. Emergency services shall be available 24 hours per day and seven days per week;

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b. Arrangements for more and less intensive levels of care and other services such as sheltered workshops, literacy training, and adult education;

c. Arrangements for needed procedures, including medical, psychiatric, psychological, laboratory, and toxicology services appropriate to the severity of need; and

d. Arrangements for addiction pharmacotherapy, including medication assisted treatment that is provided ~~onsite~~ on site or through referral.

2. The following therapies shall be provided as directed by the ISP for reimbursement:

a. Clinically directed treatment to facilitate recovery skills, relapse prevention, and emotional coping strategies. Services shall promote personal responsibility and reintegration of the individual into the network systems of work, education, and family life. Activities shall be designed to stabilize and maintain substance use disorder symptoms and apply recovery skills and may include relapse prevention, interpersonal choice exploration, and development of social networks in support of recovery.

b. Range of cognitive, behavioral psychotherapies, and substance use disorder counseling administered individually and in family and group settings to assist the individual in initial involvement or re-engagement in regular productive daily activities, including education on medication management, addiction pharmacotherapy, and education skill building groups to enhance the individual's understanding of substance use and mental illness.

c. Psychoeducational activities.

d. Addiction pharmacotherapy and drug screening.

e. Recreational therapy, art, music, physical therapy, and vocational rehabilitation.

f. Motivational enhancements and engagement strategies.

g. Monitoring of the adherence to prescribed medications and over-the-counter medications and supplements.

h. Daily scheduled professional services and interdisciplinary assessments and treatment designed to develop and apply recovery skills.

i. Services for family and significant others, as appropriate, to advance the individual's treatment goals and objectives identified in the ISP.

j. Withdrawal management services may be provided as necessary.

C. Clinically managed high intensity residential services (adult) and clinically managed medium intensity residential services (adolescent) (ASAM Level 3.5) staff requirements.

1. The interdisciplinary team shall include CATPs, physicians, or physician extenders and allied health professionals. Physicians and physician extenders who have a current DEA registration authorizing the prescribing of

scheduled drugs, including Schedule III drugs, and who are either employed by or contracted with the agency or through referral arrangements with the agency and who shall have a DEA X number to prescribe buprenorphine. ASAM Level 3.5 may utilize CSACs or CSAC-supervisees to provide substance use disorder counseling and psychoeducational services within their scopes of practice as defined in § 54.1-3507.1 of the Code of Virginia.

2. Staff shall provide awake 24-hour onsite supervision. The provider's staffing plan must be in compliance with DBHDS licensing regulations for staffing plans set forth in 12VAC35-46-870 and 12VAC35-105-590.

3. Clinical staff who are experienced in and knowledgeable about the biopsychosocial dimensions and treatment of substance use disorders. Clinical staff shall be able to identify acute psychiatric conditions and decompensations.

4. Substance use case management shall be provided in this level of care.

5. Appropriately credentialed medical staff shall be available ~~onsite~~ on site or by telephone 24 hours per day, seven days per week to assess and treat co-occurring biological and physiological disorders and to monitor the individual's administration of medications in accordance with a physician's prescription.

D. Clinically managed high intensity residential services (adult) and clinically managed medium intensity residential services (adolescent) (ASAM Level 3.5) co-occurring enhanced programs as required by ASAM.

1. Psychiatric services, medication evaluation, and laboratory services shall be provided. Such services shall be available by telephone within eight hours of requested service and ~~onsite~~ on site or via telemedicine, or closely coordinated with an offsite provider within 24 hours of requested service, as appropriate to the severity and urgency of the individual's mental and physical condition.

2. Staff shall be CATPs who are able to assess and treat co-occurring substance use and psychiatric disorders.

3. Planned clinical activities shall be required and shall be designed to stabilize and maintain the individual's mental health problems and psychiatric symptoms.

4. Medication education and management shall be provided.

12VAC30-130-5140. Covered services: medically monitored intensive inpatient services (adult) and medically monitored high intensity inpatient services (adolescent) (ASAM Level 3.7).

A. Medically monitored intensive inpatient services (adult) and medically monitored high intensity inpatient services (adolescent) (ASAM Level 3.7) settings for services. The facility-based provider of ASAM Level 3.7 services shall be licensed by DBHDS as (i) a freestanding psychiatric hospital

or inpatient psychiatric unit with a DBHDS medical detoxification license or managed withdrawal license; (ii) a residential crisis stabilization unit with a DBHDS medical detoxification license or managed withdrawal license; (iii) a substance abuse residential treatment service for women with children with a DBHDS managed withdrawal license; (iv) a Level C (psychiatric residential treatment facility) provider; (v) a "mental health residential-children" provider with a substance abuse residential license and a DBHDS managed withdrawal license; (vi) a "managed withdrawal-medical detox adult residential treatment" provider; or (vii) a "medical detox-chemical dependency unit" for adults and shall be contracted by DMAS or its contractor or the MCO. ASAM Level 3.7 providers shall meet the service components and staff requirements in this section.

B. Medically monitored intensive inpatient services (adult) and medically monitored high intensity inpatient services (adolescent) (ASAM Level 3.7) service components. The following therapies shall be provided as directed by the ISP for reimbursement:

1. Daily clinical services provided by an interdisciplinary team to involve appropriate medical and nursing services, as well as individual, group, and family activity services. Activities may include pharmacological, including medication assisted treatment that is provided ~~onsite~~ on site or through referral; withdrawal management; cognitive-behavioral; and other psychotherapies and substance use disorder counseling administered on an individual or group basis and modified to meet the individual's level of understanding and assist in the individual's recovery.
2. Counseling and clinical monitoring to facilitate re-involvement in regular productive daily activities and successful re-integration into family living if applicable.
3. Psychoeducational activities.
4. Random drug screens to monitor use and strengthen recovery and treatment gains.
5. Regular medication monitoring.
6. Planned clinical activities to enhance understanding of substance use disorders.
7. Health education associated with the course of addiction and other potential health related risk factors, including tuberculosis, human immunodeficiency virus, hepatitis B and C, and other sexually transmitted infections.
8. Evidence based practices, such as motivational interviewing to address an individual's readiness to change, designed to facilitate understanding of the relationship of the substance use disorder and life impacts.
9. Daily treatments to manage acute symptoms of biomedical substance use or mental illness.

10. Services to family and significant others as appropriate to advance the individual's treatment goals and objectives identified in the ISP.

11. Physician monitoring, nursing care, and observation shall be available. A physician shall be available to assess the individual in person or via telemedicine within 24 hours of admission and thereafter as medically necessary.

12. A licensed and registered nurse who shall conduct an alcohol or other drug-focused nursing assessment upon admission. A licensed registered nurse or licensed practical nurse shall be responsible for monitoring the individual's progress and for medication administration duties.

13. Additional medical specialty consultation; psychological, laboratory, and toxicology services shall be available ~~onsite~~ on site, either through consultation or referral.

14. Coordination of necessary services shall be available ~~onsite~~ on site or through referral to a closely coordinated offsite provider to transition the individual to lower levels of care.

15. Psychiatric services shall be available ~~onsite~~ on site or through consultation or referral to a closely coordinated offsite provider when a presenting problem could be attended to at a later time. Such services shall be available within eight hours of requested service by telephone or within 24 hours of requested service in person or via telemedicine.

C. Medically monitored intensive inpatient services (adult) and medically monitored high intensity inpatient services (adolescent) (ASAM Level 3.7) staff requirements.

1. The interdisciplinary team shall include CATPs and addiction-credentialed physicians or physicians with experience in addiction medicine to assess, treat, and obtain and interpret information regarding the individual's psychiatric and substance use disorders. Physicians and physician extenders who have a current DEA registration authorizing the prescribing of scheduled drugs, including Schedule III drugs, and who are either employed by or contracted with the agency or through referral arrangements with the agency ~~and who shall have a DEA X number for prescribing buprenorphine~~. ASAM Level 3.7 may utilize CSACs or CSAC-supervisees to provide substance use disorder counseling and psychoeducational services within their scopes of practice as defined in § 54.1-3507.1 of the Code of Virginia.

2. Clinical staff shall be knowledgeable about the biological and psychosocial dimensions of substance use disorders and mental illnesses and their treatment. Clinical staff shall be able to identify acute psychiatric conditions, symptom increase or escalation, and decompensation.

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3. Clinical staff shall be able to provide a planned regimen of 24-hour professionally directed evaluation, care, and treatment, including the administration of prescribed medications.

4. An addiction-credentialed physician or physician with experience in addiction medicine shall oversee the treatment process and ~~assure~~ ensure quality of care. Licensed physicians shall perform physical examinations for all individuals who are admitted. Staff shall supervise addiction pharmacotherapy integrated with psychosocial therapies. The professional may be a physician or a psychiatrist, or a physician extender as defined in 12VAC30-130-5020 if knowledgeable about addiction treatment.

D. Medically monitored intensive inpatient services (adult) and medically monitored high intensity inpatient services (adolescent) (ASAM Level 3.7) co-occurring enhanced programs as required by ASAM.

1. Appropriate psychiatric services, medication evaluation, and laboratory services shall be available.

2. A psychiatrist assessment of the individual shall occur within four hours of admission by telephone and within 24 hours following admission in person or via telemedicine, or sooner, as appropriate to the individual's behavioral health condition, and thereafter as medically necessary.

3. A behavioral health-focused assessment at the time of admission shall be performed by a registered nurse or licensed mental health clinician. A licensed registered nurse or licensed practical nurse supervised by a registered nurse shall be responsible for monitoring the individual's progress and administering or monitoring the individual's self-administration of medications.

4. Psychiatrists and CATPs who are able to assess and treat co-occurring psychiatric disorders and who have specialized training in the behavior management techniques and evidenced-based practices shall be available.

5. Access to an addiction-credentialed physician shall be available along with access to either a psychiatrist, a certified addiction psychiatrist, or a psychiatrist with experience in addiction medicine.

6. CATPs shall have experience and training in addiction and mental health to understand the signs and symptoms of mental illness and be able to provide education to the individual on the interaction of substance use and psychotropic medications.

7. Planned clinical activities shall be offered and designed to promote stabilization and maintenance of the individual's behavioral health needs, recovery, and psychiatric symptoms.

8. Medication education and management shall be offered.

12VAC30-130-5150. Covered services: medically managed intensive inpatient services (ASAM Level 4.0).

A. Medically managed intensive inpatient services (ASAM Level 4.0) settings for services. Acute care hospitals licensed by the Virginia Department of Health shall be the designated setting for medically managed intensive inpatient treatment and shall offer medically directed acute withdrawal management and related treatment designed to alleviate acute emotional, behavioral, cognitive, or biomedical distress resulting from, or occurring with, an individual's use of alcohol and other drugs. Such service settings shall offer medically directed acute withdrawal management and related treatment designed to alleviate acute emotional, behavioral, cognitive, or biomedical distress, or all of these, resulting from, or co-occurring with, an individual's use of alcohol or other drugs, with the exception of tobacco-related disorders, caffeine-related disorders or dependence or non-substance-related disorders.

B. Medically managed intensive inpatient services (ASAM Level 4.0) service components.

1. The service components of medically managed intensive inpatient services shall be:

a. An evaluation or analysis of substance use disorders shall be provided, including the diagnosis of substance use disorders and the assessment of treatment needs for medically necessary services.

b. Observation and monitoring the individual's course of withdrawal shall be provided. This shall be conducted as frequently as deemed appropriate for the individual and the level of care the individual is receiving. This may include, for example, observation of the individual's health status.

c. Medication services, including the prescription or administration related to substance use disorder treatment services or the assessment of the side effects or results of that medication, conducted by appropriate licensed staff who provide such services within their scope of practice or license.

2. The following therapies shall be provided for reimbursement:

a. Daily clinical services provided by an interdisciplinary team to stabilize acute addictive or psychiatric symptoms. Activities shall include pharmacological, cognitive-behavioral, and other psychotherapies or substance use disorder counseling administered on an individual or group basis and modified to meet the individual's level of understanding. For individuals with a severe biomedical disorder, physical health interventions are available to supplement addiction treatment. For the individual who has less stable psychiatric symptoms, ASAM Level 4.0 co-occurring capable programs offer individualized treatment activities designed to monitor the individual's mental

health and to address the interaction of the mental health programs and substance use disorders.

b. Health education services.

c. Planned clinical interventions that are designed to enhance the individual's understanding and acceptance of illness of addiction and the recovery process.

d. Services for the individual's family, guardian, or significant other, as appropriate, to advance the individual's treatment and recovery goals and objectives identified in the ISP.

e. This level of care offers 24-hour nursing care and daily physician care for severe, unstable problems in any of the following ASAM dimensions: (i) acute intoxication or withdrawal potential; (ii) biomedical conditions and complications; and (iii) emotional, behavioral, or cognitive conditions and complications.

f. Discharge services shall be the process to prepare the individual for referral into another level of care, post treatment return or reentry into the community, or the linkage of the individual to essential community treatment, housing, recovery, and human services.

C. Medically managed intensive inpatient services (ASAM Level 4.0) staff requirements.

1. An interdisciplinary staff of appropriately credentialed clinical staff including, for example, addiction-credentialed physicians or physicians with experience in addiction medicine, licensed nurse practitioners, licensed physician assistants, registered nurses, licensed professional counselors, licensed clinical psychologists, or licensed clinical social workers who assess and treat individuals with severe substance use disorders or addicted individuals with concomitant acute biomedical, emotional, or behavioral disorders. Physicians and physician extenders who have a current DEA registration authorizing the prescribing of scheduled drugs, including Schedule III drugs, and who are either employed by or contracted through the agency or through referral arrangements with the agency ~~and who shall have a DEA X number to prescribe buprenorphine.~~

2. Medical management by physicians and primary nursing care shall be available 24 hours per day and counseling services shall be available 16 hours per day.

D. Medically managed intensive inpatient services (ASAM Level 4.0) co-occurring enhanced programs. These programs shall be provided by appropriately licensed or registered credentialed mental health professionals who assess and treat the individual's co-occurring mental illness and are knowledgeable about the biological and psychosocial dimensions of psychiatric disorders and his treatment.

VA.R. Doc. No. R25-7772; Filed September 4, 2024, 7:32 a.m.



TITLE 18. PROFESSIONAL AND OCCUPATIONAL LICENSING

BOARD OF FUNERAL DIRECTORS AND EMBALMERS

Forms

REGISTRAR'S NOTICE: Forms used in administering the regulation have been 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, 201 North Ninth Street, Fourth Floor, Richmond, Virginia 23219.

Titles of Regulations: 18VAC65-20. Regulations Governing the Practice of Funeral Services.

18VAC65-40. Regulations for the Funeral Service Internship Program.

Agency Contact: Erin Barrett, Agency Regulatory Coordinator, Department of Health Professions, 9960 Mayland Drive, Suite 300, Henrico, VA 23238, telephone (804) 367-4688, or email erin.barrett@dhp.virginia.gov.

FORMS (18VAC65-20)

[Checklist, Instructions, and Application for a Funeral License by Examination or Endorsement \(rev. 4/2024\)](#)

[Funeral Service Reinstatement Application \(rev. 6/2024\)](#)

[Application for Reactivation \(Inactive to Active\) of Funeral Service, Funeral Director, or Embalmer License \(rev. 1/2024\)](#)

[Request for Verification of a Virginia Funeral License \(rev. 11/2019\)](#)

[Checklist and Instructions for Courtesy Card Application \(rev. 3/2023\)](#)

[Checklist and Instructions for Surface Transportation and Removal Service Registration Application \(rev. 3/2023\)](#)

[Crematory Registration Application \(rev. 8/2023\)](#)

[Crematory Reinstatement Application \(rev. 8/2024\)](#)

[Checklist and Instructions for Continuing Education Providers \(rev. 3/2021\)](#)

[Instructions for Completing the Continuing Education Summary Form for the Virginia Board of Funeral Directors and Embalmers \(rev. 8/2016\)](#)

[Instructions for Continuing Education Providers Adding Additional Courses \(rev. 3/2021\)](#)

[Continuing Education \(CE\) Credit Form for Volunteer Practice \(rev. 7/2020\)](#)

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Continued Competency Activity and Assessment Form (rev. 7/2012)

Funeral Service New Establishment Application (rev. 3/2023)

Funeral Service Establishment/Branch Application (rev. 3/2023)

Funeral Service Branch Establishment Application (rev. 3/2023)

Funeral Service Establishment/Branch Change Application (rev. 3/2023)

Funeral Establishment or Branch Change of Manager Application (rev. 3/2023)

Request for Reinspection due to Structural Change to Preparation Room (rev. 7/2020)

Waiver of Full-Time Manager (rev. 3/2023)

~~Funeral Service Establishment Reinstatement Application (rev. 3/2023)~~

~~Courtesy Card Reinstatement Application (rev. 3/2023)~~

~~Surface Transportation and Removal Services Reinstatement Application (rev. 3/2023)~~

[Funeral Service Establishment Reinstatement Application \(rev. 8/2024\)](#)

[Courtesy Card Reinstatement Application \(rev. 8/2024\)](#)

[Surface Transportation and Removal Services Reinstatement Application \(rev. 8/2024\)](#)

Presentation Request Form (rev. 7/2020)

Name or Address Change Form (rev. 2/2016)

Appendix I. General Price List (rev. 10/2019)

Appendix II. Casket Price List, Outer Burial Container Price List (rev. 10/2019)

Appendix III. Itemized Statement of Funeral Goods and Services Selected (rev. 10/2019)

FORMS (18VAC65-40)

Funeral Supervisor Registration Application (rev. 3/2023)

Funeral Change of Supervisor Application (rev. 3/2023)

Checklist, Instructions, and Registration Application for Funeral Service Internship Program (rev. 4/2024)

Checklist, Instructions, and Registration Application for Funeral Directing Internship Program (rev. 4/2024)

Checklist, Instructions, and Registration Application for Funeral Embalming Internship Program (rev. 4/2024)

First 1000 Hour Funeral Service Internship Report – Funeral Directing (rev.1/2021)

Second 1000 Hour Funeral Service Internship Report – Funeral Directing (rev. 1/2021)

Funeral Service Internship Report of Final Completion – Funeral Directing (rev. 1/2021)

First 1000 Hour Embalming Internship Report (rev. 1/2021)

Second 1000 Hour Embalming Internship Report (rev. 1/2021)

Embalming Internship Report of Final Completion (rev. 1/2021)

~~Funeral Intern Reinstatement Application (rev. 3/2023)~~

[Funeral Intern Reinstatement Application \(rev. 8/2024\)](#)

VA.R. Doc. No. R25-8055; Filed August 29, 2024, 3:50 p.m.

BOARD OF LONG-TERM CARE ADMINISTRATORS

Proposed Regulation

Titles of Regulations: **18VAC95-20. Regulations Governing the Practice of Nursing Home Administrators (amending 18VAC95-20-80, 18VAC95-20-130, 18VAC95-20-175, 18VAC95-20-180, 18VAC95-20-220, 18VAC95-20-230, 18VAC95-20-300, 18VAC95-20-440; adding 18VAC95-20-201).**

18VAC95-30. Regulations Governing the Practice of Assisted Living Facility Administrators (amending 18VAC95-30-40, 18VAC95-30-70, 18VAC95-30-80, 18VAC95-30-130, 18VAC95-30-140, 18VAC95-30-200; adding 18VAC95-30-91).

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

Public Hearing Information:

September 25, 2024 - 10 a.m. - Department of Health Professions, Hearing Room Five, 9960 Mayland Drive, Henrico, Virginia 23238.

Public Comment Deadline: November 22, 2024.

Agency Contact: Corie Tillman Wolf, Executive Director, Board of Long-Term Care Administrators, 9960 Mayland Drive, Suite 300, Henrico, VA 23233-1463, telephone (804) 367-4595, FAX (804) 527-4413, or email corie.wolf@dhp.virginia.gov.

Basis: Section 54.1-2400 of the Code of Virginia establishes the general powers and duties of health regulatory boards, including the responsibility to promulgate regulations that are reasonable and necessary.

Purpose: The proposed amendments are necessary to public health, safety, and welfare because they ensure that an adequate number of available nursing home administrators and assisted living facility administrators maintain licensure status with the Commonwealth.

Substance: This proposed action was initiated to implement changes targeted toward regulatory reduction as specified in

Executive Order 19 (2022). Amendments include (i) creating a pathway for inactive licensure for nursing home administrators and assisted living facility administrators in new sections 18VAC95-20-201 and 18VAC95-30-91; (ii) eliminating requirements for attestations of compliance with existing laws from application and renewal requirements throughout both chapters; (iii) removing requirements for all documents in an application for licensure to be submitted at the same time throughout both chapters; and (iv) removing requirements to obtain new preceptors within 60 days upon interruption of a preceptor program in 18VAC95-20-440 and 18VAC95-30-200.

Issues: The primary advantage to the public is that this action reduces regulatory burden by eliminating needless attestations and requirements, and there are no disadvantages to the public. There are no primary advantages or disadvantages to the agency or the Commonwealth.

Department of Planning and Budget's Economic Impact Analysis:

The Department of Planning and Budget (DPB) has analyzed the economic impact of this proposed regulation in accordance with § 2.2-4007.04 of the Code of Virginia and Executive Order 19. The analysis presented represents DPB's best estimate of the potential economic impacts as of the date of this analysis.¹

Summary of the Proposed Amendments to Regulation. In response to Executive Order 19 (2022) and Executive Directive 1 (2022), the Board of Long-Term Care Administrators (board) proposes to remove some discretionary requirements and add an option for licensees to maintain an inactive license in the regulations governing nursing home and assisted living facility (ALF) administrators.

Background. Executive Directive Number One (2022) directs Executive Branch entities under the authority of the Governor "to initiate regulatory processes to reduce by at least 25% the number of regulations not mandated by federal or state statute, in consultation with the Office of the Attorney General, and in a manner consistent with the laws of the Commonwealth."² Accordingly, the board seeks to make a number of amendments that would increase flexibility and reduce burdens for the regulated community. Most of the proposed changes are identical in the two chapters, Regulations Governing the Practice of Nursing Home Administrators (18VAC95-20) and Regulations Governing the Practice of Assisted Living Facility Administrators (18VAC95-30). The most significant changes are summarized.

Adding inactive licensure status: Both chapters currently require licensees to renew a license or preceptor registration by March 31 of each year. New sections 18VAC95-20-201 and 18VAC95-30-91 would be added in each chapter, respectively, to allow current licensees to convert a license to inactive status when renewing the license. Both proposed sections contain identical stipulations that would (i) prohibit inactive licensees from performing any act requiring a license or registering to

serve as a preceptor and (ii) exempt inactive licensees from meeting continuing education requirements, unless they choose to reactivate their license. Both proposed sections would allow inactive licensees to reactivate a license by (i) paying the difference between the inactive license fee and the active license fee for the year that the license is being reactivated and (ii) completing the continuing competency hours required for the period in which the license has been inactive, not to exceed three years.³ The proposed continuing competency requirement for reactivating the license is identical to the current requirement for license reinstatement. However, the board reports that other requirements for license reinstatement, such as an investigation by the Enforcement division, would not apply for license reactivation. Thus, the option to hold an inactive license for any period of time would provide greater flexibility to licensees who may want to temporarily step away from active professional practice or who are employed in roles that do not require an active license.

The sections on required fees in both chapters (18VAC95-20-80 and 18VAC95-30-40, respectively) would also be identically amended to add a \$150 fee for inactive license renewal and a \$35 fee for inactive license late renewal. For comparison, the current license renewal fee is \$315 and the late renewal fee is \$110. The board reports that these fees were set by comparing inactive license renewal fees among other boards and determining a comparable amount.⁴

Removing discretionary requirements: The board proposes to make the following changes to reduce the regulatory burden on licensees: Remove a requirement that licensees provide the "signature of an authorized representative of the approved sponsor" for evidence of attendance for continuing education. The board reports that virtual continuing education offerings have made this requirement outdated and onerous. Add "as documented in the NAB [National Association of Long-Term Care Administrator Boards] continuing education registry" as an option for licensees to demonstrate completion of continuing education requirements if they are contacted for an audit. The board notes that this information can be easily verified in the online registry, which removes the burden of providing this documentation from licensees. Remove a requirement that applicants for licensure as nursing home administrators who have completed an "administrator-in-training" program complete the board's Domains of Practice form. This requirement is duplicative as the applicants for complete the form during training. Remove a requirement for "an attestation that he has read and understands and will remain current with the applicable Virginia laws and regulations" for each profession in each chapter, respectively. The board reports that this attestation is now a standard part of the application form. Remove a requirement that all parts of the application package be submitted at the same time. Board staff cannot act on a license until all parts of the package are received, so the timing of each component does not matter. Remove a requirement that an administrator-in-training whose program is interrupted because the registered preceptor is

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unable to serve must obtain a new registered preceptor within 60 days. The board deems this timeline to be arbitrary and unnecessarily burdensome.

Estimated Benefits and Costs. The proposed amendments would benefit currently licensed nursing home administrators and ALF administrators, as well as those seeking to pursue licensure in those professions, by allowing for inactive licensure, thereby increasing flexibility, and by removing a number of requirements, mainly relating to the application process and the continuing education requirements. As mentioned previously, the process to reactivate an inactive license would be less rigorous than the process to reinstate a license that had expired, which could include an investigation by the Enforcement division. Although new fees would be added for renewing a license under inactive status, those fees would only apply if licensees chose to renew a license under that status and would be lower than the normal license renewal fee.

Businesses and Other Entities Affected. The Department of Health Professions reports that as of December 2023, the board had 2,159 licensees. As mentioned previously, currently licensed professionals as well as those seeking licensure in the future, would benefit from the increased flexibility and reduced requirements.

The Code of Virginia requires DPB to assess whether an adverse impact may result from the proposed regulation.⁵ An adverse impact is indicated if there is any increase in net cost or reduction in net benefit for any entity, even if the benefits exceed the costs for all entities combined.⁶ As noted, the proposal serves to reduce the regulatory burden on licensees. Thus, no adverse impact is indicated.

Small Businesses⁷ Affected.⁸ The proposed amendments would not adversely affect small businesses.

Localities⁹ Affected.¹⁰ The proposed amendments would neither affect any locality in particular nor create new costs for any local governments.

Projected Impact on Employment. The proposed amendments would not affect total employment.

Effects on the Use and Value of Private Property. The proposed amendments would not affect the value of private property. Real estate development costs would not be affected.

¹ Section 2.2-4007.04 of the Code of Virginia requires that such economic impact analyses determine the public benefits and costs of the proposed amendments. Further the analysis 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.

² <https://www.governor.virginia.gov/media/governorvirginiagov/governor-of-virginia/pdf/ed/ED-1-Regulatory-Reduction.pdf>.

³ The current continuing education requirement is 20 hours per year, so inactive licensees seeking to reactivate would have to complete a maximum of 60 hours of continuing education.

⁴ See Agency Background Document (ABD), pages 8 and 10: https://townhall.virginia.gov/l/GetFile.cfm?File=28\6189\10113\AgencyStatement_DHP_10113_v1.pdf.

⁵ Pursuant to § 2.2-4007.04 D: 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. Statute does not define "adverse impact," state whether only Virginia entities should be considered, nor indicate whether an adverse impact results from regulatory requirements mandated by legislation.

⁶ Statute does not define "adverse impact," state whether only Virginia entities should be considered, nor indicate whether an adverse impact results from regulatory requirements mandated by legislation. As a result, DPB has adopted a definition of adverse impact that assesses changes in net costs and benefits for each affected Virginia entity that directly results from discretionary changes to the regulation.

⁷ Pursuant to § 2.2-4007.04, 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."

⁸ If the proposed regulatory action may have an adverse effect on small businesses, § 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 § 2.2-4007.1 of the Code of Virginia, 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.

⁹ "Locality" can refer to either local governments or the locations in the Commonwealth where the activities relevant to the regulatory change are most likely to occur.

¹⁰ Section 2.2-4007.04 defines "particularly affected" as bearing disproportionate material impact.

Agency's Response to Economic Impact Analysis: The Board of Long-Term Care Administrators concurs with the economic impact analysis prepared by the Department of Planning and Budget.

Summary:

The proposed amendments (i) create a pathway for inactive licensure for nursing home administrators and assisted living facility administrators; (ii) eliminate requirements for attestations of compliance with existing laws from application and renewal requirements; (iii) remove requirements for all documents in an application for licensure to be submitted at the same time; and (iv) remove requirements to obtain new preceptors within 60 days upon interruption of a preceptor program.

18VAC95-20-80. Required fees.

The applicant or licensee shall submit all fees in this section that apply:

1. AIT program application	\$215
2. Preceptor application	\$65
3. Licensure application	\$315
4. Verification of licensure requests from other states	\$35
5. Nursing home administrator license renewal	\$315
6. <u>Inactive nursing home administrator license renewal</u>	<u>\$150</u>
7. Preceptor renewal	\$65
7. Penalty 8. <u>Fee</u> for nursing home administrator late renewal	\$110
8. Penalty 9. <u>Fee</u> for preceptor late renewal	\$25
9. 10. Fee for late inactive licensure renewal	<u>\$35</u>
11. Nursing home administrator reinstatement	\$435
10. 12. Preceptor reinstatement	\$105
11. 13. Duplicate license	\$25
12. 14. Duplicate wall certificates	\$40
13. 15. Reinstatement after disciplinary action	\$1,000

18VAC95-20-130. Additional fee information.

- A. There shall be a fee of \$50 for a returned check or a dishonored credit card or debit card.
- B. Fees shall not be refunded once submitted.
- C. Examination fees are to be paid directly to the service ~~contracted by the board to administer~~ or entity that administers the examinations.

Part II

Renewals and Reinstatements, and Inactive Licenses

18VAC95-20-175. Continuing education requirements.

- A. In order to renew a nursing home administrator license, an applicant shall attest on ~~his~~ the renewal application to completion of 20 hours of approved continuing education for each renewal year.
 - 1. Up to 10 of the 20 hours may be obtained through Internet or self-study courses and up to 10 continuing education hours in excess of the number required may be transferred or credited to the next renewal year.
 - 2. Up to two hours of the 20 hours required for annual renewal may be satisfied through delivery of services,

without compensation, to low-income individuals receiving health services through a local health department or a free clinic organized in whole or primarily for the delivery of those services. One hour of continuing education may be credited for one hour of providing such volunteer services, as documented by the health department or free clinic.

- 3. At least two hours of continuing education for each renewal year shall relate to the care of residents with mental or cognitive impairments, including Alzheimer's disease and dementia.
- 4. A licensee who serves as the registered preceptor in an approved AIT or Assisted Living Facility AIT program may receive one hour of continuing education credit for each week of training up to a maximum of 10 hours of self-study course credit for each renewal year.
- 5. A licensee is exempt from completing continuing education requirements and considered in compliance on the first renewal date following initial licensure.

B. In order for continuing education to be approved by the board, it shall (i) be related to health care administration and shall be approved or offered by NAB, an accredited institution, or a government agency or (ii) as provided in subdivision A 2 of this section.

C. Documentation of continuing education.

- 1. The licensee shall retain in the licensee's personal files for a period of three renewal years complete documentation of continuing education, including evidence of attendance or participation as provided by the approved sponsor for each course taken.
- 2. Evidence of attendance shall be an original document provided by the approved sponsor and shall include:
 - a. Date the course was taken;
 - b. Hours of attendance or participation; and
 - c. Participant's name; ~~and~~
 - d. ~~Signature of an authorized representative of the approved sponsor.~~

3. If contacted for an audit, the licensee shall forward to the board by the date requested a signed affidavit of completion on forms provided by the board and evidence of attendance or participation as provided by the approved sponsor or as documented in the NAB continuing education registry.

D. The board may grant an extension of up to one year or an exemption for all or part of the continuing education requirements due to circumstances beyond the control of the administrator, such as a certified illness, a temporary disability, mandatory military service, or officially declared disasters. The request for an extension shall be received in writing and granted by the board prior to the renewal date.

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18VAC95-20-180. Late renewal.

A. A person who fails to renew ~~his~~ a license or preceptor registration by the expiration date ~~shall~~ may, within one year of the initial expiration date:

1. Return the renewal notice or request renewal in writing to the board; and
2. Submit the applicable renewal fee and late fee.

B. The documents required in subsection A of this section shall be received in the board office within one year of the initial expiration date. Postmarks shall not be considered.

18VAC95-20-201. Inactive licensure.

A. A nursing home administrator who holds a current, unrestricted license in Virginia shall, upon a request for inactive status on the renewal application and submission of the required renewal fee, be issued an inactive license.

1. An inactive licensee shall not be entitled to perform any act requiring a license to practice nursing home administration or registration to serve as a preceptor in Virginia.

2. The holder of an inactive license shall not be required to meet continuing education requirements, except as may be required for reactivation in subsection B of this section.

B. A nursing home administrator who holds an inactive license may reactivate a license by:

1. Paying the difference between the renewal fee for an inactive license and that of an active license for the year in which the license is being reactivated; and

2. Providing proof of completion of the number of continuing competency hours required for the period in which the license has been inactive, not to exceed three years.

18VAC95-20-220. Qualifications for initial licensure.

One of the following sets of qualifications is required for licensure as a nursing home administrator:

1. Degree and practical experience. The applicant shall (i) hold a baccalaureate or higher degree in a health care-related field that meets the requirements of 18VAC95-20-221 from an accredited institution; (ii) have completed not less than a 320-hour internship that addresses the Domains of Practice as specified in 18VAC95-20-390 in a licensed nursing home as part of the degree program under the supervision of a preceptor; and (iii) have received a passing grade on the national examination;

2. Certificate program. The applicant shall (i) hold a baccalaureate or higher degree from an accredited college or university, (ii) successfully complete a program with a minimum of 21 semester hours study in a health care-related field that meets the requirements of 18VAC95-20-221 from

an accredited institution, (iii) successfully complete not less than a 400-hour internship that addresses the Domains of Practice as specified in 18VAC95-20-390 in a licensed nursing home as part of the certificate program under the supervision of a preceptor, and (iv) have received a passing grade on the national examination;

3. Administrator-in-training program. The applicant shall have (i) successfully completed an AIT program that meets the requirements of Part IV (18VAC95-20-300 et seq.) of this chapter; and (ii) received a passing grade on the national examination; ~~and (iii) completed the Domains of Practice form required by the board; or~~

4. Health Services Executive (HSE) credential. The applicant shall provide evidence that ~~he~~ the applicant has met the minimum education, experience, and examination standards established by NAB for qualification as a Health Services Executive.

18VAC95-20-230. Application package.

A. An application for licensure shall be submitted after the applicant completes the qualifications for licensure.

B. An individual seeking licensure as a nursing home administrator or registration as a preceptor shall submit:

1. A completed application as provided by the board;
2. Additional documentation as may be required by the board to determine eligibility of the applicant;
3. The applicable fee; and

~~4. An attestation that he has read and understands and will remain current with the applicable Virginia laws and regulations relating to the administration of nursing homes; and~~ 5. A current report from the U.S. Department of Health and Human Services National Practitioner Data Bank (NPDB).

~~C. With the exception of school transcripts, examination scores, the NPDB report, employer verifications, and verifications from other state boards, all parts of the application package shall be submitted at the same time. An incomplete package shall be retained by the board for one year, after which time the application shall be destroyed and a new application and fee shall be required.~~

18VAC95-20-300.

Administrator-in-training qualifications.

A. To be approved as an administrator-in-training, a person shall:

1. Have received a passing grade on a total of 60 semester hours of education from an accredited institution;
2. Obtain a registered preceptor to provide training;
3. Submit the fee prescribed in 18VAC95-20-80;

4. Submit the application and Domains of Practice form provided by the board; and

5. Submit additional documentation as may be necessary to determine eligibility of the applicant and the number of hours required for the AIT program.

~~B. With the exception of school transcripts, all required parts of the application package shall be submitted at the same time. An incomplete package shall be retained by the board for one year after which time the application shall be destroyed and a new application and fee shall be required.~~

18VAC95-20-440. Interruption of program.

A. If the program is interrupted because the registered preceptor is unable to serve, the AIT shall notify the board within five working days ~~and shall obtain a new preceptor who is registered with the board within 60 days.~~

B. Credit for training shall resume when a new preceptor is obtained and approved by the board.

C. If an alternate training plan is developed, it shall be submitted to the board for approval before the AIT resumes training.

18VAC95-30-40. Required fees.

A. The applicant or licensee shall submit all fees in this subsection that apply:

1. ALF AIT program application	\$215
2. Preceptor application	\$65
3. Licensure application	\$315
4. Verification of licensure requests from other states	\$35
5. Assisted living facility administrator license renewal	\$315
6. <u>Inactive license renewal</u>	<u>\$150</u>
7. Preceptor renewal	\$65
7. Penalty 8. Fee for assisted living facility administrator late renewal	\$110
8. Penalty 9. Fee for preceptor late renewal	\$25
<u>10. Fee for inactive license late renewal</u>	<u>\$35</u>
9. <u>11. Assisted living facility administrator reinstatement</u>	\$435
10. <u>12. Preceptor reinstatement</u>	\$105
11. <u>13. Duplicate license</u>	\$25
12. <u>14. Duplicate wall certificates</u>	\$40

13. <u>15. Returned check or dishonored credit card or debit card</u>	\$50
14. <u>16. Reinstatement after disciplinary action</u>	\$1,000

B. Fees shall not be refunded once submitted.

C. Examination fees are to be paid directly to the service ~~contracted by the board to administer~~ or entity that administers the examination.

Part II

Renewals ~~and~~ Reinstatements, and Inactive Licenses

18VAC95-30-70. Continuing education requirements.

A. In order to renew an assisted living administrator license, an applicant shall attest on the applicant's renewal application to completion of 20 hours of approved continuing education for each renewal year.

1. Up to 10 of the 20 hours may be obtained through Internet or self-study courses and up to 10 continuing education hours in excess of the number required may be transferred or credited to the next renewal year.

2. Up to two hours of the 20 hours required for annual renewal may be satisfied through delivery of services, without compensation, to low-income individuals receiving health services through a local health department or a free clinic organized in whole or primarily for the delivery of those services. One hour of continuing education may be credited for one hour of providing such volunteer services, as documented by the health department or free clinic.

3. At least two hours of continuing education for each renewal year shall relate to the care of residents with mental or cognitive impairments, including Alzheimer's disease and dementia.

4. A licensee who serves as the registered preceptor in an approved ALF AIT program may receive one hour of continuing education credit for each week of training up to a maximum of 10 hours of self-study course credit for each renewal year.

5. A licensee is exempt from completing continuing education requirements for the first renewal following initial licensure in Virginia.

B. In order for continuing education to be approved by the board, it shall (i) be related to the Domains of Practice for residential ~~care/assisted care~~ or assisted living and approved or offered by NAB, an accredited educational institution, or a governmental agency or (ii) be as provided in subdivision A 2 of this section.

C. Documentation of continuing education.

1. The licensee shall retain in ~~his~~ the licensee's personal files for a period of three renewal years complete documentation of continuing education including evidence of attendance or

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participation as provided by the approved sponsor for each course taken.

2. Evidence of attendance shall be an original document provided by the approved sponsor and shall include:

- a. Date the course was taken;
- b. Hours of attendance or participation; and
- c. Participant's name; and
- d. ~~Signature of an authorized representative of the approved sponsor.~~

3. If contacted for an audit, the licensee shall forward to the board by the date requested a signed affidavit of completion on forms provided by the board and evidence of attendance or participation as provided by the approved sponsor or as documented in the NAB continuing education registry.

D. The board may grant an extension of up to one year or an exemption for all or part of the continuing education requirements due to circumstances beyond the control of the administrator, such as a certified illness, a temporary disability, mandatory military service, or officially declared disasters. The request for an extension shall be submitted in writing and granted by the board prior to the renewal date.

18VAC95-30-80. Late renewal.

A. A person who fails to renew ~~his~~ a license or preceptor registration by the expiration date ~~shall~~ may, within one year of the initial expiration date:

1. Submit the renewal notice or request renewal by mail to the board;
2. Submit the applicable renewal fee and penalty fee;
3. Provide evidence as may be necessary to establish eligibility for renewal.

B. The documents required in subsection A of this section shall be received in the board office within one year of the initial expiration date. Postmarks shall not be considered.

18VAC95-30-91. Inactive licensure.

A. An assisted living facility administrator who holds a current, unrestricted license in Virginia shall, upon a request for inactive status on the renewal application and submission of the required renewal fee, be issued an inactive license.

1. An inactive licensee shall not be entitled to perform any act requiring a license to practice assisted living facility administration or registration to serve as a preceptor in Virginia.

2. The holder of an inactive license shall not be required to meet continuing education requirements, except as may be required for reactivation in subsection B of this section.

B. An assisted living facility administrator who holds an inactive license may reactivate such license by:

1. Paying the difference between the renewal fee for an inactive license and that of an active license for the year in which the license is being reactivated; and

2. Providing proof of completion of the number of continuing competency hours required for the period in which the license has been inactive, not to exceed three years.

18VAC95-30-130. Application package.

A. An application for licensure shall be submitted after the applicant completes the qualifications for licensure.

B. An individual seeking licensure as an assisted living facility administrator or registration as a preceptor shall submit:

1. A completed application as provided by the board;
2. Additional documentation as may be required by the board to determine eligibility of the applicant, to include the most recent survey report if the applicant has been serving as an acting administrator of a facility;
3. The applicable fee; and
4. ~~An attestation that he has read and understands and will remain current with the applicable Virginia laws and the regulations relating to assisted living facilities; and~~ 5. A current report from the U.S. Department of Health and Human Services National Practitioner Data Bank (NPDB).

~~C. With the exception of school transcripts, examination scores, the NPDB report, employer verifications, and verifications from other state boards, all parts of the application package shall be submitted at the same time. An incomplete package shall be retained by the board for one year, after which time the application shall be destroyed and a new application and fee shall be required.~~

18VAC95-30-140. Training qualifications.

A. To be approved as an ALF administrator-in-training, a person shall:

1. Meet the requirements of 18VAC95-30-100 A 1;
2. Obtain a registered preceptor to provide training;
3. Submit the application and Domains of Practice form provided by the board and the fee prescribed in 18VAC95-30-40; and
4. Submit additional documentation as may be necessary to determine eligibility of the applicant and the number of hours required for the ALF AIT program.

~~B. With the exception of school transcripts, all required parts of the application package shall be submitted at the same time. An incomplete package shall be retained by the board for one year after which time the application shall be destroyed and a new application and fee shall be required.~~

18VAC95-30-200. Interruption or termination of program.

A. If the program is interrupted because the registered preceptor is unable to serve, the trainee shall notify the board within 10 working days and shall obtain a new preceptor who is registered with the board within 60 days.

1. Credit for training shall resume when a new preceptor is obtained and approved by the board.
2. If an alternate training plan is developed, it shall be submitted to the board for approval before the trainee resumes training.

B. If the training program is terminated prior to completion, the trainee and the preceptor shall each submit a written explanation of the causes of program termination to the board within 10 business days. The preceptor shall also submit all required monthly progress reports completed prior to termination within 10 business days.

VA.R. Doc. No. R23-7641; Filed August 22, 2024, 2:58 p.m.

Forms

REGISTRAR'S NOTICE: Forms used in administering the regulation have been 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, 201 North Ninth Street, Fourth Floor, Richmond, Virginia 23219.

Titles of Regulations: 18VAC95-20. Regulations Governing the Practice of Nursing Home Administrators.

18VAC95-30. Regulations Governing the Practice of Assisted Living Facility Administrators.

Agency Contact: Erin Barrett, Agency Regulatory Coordinator, Department of Health Professions, 9960 Mayland Drive, Suite 300, Henrico, VA 23238, telephone (804) 367-4688, or email erin.barrett@dhp.virginia.gov.

FORMS (18VAC95-20)

[Checklist and Instructions for Nursing Home Administrator Application for Initial Licensure \(rev. 3/2023\)](#)

[Checklist and Instructions for Nursing Home Administrator Application by Endorsement \(rev. 3/2023\)](#)

~~[Nursing Home Administrator Reinstatement Application \(rev. 1/2024\)](#)~~

[Nursing Home Administrator Reinstatement Application \(rev. 8/2024\)](#)

[Checklist and Instructions for Nursing Home Administrator-in-Training \(rev. 3/2023\)](#)

[Nursing Home Administrator-in-Training Notice of Change of Status or Discontinuance \(rev. 7/2020\)](#)

[Nursing Home Administrator Preceptor Application \(rev. 1/2024\)](#)

~~[Preceptor Reinstatement Application \(rev. 1/2024\)](#)~~

[Preceptor Reinstatement Application \(rev. 8/2024\)](#)

[Monthly Report of Nursing Home Administrator-in-Training \(rev. 12/2022\)](#)

[Nursing Home Administrator-in-Training Documentation of Completion Form \(rev. 12/2022\)](#)

[Proposed Administrator-in-Training Program Training Plan Domains of Practice \(rev. 12/2022\)](#)

[Continuing Education Affidavit of Completion for Nursing Home Administrators \(rev. 12/2022\)](#)

[Continued Education \(CE\) Credit Form for Volunteer Practice \(rev. 7/2020\)](#)

FORMS (18VAC95-30)

[Checklist and Instructions for Assisted Living Facility Administrator Application for Licensure \(rev. 3/2023\)](#)

[Assisted Living Facility Administrators Education and Experience Matrix \(rev. 12/2022\)](#)

[Monthly Report of Assisted Living Facility Administrator-in-Training \(rev. 12/2022\)](#)

[Assisted Living Facility Administrator-in-Training Documentation of Completion Form \(rev. 12/2022\)](#)

[Assisted Living Facility Administrator-in-Training Notice of Change of Status or Discontinuance \(rev. 7/2020\)](#)

[Assisted Living Facility Administrator Preceptor Application \(rev. 1/2024\)](#)

[Proposed AIT Program Training Plan Domains of Practice \(rev. 12/2022\)](#)

~~[Assisted Living Facility Administrator Reinstatement Application \(rev. 1/2024\)](#)~~

~~[Preceptor Reinstatement Application \(rev. 1/2024\)](#)~~

[Assisted Living Facility Administrator Reinstatement Application \(rev. 8/2024\)](#)

[Preceptor Reinstatement Application \(rev. 8/2024\)](#)

[Checklist and Instructions for Assisted Living Facility Administrator-in-Training \(rev. 3/2023\)](#)

[Checklist and Instructions for Acting Assisted Living Facility Administrator-in-Training \(rev. 3/2023\)](#)

[Continuing Education Affidavit of Completion for Assisted Living Facility Administrators \(rev. 12/2022\)](#)

[Continuing Education \(CE\) Credit Form for Volunteer Practice \(rev. 7/2020\)](#)

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[Name/Address Change Form \(rev. 1/2021\)](#)

[Request for Verification of Virginia Long-Term Care Administrators License \(rev. 11/2019\)](#)

VA.R. Doc. No. R25-8054; Filed August 29, 2024, 3:34 p.m.

BOARD OF PHARMACY

Final Regulation

Title of Regulation: 18VAC110-20. Regulations Governing the Practice of Pharmacy (amending 18VAC110-20-322, 18VAC110-20-323).

Statutory Authority: §§ 54.1-2400 and 54.1-3443 of the Code of Virginia.

Effective Date: October 23, 2024.

Agency Contact: Caroline Juran, RPh, Executive Director, Board of Pharmacy, 9960 Mayland Drive, Suite 300, Richmond, VA 23233-1463, telephone (804) 367-4456, FAX (804) 527-4472, or email caroline.juran@dhp.virginia.gov.

Summary:

The amendments remove from regulatory text compounds placed in Schedules I, II, IV, and V of the Drug Control Act (§ 54.1-3400 et seq. of the Code of Virginia) by Chapters 62 and 228 of the 2024 Acts of Assembly.

18VAC110-20-322. Placement of chemicals in Schedule I.

A. Pursuant to subsection D of § 54.1-3443 of the Code of Virginia, the Board of Pharmacy places the following in Schedule I of the Drug Control Act:

1. Synthetic opioid. N,N-diethyl-2-[5-nitro-2-(4-propoxybenzyl)-1H-benzimidazol-1-yl]ethanamine (other name: Protonitazene), its isomers, esters, ethers, salts, and salts of isomers, esters, and ethers, unless specifically excepted, whenever the existence of these isomers, esters, ethers, and salts is possible within the specific chemical designation.

2. Compounds expected to have hallucinogenic properties. 1-(1,3-benzodioxol-5-yl)-2-(cyclohexylamino)butan-1-one (other names: Cybutylone, N-cyclohexyl Butylone), its salts, isomers (optical, position, and geometric), and salts of isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation.

3. Compounds expected to have depressant properties. 8-bromo-6-(2-chlorophenyl)-1-methyl-4H-[1,2,4]triazolo[4,3-a][1,4]benzodiazepine (other names: Clobromazolam, Phenazolam), its salts, isomers (optical, position, and geometric), and salts of isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation.

4. Cannabimimetic agents:

a. 5-bromo-N-(1-amino-3,3-dimethyl-1-oxobutan-2-yl)-1H-indazole-3-carboxamide (other name: ADB-5Br-

INACA), its salts, isomers, and salts of isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation.

b. N-(1-amino-3,3-dimethyl-1-oxobutan-2-yl)-5-bromo-1-butylindazole-3-carboxamide (other name: ADB-5Br-BUTINACA), its salts, isomers, and salts of isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation.

The placement of drugs listed in this subsection shall remain in effect until July 31, 2024, unless enacted into law in the Drug Control Act.

B. Pursuant to subsection D of § 54.1-3443 of the Code of Virginia, the Board of Pharmacy places the following in Schedule I of the Drug Control Act:

1. Synthetic opioid. 2-methyl-N-phenyl-N-[1-(2-phenylethyl)piperidin-4-yl]butanamide (other name: 2-methyl butyryl fentanyl), its isomers, esters, ethers, salts, and salts of isomers, esters, and ethers, unless specifically excepted, whenever the existence of these isomers, esters, ethers, and salts is possible within the specific chemical designation.

2. Compounds expected to have hallucinogenic properties:

a. 1-(7-methoxy-1,3-benzodioxol-5-yl)propan-2-amine (other names: 5-methoxy-3,4-methylenedioxyamphetamine, 3-methoxy-MDA, MDMA), its salts, isomers (optical, position, and geometric), and salts of isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation.

b. 1-[1-(3-chlorophenyl)cyclohexyl]piperidine (other names: 3-Chloro-Phenacylidine, 3Cl-PCP, 3-chloro-PCP), its salts, isomers, and salts of isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation.

3. Compound expected to have depressant properties. 7-bromo-5-phenyl-1,3-dihydro-1,4-benzodiazepin-2-one (other names: Desalkylgizazepam, Bromonordiazepam), its salts, isomers (optical, position, and geometric), and salts of isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation.

4. Compound classified as a cannabimimetic agent. Methyl N-[(5-bromo-1H-indazol-3-yl)carbonyl]-3-methyl-valinate (other name: MDMB-5Br-INACA), its salts, isomers, and salts of isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation.

The placement of drugs listed in this subsection shall remain in effect until October 12, 2024, unless enacted into law in the Drug Control Act.

C. Pursuant to subsection D of § 54.1-3443 of the Code of Virginia, the Board of Pharmacy places the following in Schedule I of the Drug Control Act:

1. Synthetic opioids.

a. ~~2-(4-isopropoxybenzyl)-5-nitro-1-[2-(pyrrolidin-1-yl)ethyl]-1H-benzo[d]imidazole (other name: N-Pyrrolidino Isotonitazene), its isomers, esters, ethers, salts, and salts of isomers, esters, and ethers, unless specifically excepted, whenever the existence of these isomers, esters, ethers, and salts is possible within the specific chemical designation.~~

b. ~~5-nitro-2-(4-propoxybenzyl)-1-[2-(pyrrolidin-1-yl)ethyl]-1H-benzo[d]imidazole (other names: N-Pyrrolidino Protonitazene, Protonitazepyne), its isomers, esters, ethers, salts, and salts of isomers, esters, and ethers, unless specifically excepted, whenever the existence of these isomers, esters, ethers, and salts is possible within the specific chemical designation.~~

c. ~~N-phenyl-N-(1-propionyl-4-piperidinyl)propanamide (other name: N-propionyl-Norfenfentanyl), its isomers, esters, ethers, salts, and salts of isomers, esters, and ethers, unless specifically excepted, whenever the existence of these isomers, esters, ethers, and salts is possible within the specific chemical designation.~~

2. Synthetic compounds.

a. ~~N-(4-fluorophenyl)-N-(1-phenethylpiperidin-4-yl)pentanamide (other names: para-fluoro-valeryl-fentanyl, para-fluoro-pentanoyl-fentanyl), its isomers, esters, ethers, salts, and salts of isomers, esters, and ethers, unless specifically excepted, whenever the existence of these isomers, esters, ethers, and salts is possible within the specific chemical designation.~~

b. ~~N-(4-fluorophenyl)-N-[1-(2-phenylethyl)piperidin-4-yl]acetamide (other name: para-fluoroacetyl-fentanyl), its isomers, esters, ethers, salts, and salts of isomers, esters, and ethers, unless specifically excepted, whenever the existence of these isomers, esters, ethers, and salts is possible within the specific chemical designation.~~

3. Compounds expected to have hallucinogenic properties.

a. ~~1-[1-(3-fluorophenyl)cyclohexyl]piperidine (other names: 3-fluoro-Phencyclidine, 3F-PCP), its salts, isomers (optical, position, and geometric), and salts of isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation.~~

b. ~~2-(ethylamino)-2-(2-fluorophenyl)cyclohexanone (other names: 2-fluoro-2-oxo-PCE, 2-fluoro-NENDCK), its salts, isomers, and salts of isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation.~~

4. Compounds expected to have depressive properties:

a. ~~6-(4-chlorophenyl)-1-methyl-4H-[1,2,4]triazolo[4,3-a][1,4]benzodiazepine (other names: 4'-chloro-Deschloroalprazolam, 4'Cl-Deschloroalprazolam), its salts, isomers (optical, position, and geometric), and salts of isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation.~~

b. ~~7-chloro-5-(2-chlorophenyl)-1-methyl-3H-1,4-benzodiazepin-2-one (other names: Diclazepam, 2-Chloro-diazepam), its salts, isomers, and salts of isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation.~~

5. Central nervous system stimulant. ~~2-(3-chlorophenyl)-3-methylmorpholine (other name: 3-chlorophenmetrazine), its salts, isomers (optical, position, and geometric), and salts of isomers.~~

The placement of drugs listed in this subsection shall remain in effect until March 27, 2025, unless enacted into law in the Drug Control Act.

D. A. Pursuant to subsection D of § 54.1-3443 of the Code of Virginia, the Board of Pharmacy places the following in Schedule I of the Drug Control Act:

1. Synthetic opioid.

a. ~~N-ethyl-2-[5-nitro-2-[(4-propan-2-yloxyphenyl)methyl]benzimidazol-1-yl]ethanamine (other name: N-desethyl Isotonitazene), its isomers, esters, ethers, salts, and salts of isomers, esters, and ethers, unless specifically excepted, whenever the existence of these isomers, esters, ethers and salts is possible within the specific chemical designation.~~

b. ~~7-[(3-chloro-6-methyl-5,5-dioxo-1H-benzo[c][2,1]benzothiazepin-11-yl)amino]heptanoic acid (other name: Tianeptine), its isomers, esters, ethers, salts, and salts of isomers, esters, and ethers, unless specifically excepted, whenever the existence of these isomers, esters, ethers, and salts is possible within the specific chemical designation.~~

2. Cannabimimetic agent. ~~Ethyl-3,3-dimethyl-2-[(1-(pent-4-enylindazole-3-carbonyl)amino)butanoate (other name: EDMB-4en-PINACA), its salts, isomers, and salts of isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation.~~

The placement of drugs listed in this subsection shall remain in effect until July 31, 2025, unless enacted into law in the Drug Control Act.

E. B. Pursuant to subsection D of § 54.1-3443 of the Code of Virginia, the Board of Pharmacy places the following compounds expected to have hallucinogenic properties in Schedule I of the Drug Control Act:

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1. 1-(3,5-Dimethoxy-4-propoxyphenyl)-2-propanamine (other names: 4-propoxy-3,5-DMA, 3C-P, 1-(3,5-Dimethoxy-4-propoxyphenyl)propan-2-amine), its salts, isomers, and salts of isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation.

2. 2-(5-methoxy-1H-indol-3-yl)ethanamine (other names: 5-methoxytryptamine, 5-MeOT), its salts, isomers (optical, position, and geometric), and salts of isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation.

The placement of drugs listed in this subsection shall remain in effect until August 28, 2025, unless enacted into law in the Drug Control Act.

18VAC110-20-323. Scheduling for conformity with federal law or rule.

Pursuant to subsection E of § 54.1-3443 of the Code of Virginia and in order to conform the Drug Control Act to recent scheduling changes enacted in federal law or rule, the board:

1. Adds MT-45 (1-cyclohexyl-4-(1,2-diphenylethyl)piperazine) to Schedule I;

2. Adds Dronabinol ((-)-delta-9-trans tetrahydrocannabinol) in an oral solution in a drug product approved for marketing by the U.S. Food and Drug Administration to Schedule II;

3. Deletes naldemedine from Schedule II;

4. Deletes naloxegol and 6β-naltrexol from Schedule II;

5. Replaces 4-anilino-N-phenethyl-4-piperidine (CASRN 21409-26-7) in Schedule II with 4-anilino-N-phenethylpiperidine (ANPP);

6. Adds 4-methyl-5-(4-methylphenyl)-4,5-dihydro-1,3-oxazol-2-amine (4,4'-Dimethylaminorex, 4,4'-DMAR) to Schedule I;

7. Adds 1-(5-fluoropentyl)-N-(2-phenylpropan-2-yl)pyrrolo[2,3-b]pyridine-3-carboxamide (5F-CUMYL-P7AICA) to Schedule I;

8. Adds ethyl N-phenyl-N-[1-(2-phenylethyl)piperidin-4-yl] carbamate (fentanyl carbamate) to Schedule I;

9. Adds N-(2-fluorophenyl)-N-[1-(2-phenylethyl)piperidin-4-yl]prop-2-enamide (ortho-fluoroacryl fentanyl) to Schedule I;

10. Adds N-(2-fluorophenyl)-2-methyl-N-[1-(2-phenylethyl)piperidin-4-yl]propanamide (ortho-fluoroisobutyryl fentanyl) to Schedule I;

11. Adds N-(4-fluorophenyl)-N-[1-(2-phenylethyl)piperidin-4-yl]furan-2-carboxamide (para-fluoro furanyl fentanyl) to Schedule I;

12. Adds N-(2-fluorophenyl)-N-[1-[2-(2-fluorophenyl)ethyl]piperidin-4-yl]propanamide (2'-fluoro ortho-fluorofentanyl; 2'-fluoro 2-fluorofentanyl) to Schedule I;

13. Adds N-[1-[2-(4-methylphenyl)ethyl]piperidin-4-yl]-N-phenylacetamide (4'-methyl acetyl fentanyl) to Schedule I;

14. Adds N,3-diphenyl-N-[1-(2-phenylethyl)piperidin-4-yl]propanamide (β'-phenyl fentanyl; beta'-phenyl fentanyl; 3-phenylpropanoyl fentanyl) to Schedule I;

15. Adds N-phenyl-N-[1-(2-phenylpropyl)piperidin-4-yl]propanamide (β-methyl fentanyl) to Schedule I;

16. Adds N-(2-fluorophenyl)-N-[1-(2-phenylethyl)piperidin-4-yl]butanamide (ortho-fluorobutyryl fentanyl; 2-fluorobutyryl fentanyl) to Schedule I;

17. Adds N-(2-methylphenyl)-N-[1-(2-phenylethyl)piperidin-4-yl]acetamide (ortho-methyl acetylfentanyl; 2-methyl acetylfentanyl) to Schedule I;

18. Adds 2-methoxy-N-(2-methylphenyl)-N-[1-(2-phenylethyl)piperidin-4-yl]acetamide (ortho-methyl methoxyacetylfentanyl; 2-methyl methoxyacetyl fentanyl) to Schedule I;

19. Adds N-(4-methylphenyl)-N-[1-(2-phenylethyl)piperidin-4-yl]propanamide (para-methylfentanyl; 4-methylfentanyl) to Schedule I;

20. Adds N-phenyl-N-[1-(2-phenylethyl)piperidin-4-yl]thiophene-2-carboxamide (thiophene fentanyl) to Schedule I;

21. Adds N-(4-chlorophenyl)-2-methyl-N-[1-(2-phenylethyl)piperidin-4-yl]propanamide (para-chloroisobutyryl fentanyl) to Schedule I;

22. Adds 24. 2-[2-[(4-butoxyphenyl)methyl]-5-nitrobenzimidazol-1-yl]-N,N-diethylethanamine (Butonitazene) to Schedule I;

23. Adds N,N-diethyl-2-[2-[(4-fluorophenyl)methyl]-5-nitrobenzimidazol-1-yl] ethanamine (Flunitazene) to Schedule I;

~~24. Adds Oliceridine to Schedule II;~~

~~25. 24. Deletes Samidorphan from Schedule II;~~

~~26. Adds Remimazolam to Schedule IV;~~

~~27. Adds Serdexmethylphenidate to Schedule IV;~~

~~28. Adds Lemborexant to Schedule IV;~~

~~29. Adds Daridorexant to Schedule IV;~~

~~30. Adds Ganaxolone to Schedule V;~~

~~31. 25. Adds N-methyl-1-(thiophen-2-yl)propan-2-amine (other name: methiopropamine) to Schedule I;~~

~~32.~~ 26. Adds N-phenyl-N'-(3-(1-phenylpropan-2-yl)-1,2,3-oxadiazol-3-ium-5-yl)carbamidate (other name: meso carb) to Schedule I;

~~33.~~ 27. Adds 1-methoxy-3-[4-(2-methoxy-2-phenylethyl)piperazin-1-yl]-1-phenylpropan-2-ol (other name: zipeprol) to Schedule I;

~~34.~~ 28. Adds 7-[(10,11-dihydro-5H-dibenzo[a,d]cyclohepten-5-yl)amino]heptanoic acid (other name: amineptine) to Schedule I; ~~35. Deletes Fenfluramine from Schedule IV;~~ and

~~36.~~ 29. Adds zuranolone to Schedule IV.

V.A.R. Doc. No. R25-7941; Filed August 22, 2024, 10:55 a.m.

BOARD OF PHYSICAL THERAPY

Forms

Title of Regulation: **18VAC112-20. Regulations Governing the Practice of Physical Therapy.**

Agency Contact: Erin Barrett, Agency Regulatory Coordinator, Department of Health Professions, 9960 Mayland Drive, Suite 300, Henrico, VA 23238, telephone (804) 367-4688, or email erin.barrett@dhp.virginia.gov.

REGISTRAR'S NOTICE: Forms used in administering the regulation have been 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, 201 North Ninth Street, Fourth Floor, Richmond, Virginia 23219.

FORMS (18VAC112-20)

[Application for Licensure by Examination to Practice Physical Therapy \(rev. 8/2023\)](#)

[Application for Licensure by Endorsement to Practice Physical Therapy \(rev. 8/2023\)](#)

~~[Application for Reinstatement to Practice Physical Therapy \(rev. 8/2023\)](#)~~

~~[Application for Reinstatement after Disciplinary Action to Practice Physical Therapy \(rev. 8/2023\)](#)~~

[Application for Reinstatement to Practice Physical Therapy \(rev. 8/2024\)](#)

[Application for Reinstatement after Disciplinary Action to Practice Physical Therapy \(rev. 8/2024\)](#)

[Application for Traineeship to Practice Physical Therapy Statement of Authorization \(rev. 8/2023\)](#)

[Application for Unlicensed Graduate Traineeship to Practice Physical Therapy Statement of Authorization \(rev. 8/2023\)](#)

[Completion Form for 320-hour Traineeship to Practice Physical Therapy \(rev. 8/2023\)](#)

[Verification of Physical Therapy Education for Graduates of Approved Programs Only \(rev. 8/2023\)](#)

[Continued Competency Activity and Assessment Form \(rev. 8/2023\)](#)

[Continuing Education \(CE\) Credit Form for Volunteer Practice \(rev. 8/2023\)](#)

[Application for Direct Access Certification \(rev. 8/2023\)](#)

[Direct Access Patient Attestation and Medical Release Form \(rev. 7/2023\)](#)

[Physical Therapy Name/Address Change Form \(rev. 8/2023\)](#)

[Request for Verification of a Virginia Physical Therapy License \(rev. 8/2023\)](#)

[Application for Reactivation \(Inactive to Active\) to Practice Physical Therapy \(rev. 8/2023\)](#)

[Out-of-State Practitioner Reporting Form \(rev. 7/2023\)](#)

V.A.R. Doc. No. R25-8053; Filed August 29, 2024, 3:28 p.m.

TITLE 21. SECURITIES AND RETAIL FRANCHISING

STATE CORPORATION COMMISSION

Proposed Regulation

REGISTRAR'S NOTICE: The State Corporation Commission is claiming an exemption from the Administrative Process Act in accordance with § 2.2-4002 A 2 of the Code of Virginia, which exempts courts, any agency of the Supreme Court, and any agency that by the Constitution is expressly granted any of the powers of a court of record.

Title of Regulation: **21VAC5-110. Retail Franchising Act Rules (amending 21VAC5-110-20 through 21VAC5-110-55, 21VAC5-110-65, 21VAC5-110-75).**

Statutory Authority: §§ 12.1-13 and 13.1-572 of the Code of Virginia.

Public Hearing Information: A public hearing will be held upon request.

Public Comment Deadline: October 15, 2024.

Agency Contact: Jude Richnafsky, Manager of Examinations and Securities and Retail Franchising, Division of Securities and Retail Franchising, State Corporation Commission, Tyler Building, Ninth Floor, P.O. Box 1197, Richmond, VA 23218, telephone (804) 371-9883, or email jude.richnafsky@scc.virginia.gov.

Regulations

Summary:

The proposed amendments (i) require the use of a new form for applications for registration of a franchise; (ii) require that the submission of registration, amendment, and renewal applications shall only be tendered to the State Corporation Commission by the electronic delivery method provided by the Division of Securities and Retail Franchising, unless in the case of hardship or other good cause; (iii) provide clarification that an opening balance sheet provided by a start-up franchisor as part of its financial statements must be prepared in accordance with generally accepted accounting principles; and (iv) in lieu of escrow or deferral of initial franchising fees, allow acceptance of a surety bond as a form of financial assurance for franchisors that are insolvent as defined in § 13.1-562 of the Code of Virginia.

AT RICHMOND, SEPTEMBER 3, 2024

COMMONWEALTH OF VIRGINIA, ex rel.

STATE CORPORATION COMMISSION

CASE NO. SEC-2024-00032

Ex Parte: In the matter of

Adopting Revisions to the Rules

Governing the Virginia Retail Franchising Act

ORDER ESTABLISHING PROCEEDING

Section 12.1-13 of the Code of Virginia ("Code") provides, in relevant part, that "[i]n the administration and enforcement of all laws within its jurisdiction, the [State Corporation Commission ("Commission")] shall have the power to promulgate rules and regulations[.]" Section 13.1-572 of the Virginia Retail Franchising Act ("Franchising Act"), § 13.1-557 et seq. of the Code, provides that the Commission shall have authority to make, amend and rescind such rules and forms as may be necessary to carry out the provisions of Chapter 8 of Title 13.1 of the Code. The rules issued by the Commission pursuant to § 13.1-572 of the Code ("Rules") are set forth in Title 21, Chapter 110 of the Virginia Administrative Code ("Chapter 110").¹

The Division of Securities and Retail Franchising ("Division") has submitted to the Commission proposed revisions to Chapter 110 to: (i) require the use of a new form titled "Certification of Deferred Franchise Fee" ("Form L"); (ii) require that the submission of registration, amendment and renewal applications shall only be tendered to the Commission by the electronic delivery method provided by the Division, unless in the case of hardship or other good cause, in which case the Commission may, at its discretion, allow for the submission of a registration, amendment or renewal application by a method other than electronic filing; (iii) provide clarification that an opening balance sheet provided by a start-up franchisor as part of its financial statements must be prepared in accordance with generally accepted accounting principles; and (iv) in lieu of escrow or deferral of initial franchising fees, allow acceptance of a surety bond as a form

of financial assurance for franchisors that are insolvent as defined in § 13.1-562 A 2 of the Franchising Act. Collectively, these are referred to as the "Proposed Revisions."

The Division has recommended to the Commission that the Proposed Revisions should be considered for adoption, and Form L should be approved for use, with an effective date of January 1, 2025.

NOW THE COMMISSION, upon consideration of this matter, is of the opinion and finds that a proceeding should be established to consider revising the Rules. To initiate this proceeding, the Division has prepared the Proposed Revisions and Form L, which are appended to this Order Establishing Proceeding ("Order"). The Commission finds that notice of the Proposed Revisions and Form L should be given to the public, and that interested persons should be provided an opportunity to file written comments on, propose modifications or supplements to, or request a hearing on the Proposed Revisions and Form L for adoption with a proposed effective date of January 1, 2025.

Accordingly, IT IS ORDERED THAT:

This case is docketed and assigned Case No. SEC-2024-00032.

(2) All comments and other documents and pleadings filed in this matter shall be submitted electronically to the extent authorized by Rule 5VAC5-20-150, Copies and format, of the Commission's Rules of Practice and Procedure.² Confidential and Extraordinarily Sensitive Information shall not be submitted electronically and shall comply with Rule 5VAC5-20-170, Confidential information, of the Rules of Practice. Any person seeking to hand deliver and physically file or submit any pleading or other document shall contact the Clerk's Office Document Control Center at (804) 371-9838 to arrange the delivery.

(3) On or before October 15, 2024, any interested person may comment on, propose modifications or supplements to, or request a hearing on the Proposed Revisions and/or Form L by following the instructions on the Commission's website: scc.virginia.gov/casecomments/Submit-Public-Comments.

Those unable, as a practical matter, to submit such documents electronically may file such comments by U.S. mail to the Clerk of the State Corporation Commission, c/o Document Control Center, P.O. Box 2118, 23218-2118. All documents shall refer to Case No. SEC-2024-00032. Any request for hearing shall state why a hearing is necessary and why the issues raised in the request for hearing cannot be addressed adequately in written comments.

(4) The Division shall file its response to any comments filed pursuant to Ordering Paragraph 3 on or before November 12, 2024.

(5) If a sufficient request for hearing is not received, the Commission may consider the matter and enter an order based upon the comments, documents or other pleadings filed in this proceeding.

(6) The Division shall provide notice of this Order to any interested persons as the Division may designate.

(7) The Commission's Office of General Counsel shall provide a copy of this Order, together with the Proposed Revisions and Form L, to the Virginia Registrar of Regulations for publication in the Virginia Register of Regulations.

(8) Interested persons may download unofficial copies of the Order, the Proposed Revisions and Form L, from the Commission's website: scc.virginia.gov/pages/Case-Information.

(9) This matter is continued.

A COPY hereof shall be sent by the Clerk of the Commission to: C. Meade Browder, Jr., Senior Assistant Attorney General, at MBrowder@oag.state.va.us, Office of the Attorney General, Division of Consumer Counsel, 202 N. 9th Street, 8th Floor, Richmond, Virginia 23219-3424; and the Commission's Office of General Counsel and the Director of Securities and Retail Franchising.

¹21VAC5-110-10 et seq. Retail Franchising Act Rules.

²5VAC5-20-10 et seq. State Corporation Commission Rules of Practice and Procedure ("Rules of Practice").

21VAC5-110-20. Preliminary statement.

Follow these rules for each item in franchise applications and disclosures in the FDD.

The following rules shall be adhered to with respect to applications for registration or exemption of a franchise, and applications for renewal or amendment of a franchise registration or exemption, filed pursuant to Chapter 8 (§ 13.1-557 et seq.) of Title 13.1 of the Code of Virginia. These applications shall be submitted to Virginia's state administrator either electronically or at the following address: State Corporation Commission, Division of Securities and Retail Franchising, ~~P.O. Box 1197~~, 1300 East Main Street, ~~9th~~ Ninth Floor, Richmond, Virginia ~~23218~~ 23219.

21VAC5-110-30. Registration application; documents to file; interim financial statements.

A. An application for registration of a franchise is made by filing with the commission the following completed forms and other material:

1. Uniform Franchise Registration Application page, Form A;
2. Total Costs and Sources of Funds for Establishing New Franchises, Form B;
3. Uniform Consent to Service of Process, Form C;
4. If the applicant is a corporation or partnership, an authorizing resolution if the application is verified by a person other than the applicant's officer or general partner;
5. Franchise Disclosure Document;

6. Application fee (payable to the "Treasurer of Virginia"); ~~and~~

7. Auditor's consent (or a photocopy of the consent) to the use of the latest audited financial statements in the Franchise Disclosure Document; and

8. Certification of Deferred Franchise Fee, Form L, if applicable.

~~B. An application for registration shall contain: 1. One copy of a complete franchise registration application, including the Franchise Disclosure Document, on paper; 2. One copy of a complete franchise registration application, including the Franchise Disclosure Document, on a CD-ROM in PDF format or on other electronic media approved by the Division of Securities and Retail Franchising; and 3. A cover letter containing a representation that all of the information contained in the electronic file is identical to the paper documents be submitted either electronically using a method specified by the commission, or by delivering a copy of the application on a CD-ROM in PDF format or on other electronic media approved by the Division of Securities and Retail Franchising. Electronic versions of the application, including the Franchise Disclosure Document, shall be text searchable.~~

C. For good cause shown and at its discretion, the commission may allow for submission of an application for registration by a method of communication other than electronic filing or on electronic media as required in subsection B of this section. Such delivery may only occur after the applicant has received prior approval from the commission. The commission will determine the policy and procedure used to accept and process an application under such a request.

~~D. If the commission's review of the application results in any revision to the documents submitted, the franchisor shall file a complete clean copy of the revised Franchise Disclosure Document and any other revised documents; and a black-lined copy of all revised pages, unless the commission directs otherwise. In addition to filing the complete clean Franchise Disclosure Document and black-lined pages on paper, a franchisor shall include copies on a CD-ROM in PDF format or on other electronic media approved by the Division of Securities and Retail Franchising. The revised electronic file shall be accompanied by a transmittal letter as described in subdivision B 3 of this section. The filing shall be submitted in a manner as required by subsection B of this section.~~

~~D. The electronic version of the Franchise Disclosure Document shall be text searchable.~~

E. If the date of the most recent audited financial statements in the Franchise Disclosure Document precedes the date of the application by more than 120 days, the Franchise Disclosure Document shall also include the following financial statements prepared in accordance with generally accepted accounting principles:

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1. An unaudited interim balance sheet as of a date within 120 days of the date of the application; and

2. An unaudited interim statement of income or operations for the period from the most recent audited financial statements to the date of the interim balance sheet.

F. The certifications made by or on behalf of the franchisor in Form A shall extend and apply to all documents and materials filed in connection with the registration application, including any documents or materials submitted to the commission subsequent to the initial filing that may be required to complete the registration application.

21VAC5-110-40. Pre-effective and post-effective amendments to the registration.

A. Within 30 days after the occurrence of a material change, the franchisor shall amend the effective registration filed at the commission. An amendment to an application filed either before or after the effective date of registration may include only the pages containing the information being amended if pagination is not disturbed. The amended pages must be black-lined to show all additions, deletions, and other changes from the franchisor's previous submission. The franchisor may not use margin balloons or color highlights to show changes.

B. An application to amend a franchise registration is made by submitting the following completed forms and other material:

1. Uniform Franchise Registration Application page, Form A;
2. One complete clean copy of the amended Franchise Disclosure Document;
3. One complete copy of the amended Franchise Disclosure Document black-lined to show all additions, deletions, and other changes; and
4. Application fee (payable to the "Treasurer of Virginia."); The fee shall accompany all post-effective amendments unless submitted in connection with an application for renewal.

C. An application to amend a registration shall contain: ~~1. One copy of a complete franchise amendment application, including the amended Franchise Disclosure Document, on paper; 2. One copy of a complete franchise amendment application, including the amended Franchise Disclosure Document, on a CD-ROM in PDF format or on other electronic media approved by the Division of Securities and Retail Franchising; and 3. A cover letter containing a representation that all of the information contained in the electronic file is identical to the paper documents~~ be submitted either electronically using a method specified by the commission or by delivering a copy of the application on a CD-ROM in PDF format or on other electronic media approved by the Division of Securities and Retail Franchising. Electronic versions of the

franchise amendment application, including the amended Franchise Disclosure Document, shall be text searchable.

D. For good cause shown and at its discretion, the commission may allow for submission of an application to amend a registration by a method of communication other than electronic filing or on electronic media as required in subsection C of this section. Such delivery may only occur after the applicant has received prior approval from the commission. The commission will determine the policy and procedure used to accept and process an application under such a request.

~~E. If the commission's review of the application results in any revision to the documents submitted, the franchisor shall file a complete clean copy of the revised Franchise Disclosure Document and any other revised documents, and a black-lined copy of all revised pages, unless the commission directs otherwise. In addition to filing the complete clean Franchise Disclosure Document and black-lined pages on paper, a franchisor shall include copies on a CD-ROM in PDF format or on other electronic media approved by the Division of Securities and Retail Franchising. The revised electronic file shall be accompanied by a transmittal letter as described in subdivision C-3 of this section. The filing shall be submitted in a manner as required by subsection C of this section.~~

~~E. The electronic version of the Franchise Disclosure Document shall be text searchable.~~

F. The certifications made by or on behalf of the franchisor in Form A shall extend and apply to all documents and materials filed in connection with the amendment application, including any documents or materials submitted to the commission subsequent to the initial filing that may be required to complete the amendment application.

21VAC5-110-50. Expiration; application to renew the registration; interim financial statements.

A. A franchise registration expires at midnight on the annual date of the registration's effectiveness. An application to renew the franchise registration should be filed 30 days prior to the expiration date in order to prevent a lapse of registration under the Virginia statute.

B. An application for renewal of a franchise registration is made by submitting the following completed forms and other material:

1. Uniform Franchise Registration Application page, Form A;
2. Updated Franchise Disclosure Document;
3. One complete copy of the amended Franchise Disclosure Document black-lined to show all additions, deletions, and other changes, using no margin balloons or color highlights; ~~and~~
4. Application fee (payable to the "Treasurer of Virginia"); and

5. Certification of Deferred Franchise Fee, Form L, if applicable.

~~C. An application for renewal of a franchise registration shall contain: 1. One copy of a complete franchise renewal application, including the updated Franchise Disclosure Document, on paper; 2. One copy of a complete franchise renewal application, including the updated Franchise Disclosure Document, on a CD-ROM in PDF format or on other electronic media approved by the Division of Securities and Retail Franchising; and 3. A cover letter containing a representation that all of the information contained in the electronic file is identical to the paper documents be submitted either electronically using a method specified by the commission or by delivering a copy of the application on a CD-ROM in PDF format or on other electronic media approved by the Division of Securities and Retail Franchising. Electronic versions of the application for renewal, including the updated Franchise Disclosure Document, shall be text searchable.~~

~~D. For good cause shown and at its discretion, the commission may allow for submission of an application for renewal by a method of communication other than electronic filing or on electronic media as required in subsection C of this section. Such delivery may only occur after the applicant has received prior approval from the commission. The commission will determine the policy and procedure used to accept and process an application under such a request.~~

~~E. If the commission's review of the application results in any revision to the documents submitted, the franchisor shall file a complete clean copy of the revised Franchise Disclosure Document and any other revised documents, and a black-lined copy of all revised pages, unless the commission directs otherwise. In addition to filing the complete clean Franchise Disclosure Document and black-lined pages on paper, a franchisor shall include copies on a CD-ROM in PDF format or on other electronic media approved by the Division of Securities and Retail Franchising. The revised electronic file shall be accompanied by a transmittal letter as described in subdivision C 3 of this section. The filing shall be submitted in a manner as required by subsection C of this section.~~

~~E. The electronic version of the Franchise Disclosure Document shall be text searchable.~~

F. If the date of the most recent audited financial statements in the Franchise Disclosure Document precedes the date of the application by more than 120 days, the Franchise Disclosure Document shall also include the following financial statements prepared in accordance with generally accepted accounting principles:

1. An unaudited interim balance sheet as of a date within 120 days of the date of the application; and
2. An unaudited interim statement of income or operations for the period from the most recent audited financial statements to the date of the interim balance sheet.

G. The certifications made by or on behalf of the franchisor in Form A shall extend and apply to all documents and materials filed in connection with the renewal application, including any documents or materials submitted to the commission subsequent to the initial filing that may be required to complete the renewal application.

21VAC5-110-55. The Franchise Disclosure Document.

A. Format. The Franchise Disclosure Document must be prepared in accordance with §§ 436.3 through 436.5 of the Federal Trade Commission Franchise Rule (16 CFR 436.3 through 436.5), subject to the modifications set forth in subsections B and C of this section.

B. Financial statements. Notwithstanding § 436.5(u)(2) of the Federal Trade Commission Franchise Rule (16 CFR 436.5), a start-up franchisor in its first partial or full fiscal year selling franchises shall provide an opening balance sheet, prepared in accordance with generally accepted accounting principles, that has been audited by an independent certified public accountant using generally accepted United States auditing standards.

C. State cover sheets and effective dates page. The Franchise Disclosure Document shall include the state cover sheets and state effective dates page prepared in accordance with the requirements set forth in Part III B of the 2008 Franchise Registration and Disclosure Guidelines, as adopted May 19, 2019, by the North American Securities Administrators Association, Inc.

21VAC5-110-65. Escrow ~~and~~, deferral, and surety bond.

A. Escrow requirement. The commission may require a franchisor to escrow franchise fees and other payments made by a franchisee to the franchisor until the franchisor's pre-opening obligations under the franchise agreement have been satisfied. The commission may require escrow at any time after the submission of a registration or renewal application and upon a finding that the grounds enumerated in clause (i) of subdivision A 2 of § 13.1-562 of the Virginia Retail Franchising Act as provided in Chapter 668 of the 2007 Acts of Assembly exist.

B. Depository. Funds subject to an escrow condition shall be placed in a separate trust account with a national bank or a ~~state chartered~~ state-chartered bank or trust company transacting business in the Commonwealth of Virginia.

C. Compliance with escrow requirement. The franchisor shall file with the commission the following to comply with the commission's escrow requirement:

1. An original, fully executed copy of the Escrow Agreement, Form K;
2. A written consent from the depository agreeing to operate the escrow account under this ~~regulation~~ chapter;
3. The name and address of the depository and the account number of the escrow account;

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4. The name, address, telephone number, and email address of an individual ~~or individuals~~ at the depository who may be contacted by the commission regarding the escrow account; and

5. An amended franchise application reflecting, in Item 5 of the Franchise Disclosure Document or in a Virginia Addendum to the Franchise Disclosure Document, that the commission has imposed the escrow requirement and the material terms of that escrow condition, including the name of the depository.

D. Operation of escrow account. After the commission imposes an escrow requirement upon the franchisor, the franchisor shall:

1. Make franchisee checks for franchise fees or other payments for the franchisor payable to the depository; and
2. Deposit with the depository, within two business days of the receipt, the funds described in subdivision 1 of this subsection.

Deposits made to the depository shall remain escrowed until the commission authorizes the release of the funds.

E. Release of escrowed funds.

1. A franchisor may apply to the commission for the release of escrowed funds together with any interest earned.
2. A franchisor's application to the commission to authorize the release of escrowed funds to the franchisor shall be in writing, verified by an authorized officer of the franchisor, and shall contain:
 - a. The franchisor's statement that all proceeds from the sale of franchises have been placed with the depository in accordance with the terms and conditions of the escrow requirement;
 - b. The depository's statement, signed by an appropriate officer, setting forth the aggregate amount of escrowed funds deposited with the depository and the franchisor's account number with the depository;
 - c. A list of the names and addresses of each franchisee and the amount held in the escrow account for the account of each franchisee;
 - d. The amount of funds sought to be released;
 - e. A written certification from the franchisee stating the amount of funds to be released that acknowledges that the franchisor has completely performed its pre-opening obligations under the franchise agreement, including providing real estate, improvements, equipment, inventory, training, or other items as required by the franchise agreement; and
 - f. Other information the commission may reasonably require.

3. If the commission finds that the franchisor has fulfilled its obligations under the franchise agreement for a specified franchisee, the commission shall authorize the depository to release to the franchisor the amount held in escrow for the account of the applicable franchisee.

F. Removal of escrow requirement. The commission may remove the escrow requirement at any time, if:

1. The franchisor agrees to defer franchise fees and other initial payments; or
2. Based upon new information, the commission finds that the escrow requirement is no longer necessary and appropriate for the protection of prospective franchisees.

G. Deferral of fees in place of escrow requirement.

1. In lieu of an escrow requirement, the commission may, under appropriate circumstances, accept a franchisor's agreement to defer franchise fees and other initial payments owed by franchisees to the franchisor until the franchisor has completed its pre-opening obligations under the franchise agreement.
2. The franchisor's agreement to defer franchise fees shall be reflected in Item 5 of the Franchise Disclosure Document or in a Virginia Addendum to the Franchise Disclosure Document.

3. For any deferral of franchise fees, the applicant must submit the Certification of Deferred Franchise Fee, Form L.

H. Surety bond.

1. In lieu of escrow or deferral of initial franchise fees, a franchisor may post, upon approval by the commission, a surety bond as required by this subsection.
2. The surety bond shall be:
 - a. Effective as of the date of the initial registration and in an amount not less than the initial franchise fee, as listed in Item 5 of the Franchise Disclosure Document filed with the commission, of one franchise unit. During the registration period, the franchisor must maintain a surety bond in an amount not less than the franchise fee multiplied by the number of franchises in the Commonwealth the franchisor has signed but the franchisee has not yet opened;
 - b. Issued by a surety company authorized to transact business in Virginia;
 - c. Conditioned upon the completion by the franchisor of its obligations under the franchise agreement to provide real estate, improvements, equipment, inventory training, and other items; and
 - d. As of the date of a franchise registration renewal period, the amount of a surety bond must be at the greater amount of that imposed under subdivision 2 a of this subsection.

3. The franchisor's agreement to a surety bond and its conditions shall be disclosed in Item 5 of the Franchise Disclosure Document or in a Virginia Addendum to the Franchise Disclosure Document.

4. A copy of the effective surety bond shall be submitted to the commission.

21VAC5-110-75. Exemptions.

Any offer or sale of a franchise in a transaction that meets the requirements of this section is exempt from the registration requirement of § 13.1-560 of the Virginia Retail Franchising Act.

1. Sale or transfer by existing franchisee. The sale or transfer of a franchise located in the Commonwealth of Virginia by a franchisee who is not an affiliate of the franchisor for the franchisee's own account is exempt if:

- a. The franchisee's entire franchise is sold or transferred, and the sale or transfer is not effected by or through the franchisor.
- b. The sale or transfer is not effected by or through a franchisor merely because a franchisor has a right to approve or disapprove the sale or transfer or requires payment of a reasonable transfer fee.

2. Renewal or extension of existing franchise. The offer or sale of a franchise involving a renewal or extension of an existing franchise where there is no interruption in the operation of the franchised business, and there is no material change in the franchise relationship, is exempt. For purposes of this subdivision, an interruption in the franchised business solely for the purpose of renovating or relocating that business is not a material change in the franchise relationship or an interruption in the operation of the franchised business.

3. Offers and sales to existing franchisees. The offer or sale of an additional franchise to an existing franchisee of the franchisor for the franchisee's own account is exempt if the franchise being sold is substantially the same as the franchise that the franchisee has operated for at least two years at the time of the offer or sale of the franchise, provided the prior sale to the franchisee was pursuant to a franchise offering that was registered or exempt pursuant to the requirements of the Virginia Retail Franchising Act and is located in the Commonwealth of Virginia.

4. Seasoned franchisor.

- a. The offer or sale of a franchise by a franchisor is exempt if:
 - (1) The franchisor has a net equity, according to its most recently audited financial statements, of not less than \$15 million on a consolidated basis, or \$1 million on an unaudited basis and is at least 80% owned by a corporation or entity that has a net equity, on a consolidated basis, according to its most recently audited financial statements,

of not less than \$15 million, and the 80% owner guarantees the performance of the franchisor's obligations;

(2) The auditor's report accompanying the audited financial statements described in subdivision 4 a (1) of this section does not contain an explanatory paragraph expressing doubt as to the entity's ability to continue as a going concern; and

(3) The franchisor or any 80% owner of the franchisor or the franchisor's predecessor, or any combination thereof, has had at least 25 franchisees conducting substantially the same franchise business to be offered or sold for the entire five-year period immediately preceding the offer or sale.

b. The exemption set forth in this subdivision 4 may be claimed only if the franchisor:

(1) Files a Form H Notice of Claim of Exemption and other material as set forth in subdivision 8 of this section no later than 10 business days before the offer or sale of any franchise; and

(2) Submits financial statements demonstrating compliance with the conditions set forth in subdivision 4 a (1) of this section.

c. An initial exemption filing and any renewal filing shall expire after a period of one year. The franchisor shall file for a renewal by making an exemption filing if it intends to offer or sell franchises for any additional period annually, at least 10 business days before the expiration of the previously filed Notice of Claim of Exemption.

5. Institutional franchisee.

a. The offer or sale of a franchise to a bank, savings bank, savings and loan association, trust company, insurance company, investment company, or other financial institution, or to a broker-dealer is exempt when ~~the~~:

(1) ~~Purchaser~~ The purchaser is acting for itself or in a fiduciary capacity; and

(2) ~~Franchise~~ The franchise is not being purchased for the purpose of resale to an individual not exempt under this regulation.

b. The exemption set forth in subdivision 5 a of this section may be claimed only if the franchisor files an initial filing Form H, Notice of Claim of Exemption, and other material as set forth in subdivision 8 a of this section, at least 10 business days before each offer or sale of each franchise.

6. Substantial investment.

a. The offer or sale of a franchise by a franchisor is exempt if:

(1) The offer or sale is of a single unit franchise in which the actual minimum initial investment is in excess of \$3 million. This amount will be based on the Item 7 requirements of the Franchise Disclosure Document;

(2) The prospective franchisee is represented by legal counsel in the transaction; and

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(3) The franchisor reasonably believes immediately before making the offer or sale that the prospective franchisee, either alone or with the prospective franchisee's representative or affiliates, has sufficient knowledge and experience such that the prospective franchisee is capable of evaluating the merits and risks of the prospective franchise investment.

b. The exemption set forth in subdivision 6 a of this section may be claimed only if the franchisor:

(1) Files a Form H, Notice of Claim of Exemption, and other materials as set forth in subdivision 8 of this section no later than 10 business days before the offer or sale of any franchise; and

(2) Obtains from the prospective franchisee a signed certification verifying the grounds for the exemption.

c. The exemption set forth in subdivision 6 a of this section applies only to the registration provisions, and not the disclosure provisions, of the Virginia Retail Franchising Act.

d. An initial exemption filing and any renewal filing shall expire after a period of one year. The franchisor shall file for a renewal by making an exemption filing if it intends to offer or sell franchises for any additional period annually at least 10 business days before the expiration of the previously filed Form H, Notice of Claim of Exemption.

7. Disclosure requirements. If a franchisor relies upon any of the exemptions set forth in subdivision 3, 4, 5, or 6 of this section, the franchisor shall provide a disclosure document complying with 21VAC5-110-55 and 21VAC5-110-95 together with all proposed agreements relating to the sale of the franchise to a prospective franchisee 14 calendar days before the signing of the agreement or the payment of any consideration.

8. Filing requirements for exemptions set forth in subdivisions 4, 5, and 6 of this section.

a. Initial exemption filing.

(1) The initial exemption period shall expire after a period of one year.

(2) The franchisor ~~files~~ shall file an application for exemption of a franchise by filing with the commission no later than 10 business days before the offer or sale of any franchise; the following completed forms and other material:

(a) Notice of Claim of Exemption, Form H;

(b) Uniform Consent to Service of Process, Form C;

(c) If the applicant is a corporation or partnership, an authorizing resolution is required if the application is verified by a person other than applicant's officer or general partner;

(d) Franchise Disclosure Document on a CD-ROM in PDF format or on other electronic media approved by the Division of Securities and Retail Franchising;

(e) An undertaking by which ~~the franchisor~~ agrees to supply any additional information the commission may reasonably request; and

(f) Application fee of \$500 (payable to the Treasurer of Virginia).

b. Amendment to exemption filing.

(1) Upon the occurrence of a material change, the franchisor shall amend the effective exemption filed at the commission.

(2) An application to amend a franchise exemption is made by submitting the following completed forms and other material:

(a) Notice of Claim of Exemption, Form H;

(b) One clean copy of the amended Franchise Disclosure Document on a CD-ROM in PDF format or on other electronic media approved by the Division of Securities and Retail Franchising; and

(c) Application fee of \$100 (payable to the Treasurer of Virginia).

c. Renewal exemption filing.

(1) A franchise exemption expires at midnight on the annual exemption effective date. An application to renew the franchise exemption shall be filed 10 days prior to the expiration date in order to prevent a lapse of exemption under the Virginia Retail Franchising Act.

(2) An application for renewal of a franchise exemption is made by submitting the following completed forms and other material:

(a) Notice of Claim of Exemption, Form H;

(b) One clean copy of the Franchise Disclosure Document on a CD-ROM in PDF format or on other electronic media approved by the Division of Securities and Retail Franchising; and

(c) Application fee of \$250 (payable to the Treasurer of Virginia).

NOTICE: The following forms used in administering the regulation have been filed by the agency. Amended or added forms are reflected in the listing and are published following the listing. Online users of this issue of the Virginia Register of Regulations may also click on the name to access a form. The forms are also available from the agency contact or may be viewed at the Office of Registrar of Regulations, General Assembly Building, 201 North Ninth Street, Fourth Floor, Richmond, Virginia 23219.

FORMS (21VAC5-110)

[FORM A, Uniform Franchise Registration Application \(rev. 7/2008\)](#)

[FORM B, Franchisor's Costs and Sources of Funds \(rev. 7/2008\)](#)

[FORM C, Uniform Consent to Service of Process \(rev. 7/2008\)](#)

[FORM E, Affidavit of Compliance -- Franchise Amendment/Renewal Amendment or Renewal \(rev. 7/2008\)](#)

[FORM F, Guarantee of Performance \(rev. 3/2013\)](#)

[FORM G, Franchisor's Surety Bond \(rev. 7/1999\)](#)

[FORM H, Notice of Claim of Exemption \(rev. 3/2018\)](#)

[FORM K, Escrow Agreement \(eff. 7/2007\)](#)

[FORM L, Certification of Deferred Franchise Fee \(eff. 1/2025\)](#)

VA.R. Doc. No. R25-7836; Filed September 3, 2024, 4:30 p.m.



TITLE 22. SOCIAL SERVICES

DEPARTMENT FOR AGING AND REHABILITATIVE SERVICES

Forms

REGISTRAR'S NOTICE: Forms used in administering the regulation have been 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, 201 North Ninth Street, Fourth Floor, Richmond, Virginia 23219.

Title of Regulation: **22VAC30-80. Auxiliary Grants Program.**

Agency Contact: Charlotte Arbogast, Regulatory Coordinator, Department for Aging and Rehabilitative Services, 8004 Franklin Farms Drive, Henrico, VA 23229, telephone (804) 662-7093, FAX (804) 662-7663, or email charlotte.arbogast@dars.virginia.gov.

FORMS (22VAC30-80)

~~[Auxiliary Grant Provider Agreement, 032-02-0747-08 \(rev. 8/2019\)](#)~~

[Auxiliary Grant Provider Agreement, 032-02-747-09 \(rev. 8/2024\)](#)

[Auxiliary Grant Certification, 032-02-0745-14-eng \(rev. 6/2021\)](#)

[Auxiliary Grant Program Statement of Virginia Residency and Intent to Remain in Virginia, 032-02-0749-01-eng \(rev. 5/2018\)](#)

[Auxiliary Grant Certification - Supportive Housing, 032-15-0012-04-eng \(rev. 8/2021\)](#)

VA.R. Doc. No. R25-8061; Filed September 3, 2024, 2:33 p.m.

GUIDANCE DOCUMENTS

PUBLIC COMMENT OPPORTUNITY

Pursuant to § 2.2-4002.1 of the Code of Virginia, a certified guidance document is subject to a 30-day public comment period after publication in the Virginia Register of Regulations and prior to the guidance document's effective date. During the public comment period, comments may be made through the Virginia Regulatory Town Hall website (<http://www.townhall.virginia.gov>) or sent to the agency contact. Under subsection C of § 2.2-4002.1, the effective date of the guidance document may be delayed for an additional period. The guidance document may also be withdrawn.

The following guidance documents have been submitted for publication by the listed agencies for a public comment period. Online users of this issue of the Virginia Register of Regulations may click on the name of a guidance document to access it. Guidance documents are also available on the Virginia Regulatory Town Hall (<http://www.townhall.virginia.gov>) or from the agency contact or may be viewed at the Office of the Registrar of Regulations, General Assembly Building, 201 North Ninth Street, Fourth Floor, Richmond, Virginia 23219.

DEPARTMENT FOR AGING AND REHABILITATIVE SERVICES

Title of Document: [Guidance for the Provision of Community Support Services.](#)

Public Comment Deadline: October 23, 2024.

Effective Date: October 24, 2024.

Agency Contact: Charlotte Arbogast, Senior Policy Analyst and Regulatory Coordinator, Department for Aging and Rehabilitative Services, 8004 Franklin Farms Drive, Richmond, VA 23229, telephone (804) 662-7093, or email charlotte.arbogast@dars.virginia.gov.

Public Comment Deadline: October 23, 2024.

Effective Date: October 24, 2024.

Agency Contact: Jim Chapman, Director of Board Relations, Department of Education, 101 North 14th Street, 25th Floor, Richmond, VA 23219, telephone (804) 750-8750, or email jim.chapman@doe.virginia.gov.

DEPARTMENT OF MEDICAL ASSISTANCE SERVICES

Titles of Documents: [Chapter Four of the Durable Medical Equipment Manual.](#)

[Chapter Six of the Durable Medical Equipment Manual.](#)

Public Comment Deadline: October 23, 2024.

Effective Date: October 24, 2024.

Agency Contact: Emily McClellan, Policy Division Director, Department of Medical Assistance Services, 600 East Broad Street, Richmond, VA 23219, telephone (804) 371-4300, or email emily.mcclellan@dmas.virginia.gov.

STATE AIR POLLUTION CONTROL BOARD

DEPARTMENT OF ENVIRONMENTAL QUALITY

VIRGINIA WASTE MANAGEMENT BOARD

STATE WATER CONTROL BOARD

Title of Document: [Manual for Processing Requests Pursuant to the Virginia Freedom of Information Act.](#)

Public Comment Deadline: October 23, 2024.

Effective Date: October 24, 2024.

Agency Contact: Natalie Driver Womack, Freedom of Information Officer, Department of Environmental Quality, P.O. Box 1105, Richmond, VA 23218, telephone (804) 774-1224, or email natalie.womack@deq.virginia.gov.

STATE WATER CONTROL BOARD

Title of Document: [Application of the Erosion and Sediment Control Law for Localities Not Administering a Virginia Erosion and Stormwater Management Program and Virginia Erosion and Stormwater Management Act to Agricultural Activities in Virginia.](#)

Public Comment Deadline: October 23, 2024.

Effective Date: October 24, 2024.

Agency Contact: Rebecca Rochet, Deputy Director, Water Permitting Division, Department of Environmental Quality, 1111 East Main Street, Suite 1400, P.O. Box 1105, Richmond, VA 23219, telephone (804) 801-2950, or email swmguidance@deq.virginia.gov.

STATE BOARD OF EDUCATION

Titles of Documents: [Board of Education Approved Courses to Satisfy Graduation Requirements for the Standard, Advanced Studies, and Modified Standard Diplomas in Virginia Public Schools.](#)

[2024-2025 Unified Virginia Quality Birth to Five System Guidelines.](#)

**DEPARTMENT OF AGRICULTURE AND
CONSUMER SERVICES**

**2024 Annual Report on the Agricultural
Stewardship Act**

The Commissioner of Agriculture and Consumer Services announces the availability of the annual report on the Agricultural Stewardship Act for the program year April 1, 2023, through March 31, 2024. Copies of the report are available without charge. Email or send a written request to the email or physical address listed in this notice or request via telephone using the number provided.

Contact Information: Nicolas Robichaud, Policy Assistant, Department of Agriculture and Consumer Services, P.O. Box 1163, Richmond, VA 23218, telephone (804) 786-3538, or email nicolas.robichaud@vdacs.virginia.gov.

DEPARTMENT OF ENERGY

**Opportunity for Public Comment on Incentives for
Shared Solar Projects**

Pursuant to Chapters 715, 716, 763, and 765 of the 2024 General Assembly session, the Department of Energy is preparing a report on potential incentives for shared solar projects that make use of rooftops, brownfields, landfills, or dual-use agriculture or that meet the definition of another category established by the department.

The department will be taking public comments on the subject of shared solar incentives through September 27, 2024. Commenters may submit comments on the Virginia Regulatory Town Hall at <https://townhall.virginia.gov/comments.cfm?GeneralNoticeid=2927>.

Contact Information: Aaron Berryhill, Solar Program Manager, Department of Energy, 1100 Bank Street, Eighth Floor, Richmond, VA 23219-3402, telephone (804) 486-2754, FAX (804) 692-3237, or email aaron.berryhill@energy.virginia.gov.

DEPARTMENT OF ENVIRONMENTAL QUALITY

**Proposed Enforcement Action for Bell Terrace
Developers LLC**

The Virginia Department of Environmental Quality (DEQ) is proposing an enforcement action for Bell Terrace Developers LLC for violations of the Virginia Pollutant Discharge Elimination System (VPDES) Permit Regulations at the Wood Road Subdivision, Lynchburg, Virginia. The proposed order is available at the DEQ office listed or online at www.deq.virginia.gov/permits/public-notices/enforcement-orders. The DEQ contact will accept comments by email or

postal mail from September 23, 2024, through October 23, 2024.

Contact Information: Michael Puckett, Enforcement Specialist, Department of Environmental Quality, Blue Ridge Regional Office, 901 Russell Drive, Salem, VA 24153, telephone (540) 577-6719, or email michael.puckett@deq.virginia.gov.

**Proposed Enforcement Action for Constructure
Trison JV LLC**

The Virginia Department of Environmental Quality (DEQ) is proposing an enforcement action for Constructure Trison JV LLC for violations of State Water Control Law and regulations and applicable permit at the U.S. Fish and Wildlife Service Multipurpose Building, Woodbridge, Virginia. The proposed order is available from the DEQ contact listed or at <https://www.deq.virginia.gov/permits/public-notices/enforcement-orders>. The DEQ contact will accept written comments from September 23, 2024, to October 23, 2024.

Contact Information: Holly Shupe, Enforcement Specialist, Department of Environmental Quality, Northern Regional Office, 13901 Crown Court, Woodbridge, VA 22193, telephone (571) 866-6923, or email holly.shupe@deq.virginia.gov.

**Proposed Enforcement Action for Eagle Sky
Industrial Park LLC**

The Virginia Department of Environmental Quality (DEQ) is proposing an enforcement action for Eagle Sky Industrial Park LLC for violations of State Water Control Law and regulations in Front Royal, Virginia. The proposed order is available from the DEQ contact or at <https://www.deq.virginia.gov/permits/public-notices/enforcement-orders>. The DEQ contact will accept written comments from September 23, 2024, to October 22, 2024.

Contact Information: Francesca Wright, Senior Enforcement Specialist, Department of Environmental Quality, P.O. Box 3000, Harrisonburg, VA 22801, or email francesca.wright@deq.virginia.gov.

**Proposed Enforcement Action for Erwin
Construction Inc.**

The Virginia Department of Environmental Quality (DEQ) is proposing an enforcement action for Erwin Construction Inc. for violations of State Water Control Law and regulations in Harrisonburg, Virginia. The proposed order is available from the DEQ contact or at <https://www.deq.virginia.gov/permits/public-notices/enforcement-orders>. The DEQ contact will accept written comments from September 23, 2024, to October 22, 2024.

Contact Information: Francesca Wright, Senior Enforcement Specialist, Department of Environmental Quality, P.O. Box

3000, Harrisonburg, VA 22801, or email francesca.wright@deq.virginia.gov.

Proposed Enforcement Action for TC Development LLC

Proposed Enforcement Action for Moore Excavation

The Virginia Department of Environmental Quality (DEQ) is proposing an enforcement action for Moore Excavation for violations of the Virginia Pollutant Discharge Elimination System (VPDES) Permit Regulations at Stonegate Subdivision Section 3, Fincastle, Virginia. The proposed order is available at the DEQ office listed or online at <https://www.deq.virginia.gov/permits/public-notices/enforcement-orders>. The DEQ contact will accept comments by email or postal mail from September 23, 2024, through October 23, 2024.

Contact Information: Michael Puckett, Enforcement Specialist, Department of Environmental Quality, Blue Ridge Regional Office, 901 Russell Drive, Salem, VA 24153, telephone (540) 577-6719, or email michael.puckett@deq.virginia.gov.

Proposed Enforcement Action for R and R Enterprises LLC

The Virginia Department of Environmental Quality (DEQ) is proposing an enforcement action for R and R Enterprises LLC for violations of the State Water Control Law and regulations in Carroll County, Virginia. The proposed order is available from the DEQ contact listed or at <https://www.deq.virginia.gov/permits/public-notices/enforcement-orders>. The DEQ contact will accept comments by email or postal mail from September 23, 2024, through October 23, 2024.

Contact Information: Jonathan Chapman, Enforcement Specialist, Department of Environmental Quality, Southwest Regional Office, 355-A Deadmore Street, Abingdon, VA 24210, or email jonathan.chapman@deq.virginia.gov.

Proposed Enforcement Action for Sunshine Holdings LLC

The Virginia Department of Environmental Quality (DEQ) is proposing an enforcement action for Sunshine Holdings LLC for violations of State Water Control Law and regulations in Rockingham County, Virginia. The proposed order is available from the DEQ contact or at <https://www.deq.virginia.gov/permits/public-notices/enforcement-orders>. The DEQ contact will accept written comments from September 23, 2024, to October 22, 2024.

Contact Information: Francesca Wright, Senior Enforcement Specialist, Department of Environmental Quality, P.O. Box 3000, Harrisonburg, VA 22801, or email francesca.wright@deq.virginia.gov.

The Virginia Department of Environmental Quality (DEQ) is proposing an enforcement action for TC Development LLC for violations of the State Water Control Law and regulations in Powhatan County, Virginia. The proposed order is available from the DEQ contact listed or at <https://www.deq.virginia.gov/permits/public-notices/enforcement-orders>. The DEQ contact will accept comments by email or postal mail from September 23, 2024, through October 23, 2024.

Contact Information: Matt Richardson, Enforcement Specialist, Department of Environmental Quality, Piedmont Regional Office, 4949A Cox Road, Glen Allen, VA 23060, telephone (804) 659-2696, or email matt.richardson@deq.virginia.gov.

Proposed Enforcement Action for Tricord Incorporated

The Virginia Department of Environmental Quality (DEQ) is proposing an enforcement action for Tricord Incorporated for violations of the State Water Control Law and regulations in Locust Grove, Virginia. The proposed order is available from the DEQ contact listed or at <https://www.deq.virginia.gov/permits/public-notices>. The DEQ contact will accept comments by email or postal mail from September 24, 2024, through October 24, 2024.

Contact Information: Katherine Mann, Enforcement Specialist, Department of Environmental Quality, Northern Regional Office, 13901 Crown Court, Woodbridge, VA 22193, telephone (571) 866-6095, or email katherine.mann@deq.virginia.gov.

Public Meeting and Opportunity for Public Comment for a Cleanup Plan for the Pigg River, Beaverdam Creek, Fryingpan Creek, and Poplar Branch in Franklin, Pittsylvania, and Bedford Counties

Purpose of Notice: The Department of Environmental Quality (DEQ) seeks public comment on the development of a cleanup plan for impaired waters, also known as an implementation plan (IP), for the Pigg River, Beaverdam Creek, Fryingpan Creek, and Poplar Branch in Franklin, Pittsylvania, and Bedford Counties, Virginia. These streams are listed as impaired since monitoring data indicates that the waters do not meet Virginia's water quality standards for bacteria and aquatic life (benthic). Section 303(d) of the Clean Water Act and § 62.1-44.19:7 C of the Code of Virginia require DEQ to develop cleanup studies to address pollutants responsible for causing waters to be on Virginia's § 303(d) list of impaired waters. Once a cleanup study is developed, § 62.1-44.19:7 of the Code of Virginia outlines the requirements needed in a cleanup plan to address the pollutants contained in the study.

DEQ has developed a cleanup plan that identifies corrective actions needed to improve water quality and discusses the associated costs and environmental benefits of the actions in the Pigg River, Beaverdam Creek, Fryingpan Creek, and Poplar Branch watershed. A summary of the plan will be presented at the final public meeting. Citizens are invited to provide comment on the plan and will learn how they can be part of implementing the plan to improve water quality in the watershed. Community engagement meetings to assist in development of this cleanup plan were convened on April 18, 2024, and June 25, 2024.

Cleanup Plan Location: The cleanup plan addresses the following impaired stream segments: Pigg River, Beaverdam Creek, Fryingpan Creek, and Poplar Branch. The impaired section of the Pigg River is listed for a recreational use impairment (E. coli) in three different segments (1.48 mi, 1.01 mi, and 1.94 mi). The impairment for Beaverdam Creek has two segments of recreational use impairments (4.98 mi and 5.35 mi). Fryingpan Creek is impaired from its headwaters downstream to about 0.85 miles downstream of the Route 40 crossing. Approximately 2.56 miles on Fryingpan Creek are impaired for aquatic life use, and a downstream portion is also impaired for E. coli. Poplar Branch is also impaired for the recreational use standard (E. coli) from its headwaters downstream to about 2.56 miles.

Public Meeting: Franklin County Public Library, 355 Franklin Street, Rocky Mount, VA 24151 on September 26, 2024, at 4:30 p.m. In the event of inclement weather, the meeting will be held on October 3, 2024, at the same time and location.

Public Comment Period: September 26, 2024, to October 28, 2024.

How to Comment: DEQ accepts written comments by email or postal mail. All comments must be received by DEQ during the comment period. Submittals must include the name, organization represented (if any), mailing addresses, and telephone numbers of the commenter or requester.

Information about this plan will be posted throughout the development process at <https://www.deq.virginia.gov/our-programs/water/water-quality/implementation/implementation-plans-under-development>.

Contact Information: Kimberly Romero, Nonpoint Source Coordinator, Department of Environmental Quality, Blue Ridge Regional Office, 901 Russell Drive, Salem, VA 24153, telephone (540) 759-9075, or email kimberly.romero@deq.virginia.gov.

Public Meeting and Opportunity for Public Comment for a Cleanup Plan for Cedar Run, Mine Run, Mountain Run, and the Lower Rapidan River Basin in Orange, Culpeper, and Spotsylvania Counties

Purpose of Notice: The Department of Environmental Quality (DEQ) seeks public comment on the development of a cleanup

plan for impaired waters, also known as an implementation plan (IP), for Cedar Run, Mine Run, Mountain Run, and the Lower Rapidan River Basin in Orange, Culpeper, and Spotsylvania Counties, Virginia. These streams are listed as impaired since monitoring data indicates that the waters do not meet Virginia's water quality standards due to an exceedance in E. coli. Section 303(d) of the Clean Water Act and § 62.1-44.19:7 C of the Code of Virginia require DEQ to develop cleanup studies to address pollutants responsible for causing waters to be on Virginia's § 303(d) list of impaired waters. Once a cleanup study is developed, § 62.1-44.19:7 of the Code of Virginia outlines the requirements needed in a cleanup plan to address the pollutants contained in the study.

A cleanup plan has been completed for Cedar Run, Mine Run, Mountain Run, and the Lower Rapidan River Basin that identifies corrective actions needed to improve water quality and discusses the associated costs and environmental benefits of the actions. A summary of the plan will be presented at the meeting. Citizens are invited to provide comment on the plan and will learn how to be part of implementing the plan to improve water quality in the watershed. Community engagement meetings to assist in development of this cleanup plan were convened on April 12, 2024, and June 27, 2024.

Cleanup Plan Location: The cleanup plan addresses the following impaired stream segments for bacteria impairments:

Black Walnut Run, which begins at the Route 621 crossing and continues downstream until the confluence with Mine Run (6.48 mi.);

Brook Run, which begins at the confluence with an unnamed tributary to Brook Run at Route 647 and continues downstream until the confluence with the Rapidan River (2.51 mi.);

Cabin Branch, which begins at the perennial headwaters of Cabin Branch and continues downstream to the confluence with Cedar Run (3.19 mi.);

Cedar Run, which begins at the confluence with Buck Run and continues downstream until the confluence with Cabin Branch (3.54 mi.);

Cedar Run, which begins at the confluence with Cabin Branch and continues downstream until the confluence with the Rapidan River (2.26 mi.);

Mine Run, which begins at the confluence with Cormack Run, approximately 0.6 rivermiles upstream of Route 20, and continues downstream until the confluence with the Rapidan River (10.50 mi.);

Mountain Run, which begins at the headwaters of Mountain Run and continues downstream until the confluence with Mill Run (7.46 mi.);

Mountain Run, which begins at the confluence with Mill Run, approximately 0.25 rivermiles downstream of Route 617, and

continues downstream until the confluence with Mine Run (10.11 mi.);

Potato Run, which begins at the headwaters of Potato Run and continues downstream until the confluence with the Rapidan River (6.84 mi.);

Rapidan River, which begins at the confluence with the Robinson River and continues downstream until the confluence with an unnamed tributary to the Rapidan River at rivermile 36.6 (3.40 mi.);

Rapidan River, which begins at the confluence with an unnamed tributary to the Rapidan River at rivermile 34.5, approximately 0.6 rivermiles downstream from Route 689, and continues downstream until the confluence with Cedar Run (4.66 mi.);

Rapidan River, which begins at the boundary of the public water supply area, approximately 1.17 rivermiles upstream from the Route 3 crossing, and continues downstream to the confluence with Lick Branch (3.41 mi.);

Sumerduck Run, which begins at the confluence with Dry Run and continues downstream until the confluence with the Rapidan River (6.21 mi.); and

Wilderness Run, which begins at the confluence of North Wilderness Run and South Wilderness Run and continues downstream until the confluence with the Rapidan River (5.56 mi.).

Public Meeting: George Washington Carver Agricultural Research Center, 9432 North James Madison Highway, Rapidan, VA 22733 on October 3, 2024, at 6:00 p.m. In the event of inclement weather, the meeting will be held on October 8, 2024, at the same time and location.

Public Comment Period: October 3, 2024, to November 4, 2024.

How to Comment: DEQ accepts written comments by email or postal mail. All comments must be received by DEQ during the comment period. Submittals must include the name, organization represented (if any), mailing addresses, and telephone numbers of the commenter or requester.

Information about this plan will be posted throughout the development process at <https://www.deq.virginia.gov/our-programs/water/water-quality/implementation/implementation-plans-under-development>.

Contact Information: Kaitlin King, Nonpoint Source Coordinator, Department of Environmental Quality, Central Office, 1111 East Main Street, Suite 1400, Richmond, VA 23219, telephone (804) 338-2430, or email kaitlin.king@deq.virginia.gov.

Opportunity for Public Comment on Proposed State Implementation Air Quality Plan Revision

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). The Commonwealth intends to submit the regulation amendments to EPA as a revision to the plan in accordance with the requirements of § 110(a) of the federal Clean Air Act.

Provisions affected: The regulation of the board affected by this action is 9VAC5-40 (Existing Stationary Sources), Regulation Revision B23.

Purpose of notice: DEQ is seeking comment on the issue of whether the regulation amendments should be submitted as a revision to the plan.

Public comment period: September 23, 2024, to October 23, 2024.

Public hearing: A public hearing may be conducted if a request is made in writing to the contact listed. 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: The regulation included in this plan has been adopted by the State Air Pollution Control Board in accordance with the Code of Virginia. DEQ is accepting comment only on the issue cited under "purpose of notice" and not on the content of the regulation amendments.

Description of proposal: Virginia state agencies are required to review regulations periodically in order to determine whether they are still needed. A public review of 9VAC5-40 (Existing Stationary Sources), including a review of the department's Comprehensive Environmental Data System database showed that there are no longer any facilities within the state subject to Article 11 (9VAC5-40-1340 et seq.), Emission Standards for Petroleum Refinery Operations or Article 26 (9VAC5-40-3560 et seq.), Emission Standards for Large Appliance Coating Application Systems.

Article 11 was promulgated in 1972 in order to control emissions of criteria pollutants particulate matter, sulfur dioxide, and volatile organic compounds (VOCs) as well as hydrogen sulfide. Article 26 was also promulgated in 1972 in order to control emissions of VOCs. These articles were adopted by EPA as revisions to the Virginia SIP in Subpart VV of 40 CFR Part 52, and are thus federally enforceable.

While many of the legacy 9VAC5-40 chapters still apply to affected facilities and continue to be an important underpinning to the SIP, there are no longer any petroleum refineries or large appliance coating application systems located within the state, so Articles 11 and 26 no longer serve

any purpose. Even if there were still affected sources in the state, EPA's regulations have become much more protective of public health and welfare since the state articles were originally promulgated in 1972. For example, Article 11 limits sulfur dioxide (SO₂) emissions to a concentration of 2,000 parts per million by volume (ppmv). The currently effective federal standard limits SO₂ emissions to 50 ppmv (seven-day rolling average) and 25 ppmv (365-day rolling average). Any new petroleum refining or large appliance coating facilities locating in Virginia will now be subject to federal New Source Performance Standards, National Emission Standards for Hazardous Air Pollutants for Source Categories, and a suite of other permitting requirements implemented since 1972.

A number of general provisions and state-specific requirements are cross-referenced in each rule, but these were intended for the convenience of the affected facilities, and not individual state requirements. DEQ also verified that there are no cross-references to these rules or internal sections elsewhere in the regulations of the board, and therefore there is no need to amend any other sections of the regulation.

The articles were repealed by the State Air Pollution Control Board on September 13, 2023, under the authority of § 10.1-1308 of the Code of Virginia. Because the articles have been repealed, they may be removed from Subpart VV.

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.

How to comment: DEQ accepts written comments by email 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 documents: The proposal and any supporting documents are available on the DEQ Air Public Notices website at <https://www.deq.virginia.gov/permits-regulations/public-notices/air>. The documents may also be obtained by contacting the DEQ contact listed. The public may schedule an appointment to review the documents between 8:30 am and 4:30 pm of each business day until the close of the public comment period at the following DEQ locations:

1. Main Street Office, 22nd Floor, 1111 East Main Street, Richmond, VA, telephone (804) 698-4000;
2. Southwest Regional Office, 355-A Deadmore Street, Abingdon, VA, telephone (540) 676-4800;
3. Blue Ridge Regional Office, 3901 Russell Drive, Salem, VA, telephone (540) 562-6700;
4. Valley Regional Office, 4411 Early Road, Harrisonburg, VA, telephone (540) 574-7800;

5. Piedmont Regional Office, 4949-A Cox Road, Glen Allen, VA, telephone (804) 527-5020;

6. Northern Regional Office, 13901 Crown Court, Woodbridge, VA, telephone (703) 583-3800; and

7. Tidewater Regional Office, 5636 Southern Boulevard, Virginia Beach, VA, telephone (757) 518-2000.

Contact Information: Karen G. Sabasteanski, Policy Analyst, Department of Environmental Quality, P.O. Box 1105, Richmond, VA 23218, telephone (804) 659-1973, or email karen.sabasteanski@deq.virginia.gov.

DEPARTMENT OF MEDICAL ASSISTANCE SERVICES

Public Comment Opportunity on Public Notice of Intent to Amend State Plan - Supplemental Payments to Private Hospitals for Physician Services

The Virginia Department of Medical Assistance Services (DMAS) hereby affords the public notice of its intention to amend the Virginia State Plan for Medical Assistance to provide for changes to the Methods and Standards for Establishing Payment Rates - Other Types of Care (12VAC30-80).

This notice is intended to satisfy the requirements of 42 CFR § 447.205 and § 1902(a)(13) of the Social Security Act (42 USC § 1396a(a)(13)). A copy of this notice is available for public review from the DMAS contact listed.

DMAS is specifically soliciting input from stakeholders, providers, and beneficiaries on the potential impact of the proposed changes discussed in this notice. Comments or inquiries may be submitted in writing by September 27, 2024, and such comments are available for review at <https://townhall.virginia.gov/L/generalnotice.cfm>.

In accordance with the Item 288 OO 9 a through c of the 2024 Appropriations Act, DMAS will make the following changes:

Methods and Standards for Establishing Payment Rates - Other Types of Care (12VAC 30-80)

DMAS is revising the state plan to make supplemental payments to private hospitals and related health systems that intend to execute affiliation agreements with public entities that are capable of transferring funds to the department for purposes of covering the nonfederal share of the authorized payments. Virginia community colleges, Virginia public institutions of higher education, local governments, and instrumentalities of local government are public entities that are authorized to transfer funds to the department for purposes of covering the nonfederal share of the authorized payments. Such public entities would enter into an interagency agreement with the department for this purpose.

The department has the authority to make the supplemental payments to private hospitals for physician services as of July 1, 2024. No payment shall be made without approval from Centers for Medicare and Medicaid Services (CMS) and an interagency agreement with a public entity capable of transferring the nonfederal share of authorized payments to the department. The funds to be transferred must comply with 42 CFR §§ 433.51 and 433.54. Such funds may not be paid from any private agreements with public entities that are in excess of fair market value or that alleviate preexisting financial burdens of such public entities. Public entities are authorized to use general fund dollars to accomplish this transfer. As part of the interagency agreements, the department shall require the public entities to attest to compliance with applicable CMS criteria.

Contact Information: Meredith Lee, Policy, Regulations, and Manuals Supervisor, Division of Policy and Research, Department of Medical Assistance Services, 600 East Broad Street, Suite 1300, Richmond, VA 23219, telephone (804) 371-0552, FAX (804) 786-1680, or email meredith.lee@dmas.virginia.gov.

The department shall also require any private hospital and related health systems receiving payments under this section to attest to compliance with applicable CMS criteria. Upon notification by the department of any deferral or disallowance issued by CMS regarding the supplemental or managed care directed payment arrangement, the hospital provider will return the entire balance of the payment to the department within 30 days of notification. If the hospital does not return the entire balance of the payment to the department within the specified timeframe, a judgment rate of interest set forth in § 6.2-302 of the Code of Virginia will be applied to the entire balance, regardless of whatever portion has been repaid. In addition, the nonfederal share of the agency's administrative costs directly related to administration of the programs listed, including staff and contractors, shall be funded by participating public entities. These funds shall be deposited into a special fund created by the comptroller and used to support the administrative costs associated with managing this program. Any funds received for this purpose but unexpended at the end of the fiscal year shall remain in the fund for use in accordance with this provision.

The purposes to which the additional payments listed shall be applied include (i) increasing and enhancing access to outpatient care for Medicaid recipients, (ii) stabilizing and supporting critical health care workforce needs, and (iii) advancing the department's health and quality improvement goals. These purposes shall contain specific measurable outcomes that will be approved and monitored by the department quarterly. Payment shall be dependent on progress toward goal attainment on all three purposes. Participating organizations must submit quarterly updates and annual reports on programs to the department no later than October 1.

The expected increase in annual aggregate fee-for-service expenditures is \$2,255,770 in state general funds and \$2,346,903 in federal funds in federal fiscal year 2025. The expected increase in annual aggregate fee-for-service expenditures is \$2,291,211 in state general funds and \$2,311,462 in federal funds in federal fiscal year 2026.