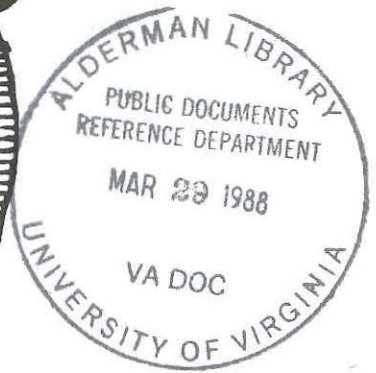
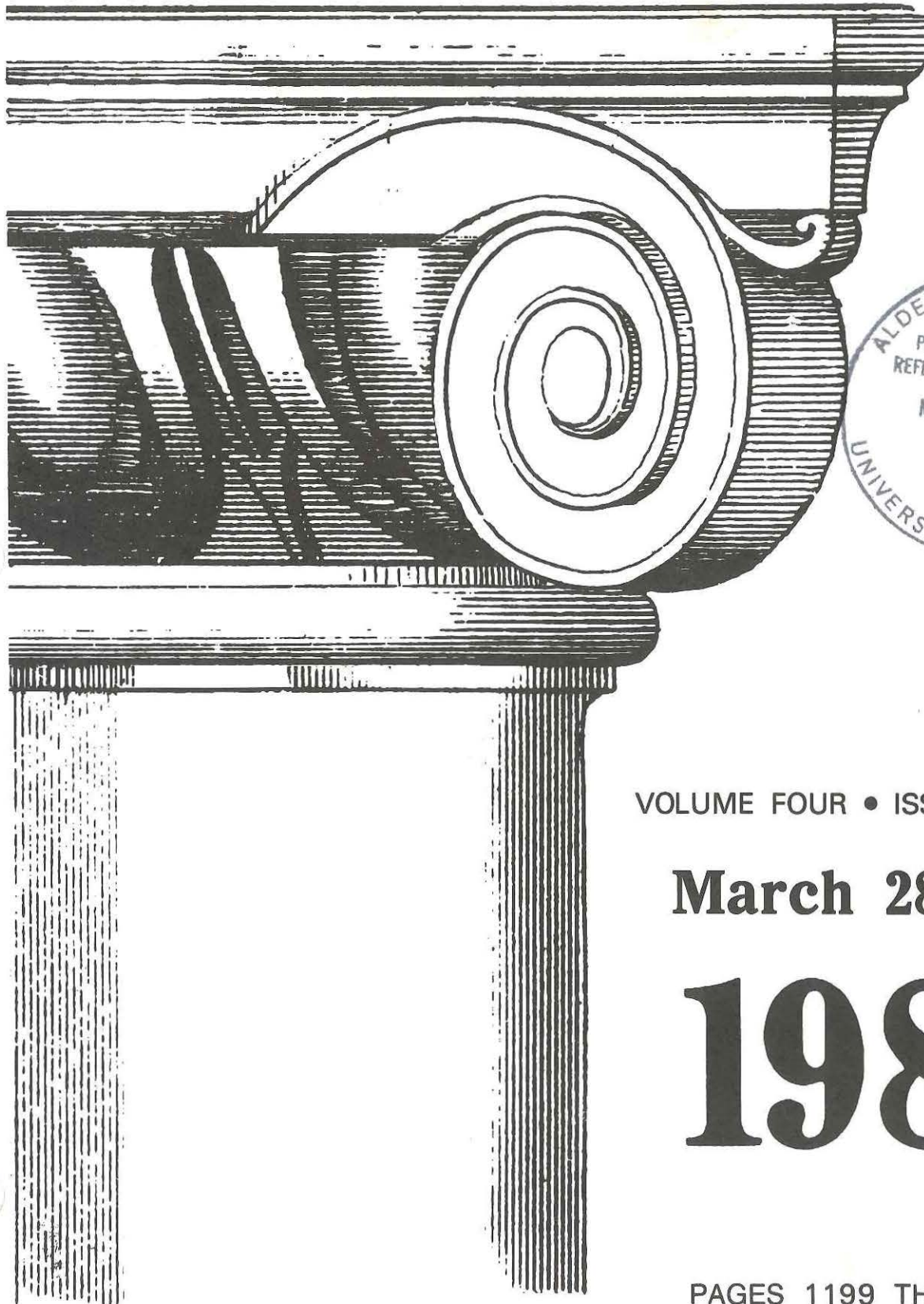


THE VIRGINIA REGISTER

OF REGULATIONS

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INFORMATION ABOUT THE VIRGINIA REGISTER OF REGULATIONS

VIRGINIA REGISTER

The *Virginia Register* is an official state publication issued every other week throughout the year. Indexes are published quarterly, and the last index of the year is cumulative.

The *Virginia Register* has several functions. The full text of all regulations, both as proposed and as finally adopted or changed by amendment are required by law to be published in the *Virginia Register of Regulations*.

In addition, the *Virginia Register* is a source of other information about state government, including all Emergency Regulations issued by the Governor, and Executive Orders, the *Virginia Tax Bulletin* issued monthly by the Department of Taxation, and notices of all public hearings and open meetings of state agencies.

ADOPTION, AMENDMENT, AND REPEAL OF REGULATIONS

An agency wishing to adopt, amend, or repeal regulations must first publish in the *Virginia Register* a notice of proposed action; a basis, purpose, impact and summary statement; a notice giving the public an opportunity to comment on the proposal, and the text of the proposed regulations.

Under the provisions of the Administrative Process Act, the Registrar has the right to publish a summary, rather than the full text, of a regulation which is considered to be too lengthy. In such case, the full text of the regulation will be available for public inspection at the office of the Registrar and at the office of the promulgating agency.

Following publication of the proposal in the *Virginia Register*, sixty days must elapse before the agency may take action on the proposal.

During this time, the Governor and the General Assembly will review the proposed regulations. The Governor will transmit his comments on the regulations to the Registrar and the agency and such comments will be published in the *Virginia Register*.

Upon receipt of the Governor's comment on a proposed regulation, the agency (i) may adopt the proposed regulation, if the Governor has no objection to the regulation; (ii) may modify and adopt the proposed regulation after considering and incorporating the Governor's suggestions, or (iii) may adopt the regulation without changes despite the Governor's recommendations for change.

The appropriate standing committee of each branch of the General Assembly may meet during the promulgation or final adoption process and file an objection with the *Virginia Registrar* and the promulgating agency. The objection will be published in the *Virginia Register*. Within twenty-one days after receipt by the agency of a legislative objection, the agency shall file a response with the Registrar, the objecting legislative Committee, and the Governor.

When final action is taken, the promulgating agency must again publish the text of the regulation, as adopted, highlighting and explaining any substantial changes in the final regulation. A thirty-day final adoption period will commence upon publication in the *Virginia Register*.

The Governor will review the final regulation during this time and if he objects, forward his objection to the Registrar and the agency. His objection will be published in the *Virginia Register*. If the Governor finds that changes made to the proposed regulation are substantial, he may suspend the regulatory process for thirty days and require the agency to solicit additional public comment on the substantial changes.

A regulation becomes effective at the conclusion of this thirty-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 twenty-one day extension period; or (ii) the Governor exercises his authority to suspend the regulatory process for solicitation of additional public comment, in which event the regulation, unless withdrawn, becomes effective on the date specified which date shall be after the expiration of the period for which the Governor has suspended the regulatory process.

Proposed action on regulations may be withdrawn by the promulgating agency at any time before final action is taken.

EMERGENCY REGULATIONS

If an agency determines that an emergency situation exists, it then requests the Governor to issue an emergency regulation. The emergency regulation becomes operative upon its adoption and filing with the Registrar of Regulations, unless a later date is specified. Emergency regulations are limited in time and cannot exceed a twelve-months duration. The emergency regulations will be published as quickly as possible in the *Virginia Register*.

During the time the emergency status is in effect, the agency may proceed with the adoption of permanent regulations through the usual procedures (See "Adoption, Amendment, and Repeal of Regulations," above). If the agency does not choose 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 of Chapter 1.1:1 (§§ 9-6.14:6 through 9-6.14:9) of the Code of Virginia be examined carefully.

CITATION TO THE VIRGINIA REGISTER

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Symbol Key

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

VIRGINIA HOUSING DEVELOPMENT AUTHORITY

NOTICE: The Virginia Housing Development Authority is exempted from the Administrative Process Act (§ 9-6.14:4.1 of the Code of Virginia); however, under the provisions of § 9-6.14:22, it is required to publish all proposed and final regulations.

Title of Regulation: VR 400-02-0001. Procedures, Instructions and Guidelines for Multi-Family Housing Developments.

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

Public Hearing Date: N/A
(See Calendar of Events section for additional information)

Summary:

The proposed amendment to the Procedures, Instructions and Guidelines for Multi-Family Housing Developments will authorize the executive director to require that the owner of a multi-family development on which the regulatory controls are to be modified pursuant to § 14 grant to the authority an option to purchase and right of first refusal which may be exercised upon a prepayment of the authority's mortgage loan or upon sale of the development.

VR 400-02-0001. Procedures, Instructions and Guidelines for Multi-Family Housing Developments.

§ 1. Purpose and applicability.

The following procedures, instructions and guidelines will be applicable to mortgage loans which are made or financed or are proposed to be made or financed by the Virginia Housing Development Authority (the "authority") to mortgagors to provide the construction and/or permanent financing of multi-family housing developments intended for occupancy by persons and families of low and moderate income ("development" or "developments"). These procedures, instructions and guidelines shall be applicable to the making of such mortgage loans directly by the authority to mortgagors, the purchase of such mortgage loans, the participation by the authority in such mortgage loans with mortgage lenders and any other manner of financing of such mortgage loans under the Virginia Housing Development Authority Act (the "Act"). These procedures, instructions and guidelines shall not, however, apply to any developments which are subject to any other procedures, instructions and guidelines adopted by the authority. If any mortgage loan is to provide either

the construction or permanent financing (but not both) of a development, these procedures, instructions and guidelines shall be applicable to the extent determined by the executive director to be appropriate for such financing. If any development is subject to federal mortgage insurance or is otherwise assisted or aided, directly or indirectly, by the federal government, the applicable federal rules and regulations shall be controlling over any inconsistent provision. Furthermore, if the mortgage loan on any development is to be insured by the federal government, the provisions of these procedures, instructions and guidelines shall be applicable to such development only to the extent determined by the executive director to be necessary in order to (i) protect any interest of the authority which, in the judgment of the executive director, is not adequately protected by such insurance or by the implementation or enforcement of the applicable federal rules, regulations or requirements or (ii) to comply with the Act or fulfill the authority's public purpose and obligations thereunder. Developments shall include housing intended to be owned and operated on a cooperative basis. The term "construction", as used herein, shall include the rehabilitation, preservation or improvement of existing structures.

These procedures, instructions and guidelines shall supersede the processing procedures, instructions and guidelines adopted by the authority on January 17, 1984.

Notwithstanding anything to the contrary herein, the executive director is authorized with respect to any development to waive or modify any provision herein where deemed appropriated by him for good cause, to the extent not inconsistent with the Act, the authority's rules and regulations, and covenants and agreements with the holders of its bonds.

"Executive director" as used herein refers to the executive director of the authority or any other officer or employee of the authority who is authorized to act on behalf of the authority pursuant to a resolution of the Board of Commissioners of the authority (the "board").

All reviews, analyses, evaluations, inspections, determinations and other actions by the authority pursuant to the provisions of these procedures, instructions and guidelines shall be made for the sole and exclusive benefit and protection of the authority and shall not be construed to waive or modify any of the rights, benefits, privileges, duties, liabilities or responsibilities of the authority, the mortgagor, the contractor or other members of the development team under the initial closing documents as described in § 7 of these procedures, instructions and guidelines.

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These procedures, instructions and guidelines are intended to provide a general description of the authority's processing requirements and not intended to include all actions involved or required in the processing and administration of mortgage loans under the authority's multi-family housing programs. These procedures, instructions and guidelines are subject to change at any time by the authority and may be supplemented by policies, procedures, instructions and guidelines adopted by the authority from time to time with respect to any particular development or developments or any multi-family housing program or programs.

§ 2. Income limits and general restrictions.

Under the authority's rules and regulations, to be eligible for occupancy of a multi-family dwelling unit, a person or family shall not have an adjusted family income (as defined therein) greater than seven times the total annual rent, including utilities except telephone, applicable to such dwelling unit. The authority's rules and regulations authorize its board to establish from time to time by resolution lower income limits for initial occupancy.

In the case of developments for which the authority has agreed to permit the mortgagor to establish and change rents without the prior approval of the authority (as described in §§ 11 and 14 of these procedures, instructions and guidelines), at least 20% of the units in each such development shall be occupied or held available for occupancy by persons and families whose incomes (at the time of their initial occupancy) do not exceed 80% of the area median income as determined by the authority, and the remaining units shall be occupied or held available for occupancy by persons and families whose incomes (at the time of their initial occupancy) do not exceed 150% of such area median income as so determined.

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

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

Notwithstanding anything to the contrary herein, all

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

§ 3. Terms of mortgage loans.

The authority may make or finance mortgage loans secured by a lien on real property or, subject to certain limitations in the Act, a leasehold estate in order to finance development intended for occupancy by persons and families of low and moderate income. The term of the mortgage loan shall be equal to (i) if the mortgage loan is to finance the construction of the proposed development, the period determined by the executive director to be necessary to: (1) complete construction of the development, (2) achieve sufficient occupancy to support the development and (3) consummate the final closing of the mortgage loan; plus (ii) if the mortgage loan is to finance the ownership and operation of the proposed development, an amortization period set forth in the mortgage loan commitment but not to exceed 45 years. The executive director may require that such amortization period not extend beyond the termination date of any federal insurance, assistance or subsidy.

Mortgage loans may be made to: (i) for-profit housing sponsors in original principal amounts not to exceed the lesser of the maximum principal amount specified in the mortgage loan commitment or such percentage of the housing development costs of the development as is established in such commitment, but in no event to exceed 95%; and (ii) nonprofit housing sponsors in original principal amounts not to exceed the lesser of the minimum principal amount specified in the mortgage loan commitment or such percentage of the housing development costs of the development as is established in such commitment, but in no event to exceed 100%.

The maximum principal amount and percentage of housing development costs specified or established in the mortgage loan commitment shall be determined by the authority in such manner and based upon such factors as it deems relevant to the security of the mortgage loan and fulfillment of its public purpose. Such factors may include the fair market value of the proposed development as completed, the economic feasibility and marketability of the proposed development at the rents necessary to pay the debt service on the mortgage loan and the operating expenses of the proposed development, and the income levels of the persons and families who would be able to afford to pay such rents.

In accordance with the authority's rules and regulations, the executive director is authorized to prepare and from time to time revise a cost certification guide for mortgagors, contractors and certified public accountants (the "cost certification guide") which shall, unless otherwise agreed to by the authority, govern the extent to which costs may be eligible for inclusion in the housing development costs as determined by the authority at final closing. Copies of such guide are available upon request.

The interest rate on the mortgage loan shall be established at the initial closing and may be thereafter adjusted in accordance with the authority's rules and regulations and terms of the deed of trust note. The authority shall charge a financing fee equal to 2.5% of the mortgage loan amount, unless the executive director shall for good cause require the payment of a different financing fee. Such fee shall be payable at such times as hereinafter provided or at such other times as the executive director shall for good cause require.

§ 4. Solicitation of proposals.

The executive director may from time to time take such action as he may deem necessary or proper in order to solicit proposals for the financing of developments. Such actions may include advertising in newspapers and other media, mailing of information to prospective applicants and other members of the public, and any other methods of public announcement which the executive director may select as appropriate under the circumstances. The executive director may impose requirements, limitations and conditions with respect to the submission of proposals and the selection of developments as he shall consider necessary or appropriate. The executive director may cause market studies and other research and analyses to be performed in order to determine the manner and conditions under which available funds of the authority are to be allocated and such other matters as he shall deem appropriate relating to the selection of proposals. The authority may also consider and approve proposals for financing of developments submitted from time to time to the authority without any solicitation therefor on the part of the authority.

§ 5. Application and acceptance for processing.

Application for a mortgage loan shall be commenced by filing with the authority an application, on such form or forms as the executive director may from time to time prescribe, together with such documents and additional information as may be requested by the authority, including, but not limited to: initial site, elevation and unit plans; information with respect to the status of the proposed development site and the surrounding community; any option or sales contract to acquire the site; an evaluation of the need and effective demand for the proposed development in the market area of such site; information regarding the legal, business and financial status and experience of the members of the applicant's proposed development team and of the principals in any

entity which is a member thereof, including current financial statements (which shall be audited in the case of a business entity) for the mortgagor (if existing), the general contractor and the principals therein; information regarding amenities and services proposed to be offered to the tenants; a preliminary estimate of the housing development costs and the individual components thereof; the proposed schedule of rents; a preliminary estimate of the annual operating budget and the individual components thereof; the estimated utility expenses to be paid by the tenants of dwelling units in the proposed development; and the amount of any federal insurance, subsidy or assistance which the applicant is requesting for the proposed development.

The authority's staff shall review each application and any additional information submitted by the applicant or obtained from other sources by the authority in its review of each proposed development. Such review shall be performed in accordance with subdivision 2 of subsection D of § 36-55.33:1 of the Code of Virginia and shall include, but not be limited to, the following:

1. An analysis of the site characteristics, surrounding land uses, available utilities, transportation, employment opportunities, recreational opportunities, shopping facilities and other factors affecting the site;
2. An evaluation of the ability, experience and financial capacity of the applicant and general contractor and the qualifications of the architect, management agent and other members of the proposed development team;
3. A preliminary evaluation of the estimated construction costs and the proposed design and structure of the proposed development;
4. A preliminary review of the estimated operating expenses and proposed rents and a preliminary evaluation of the adequacy of the proposed rents to sustain the proposed development based upon the assumed occupancy rate and estimated construction and financing costs; and
5. A preliminary evaluation of the marketability of the proposed development.

Based on the authority's review of the applications, documents and any additional information submitted by the applicants or obtained from other sources by the authority in its review of the proposed developments, the executive director shall accept for processing those applications which he determines best satisfy the following criteria:

1. The vicinity of the proposed development is and will continue to be a residential area suitable for the proposed development and is not now, nor is it likely in the future to become, subject to uses or deterioration which could cause undue depreciation in

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the value of the proposed development or which could adversely affect its operation, marketability or economic feasibility.

2. There are or will be available on or before the estimated completion date (i) direct access to adequate public roads and utilities and (ii) such public and private facilities (such as schools, churches, transportation, retail and service establishments, parks, recreational facilities and major public and private employers) in the area of the proposed development as the executive director determines to be necessary or desirable for use and enjoyment by the contemplated residents.

3. The characteristics of the site (such as its size, topography, terrain, soil and subsoil conditions, vegetation, and drainage conditions) are suitable for the construction and operation of the proposed development, and the site is free from any defects which would have a materially adverse effect on such construction and operation.

4. The location of the proposed development will promote and enhance the marketability of the units to the person and families intended for occupancy thereof.

5. The applicant either owns or leases the site of the proposed development or has the legal right to acquire or lease the site in such manner, at such time and subject to such terms as will permit the applicant to process the application and consummate the initial closing.

6. The design of the proposed development is attractive and esthetically appealing, will contribute to the marketability of the proposed development, makes use of materials to reduce energy and maintenance costs, provides for a proper mix of units for the residents intended to be benefitted by the authority's program, provides for units with adequate, well-designed space, includes equipment and facilities customarily used or enjoyed in the area by the contemplated residents, and will otherwise provide a safe, habitable and pleasant living environment for such residents.

7. Subject to further review and evaluation by the authority's staff under § 6 of these procedures, instructions, and guidelines, the estimated construction costs and operating expenses appear to be complete, reasonable and comparable to those of similar developments.

8. Subject to further review and evaluation by the authority's staff under § 6 of these procedures, instructions, and guidelines, the proposed rents appear to be at levels which will: (i) be affordable by the persons and families intended to be assisted by the authority; (ii) permit the successful marketing of the

units to such persons and families; and (iii) sustain the operation of the proposed development.

9. The applicant and general contractor have the experience, ability and financial capacity necessary to carry out their respective responsibilities for the acquisition, construction, ownership, operation, marketing, maintenance and management of the proposed development.

10. The architect, management agent and other members of the proposed development team have the qualifications necessary to perform their respective functions and responsibilities.

11. The application and proposed development conform to the requirements, limitations and conditions, if any, imposed by the executive director pursuant to § 4 of these procedures, instructions and guidelines.

12. The proposed development will contribute to the implementation of the policies and programs of the authority in providing decent, safe and sanitary rental housing for low and moderate income persons and families who cannot otherwise afford such housing and will assist in meeting the need for such housing in the market area of the proposed development.

13. It appears that the proposed development and applicant will be able to meet the requirements for feasibility and commitment set forth in § 6 of these procedures, instructions and guidelines and that the proposed development will otherwise continue to be processed through initial closing and will be completed and operated, all in compliance with the Act and the authority's rules and regulations, the documents and contracts executed at initial closing, applicable federal laws, rules and regulations, and the provisions of these procedures, instructions and guidelines and without unreasonable delay, interruptions or expense.

If only one application is being reviewed for acceptance for processing, the executive director shall accept such application for processing if he determines that such application adequately satisfies the foregoing criteria.

In the selection of an application or applications for processing, the executive director may take into account the desirability of allocating funds to different sponsors throughout the Commonwealth of Virginia.

Applications shall be selected only to the extent that the authority has or expects to have funds available from the sale of its notes or bonds to finance mortgage loans for the proposed developments.

Nothing contained herein shall require the authority to select any application which, in the judgment of the executive director, does not adequately satisfy the foregoing criteria.

The executive director's determinations with respect to the above criteria shall be based only on the documents and information received or obtained by him at that time and are subject to modification or reversal upon his receipt of additional documents or information at a later time. In addition, the application shall be subject to further review in accordance with § 6 of these procedures, instructions and guidelines.

The executive director may impose such terms and conditions with respect to acceptance for processing as he shall deem necessary or appropriate. If any proposed development is so accepted for processing, the executive director shall notify the sponsor of such acceptance and of any terms and conditions imposed with respect thereto and may require the payment by the sponsor of a nonrefundable processing fee of 0.25% of the estimated mortgage loan amount. Such fee shall be applied at initial closing toward the payment of the authority's financing fee.

If the executive director determines that a proposed development to be accepted for processing does not adequately satisfy one or more of the foregoing criteria, he may nevertheless accept such proposed development for processing subject to satisfaction of the applicable criteria in such manner and within such time period as he shall specify in his notification of acceptance. If the executive director determines not to accept any proposed development for processing, he shall so notify the sponsor.

§ 6. Feasibility and commitment.

In order to continue the processing of the application, the applicant shall file, within such time limit as the executive director shall specify, such forms, documents and information as the executive director shall require with respect to the feasibility of the proposed development, including without limitation the following:

1. Any additions, modifications or other changes to the application and documents previously submitted as may be necessary or appropriate to make the information therein complete, accurate and current;
2. Architectural and engineering plans, drawings and specifications in such detail as shall be necessary or appropriate to determine the requirements for construction of the proposed development;
3. The applicant's (i) best estimates of the housing development costs and the components thereof; (ii) proposed mortgage loan amount; (iii) proposed rents; (iv) proposed annual operating budget and the individual components thereof; (v) best estimates of the monthly utility expenses and other costs for each dwelling unit if paid by the resident; and (vi) amount of any federal insurance, subsidy or assistance that the applicant is requesting for the proposed development. The applicant's estimates shall be in such detail and with such itemization and supporting

information as shall be requested by the executive director;

4. The applicant's management, marketing and tenant selection plans, including description and analysis of marketing and tenant selection strategies, techniques and procedures to be followed in marketing the units and selecting tenants; and

5. Any documents required by the authority to evidence compliance with all conditions and requirements necessary to acquire, own, construct, operate and manage the proposed development, including local governmental approvals, proper zoning status, availability of utilities, licenses and other legal authorizations necessary to perform requisite functions and any easements necessary for the construction and operation of the development.

The executive director may for good cause permit the applicant to file one or more of the foregoing forms, documents and information at a later time, and any review, analysis, determination or other action by the authority or the executive director prior to such filing shall be subject to the receipt, review and approval by the executive director of such forms, documents and information.

An appraisal of the land and any improvements to be retained and used as a part of the development will be obtained at this time or as soon as practical thereafter from an independent real estate appraiser selected by the authority. The authority may also obtain such other reports, analyses, information and data as the executive director deems necessary or appropriate to evaluate the proposed development.

If at any time the executive director determines that the applicant is not processing the application with due diligence and best efforts or that the application cannot be successfully processed to commitment and initial closing within a reasonable time, he may, in his discretion, terminate the application and retain any fees previously paid to the authority.

The authority staff shall review and evaluate the documents and information received or obtained pursuant to this § 6. Such review and evaluation shall include, but not be limited to, the following:

1. An analysis of the estimates of construction costs and the proposed operating budget and an evaluation as to the economic feasibility of the proposed development;
2. A market analysis as to the present and projected demand for the proposed development in the market area, including: (i) an evaluation of existing and future market conditions; (ii) an analysis of trends and projections of housing production, employment and population for the market area; (iii) a site evaluation

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(such as access and topography of the site, neighborhood environment of the site, public and private facilities serving the site and present and proposed uses of nearby land); and (iv) an analysis of competitive projects;

3. A review of the management, marketing and tenant selection plans, including their effect on the economic feasibility of the proposed development and their efficacy in carrying out the programs and policies of the authority;

4. A final review of the (i) ability, experience and financial capacity of the applicant and general contractor; and (ii) the qualifications of the architect, management agent and other members of the proposed development team.

5. An analysis of the architectural and engineering plans, drawings and specifications, including the functional use and living environment for the proposed residents, the marketability of the units; the amenities and facilities to be provided to the proposed residents; and the management, maintenance and energy conservation characteristics of the proposed development.

Based upon the authority staff's analysis of such documents and information and any other information obtained by the authority in its review of the proposed development, the executive director shall prepare a recommendation to the board that a mortgage loan commitment be issued to the applicant with respect to the proposed development only if he determines that all of the following criteria have been satisfied:

1. Based on the data and information received or obtained pursuant to this § 6, no material adverse change has occurred with respect to compliance with the criteria set forth in § 5 of these procedures, instructions and guidelines.

2. The applicant's estimates of housing development costs: (i) include all costs necessary for the development and construction of the proposed development; (ii) are reasonable in amount; (iii) are based upon valid data and information; and (iv) are comparable to costs for similar multi-family rental developments; provided, however, that if the applicant's estimates of such costs are insufficient in amount under the foregoing criteria, such criteria may nevertheless be satisfied if, in the judgment of the executive director, the mortgagor will have the financial ability to pay any costs estimated by the executive director to be in excess of the total of the applicant's estimates of housing development costs.

3. Subject to review by the authority at final closing, the categories of the estimated housing development costs to be funded from the proceeds of the mortgage loan are eligible for such funding under the authority's

cost certification guide or under such other requirements as shall be agreed to by the authority.

4. Any administrative, community, health, nursing care, medical, educational, recreational, commercial or other nonhousing facilities to be included in the proposed development are incidental or related to the proposed development and are necessary, convenient or desirable with respect to the ownership, operation or management of the proposed development.

5. All operating expenses (including replacement and other reserves) necessary or appropriate for the operation of the proposed development are included in the proposed operating budget, and the estimated amounts of such operating expenses are reasonable, are based on valid data and information and are comparable to operating expenses experienced by similar developments.

6. Based upon the proposed rents and projected occupancy level required or approved by the executive director, the estimated income from the proposed development is reasonable. The estimated income may include: (i) rental income from commercial space within the proposed development if the executive director determines that a strong, long-term market exists for such space; and (ii) income from other sources relating to the operation of the proposed development if determined by the executive director to be reasonable in amount and comparable to such income received on similar developments.

7. The estimated income from the proposed development, including any federal subsidy or assistance, is sufficient to pay when due the estimates of the debt service on the mortgage loan, the operating expenses, and replacement and other reserves required by the authority.

8. The units will be occupied by persons and families intended to be served by the proposed development and qualified under the Act and the authority's rules and regulations, and any applicable federal laws, rules and regulations. Such occupancy of the units will be achieved in such time and manner that the proposed development will (i) attain self-sufficiency (i.e., the rental and other income from the development is sufficient to pay all operating expenses, debt service and replacement and other required reserves and escrows) within the usual and customary time for a development for its size, nature, location and type, and without any delay in the commencement of amortization; and (ii) will continue to be self-sufficient for the full term of the mortgage loan.

9. The estimated utility expenses and other costs to be paid by the residents are reasonable, are based upon valid data and information and are comparable to such expenses experienced by similar developments, and the estimated amounts of such utility expenses

and costs will not have a materially adverse effect on the occupancy of the units in accordance with item 8 above.

10. The architectural drawings, plans and specifications shall demonstrate that: (i) the proposed development as a whole and the individual units therein shall provide safe, habitable, and pleasant living accommodations and environment for the contemplated residents; (ii) the dwelling units of the proposed housing development and the individual rooms therein shall be furnishable with the usual and customary furniture, appliances and other furnishings consistent with their intended use and occupancy; and (iii) the proposed housing development shall make use of measures promoting environmental protection, energy conservation and maintenance and operating efficiency to the extent economically feasible and consistent with the other requirements of this § 6.

11. The proposed development includes such appliances, equipment, facilities and amenities as are customarily used or enjoyed by the contemplated residents in similar developments.

12. The management plan includes such management procedures and requirements as are necessary for the proper and successful operations, maintenance and management of the proposed development in accordance with these procedures, instructions and guidelines.

13. The marketing and tenant selection plans submitted by the applicant shall comply with the authority's rules and regulations and shall provide for actions to be taken such that: (i) the dwelling units in the proposed development will be occupied in accordance with item 8 above and any applicable federal laws, rules and regulations by those eligible persons and families who are expected to be served by the proposed development; (ii) the residents will be selected without regard to race, color, religion, creed, sex or national origin; and (iii) units intended for occupancy by handicapped and disabled persons will be adequately and properly marketed to such persons and such persons will be given priority in the selection of residents for such units. The tenant selection plan shall describe the requirements and procedures (including any occupancy criteria and priorities established pursuant to § 11 of these procedures, instructions and guidelines) to be applied by the mortgagor in order to select those residents who are intended to be served by the proposed development and who are best able to fulfill their obligation and responsibilities as residents of the proposed development.

14. In the case of any development to be insured or otherwise assisted or aided by the federal government, the proposed development will comply in all respects with any applicable federal laws, rules and

regulations, and adequate federal insurance, subsidy, or assistance is available for the development and will be expected to remain available in the due course of processing with the applicable federal agency, authority or instrumentality.

15. The proposed development will comply with: (i) all applicable federal laws and regulations governing the federal tax exemption of the notes or bonds issued or to be issued by the authority to finance the proposed development; and (ii) all requirements set forth in the resolutions pursuant to which such notes or bonds are issued or to be issued.

16. The prerequisites necessary for the members of the applicant's development team to acquire, own, construct or rehabilitate, operate and manage the proposed development have been satisfied or can be satisfied prior to initial closing. These prerequisites include, but are not limited to obtaining: (i) site plan approval; (ii) proper zoning status; (iii) assurances of the availability of the requisite public utilities; (iv) commitments by public officials to construct such public improvements and accept the dedication of streets and easements that are necessary or desirable for the construction and use of the proposed development; (v) licenses and other legal authorizations necessary to permit each member to perform his or its duties and responsibilities in the Commonwealth of Virginia; (vi) building permits; and (vii) fee simple ownership of the site, a sales contract or option giving the applicant or mortgagor the right to purchase the site for the proposed development and obtain fee simple title, or a leasehold interest of the time period required by the Act (any such ownership or leasehold interest acquired or to be acquired shall be free of any covenants, restrictions, easements, conditions, or other encumbrances which would adversely affect the authority's security or the construction or operation of the proposed development).

17. The proposed development will comply with all applicable state and local laws, ordinances, regulations, and requirements.

18. The proposed development will provide valid and sound security for the authority's mortgage loan and will contribute to the fulfillment of the public purposes of the authority as set forth in its Act.

19. Subject to a final determination by the board, the financing of the proposed development will meet the applicable requirements set forth in § 36-55.39 of the Code of Virginia.

If the executive director determines that the foregoing criteria are satisfied and that he will recommend approval of the application and issuance of the commitment, he shall present his analysis and recommendations to the board. If the executive director determines that one or

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more of the foregoing criteria have not been adequately satisfied, he may nevertheless in his discretion recommend to the board that the application be approved and that a mortgage loan commitment be issued subject to the satisfaction of such criteria in such manner and within such time period as he shall deem appropriate. Prior to the presentation of his recommendations to the board, the executive director may require the payment by the applicant of a nonrefundable processing fee in an amount equal to 0.5% of the then estimated mortgage loan amount less any processing fees previously paid by the applicant. Such fee shall be applied at initial closing toward the payment of the authority's financing fee.

The board shall review and consider the analysis and recommendation of the executive director, and if it concurs with such recommendation, it shall by resolution approve the application and authorize the issuance of a commitment, subject to such terms and conditions as the board shall require in such resolution. Such resolution and the commitment issued pursuant thereto shall in all respects conform to the requirements of the authority's rules and regulations.

If the executive director determines not to recommend approval of the application and issuance of a commitment, he shall so notify the applicant. If any application is not so recommended for approval, the executive director may select for processing one or more applications in its place.

§ 7. Initial closing.

Upon issuance of the commitment, the applicant shall direct its attorney to prepare and submit the legal documentation (the "initial closing documents") required by the commitment within the time period specified. When the initial closing documents have been submitted and approved by the authority staff and all other requirements in the commitment have been satisfied, the initial closing of the mortgage loan shall be held. At this closing, the initial closing documents shall be, where required, executed and recorded, and the mortgagor will pay to the authority the balance owed on the financing fee, will make any initial equity investment required by the initial closing documents and will fund such other deposits, escrows and reserves as required by the commitment. The initial disbursement of mortgage loan proceeds will be made by the authority, if appropriate under the commitment and the initial closing documents.

The actual interest rate on the mortgage loan shall be established by the executive director at the time of the execution of the deed of trust note at initial closing and may thereafter be altered by the executive director in accordance with the authority's rules and regulations and the terms of such note.

The executive director may require such accounts, reserves, deposits, escrows, bonds, letters of credit and other assurances as he shall deem appropriate to assure the satisfactory construction, completion, occupancy and

operation of the development, including without limitation one or more of the following: working capital deposits, construction contingency funds, operating reserve accounts, payment and performance bonds or letters of credit, latent construction defect escrows, replacement reserves, and tax and insurance escrows. The foregoing shall be in such amounts and subject to such terms and conditions as the executive director shall require and as shall be set forth in the initial closing documents.

§ 8. Construction.

The construction of the development shall be performed in accordance with the initial closing documents. The authority shall have the right to inspect the development as often as deemed necessary or appropriate by the authority to determine the progress of the work and compliance with the initial closing documents and to ascertain the propriety and validity of mortgage loan disbursements requested by the mortgagor. Such inspections shall be made for the sole and exclusive benefit and protection of the authority. A disbursement of mortgage loan proceeds may only be made upon a determination by the authority that the terms and conditions of the initial closing documents with respect to any such disbursement have been satisfied; provided, however, that in the event that such terms and conditions have not been satisfied, the executive director may, in his discretion, permit such disbursement if additional security or assurance satisfactory to him is given. The amount of any disbursement shall be determined in accordance with the terms of the initial closing documents and shall be subject to such retainage or holdback as is therein prescribed.

§ 9. Completion of construction and final closing.

The initial closing documents shall specify those requirements and conditions that must be satisfied in order for the development to be deemed to have attained final completion. Upon such final completion of the development, the mortgagor, general contractor, and any other parties required to do so by the initial closing documents shall each diligently commence, complete and submit to the authority for review and approval their cost certification in accordance with the authority's cost certification guide or in accordance with such other requirements as shall have been agreed to by the authority.

Prior to or concurrently with final closing, the mortgagor, general contractor and other members of the development team shall perform all acts and submit all contracts and documents required by the initial closing documents in order to attain final completion, make the final disbursement of mortgage loan proceeds, obtain any federal insurance, subsidy or assistance and otherwise consummate the final closing.

At the final closing, the authority shall determine the following in accordance with the initial closing documents:

1. The total development costs, the fair market value of the development (if such value is to be used to determine the mortgagor's equity investment), the final mortgage loan amount, the balance of mortgage loan proceeds to be disbursed to the mortgagor, the equity investment of the mortgagor and, if applicable, the maximum amount of annual limited dividend distributions;

2. The interest rate to be applied initially upon commencement of amortization, the date for commencement and termination of the monthly amortization payments of principal and interest, the amount of such monthly amortization payments, and the amounts to be paid monthly into the escrow accounts for taxes, insurance, replacement reserves, or other similar escrow items; and

3. Any other funds due the authority, the mortgagor, general contractor, architect or other parties that the authority requires to be disbursed or paid as part of the final closing.

Unless otherwise agreed to by the authority, the mortgagor and contractor shall, within such period of time as is specified in the authority's cost certification guide, submit supplemental cost certifications, and the authority shall have the right to make such adjustments to the foregoing determinations as it shall deem appropriate as a result of its review of such supplemental cost certification.

If the mortgage loan commitment and initial closing documents so provide and subject to such terms and conditions as shall be set forth therein, the equity shall be adjusted subsequent to final closing to an amount equal to the difference, as of the date of adjustment, between the fair market value of the development and the outstanding principal balance of the mortgage loan.

§ 10. Mortgage loan increases.

Prior to initial closing, the principal amount of the mortgage loan may be increased, if such an increase is justified by an increase in the estimated costs of the proposed development, is necessary or desirable to effect the successful construction and operation of the proposed development, can be funded from available proceeds of the authority's notes or bonds, and is not inconsistent with the provisions of the Act or the authority's rules and regulations or any of the provisions of these procedures, instructions and guidelines. Any such increase shall be subject to such terms and conditions as the authority shall require.

Subsequent to initial closing, the authority will consider and, where appropriate, approve a mortgage loan increase to be financed from the proceeds of the authority's notes or bonds in the following instances:

1. Where cost increases are incurred as the direct result of (i) changes in work required or requested by

the authority or (ii) betterments to the development approved by the authority which will improve the quality or value of the development or will reduce the costs of operating or maintaining the development;

2. Where cost increases are incurred as a direct result of a failure by the authority during processing of the development to properly perform an act for which the authority is solely responsible;

3. Where a mortgage loan increase is determined by the authority, in its sole and absolute discretion, to be in the best interests of the authority in protecting its security for the mortgage loan; or

4. Where the authority has entered into an agreement with the mortgagor prior to initial closing to provide a mortgage loan increase if certain cost overruns occur in agreed line items, but only to the extent set forth in such agreement.

In the event that a person or entity acceptable to the authority is prepared to provide financing on a participation basis on such terms and conditions as the authority may require, the authority will consider and, where appropriate, approve an increase in its mortgage loan subsequent to initial closing to the extent of the financing by such person or entity in any of the following instances:

1. One or more of the instances set forth in 1 through 4 above; or

2. Where costs are incurred which are:

a. In excess of the original total contract sum set forth in the authority's mortgage loan commitment;

b. The direct result of necessary and substantial changes approved by the authority in the original plans and specifications;

c. Evidenced by change orders in accordance with the original contract documents or by other documentation acceptable to the authority; and

d. Approved by the authority for inclusion within the total development cost in accordance with the Act, the authority's rules and regulations and the authority's cost certification guide.

Any such mortgage loan increase to be financed on a participation basis shall be granted only to the extent that such costs cannot be funded from mortgage loan proceeds, any income from the operation of the development approved by the authority for application thereto, and other moneys of the mortgagor available therefor. As used herein, the term "other moneys of the mortgagor" shall include moneys received or to be received as a result of the sale or syndication of limited partnership interest in the mortgagor. In the event that any limited dividend

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mortgagor shall have sold or syndicated less than 90% of the partnership interests, such term shall include the amount, as determined by the authority, which would have been received upon the sale or syndication of 90% of such interest under usual and customary circumstances.

Any such increase in the mortgage loan subsequent to initial closing may be subject to such terms and conditions as the authority shall require, including (but not limited to) one or more of the following:

1. The ability of the authority to sell bonds to finance the mortgage loan increase in amounts, at rates and under terms and conditions satisfactory to the authority (applicable only to a mortgage loan to be financed from the proceeds of the authority's notes or bonds).
2. The obtaining by the owner of additional federal subsidy (if the development is to receive such subsidy) in amounts necessary to fund the additional debt service to be paid as a result of such mortgage loan increase. The provision of such additional subsidy shall be made subject to and in accordance with all applicable federal regulations.
3. A determination by the authority that the mortgage loan increase will have no material adverse effect on the financial feasibility or proper operation and maintenance of the development.
4. A determination by the authority that the mortgage loan, as increased, does not exceed such percentage of the total development cost (as certified in accordance with the authority's cost certification guide and as approved by the authority) as is established in the resolution authorizing the mortgage loan in accordance with § 3 of these procedures, instructions and guidelines.
5. Such terms and conditions as the authority shall require in order to protect the security of its interest in the mortgage loan, to comply with covenants and agreements with the holders of its bonds issued to finance the mortgage loan, to comply with the Act and the authority's rules and regulations, and to carry out its public purpose.

The executive director may, without further action by the board, increase the principal amount of the mortgage loan at any time by an amount not to exceed 2.0% of the maximum principal amount of the mortgage loan set forth in the commitment, provided that such increase is consistent with the Act and the authority's rules and regulations and the provisions of these procedures, instructions and guidelines. Any increase in excess of such 2.0% shall require the approval of the board.

Nothing contained in this § 10 shall impose any duty or obligation on the authority to increase any mortgage loan, as the decision as to whether to grant a mortgage loan

increase shall be within the sole and absolute discretion of the authority.

§ 11. Operation, management and marketing.

The development shall be subject to a regulatory agreement entered into at initial closing between the authority and the mortgagor. Such regulatory agreement shall govern the rents, operating budget, occupancy, marketing, management, maintenance, operation, use and disposition of the development and the activities and operation of the mortgagor, as well as the amount of assets or income of the development which may be distributed to the mortgagor.

Only Except as otherwise agreed by the authority pursuant to § 14 hereof, only rents established or approved on behalf of the authority pursuant to the regulatory agreement may be charged for dwelling units in the development. Notwithstanding the foregoing, in the case of any developments financed subsequent to January 1, 1986, the authority may agree with the mortgagor that the rents may be established and changed by the mortgagor without the prior approval of the authority, subject to such restrictions in the regulatory agreement as the authority shall deem necessary to assure that the rents shall be affordable to persons and families intended to be served by the development and subject to compliance by the mortgagor with the provisions in § 2 of these procedures, instructions and guidelines.

Any costs for supportive services not generally included in the rent for similar developments shall not be funded from the rental income of the development.

If the mortgagor is a partnership, the general partner or partners shall be required to retain at least a 10% interest in the net proceeds from any sale, refinancing or other disposition of the development during the life of the mortgage loan.

The mortgagor shall lease the units in the development only to persons and families who are eligible for occupancy thereof as described in § 2 of these procedures, instructions and guidelines. The mortgagor shall comply with the provisions of the authority's rules and regulations regarding: (i) the examination and determination of the income and eligibility of applicants for initial occupancy of the development; and (ii) the periodic reexamination and redetermination of the income and eligibility of residents of the development.

In addition to the eligibility requirements of the authority, the executive director may establish occupancy criteria and priorities based on the following:

1. The age, family size, financial status, health conditions (including, without limitation, any handicaps or disabilities) and other circumstances of the applicants for the dwelling units;

2. The status and physical condition of the housing then occupied by such applicants; and

3. Any other factors or matters which the executive director deems relevant to the effectuation of the public purposes of the authority.

In selecting eligible residents, the mortgagor shall comply with such occupancy criteria and priorities and with the tenant selection plan approved by the authority pursuant to § 6 of these procedures, instructions and guidelines.

The executive director is authorized to prepare and from time to time revise a housing management handbook which shall set forth the authority's procedures and requirements with respect to the management of developments. Copies of the housing management handbook shall be available upon request.

The management of the development shall also be subject to a management agreement entered into at initial closing between the mortgagor and its management agent, or where the mortgagor and the management agent are the same entity, between the authority and the mortgagor. Such management agreement shall govern the policies, practices and procedures relating to the management, marketing and operation of the development. The mortgagor and its management agent (if any) shall manage the development in accordance with the Act, the authority's rules and regulations, the regulatory agreement, the management agreement, the authority's housing management handbook, and the management plan approved by the authority.

The authority shall have the power to supervise the mortgagor and the development in accordance with § 36-55.34:1 of the Code of Virginia and the terms of the initial closing documents or other agreements relating to the mortgage loans. The authority shall have the right to inspect the development, conduct audits of all books and records of the development and to require such reports as the authority deems reasonable to assure compliance with this § 11.

§ 12. Transfers of ownership.

A. It is the authority's policy to evaluate requests for transfers of ownership on a case-by-case basis. The primary goal of the authority is the continued existence of low and moderate income rental housing stock maintained in a financially sound manner and in safe and sanitary condition. Any changes which would, in the opinion of the authority, detrimentally affect this goal will not be approved.

The provisions set forth in this § 12 shall apply only to transfers of ownership to be made subject to the authority's deed of trust and regulatory agreement. Such provisions shall not be applicable to transfers of ownership of developments subject to HUD mortgage insurance, it

being the policy of the authority to consent to any such transfer approved by HUD and permitted by the Act and applicable note or bond resolutions.

For the purposes hereof, the terms "transfer of ownership" and "transfer" shall include any direct or indirect transfer of a partnership or other ownership interest (including, without limitation, the withdrawal or substitution of any general partner) or any sale, conveyance or other direct or indirect transfer of the development or any interest therein; provided, however, that if the owner is not then in default under the deed of trust or regulatory agreement, such terms shall not include: (i) any sale, transfer, assignment or substitution of limited partnership interests prior to final closing of the mortgage loan or; (ii) any sale, transfer, assignment or substitution of limited partnership interests which in any 12 month period constitute in the aggregate 50% or less of the partnership interests in the owner. The term "proposed ownership entity," as used herein, shall mean: (i) in the case of a transfer of a partnership interest, the owner of the development as proposed to be restructured by such transfer; and (ii) in the case of a transfer of the development, the entity which proposes to acquire the development.

B. The proposed ownership entity requesting approval of a transfer of ownership must initially submit a written request to the authority. This request should contain (i) a detailed description of the terms of the transfer; (ii) all documentation to be executed in connection with the transfer; (iii) information regarding the legal, business and financial status and experience of the proposed ownership entity and of the principals therein, including current financial statements (which shall be audited in the case of a business entity); (iv) an analysis of the current physical and financial condition of the development, including a current audited financial report for the development; (v) information regarding the experience and ability of any proposed management agent; and (vi) any other information and documents requested by the authority relating to the transfer. The request will be reviewed and evaluated in accordance with the following criteria:

1. The proposed ownership entity and the principals therein must have the experience, ability and financial capacity necessary to own, operate and manage the development in a manner satisfactory to the authority.

2. The development's physical and financial condition must be acceptable to the authority as of the date of transfer or such later date as the authority may approve. In order to assure compliance with this criteria, the authority may require any of the following:

a. The performance of any necessary repairs and the correction of any deferred or anticipated maintenance work;

b. The addition of any improvements to the

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development which, in the judgment of the authority, will be necessary or desirable for the successful marketing of the development, will reduce the costs of operating or maintaining the development, will benefit the residents or otherwise improve the liveability of the development, or will improve the financial strength and stability of the development;

c. The establishment of escrows to assure the completion of any required repairs, maintenance work, or improvements;

d. The establishment of such new reserves and/or such additional funding of existing reserves as may be deemed necessary by the authority to ensure or preserve the financial strength and stability or the proper operation and maintenance of the development; and

e. The funding of debt service payments, accounts payable and reserve requirements such that the foregoing are current at the time of any transfer of ownership.

3. The management agent, if any, to be selected by the proposed ownership entity to manage the development on its behalf must have the experience and ability necessary to manage the development in a manner satisfactory to the authority. The management agent must satisfy the qualifications established by the authority for approval thereof.

If the development is subsidized or otherwise assisted by HUD, the approval by HUD may be required. Any and all documentation required by HUD must be submitted by the proposed ownership entity in conjunction with its request.

C. The authority will charge the proposed ownership entity a fee of \$5,000 or such higher fee as the executive director may for good cause require. This fee is to be paid at the closing.

D. The amount and terms of any secondary financing (i.e., any portion of the purchase price is to be paid after closing of the transfer of ownership) shall be subject to the review and approval of the authority. Secondary financing which would require a lien on the development is prohibited by the authority's bond resolution and, therefore, will not be permitted or approved. The authority will not provide a mortgage loan increase or other financing in connection with the transfer of ownership. The authority will also not approve a rent increase in order to provide funds for the repayment of any secondary financing. Cash flow (other than dividend distributions) shall not be used to repay the secondary financing. Any proposed secondary financing must not, in the determination of the authority, have any material adverse effect on the operation and management of the development, the security of the mortgage loan, the interests of the authority as lender, or the fulfillment of

the authority's public purpose under the Act. The authority may impose such conditions and restrictions (including, without limitation, requirements as to sources of payment for the secondary financing and limitations on the remedies which may be exercised upon a nonpayment of the secondary financing) with respect to the secondary financing as it may deem necessary or appropriate to prevent the occurrence of any such adverse effect.

E. In the case of a transfer from a nonprofit owner to a proposed for-profit owner, the authority may require the proposed for-profit owner to deposit and/or expend funds in such amount and manner and for such purposes and to take such other actions as the authority may require in order to assure that the principal amount of the mortgage loan does not exceed the limitations specified in the Act and the authority's rules and regulations or otherwise imposed by the authority. No transfer of ownership from a nonprofit owner to a for-profit owner shall be approved if such transfer would, in the judgment of the authority, affect the tax-exemption of the notes or bonds issued by the authority to finance the development. The authority will not approve any such transfer of ownership if any loss of property tax abatement as a result of such transfer will, in the determination of the authority, adversely affect the financial strength or security of the development.

At the closing of the transfer of the ownership, the total development cost and the equity of a proposed for-profit owner shall be determined by the authority. The resolution of the board approving the transfer of ownership shall include a determination of the maximum annual rate, if any, at which distributions may be made by the proposed for-profit owner pursuant to the authority's rules and regulations. The proposed for-profit owner shall execute and deliver such agreements and documents as the authority may require in order to incorporate the then existing policies, requirements and procedures relating to developments owned by for-profit owners. The role of the nonprofit owner in the ownership, operation and management of the development subsequent to the transfer of ownership shall be subject to the review and approval of the authority. The authority may require that any cash proceeds received by the nonprofit owner (after the payment of transaction costs and the funding of any fees, costs, expenses, reserves or escrows required or approved by the authority) be used for such charitable or other purposes as the authority may approve.

F. A request for transfer of ownership shall be reviewed by the executive director. If the executive director determines to recommend approval thereof, he shall present his analysis and recommendation to the board. The board shall review and consider the analysis and recommendation of the executive director, and if it concurs with such recommendation, it shall by resolution approve the request and authorize the executive director to consent thereto, subject to such terms and conditions as the board shall require in such resolution.

Notwithstanding the foregoing, if any proposed transfer

of a partnership interest is determined by the executive director to be insubstantial in effect and to have no material detrimental effect on the operation and management of the development or the authority's interest therein as lender, such transfer may be approved by him without approval of the board.

After approval of the request, an approval letter will be issued to the mortgagor consenting to the transfer. Such letter shall be contingent upon the delivery and execution of any and all closing documents required by the authority with respect to the transfer of ownership and the fulfillment of any special conditions required by the resolution of the board. The partnership agreement of the proposed ownership entity shall be subject to review by the authority and shall contain such terms and conditions as the authority may require.

The authority may require that the proposed ownership entity execute the then current forms of the authority's mortgage loan documents in substitution of the existing mortgage loan documents and/or to execute such amendments to the existing mortgage loan documents as the authority may require in order to cause the provisions of such documents to incorporate the then existing policies, procedures and requirements of the authority. At the closing of the transfer, all documents required by the approval letter shall be, where required, executed and recorded; all funds required by the approval letter will be paid or deposited in accordance therewith; and all other terms and conditions of the approval letter shall be satisfied. If deemed appropriate by the executive director, the original mortgagor shall be released from all liability and obligations which may thereafter arise under the documents previously executed with respect to the development.

In the case of a development which is in default or which is experiencing or is expected by the authority to experience financial, physical or other problems adversely affecting its financial strength and stability or its proper operation, maintenance or management, the authority may waive or modify any of the requirements herein as it may deem necessary or appropriate in order to assist the development and/or to protect the authority's interest as lender.

§ 13. Prepayments.

It shall be the policy of the authority that no prepayment of a mortgage loan shall be made without its prior written consent for such period of time set forth in the note evidencing the mortgage loan as the executive director shall determine, based upon his evaluation of then existing conditions in the financial and housing markets, to be necessary to accomplish the public purpose of the authority. The authority may prohibit the prepayment of mortgage loans during such period of time as deemed necessary by the authority to assure compliance with applicable note and bond resolutions and with federal laws and regulations governing the federal tax exemption of the

notes or bonds issued to finance such mortgage loans. Requests for prepayment shall be reviewed by the executive director on a case-by-case basis. In reviewing any request for prepayment, the executive director shall consider such factors as he deems relevant, including without limitation the following: (i) the proposed use of the development subsequent to prepayment; (ii) any actual or potential termination or reduction of any federal subsidy or other assistance; (iii) the current and future need and demand for low and moderate housing in the market area of the development; (iv) the financial and physical condition of the development; (v) the financial effect of prepayment on the authority and the notes or bonds issued to finance the development; and (vi) compliance with any applicable federal laws and regulations governing the federal tax exemption of such notes or bonds. As a precondition to its approval of any prepayment, the authority shall have the right to impose restrictions, conditions and requirements with respect to the ownership, use, operation and disposition of the development, including without limitation any restrictions or conditions required in order to preserve the federal tax exemption of notes or bonds issued to finance the development. The authority shall also have the right to charge a prepayment fee in an amount determined in accordance with the terms of the resolutions authorizing the notes or bonds issued to finance the development or in such other amount as may be established by the executive director in accordance with the terms of the deed of trust note and such resolutions. The provisions of this § 13 shall not be construed to impose any duty or obligation on the authority to approve any prepayment, as the executive director shall have sole and absolute discretion to approve or disapprove any prepayment based upon his judgment as to whether such prepayment would be in the best interests of the authority and would promote the goals and purposes of its programs and policies. The provisions of this § 13 shall be subject to modification pursuant to § 14 hereof.

§ 14. Modification of regulatory controls.

If the executive director determines that (i) the mortgagor of any development is not receiving a sufficient financial return from the operation thereof as a result of a reduction in the amount of federal tax benefits available to the development (generally, at least 10 years, in the case of new construction, or five years, in the case of substantial rehabilitation, after the date of initial occupancy), (ii) the reserves of such development are and, after any action taken pursuant to this section, will continue to be adequate to assure its proper operation and maintenance and (iii) the rental and other income is and, after any action taken pursuant to this section, will continue to be sufficient to pay the debt service on the mortgage loan and the operating expenses of the development (including required payments to reserve accounts), then he may agree to one or more of the following modifications to the regulatory controls of the authority:

1. Rents may be thereafter established and changed

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by the mortgagor without the prior approval of the authority, subject to (i) such restrictions as he shall deem necessary to assure that the rents shall be affordable to persons and families to be served by the development, (ii) compliance by the mortgagor with the provisions in § 2 of these procedures, instructions and guidelines, and (iii) such limitations on rent increases to existing residents as he shall deem necessary to prevent undue financial hardship to such residents;

2. Subject to prior approval by the board, any limitation on annual dividend distributions may be increased or eliminated, as determined by him to be necessary to provide an adequate financial return to the mortgagor without adversely affecting the financial strength or proper operation and maintenance of the development; and

3. The mortgagor may be given the right to prepay the mortgage loan on the date 20 years after the date of substantial completion of the development as determined by the executive director (or such later date as shall be necessary to assure compliance with federal laws and regulations governing the tax exemption of the notes or bonds issued to finance the mortgage loan), provided that the mortgagor shall be required to pay a prepayment fee in an amount described in § 13 of these procedures, instructions and guidelines, and provided further that such right to prepay shall be granted only if the prepayment pursuant thereto would not, in the determination of the executive director, result in a reduction in the amount or term of any federal subsidy or assistance for the development. *The executive director may require that the mortgagor grant to the authority (i) a right of first refusal upon a proposed sale of the development which would result in an exercise by the mortgagor of its right, as described above, to prepay the mortgage loan and (ii) an option to purchase the development upon an election by the mortgagor otherwise to exercise its right, as described above, to prepay the mortgage loan, which right of first refusal and option to purchase shall be effective for such period of time and shall be subject to such terms and conditions as the executive director shall require.*

The foregoing modifications shall be made only to the extent permissible under and consistent with applicable federal laws and regulations and any agreements governing federal subsidy, assistance or mortgage insurance.

* * *

The proposed effective date of the foregoing amendments to multi-family procedures, instructions and guidelines shall be April 20, 1988.

DEPARTMENT OF TRANSPORTATION (COMMONWEALTH TRANSPORTATION BOARD)

EDITOR'S NOTICE: It has been determined that the Department of Transportation's Noise Abatement Policy is exempted from the Virginia Administrative Process Act by the provisions of subdivision B.3 of § 9-6.14:4.1 of the Code of Virginia which provision exempts agency actions relating to "the location, design, specifications or construction of public buildings or other facilities." However, since this policy envisions contribution and actions from localities, it is being published for informational purposes.

Title of Regulation: VR 385-01-07. Virginia Department of Transportation Noise Abatement Policy.

Statutory Authority: § 33.1-12 of the Code of Virginia.

Public Hearing Date: N/A
(See Calendar of Events section for additional information)

Summary:

The purpose of a Noise Abatement Policy is to establish uniform criteria for providing noise abatement on all proposed highway projects in the Commonwealth.

The policy proposed by the Virginia Department of Transportation (VDOT) is similar to that of the Federal Highway Administration (FHWA) noise abatement criteria, which is currently used by VDOT for federal aid projects. This policy goes further to include nonfederal aid projects, requiring the locality to contribute 60% of the cost of the abatement. The policy further requires that the locality have an ordinance which requires developers to provide noise abatement for all new residential and other noise sensitive developments adjacent to existing highways or known future highway corridors.

This policy is not subject to the Administrative Process Act (APA), but is being submitted through the office of the Registrar of Regulations for the benefit of interested or affected parties.

VR 385-01-07. Virginia Department of Transportation Noise Abatement Policy.

Introduction.

The proposed policy establishes consistent criteria for providing noise abatement measures on all proposed highway projects regardless of funding. The proposed policy mirrors the Federal Highway Administration's (FHWA) noise abatement criteria currently employed by VDOT for federal aid projects with two exceptions. For nonfederal aid projects, the proposed policy requires 60% contribution to the cost of abatement by the locality

through which the project traverses. The proposed policy also requires that the locality have an ordinance which requires developers to provide noise abatement for all new residential and other noise sensitive developments adjacent to existing highways or known future highway corridors.

Authorization.

The VDOT Noise Abatement Policy is adopted pursuant to the authority of § 33.1-12 of the Code of Virginia.

§ 1. Definitions.

The following words and terms, when used in this policy, shall have the following meaning, unless clearly indicated otherwise:

"Commonwealth" means Commonwealth of Virginia.

"DBA" means "A-weighted decibel," which is a widely accepted measure for expressing traffic noise levels.

"Design year" means the future year used to estimate the probable traffic volume for which the highway is designed. A time of 10 to 20 years from the start of construction is usually used.

"FHWA" means Federal Highway Administration.

"Noise abatement" means any measure taken to reduce highway traffic noise levels.

"Noise abatement criteria (NAC)" means numerical noise standards promulgated by the Federal Highway Administration and published in Volume 7, Chapter 7, § 3 of the Federal Aid Highway Program Manual.

"Noise barrier" means a solid structure erected between the highway and the protected property, which is designed to reduce traffic noise levels at the protected property by blocking the sound waves on their path from the highway to the protected property.

"Receptor" means all land use categories given in Volume 7, Chapter 7, § 3 of the Federal Aid Highway Program Manual to which the noise abatement criteria apply.

"VDOT" means Virginia Department of Transportation.

§ 2. Criteria for consideration of a noise barrier.

Volume 7, Chapter 7, § 3 of the Federal Aid Highway Program Manual (FHPM 7-7-3) will be the guiding document for the analysis and abatement of highway traffic noise on all proposed highway projects.

In assessing traffic noise levels from a proposed project or determining the dimensions of a noise barrier, a source height of eight feet for tractor trailers, 2.3 feet for medium trucks and 0 feet for automobiles will be used.

Highway noise impacts beyond 1,000 feet from the roadway will not be considered in determining the need for nor the dimensions and cost of a noise barrier.

A noise abatement measure will be considered if it provides a minimum of 5 dB(A) attenuation (positive noise benefit), and the design year noise levels emanating from the project equal or exceed the FHWA Noise Abatement Criteria (NAC) given in FHPM 7-7-3 for various land use categories, or the design year noise levels emanating from the project exceed existing noise levels by 10 dB(A) or more.

In assessing the noise impacts associated with a highway project, undeveloped lands will be treated as developed lands, only if a proposed land use development plan and a schedule of development have been filed with and approved by the local jurisdiction prior to the date the Commonwealth Transportation Board selects the final corridor alignment. The final decision concerning noise abatement for a proposed development will be conditioned on two points:

The noise barrier will not be constructed until the portion of the development to be protected by the abatement measure is completed to the satisfaction of VDOT, and

When there is a substantial time lapse between the final decision and the date the development is completed, the noise abatement analysis will be updated and the decision will be reconsidered.

A noise abatement measure will be considered not cost effective if the cost of the measure per receptor protected exceeds \$20,000. For the purpose of this provision, the term "receptor" refers to any land use category listed in Table 1 of FHPM 7-7-3. (For example, a residential receptor would include single and multifamily dwellings).

Extenuating circumstances will be considered on an individual project basis.

For federal aid projects, the responsibility for assembling all relevant information and developing noise abatement related recommendations will rest with the joint FHWA-VDOT standing Noise Abatement Committee. On nonfederal aid projects the committee's functions will be carried out by its VDOT members.

The Director of Engineering, on behalf of the Commonwealth Transportation Board, will make the final determination on all noise abatement related issues.

For nonfederal aid projects VDOT will consider, and if feasible, construct and maintain noise abatement measures, provided the local jurisdiction(s) through which the project traverses agrees to assume 60% of the cost of the abatement measure and the local jurisdiction(s) have an ordinance requiring developers to include noise abatement in their plans for residential and other noise sensitive

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developments adjacent to existing highways and future highway alignments previously adopted by the Commonwealth Transportation Board. Responsibility for maintaining the noise abatement measures constructed by the developer rests with the local jurisdiction(s).

§ 3. Exceptions.

If a local jurisdiction insists on the provision of a noise abatement measure deemed unnecessary by VDOT, arrangements may be made for the use of VDOT right of way, provided the locality is willing to assume 100% of the cost of the abatement measure including but not limited to preliminary engineering, construction, and maintenance. The locality must also meet VDOT's material, design and construction specifications.

If a local jurisdiction insists on the provision of a noise abatement measure deemed not cost effective (in excess of \$20,000 per receptor) by VDOT, arrangements may be made for the use of VDOT right of way, provided a third party pays all costs in excess of \$20,000 per receptor in addition to the 60% share of the locality.

FINAL REGULATIONS

For information concerning Final Regulations, see information page.

Symbol Key

Roman type indicates existing text of regulations. *Italic type* indicates new text. Language which has been stricken indicates text to be deleted. [Bracketed language] indicates a substantial change from the proposed text of the regulations.

AUCTIONEERS BOARD

Title of Regulation: VR 150-01-2. Rules and Regulations of the Virginia Auctioneers Board.

Statutory Authority: §§ 54-1.28, 54-824.9:1, and 54-824.9:3 of the Code of Virginia

Effective Date: May 2, 1988

Summary:

The regulations govern the registration of auctioneers in Virginia and apply directly to approximately 1,200 actively registered auctioneers, and indirectly to those individuals who utilize their services.

The Virginia Auctioneers board deleted § 2.1 C, Insurance in lieu of Bond, in order to bring this provision more in line with that of the statute governing auctioneers.

Language was inserted to clarify the intent of the board for Part III of the regulations, § 3.1, Advertising; § 3.2, Contracts; § 3.3, Conduct at auctions; and § 3.6, Escrow funds/accounts.

Section 3.10 was inserted to clarify the role of the individual who desires to call bids, but who does not hold a registration issued by the board.

References to fees were deleted which permit the board to adjust its fees in accordance with § 54-1.28:1 of the Code of Virginia by reducing unnecessary regulatory expense. Required fees will be shown on all application forms requiring fees.

References to the word "will" throughout the regulation were deleted. The term "shall" was inserted in the place of "will." The deletions comply with the Composition and Style Guidelines for Document Drafting published in the Virginia Register Form, Style and Procedures Manual.

VR 150-01-2. Rules and Regulations of the Virginia Auctioneers Board.

PART I. GENERAL.

§ 1.1. Board of Auctioneers.

A. Officers. The board [~~will~~ shall] elect the following officers for a term of one year beginning July 1 and

ending June 30:

Chairman

Vice-Chairman -

B. Term of chairman. No board member shall serve more than two consecutive terms as chairman.

C. Committees. The board may establish from its membership committees to conduct business for specific purposes.

D. Quorum. Three members of the board shall constitute a quorum for the purpose of transaction of official business.

PART II. ENTRY REQUIREMENTS.

§ 2.1. Registration.

All persons or firms as defined in § 54-824.2 of the Code of Virginia who conduct auctions or offer their services to sell at auction in this Commonwealth are required to file a registration application and pay the specified fee to the board. Applicants shall be at least 18 years of age.

A. Notarized information required. Information necessary to obtain registration shall include, but not be limited to the following:

1. Name of individual or firm;
2. Name and address where the business is located or home address if individual;
3. Any trading as name;
4. Type of legal entity;
5. Name of owner;
6. Statement that the applicant has read the statutes and regulations governing auctioneers;
7. Statement of no criminal convictions related to past auction activity;
8. Number of auctioneers employed in the firm.

B. Bond required. All applicants shall submit evidence that a surety bond in at least the amount of \$10,000 has been obtained.

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C. Insurance in lieu of bond. In lieu of the bond required in subsection B above, applicants may show evidence that a liability insurance policy in at least the amount of \$10,000 has been obtained.

D. C. Fees. The application fee for registration shall be \$75 established by the board pursuant to § 54-1.28:1 .

E. D. Renewal registration fee. Registrations issued under these regulations shall be issued for a two-year period and [~~will~~ shall] expire on September 30 of each even-numbered year. Each registration holder [~~will~~ shall] be required to renew the registration by submitting a fee of \$75 established by the board pursuant to § 54-1.28:1 , made payable to the Treasurer of Virginia, to the Director of the Department of Commerce. The renewal fee is to be paid before the expiration date shown on the last valid registration. At least 45 days prior to the date of expiration, a renewal notice [~~will~~ shall] be mailed to each registration holder reminding him of the amount due and the method for renewing the registration. Failure to receive written notice from the Director of the Department of Commerce does not relieve the registration holder from the requirement to renew the registration.

If the registration holder fails to renew the registration within 30 days after the expiration date, a ~~penalty late~~ renewal fee of twice the renewal fee [~~will~~ shall] be assessed at the time of reregistration.

If the registration holder fails to renew the registration within six months following the expiration date of the last valid registration, he [~~will~~ shall] be required to apply for reinstatement. The applicant [~~will~~ shall] be required to present reasons for reinstatement and the board may grant reinstatement of the registration in conformity with existing regulations. The application fee for reinstatement shall be an amount equal to twice the renewal fee.

F. E. Change of address. Written notice shall be given within 30 days to the board by each registrant of any change of principal business location, whereupon the board shall issue an amended registration without fee for the unexpired portion of the biennial period.

PART III. STANDARDS OF PRACTICE.

§ 3.1. Advertising.

All advertising must be truthful and contain no false or misleading statements with respect to types or conditions of goods offered at auction , or the terms and conditions of sale. In all advertisements relating to an auction, the auctioneer's name and registration number (V.A.A.R.), or the auction firm's name and registration number (V.A.A.F.), shall be clearly given .

In all advertising media, the designation "Certified Virginia Auctioneer" shall be used only with an individual's name. If conducting business as an auction

firm, or under a trading-as name, the designation shall be used only when the firm or trading-as name precedes the name and designation of the certified individual. The designation "Certified Virginia Auctioneer" shall not be abbreviated [in any advertisement] .

§ 3.2. Contracts.

When an auctioneer agrees to conduct an auction, a contract [~~will~~ shall] be drawn setting forth particulars for the disbursement of the proceeds and the terms and conditions under which the auctioneer received the goods for sale.

A. A list of the type of goods received for sale shall be made a part of the contract.

B. Each contract shall include above the signature line: "I have read and accepted the terms of this contract."

C. Each contract shall include the name, address, telephone number and registration number of the auctioneer.

D. The seller shall be given a legible executed copy of the contract at the time of signature.

§ 3.3. Conduct of auctions.

No auctioneer shall attempt to escalate bidding through false bids, or through collusion with another (shills). Unless notice has been given that liberty for such bidding is reserved, the auctioneer shall not bid on the sellers behalf; nor shall he knowingly accept a bid made by the seller or made on the sellers behalf.

§ 3.4. Display of registration.

Auctioneers shall carry their pocket [~~card~~ cards] on their person and shall produce them on request; auction houses shall display their registration in conspicuous locations.

§ 3.5. Documentation.

Upon completion of the auctioneer's services each seller shall be given legible copies of bills of sale, clerk sheets/consignment sheets, settlement papers, balance sheets or other evidence to properly account for all items sold at auction.

§ 3.6. Escrow funds.

Proceeds of a personal property auction not disbursed to the seller on auction day shall be deposited in an ~~escrow~~ ~~account~~ Auction Escrow Account by the auctioneer no later than the next banking day. Auctioneers shall use federally insured depositories in this Commonwealth. Proceeds due shall be disbursed to the seller not to exceed 30 days after completion of the auctioneer's services. Funds from a real estate auction shall be held in

escrow until settlement in accordance with the agreement of sale.

In the event the sellers' goods are not sold in a single auction, proceeds due shall be disbursed to the seller within 30 days after each auction in which a portion of the sellers goods have been sold and shall be accompanied by a listing of the goods remaining to be sold and their scheduled auction dates.

The Auction Escrow Account shall be used solely for the preservation and guarantee of auction proceeds until disbursed at settlement; escrow funds for any other purposes shall not be commingled with the Auction Escrow Account. The presence of contingency funds in this account to guarantee checks accepted on the sellers behalf shall not be considered commingling of funds.

[Monies Moneys] due the auctioneer shall not be drawn from the Auction Escrow Account until final settlement is made with the seller.

§ 3.7. Records.

The following business records shall be retained for a period of four years from the date of settlement:

The contract drawn with each seller, auction records including but not limited to lists of buyers and their addresses, clerk sheets which show the items sold together with the buyers number or name and the selling price and final settlement papers shall be retained for a period of two years from the date of settlement . Such records shall be available for inspection by the board or its designated agent as deemed appropriate and necessary.

§ 3.8. Use of designation certified Virginia auctioneer.

No person may hold himself out to the public as a Certified Virginia Auctioneer until regulations pertaining to such certification have been promulgated by the board and such person has been certified under those regulations.

§ 3.9. Revocation, suspension, failure to renew.

The board may suspend, revoke or not renew a registration or certificate for auctioneers or impose fines and hearing costs on registrants for the following causes:

- 1. Failure to pay the seller for goods sold at auction;*
- 2. Permitting a nonregistered individual to [ery call] bids at their auction; or [erying calling] bids for an unregistered person engaging (engaged) in an auction business;*
- 3. Conviction in a court of this Commonwealth or of any state of a criminal offense directly relating to the auction business.*
- 4. Violation of any of these regulations or of the*

provisions of Chapters 1, 1.1, and 20.1, of Title 54, of the Code of Virginia.

§ 3.10. Allowing nonregistered bid callers exception.

The only [~~exception to allowing~~ circumstances in which] a nonregistered bid caller [is permissible] in the Commonwealth of Virginia [~~will~~ shall] be in the case of a person enrolled in a class at an approved school of auctioneering in the Commonwealth [and] who for the purpose of training and receiving instruction may [~~do so~~ call bids] under the direct supervision of a certified Virginia auctioneer who is also an instructor in the school and who further assumes full and complete responsibility for the activities of the student involved in bid calling.

PART IV. CERTIFICATION.

§ 4.1. Qualifications for certification.

Those registered individuals who desire to be designated CERTIFIED VIRGINIA AUCTIONEERS, unless exempt under § 54-824.17(ii) of the Code of Virginia, shall have the following qualifications:

A. The applicant shall not have been convicted within the past five years of a criminal offense related to auction activity in Virginia or any other jurisdiction.

B. The applicant shall not have had a registration, certificate or license as an auctioneer revoked within the past five years in Virginia or any other jurisdiction.

C. The applicant shall meet one of the experience levels set forth below:

1. Have conducted at least 25 auctions within the past eight years at which the applicant has cried the bids; or

2. Have, in lieu of the above, successfully completed a course of study at a school of auctioneering which has obtained course approval from the board, or an equivalent course, and have conducted at least 12 auctions within the past eight years at which the applicant cried the bids.

D. The applicant shall take and pass a written examination offered by the board unless exempt as set forth below:

Those applicants who have been practicing auctioneers for at least two years under a Virginia revenue license and make application prior to January 1, 1987, shall be exempt from the examination.

§ 4.2. Application.

Applicants shall submit an application either for examination and certification, or for certification, as

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applicable, and shall pay the proper fees to the board.

A. Notarized information required. Information necessary to obtain certification shall include, but not be limited to the following:

1. Name and registration number of the individual.
2. Address of the individual as appearing on the applicant's registration.
3. Statement of no criminal conviction related to auction activity within the past five years.
4. Statement of no revocation of registration, certificate or license within the past five years.
5. Statement of experience level.
6. Statement, when applicable, of exemption from examination.

B. Attachments required. Attachments to the application shall include, as applicable, copies of satisfactory auction school completion, newspaper advertisements, hand bills, direct mail advertising, brochures, catalogs, contracts with settlement papers, or notarized statements from clients making evident the applicant meets the required experience level.

Applicants exempt from examination under subsection D of § 4.1 shall, in addition to providing attachments required by this subsection, attach copies of their state revenue licenses or checks therefor.

§ 4.3. Examination.

The examination shall test the applicant's knowledge of the following:

A. 1. The auction business including fundamentals of auctioneering, elementary principals or real estate, brokerage, contract drawing, agency, advertising, auction, bid calling, arithmetic and percentages, settlement statements, ethics; and

B. 2. The Virginia statutes entitled Auctioneers' Registration and Certification Act, §§ 54-824.1 through 54-824.21 of the Code of Virginia; bulk transfers, §§ 8.6-101 through 8.6-111 and § 8.2-328 of the Code of Virginia, and the rules and regulations of the board.

§ 4.4. Certification through reciprocity.

Applicants shall submit an application for certification and pay the proper fee to the board.

A. Notarized information required. Information necessary to obtain certification shall include, but not be limited to the following:

1. Name and registration number of the individual.
2. Address of the individual as appearing on the applicant's registration.

B. Attachment required. A copy of the applicant's valid auctioneer license or certification shall be attached to the application.

§ 4.5. Fees.

All fees are nontransferable or nonrefundable.

A. The fee, good for one year for examination, shall be \$50 and submitted with the application.

B. The fee, good for one year for reexamination, shall be \$50 and submitted with the application.

C. The fee for certification shall be \$75 and submitted upon notice of passing the examination or with the application if exempt from examination.

§ 4.6. Duration of certification.

Certification on an individual shall remain in effect so long as the registration of such auctioneer has not been revoked, suspended or allowed to expire without renewal.

§ 4.7. Schools of auctioneering.

A. Application for course approval. Schools seeking approval of their courses shall file a request with the board. The request shall include the following information:

1. Name and address of the school.
2. Locations where classes will be held.
3. Length of the course and total number of hours of instruction.
4. Subjects covered together with number of instruction hours assigned.
5. Names and qualifications of instructors (areas of expertise and experience).

B. Requirements for course approval. To receive course approval the institution must offer a minimum of 80 hours of classroom and field instruction in the conduct of auction business to include fundamentals of auctioneering, elementary principles of real estate, brokerage, contract drawing, advertising, sale preparation, bid calling, settlement statements and ethics. There must be at least five instructors who have been licensed/certified auctioneers for at least five years and who specialize in different fields of the auction business.

DEPARTMENT OF HEALTH (BOARD OF)

Title of Regulation: VR 355-39-01. Regulations Governing Eligibility Standards and Charges for Medical Care Services (Fee Scale Only).

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

Effective Date: April 26, 1988

REGISTRAR'S NOTICE: This regulation is excluded from Article 2 of the Administrative Process Act in accordance with § 9-6.14:4.1 C 1 of the Code of Virginia, which excludes from Article 2 agency orders or regulations fixing rates or prices. The Department of Health will receive, consider and respond to petitions by any interested person at any time with respect to reconsideration or revision.

see
VA. R. 4:15
P. 1624
for consideration

Summary:

The purpose of this revision to the regulations is to allow the Board of Health to add a follow up/problem visit charge of \$16 to the pediatric service category.

In a revision to these regulations effective December 1, 1987, the health department charges were brought in line with third party reimbursement rates when patients have these payment sources. The health department charges had previously been less than the reimbursement rates allowed by Medicare and Medicaid.

The pediatric clinic charge was increased from \$20 per visit to \$37 per visit. While \$37 is an appropriate charge for an initial or yearly visit when comprehensive care is given, it is too much to charge when a patient is required to return for follow up care. This \$16 charge is consistent with third party reimbursement rates.

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STATE HEALTH DEPARTMENT
CHARGES AND PAYMENT REQUIREMENTS BY INCOME LEVELS
Effective December 1, 1987

Under the provisions of the State Health Department Eligibility Regulations, promulgated by the authority of Section 32.1-11 and 32.1-12 of the Code of Virginia, and in accordance with the Eligibility Standards and Charges for Medical Care Services as adopted by the State Board of Health, listed below are the charges for medical care services, stating the minimum required payments to be made by patients toward their charges, according to income levels.

MEDICAL CARE SERVICES	MAXIMUM CHARGES PER VISIT (1)	A 0%	B 10%	C 25%	D 50%	E 75%	F 100%
A. Maternity/Gynecology (2)	\$ 20.00	0	\$ 2.00	\$ 5.00	\$ 10.00	\$ 15.00	\$ 20.00
B. Pediatric/Well Baby							
1. Initial/Yearly	\$ 37.00	0	\$ 3.75	\$ 9.25	\$ 18.50	\$ 27.75	\$ 37.00
2. Follow Up/Problem Visit	\$ 16.00*	0	\$ 1.75	\$ 4.00	\$ 8.00	\$ 12.00	\$ 16.00
C. Family Planning (3)							
1. Initial/Annual Visit	\$ 43.00	0	\$ 4.30	\$ 10.75	\$ 21.50	\$ 32.25	\$ 43.00
2. Follow Up/Problem Visit	\$ 20.00	0	\$ 2.00	\$ 5.00	\$ 10.00	\$ 15.00	\$ 20.00
D. General Medical (4)							
1. Initial Visit	\$ 37.00	0	\$ 3.75	\$ 9.25	\$ 18.50	\$ 27.75	\$ 37.00
2. Follow Up/Problem Visit	\$ 20.00	0	\$ 2.00	\$ 5.00	\$ 10.00	\$ 15.00	\$ 20.00
E. Brief Service (5)	\$ 8.50	0	\$ 1.00	\$ 2.25	\$ 4.25	\$ 6.50	\$ 8.50
F. Dental (6)	Medicaid Allowed Rate Statewide	0	10%	25%	50%	75%	100%

Rev. 3/88

(* New Charge - Effective April 1, 1988)

Charges and Payments Requirements by Income Levels
Effective December 1, 1987

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MEDICAL CARE SERVICES	MAXIMUM CHARGES PER VISIT	A 0%	B 10%	C 25%	D 50%	E 75%	F 100%
C. Special Services (7)							
1. Without Eligibility Determination							
a. Venipuncture (for tests except Communicable Disease Investigations)	\$ 7.00	0	-----FLAT RATE STATEWIDE (8)-----				
b. Pregnancy Testing	FREE	0	-----STATEWIDE-----				
c. Administration of Prescribed Medication and/or Non-Routine Immunizations PLUS: Cost of Vaccine when furnished by Health Department	\$ 3.50	0	-----FLAT RATE STATEWIDE-----				
d. Blood Pressure Check	FREE	0	-----STATEWIDE-----				
e. PPD/Tuberculin Testing	\$ 3.15	0	-----FLAT RATE STATEWIDE-----				
f. Radiological Examination of Chest	\$18.00	0	-----FLAT RATE STATEWIDE-----				
g. Activities of Daily Living (ADL) Services	\$ 8.00 Per Hour(9)	0	-----FLAT RATE STATEWIDE-----				

Charges and Payment Requirements By Income Levels
Effective December 1, 1987

MEDICAL CARE SERVICES	MAXIMUM CHARGES PER VISIT	A 0%	B 10%	C 25%	D 50%	E 75%	F 100%
2. With Eligibility Determination							
a. Pharmacy Professional Fee PLUS: Cost of Drugs/ Rabies Vaccine	\$ 3.50	0	\$.50	\$ 1.00	\$ 1.75	\$ 2.75	\$ 3.50
	COST	0	10%	25%	50%	75%	100%
b. Other X-Ray Services (10)	Medicaid Allowed Rates Statewide	0	10%	25%	50%	75%	100%
c. Other Laboratory Services (11)	Medicaid Allowed Rates Statewide	0	10%	25%	50%	75%	100%
d. Colposcopy Services							
1. Colpo with Biopsy	\$ 86.00	0	\$ 8.75	\$ 21.50	\$ 43.00	\$ 64.50	\$ 86.00
2. Colpo with Biopsy and Cryosurgery	\$105.00	0	\$ 10.50	\$ 26.25	\$ 52.50	\$ 78.75	\$105.00
H. Other Services							
1. Childrens Speciality Services (12)	\$ 60.00 Annually	0	\$ 6.00	\$ 15.00	\$ 30.00	\$ 45.00	\$ 60.00
2. Child Development Clinics							
a. Initial Evaluation	\$249.00	0	\$ 25.00	\$ 62.50	\$124.50	\$186.75	\$249.00
b. Follow Up Visit (13)							
1. Pediatric Unit	\$ 9.00	0	\$ 1.00	\$ 2.25	\$ 4.50	\$ 6.75	\$ 9.00
2. Psychologist Unit	\$ 6.00	0	\$.75	\$ 1.50	\$ 3.00	\$ 4.50	\$ 6.00
3. Social Work Unit	\$ 6.00	0	\$.75	\$ 1.50	\$ 3.00	\$ 4.50	\$ 6.00
4. Nursing Unit	\$ 6.00	0	\$.75	\$ 1.50	\$ 3.00	\$ 4.50	\$ 6.00

Charges and Payments by Income Levels

FOOTNOTES

1. - Maximum Charges Per Visit
 - a. If service is obtained through contract with providers outside the Department, charges will be those charged the Department in the contract, instead of the listed rates.
 - b. Health Department maximum charges shall be: Income A - Free, Income B - 10% of charge, Income C - 25% of charge, Income D - 50% of charge, Income E - 75% of charge, and Income F - full charge. See Income Levels Schedules in the Eligibility Section of the CHS Operations Manual.
2. Maternity/Gynecology
 - a. Medicaid maternity patients will be charged one clinic fee per month regardless of the number of visits incurred within that month. This policy is consistent with Medicaid's reimbursement rates to the private sector.
Non-Medicaid maternity patients will also be charged one clinic fee per month regardless of the number of visits made within that month.
 - b. Gynecology patients will be charged a fee for each clinic visit made.
3. Family Planning
For non-Medicaid Family Planning patients, the contraceptive method selected is included in the cost of the initial and annual visits.

If the patient has Medicaid, billing for services will be made to Medicaid and not to Title XX.
4. General Medical
 - a. An "Initial Visit" is defined as the first time an individual is seen, when a patient record is established and a comprehensive evaluation is done by the physician.
 - b. A "Follow Up Visit" is defined as any subsequent visit to a health department clinic.
5. Brief Service

A "Brief Service" is defined as an encounter with a patient who is required to return for specific follow up of a medical condition. This can be used in conjunction with all specialty clinics.

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Charges and Payments by Income Levels

FOOTNOTES

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6. Dental

The charges for dental services are to be those that are the Medicaid allowed rates for dental procedures.

7. Special Services

When a patient cannot pay the full flat rate charge for the service in this group, an eligibility determination should be done to determine whether the patient is medically indigent or what portion of the charges the patient must pay.

8. Flat Rate Statewide

Charges for services are to be applied on a statewide basis, unless the patient demonstrates an inability to pay for the service, through an eligibility determination.

9. ADL Services

ADL services are provided to patients who do not qualify for Medicaid benefits. This charge per hour is one dollar more than Medicaid's Personal Care Program. All ADL service collections are to be charged to the General Medical subprogram activity.

10. Other X-Ray Services

X-Ray procedure charges shall be the actual cost of the procedure, not to exceed the Medicaid allowed rates for that procedure.

11. Other Laboratory Services

Laboratory charges shall be the actual cost of the procedure not to exceed the Medicaid allowed rates for that procedure.

12. Children's Specialty Services

Refer to the SCC Program Guidelines for patient criteria and charges.

13. Child Development Clinics

Follow Up Visits

A unit of service equals 0.5 hours of face-to-face contact between the provider and the recipient of the service.

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MARINE RESOURCES COMMISSION

NOTE: Effective July 1, 1984, the Marine Resources Commission was exempted from the Administrative Process Act for the purposes of promulgating regulations. However, they are required to publish the full text of final regulations.

Title of Regulation: VR 450-01-8803. Unloading Point for Relaying Shellfish.

Statutory Authority: § 28.1-179 (8) of the Code of Virginia.

Effective Date: April 1, 1988, to April 30, 1988.

Preamble:

The following order establishes a location where shellfish taken from a condemned area may be unloaded.

§ 1. Authority and effective date.

A. This order is promulgated pursuant to authority contained in § 28.1-179 (8) of the Code of Virginia.

B. The effective date of this order is April 1, 1988.

§ 2. Designated area.

Shellfish taken from leased ground in Mill Creek (Condemnation Area 7) shall be unloaded at Sam's Boat House located at 23 Water Street, Hampton, Virginia.

§ 3. Expiration date.

This order shall terminate April 30, 1988.

DEPARTMENT OF MEDICAL ASSISTANCE SERVICES (BOARD OF)

REGISTRAR'S NOTICE: This regulation is excluded from Article 2 of the Administrative Process Act in accordance with § 9-6.14:4.1 C 3 of the Code of Virginia, which excludes from Article 2 regulations which consist only of changes in style or form or corrections of technical errors. 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: State Plan for Medical Assistance. VR 460-01-50. Utilization Control of Intermediate Facilities.

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

Effective Date: June 1, 1988

Summary:

This final regulatory action amends the State Plan for Medical Assistance required by Title XIX of the Social Security Act and administered by the Department of Medical Assistance Services. This amending action makes a technical correction in a special note the department adds to the bottom of a preprinted form issued by the Health Care Financing Administration. Since this technical action is exempt from the comment requirements of the Administrative Process Act, the department will receive, consider and respond to petitions by any interested person at any time with respect to reconsideration or revision.

VR 460-01-50. Utilization Control of Intermediate Facilities.

Citation 4.14 (e) The Medicaid agency meets the requirements of 42 CFR Part 456, Subpart F, for control of the utilization of intermediate care facility services is provided through:

Facility-based review

Direct review by personnel of the medical assistance unit of the state agency.

Personnel under contract to the medical assistance unit of the state agency.

Utilization and Quality Control Peer Review Organizations.

Another method as described in ATTACHMENT 4.14-A.

Two or more of the above methods. ATTACHMENT 4.14-B describes the circumstances under which each method is used.

Not applicable. Intermediate care facility services are not provided under this plan.

NOTE: The Program will allow a maximum of ten (10) administrative days for placement and transfer for SNF to ICF from ICF to the community in order to make an orderly transfer or placement possible without potential harm or trauma to the patient in accordance with 42 CFR 456.4.

DEPARTMENT OF MENTAL HEALTH, MENTAL RETARDATION AND SUBSTANCE ABUSE SERVICES (STATE BOARD OF)

NOTICE: The Department of Mental Health, Mental Retardation and Substances Abuse Services is REPEALING the regulation listed below:

Title of Regulation: VR 470-02-04. Rules and Regulations for the Licensure of Group Homes and Halfway Houses.

Statutory Authority: §§ 37.1-10 and 37.1-179 of the Code of

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Virginia.

Effective Date: July 1, 1988

Summary:

Under the current definitions in the Code of Virginia (§ 37.1-179 et seq.), the Department of Mental Health, Mental Retardation and Substance Abuse Services is responsible for the licensure of facilities and institutions providing care or treatment to mentally ill, mentally retarded and substance abusing persons.

The above referenced regulations became effective on May 1, 1978, almost 10 years ago. They have served as the basic licensure regulations for group homes, halfway houses, residential treatment centers and other nonhospital level residential facilities serving mentally ill and mentally retarded adults.

The term "group home" is defined in these regulations as "...a licensed community based residential facility for four or more mentally retarded or mentally ill persons who may require personal care and supervision, and who may be considered to be potential candidates for independent living." The term "halfway house" means "...a licensed facility, community based, offering residential services to individuals in aftercare status emphasizing social rehabilitation with support and guidance toward the goal of independent living."

As part of an effort to revise and improve all of its licensure regulations, it is the intention of the board to replace VR 470-02-04 Rules and Regulations for the Licensure of Group Homes and Halfway Houses with an entirely new set of regulations: VR 470-02-11 Rules and Regulations for the Licensure of Residential Facilities. VR 470-02-04 Rules and Regulations for the Licensure of Group Homes and Halfway Houses are repealed effective July 1, 1988, the effective date of the new regulations which will then serve as the basic licensure regulations for group homes, halfway houses, and residential treatment centers serving mentally retarded and mentally ill adults. The new regulations will also serve as the basic licensure regulations for nonhospital based residential substance abuse treatment and rehabilitation facilities previously licensed under VR 470-02-05 Rules and Regulations for the Licensure of Substance Abuse Treatment and Rehabilitation Facilities. These latter regulations are repealed with respect to their applicability to nonhospital based residential substance abuse treatment and rehabilitation facilities effective July 1, 1988, the effective date of the new regulations which will then serve as the basic licensure regulations for nonhospital based residential substance abuse treatment and rehabilitation facilities.

In VR 470-02-11 Rules and Regulations for the Licensure of Residential Facilities the term

"residential facility" includes with certain exceptions any publicly or privately owned facility or institution by whatever name or designation which provides 24 hour domiciliary or residential care or treatment for four or more adult mentally ill, mentally retarded, or substance abusing persons including the detoxification, treatment or rehabilitation of drug addicts through the use of the controlled drug methadone, including special residential schools, halfway houses, residential treatment centers, substance abuse treatment and rehabilitation facilities, domiciliary facilities, shelter care facilities, group homes and any other similar or related facility.

VR 470-02-04 Rules and Regulations for the Licensure of Group Homes and Halfway Houses articulate the current minimum requirements for licensure of group homes, halfway houses and similar residential facilities providing care or treatment in order to protect the health and safety of mentally ill and mentally retarded clients in such facilities and to assure that they receive services that are appropriate to meet their identified needs.

These regulations are comprised of the following issues which have impact on residential facilities subject to licensure:

Physical facility and safety, health and safety, organization and management, personnel practices, admissions to facility, individual program plan, religious services, records, educational programs, orientation and education, and food service.

These regulations will be replaced by VR 470-02-11 Rules and Regulations for the Licensure of Residential Facilities effective July 1, 1988.

* * * * *

NOTICE: The Department of Mental Health, Mental Retardation and Substance Abuse Services is REPEALING the regulation listed below:

Title of Regulation: VR 470-02-05. Rules and Regulations for the Licensure of Substance Abuse Treatment and Rehabilitation Facilities.

Statutory Authority: §§ 37.1-10 and 37.1-179 of the Code of Virginia.

Effective Date: July 1, 1988

Summary:

Under the current definitions in the Code of Virginia (§ 37.1-179 et seq.), the Department of Mental Health, Mental Retardation and Substance Abuse Services is responsible for the licensure of facilities and institutions providing care or treatment to mentally ill, mentally retarded and substance abusing persons.

The above referenced regulations became effective on January 1, 1980, almost eight years ago. They have served as the basic licensure regulations for inpatient facilities, intermediate care facilities, subacute detoxification facilities, outpatient facilities, screening and referral facilities, transitional domiciliary facilities, and facilities providing detoxification, treatment or rehabilitation of drug addicts through the use of the controlled drug methadone, which serve substance abusing adults.

As part of an effort to revise and improve all of its licensure regulations, it is the intention of the department to replace VR 470-02-05 Rules and Regulations for the Licensure of Substance Abuse Treatment and Rehabilitation Facilities with three entirely new sets of regulations:

1. VR 470-02-11 Rules and Regulations for the Licensure of Residential Facilities which will serve as the basic licensure regulations for, among other types of residential facilities, intermediate care facilities, social detoxification facilities, transitional domiciliary facilities serving substance abusing clients, and residential facilities providing detoxification, treatment or rehabilitation of drug addicts through the use of the controlled drug methadone;

2. VR 470-02-09 Rules and Regulations for the Licensure of Outpatient Facilities which will serve as the basic licensure regulations for, among other types of outpatient facilities, outpatient facilities providing detoxification, treatment or rehabilitation of drug addicts through the use of the controlled drug methadone; and

3. VR 470-02-13 Rules and Regulations for the Licensure of Psychiatric Hospitals and Inpatient Substance Abuse Facilities (to be promulgated at a future date) which will serve as the basic licensure regulations for, among other types of hospital-based treatment facilities, hospital based medical detoxification facilities, inpatient substance abuse facilities, and similar facilities providing detoxification, treatment or rehabilitation of drug addicts through the use of the controlled drug methadone.

Concurrently with the effective date of the above three sets of regulations, VR 470-02-05 Rules and Regulations for the Licensure of Substance Abuse Treatment and Rehabilitation Facilities will be repealed with respect to the types of facilities that are subject to licensure under each set of new regulations, which will then serve as the basic licensure regulations for those facilities.

In VR 470-02-11 Rules and Regulations for the Licensure of Residential Facilities the term "residential facility" includes with certain exceptions any publicly or privately owned facility or institution by whatever name or designation which provides 24

hour domiciliary or residential care or treatment for four or more adult mentally ill, mentally retarded, or substance abusing persons including the detoxification, treatment or rehabilitation of drug addicts through the use of the controlled drug methadone, including special residential schools, halfway houses, residential treatment centers, substance abuse treatment and rehabilitation facilities, domiciliary facilities, shelter care facilities, group homes and any other similar or related facility.

In VR 470-02-09 Rules and Regulations for the Licensure of Outpatient Facilities the term "outpatient facility" includes any publicly or privately owned institution, establishment or other entity by whatever name or designation which provides a variety of treatment interventions generally of less than three consecutive hours duration for mentally ill, mentally retarded or substance abusing persons including the detoxification, treatment or rehabilitation of drug addicts through the use of the controlled drug methadone. These interventions are provided in a nonresidential setting to individuals, groups and families and include but are not limited to emergency services, crisis intervention, diagnosis and evaluation, counseling, psychotherapy, behavior management, chemotherapy, ambulatory detoxification, and methadone detoxification and maintenance. The term outpatient facility specifically includes the treatment rooms or offices used to provide the services of: (i) a facility providing a program of outpatient services operated by a community mental health, mental retardation and substance abuse services board established pursuant to Chapter 10 (§ 37.1-194 et seq.) of Title 37.1 of the Code of Virginia; (ii) a facility providing a program of outpatient services funded wholly or in part, directly or indirectly, by a community mental health, mental retardation and substance abuse services board established pursuant to Chapter 10 (§ 37.1-194 et seq.) of Title 37.1 of the Code of Virginia; (iii) a facility providing a program of outpatient services to substance abusing persons including the detoxification, treatment or rehabilitation of drug addicts through the use of the controlled drug methadone; or (iv) a facility providing a program of outpatient services that is owned, operated, or controlled by a corporation organized pursuant to the provisions of either Chapter 9 (§ 13.1-601 et seq.) or Chapter 10 (§ 13.1-801 et seq.) of Title 13.1 of the Code of Virginia. The term outpatient facility does not include the treatment rooms or offices used to provide the services of, among others, individual licensed practitioners of the healing arts or the behavioral science professions or "group practices."

In the draft VR 470-02-13 Rules and Regulations for the Licensure of Psychiatric Hospitals and Inpatient Substance Abuse Facilities the term "psychiatric hospital" includes with certain exceptions any facility or institution or any identifiable component of any facility or institution whose primary function is to

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provide psychiatric diagnosis and treatment, including medical, nursing and related services, in an inpatient setting for two or more unrelated mentally ill individuals, including hospitals known by varying nomenclature or designation such as sanatoriums; sanatariums; general, acute, short-term, and long-term hospitals; and psychiatric units within general hospitals and community mental health centers. The term "inpatient substance abuse facility" includes any organization established to provide effective intervention in a hospital setting for substance abuse by providing medical detoxification and by treating the medical and psychiatric complications of substance abuse through an organized medical and professional staff, with continuous nursing service at the hospital level of care, when such organized plan of substance abuse services can be separately identified.

VR 470-02-05 Rules and Regulations for the Licensure of Substance Abuse Treatment and Rehabilitation Facilities articulate the current minimum requirements for the licensure of inpatient facilities, intermediate care facilities, subacute detoxification facilities, outpatient facilities, screening and referral facilities, transitional domiciliary facilities, and facilities providing detoxification, treatment or rehabilitation of drug addicts through the use of the controlled drug methadone, in order to protect the health and safety of substance abusing clients in such facilities and to assure that they receive services that are appropriate to meet their identified needs.

These regulations are comprised of the following issues which have impact on substance abuse treatment and rehabilitation facilities subject to licensure:

Patient rights; health and safety; space usage; sanitary, health and special medical requirements; personnel practices; programs and services; requirements for treatment in inpatient, intermediate care, subacute detoxification and transitional domiciliary substance abuse treatment facility only; record keeping and accountability; organization and management; and methadone treatment facilities.

These regulations will be replaced by the Rules and Regulations for the Licensure of Residential Facilities (VR 470-02-11) and Rules and Regulations for the Licensure of Outpatient Facilities (VR 470-02-09) effective July 1, 1988, and by the Rules and Regulations for the Licensure of Psychiatric Hospitals and Inpatient Substance Abuse Facilities (VR 470-02-13) upon their promulgation in the future.

* * * * *

Title of Regulation: VR 470-02-06. Rules and Regulations for the Licensure of Supported Residential Programs and Residential Respite Care/Emergency [Shelter Services] Facilities.

Statutory Authority: §§ 37.1-10 and 37.1-179 of the Code of Virginia.

Effective Date: July 1, 1988

Summary:

Under the current definitions in the Code of Virginia (§ 37.1-179 et seq.), the Department of Mental Health, Mental Retardation and Substance Abuse Services is responsible for the licensure of facilities and institutions providing care or treatment to mentally ill, mentally retarded and substance abusing persons.

The term "supported residential program" includes with certain exceptions any publicly or privately operated facility, institution or other entity which provides placement, domiciliary care, residential respite care/emergency shelter services or supportive services in supported residential settings to mentally ill, mentally retarded, or substance abusing persons. Supported residential settings may include: (i) residential respite care/emergency services facilities, (ii) residential service systems which sponsor a number of single housing units for three or fewer persons such as supervised apartments or specialized adult foster care provided in private family homes, (iii) contracted beds in licensed residential facilities, or (iv) supported independent living settings.

The term "residential respite care/emergency services facility" includes with certain exceptions a facility that is specifically approved to provide residential respite care/emergency services for four or more mentally ill, mentally retarded, or substance abusing residents.

The term "residential respite care/emergency services" means the provision of periodic residential care for periods not to exceed 21 consecutive days duration for crisis stabilization, emergency care or to provide temporary relief to parents/guardians from responsibility for the direct care of the adult client.

These regulations articulate the minimum requirements for licensure of supported residential programs and residential respite care/emergency services facilities in order to protect the health and safety of mentally ill, mentally retarded and substance abusing clients in supported residential programs and residential respite care/emergency services facilities and to assure that they receive services that are appropriate to meet their identified needs.

The regulations are comprised of the following issues which have impact on supported residential programs and residential respite care/emergency services facilities that are subject to licensure: (i) organization and administration, (ii) personnel, (iii) physical environment, (iv) programs and services, and (v) disaster or emergency plans.

Changes in response to public comment include clarifying certain definitions; providing technical amendments to various regulations to achieve consistency with other departmental regulations and requirements such as human rights regulations, "core services definitions," and standard data elements for statistical reporting; revising certain licensing procedures to enhance their efficiency and to reduce unnecessary burdens for licensees; and revising other requirements to make them more consistent with current standards of practice and operational realities.

These are new regulations which will subject supported residential programs to licensure for the first time.

VR 470-02-08. Rules and Regulations for the Licensure of Supported Residential Programs and Residential Respite Care/Emergency [Shelter Services] Facilities.

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PART I. INTRODUCTION.

Article 1. Definitions.

§ 1.1. The following words and terms, when used in these regulations, shall have the following meaning, unless the context clearly indicates otherwise:

"Advocate" means a person or persons appointed by the commissioner after consultation with the State Human Rights Director and the local human rights committee who exercise the duties set forth in Part III of the Rules and

Regulations to Assure the Rights of Residents of Facilities Operated by the Department of Mental Health [, Mental] Retardation [and Substance Abuse Services] .

["Alcoholic" means a person who (i) through the use of alcohol has become dangerous to the public or himself; or (ii) because of such alcohol use is medically determined to be in need of medical or psychiatric care, treatment, rehabilitation, or counseling.]

"Allegation" means an accusation that a facility is operating without a license.

["Alternative day support arrangements" means day support alternatives other than programs that provide day treatment/partial hospitalization, psychosocial rehabilitation, extended sheltered employment or work activity, adult developmental/activity center/developmental day programming for adults, education, recreation, or supported or transitional employment, which assist clients in locating day support settings and may provide program staff, follow along, or assistance to the clients. The focus may be on assistance to the client to maintain the independent day support arrangement.]

Ambulatory detoxification [services program] means a program [/service] provided [in a day treatment/partial hospitalization program or] in an outpatient facility to people under the influence of intoxicants that provides a safe place to withdraw from such intoxicants, but the term "ambulatory detoxification [services program]" does not include detoxification and treatment with the controlled drug methadone. Trained staff are present to monitor withdrawal. People who experience medical complications are sent to a hospital emergency room [or other appropriate medical facility]. Clients may be referred to an outpatient substance abuse facility or to an intermediate care facility when appropriate.

"Applicant" means the person, corporation, partnership, association or public agency which has applied for a license.

"Behavior management" means planned and systematic use of various techniques selected according to group and individual differences of the clients and designed to teach awareness of situationally appropriate behavior, to strengthen desirable behavior, and to reduce or to eliminate undesirable behavior. (The term is consistently generic and is not confined to those techniques which derive specifically from behavior therapy, operant conditioning, etc.)

"Board" means the State Mental Health [and ,] Mental Retardation [and Substance Abuse Services] Board.

"Case record" or "record" means written information assembled in one folder or binder relating to one individual. This information includes social and medical data, agreements, notations of ongoing information, service plan with periodic revisions, aftercare plans and discharge

summary, and any other data related to the client or resident.

"Child" means any person legally defined as a child under the law of the Commonwealth.

"Client" means a [~~mentally ill or mentally retarded~~ person or a person addicted to the intemperate use of narcotic drugs, alcohol or other stimulants who is being served by a facility, institution or other entity licensed under these regulations person receiving treatment or other services from a program, facility, institution or other entity licensed under these regulations whether that person is referred to as a patient, resident, student, consumer, recipient or another term].

"Commissioner" means the Commissioner of Mental Health [~~and~~ ,] Mental Retardation [and Substance Abuse Services].

"Complaint" means an accusation against a licensed facility regarding an alleged violation of regulations or law.

"Corporal punishment" means the inflicting of pain or discomfort to the body through actions such as but not limited to striking or hitting with any part of the body or with an implement; or through pinching, pulling, or shaking; or through any similar action which normally inflicts pain or discomfort.

"Day off" means a period of not less than 32 consecutive hours during which a staff person has no responsibility to perform duties related to the facility. Each successive day off immediately following the first shall consist of not less than 24 additional consecutive hours.

["Day support program" means any publicly or privately operated facility, institution or other entity which provides a planned program of treatment or training interventions generally of more than three consecutive hours duration to mentally ill, mentally retarded, or substance abusing persons. Day support program services may include the detoxification, treatment or rehabilitation of drug addicts through the use of the controlled drug methadone. These interventions are provided in a nonresidential setting and focus on the treatment of pathological conditions or on the training or strengthening of client abilities to deal with everyday life. The term "day support program" does not include entities whose primary function is to provide:

1. Extended sheltered employment or work activity programs;
2. Supported or transitional employment programs;
3. Alternative day support arrangements;
4. Educational programs;

5. Recreational programs;

6. Outpatient facilities licensed pursuant to the provisions of Chapter 8 (§ 37.1-179 et seq.) of Title 37.1 of the Code of Virginia; or

7. Day treatment/partial hospitalization programs provided by psychiatric hospitals licensed pursuant to the provisions of Chapter 8 (§ 37.1-179 et seq.) of Title 37.1 of the Code of Virginia, provided that such day treatment/partial hospitalization programs are situated on the same premises as the psychiatric hospital so licensed.]

"Department" means the Department of Mental Health [and ,] Mental Retardation [and Substance Abuse Services].

"Detoxification facility" means a residential facility or a portion thereof that is licensed a nonhospital medical detoxification [~~service~~, a sobering-up shelter service program] or a social detoxification [~~service~~ program], but does not include a hospital based medical detoxification [~~service~~ program] or an inpatient substance abuse facility as defined in these regulations.

"Domiciliary care" means the provision of food, shelter, assistance in activities of daily living, protection, and general supervision and oversight of the physical and mental well-being of clients.

"Drug addict" means a person who: (i) through the use of habit forming drugs or other drugs enumerated in the Virginia Drug Control Act (§ 54-524.1 et seq.) as controlled drugs, has become dangerous to the public or himself; or (ii) because of such drug use, is medically determined to be in need of medical or psychiatric care, treatment, rehabilitation or counseling.

"Facility" or "institution" means any facility not operated by an agency of the federal government by whatever name or designation which provides care or treatment for mentally ill [~~or~~ ,] mentally retarded [~~persons~~, or persons addicted to the intemperate use of narcotic drugs, alcohol or other stimulants , or substance abusing persons] including the detoxification, treatment or rehabilitation of drug addicts through the use of the controlled drug methadone. Such institution or facility shall include a hospital as defined in § 32.1-123 of the Code of Virginia, outpatient clinic, special school, halfway house, home and any other similar or related facility.

"Facility-based residential respite care/emergency [~~shelter~~] services" means the provision of residential respite care/emergency [~~shelter~~] services in a residential respite care/emergency [~~shelter services~~] facility.

["Group practice" means one or more practitioners of the healing arts or practitioners of the behavioral science professions who are individually licensed under the provisions of Title 54 of the Code of Virginia and their

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employees who are individually licensed under the provisions of Title 54 of the Code of Virginia or who are otherwise legally authorized to render professional services within this Commonwealth, who have for purposes of convenience or efficiency associated or grouped themselves through the use of shared office space or administrative support in order to provide professional services within the scope and limits of their individual and respective professional licenses, whether the association is informal or has been formalized through an organization such as a professional association organized pursuant to the provisions of Chapter 25 (§ 54-873 et seq.) of Title 54 of the Code of Virginia, a professional corporation organized pursuant to the provisions of Chapter 7 (§ 13.1-542 et seq.) of Title 13.1 of the Code of Virginia, or a general partnership organized under the provisions of Chapter 1 (§ 50-1 et seq.) of Title 50 of the Code of Virginia.]

"Hospital" or "hospitals" when not modified by the words "state" or "private" means both state hospitals and private hospitals devoted to or with facilities for the care and treatment of mentally ill, mentally retarded or substance abusing persons.

"Hospital-based medical detoxication [service program]" means a program [service] which offers medical treatment to persons suffering from alcohol or other drug intoxication. This service is provided in a hospital under the direction of a physician and hospital staff and is designed to monitor and control medical complications and other disorders which may be associated with withdrawal.

"Human research" means any medical or psychological [investigation designed to develop or contribute to general knowledge and research] which utilizes human subjects who may be exposed to the possibility of physical or psychological injury as a consequence or participation as subjects and which departs from the application of those established and accepted methods appropriate to meet the subjects' needs but does not include:

1. The conduct of biological studies exclusively utilizing tissue [or] fluids after their removal or withdrawal from [a] human subject in the course of standard medical practice;

2. Epidemiological investigations; or

3. Medical treatment of an experimental nature intended to save or prolong the life of the subject in danger of death, to prevent the subject from becoming disfigured or physically or mentally incapacitated [or to improve the quality of the subject's life].

"Individualized service plan" means a written plan of action developed, and modified at intervals, to meet the [unique] needs of each client. It specifies short and long-term goals, the methods and time frames for reaching the goals and the individuals responsible for carrying out the plan.

"Inpatient substance abuse facility" means an organization established to provide effective intervention [in a hospital setting] for substance abuse by providing medical detoxification and by treating the medical and psychiatric complications of substance abuse through an organized medical and professional staff, with continuous nursing service at the hospital level of care, when such organized plan of substance abuse services can be separately identified.

["Intermediate care substance abuse facility" means an organization established to provide a continuous, structured residential program of services including assessment, counseling, vocational and social rehabilitation for four or more substance abusing persons. This type of facility provides full-time residential treatment services and is exemplified by therapeutic communities and residential treatment centers.]

"Intrusive aversive therapy" means a formal behavior modification technique designed to reduce or eliminate severely maladaptive, violent or self-injurious behavior through the application of noxious or painful stimuli contingent upon the exhibition of such behavior. The term shall not include actions defined in these regulations as corporal punishment, nor does it include verbal therapies, seclusion, physical or mechanical restraints used in conformity with the applicable human rights regulations promulgated pursuant to § 37.1-84.1 of the Code of Virginia, or psychotropic medications which are not used for purposes of intrusive aversive therapy.

"Licensee" means the person, corporation, partnership, association, or public agency to whom a license is issued and who is legally responsible for compliance with the regulations and statutory requirements relating to the facility.

"Local human rights committee" means a committee of at least five members broadly representative of professional and consumer groups appointed by the State Human Rights Committee for each group of community services board or licensed organization after consultation with the commissioner, and whose responsibility shall be to perform the functions specified in applicable human rights regulations. Except where otherwise provided, the term "local human rights committee" shall mean this body or any subcommittee thereof.

"Mechanical restraint" means the application of machinery or tools as a means of physically restraining or controlling a client's behavior, such as handcuffs, straitjackets or shackles but not including bed straps, bed rails, slings and other devices employed to support or protect physically incapacitated clients.

"Mental retardation" means substantial subaverage general intellectual functioning which originates during the developmental period and is associated with impairment in adaptive behavior.

"Nonfacility-based residential respite care/emergency [shelter] services" means the provision of residential respite care/emergency [shelter] services in supervised apartments, in specialized [adult] foster care placement in private family homes [or ,] in contracted beds in a licensed residential facility [, or in supported independent living settings] .

"Nonhospital medical detoxification [service program] " means a program [/service] which provides a medically supervised withdrawal from alcohol or other drug intoxication in a nonhospital setting. Twenty-four hour nursing care and the services of on-call physicians are available. Services include medical screening and evaluation, basic laboratory analysis, physical exams and chemotherapy, as ordered by a physician. Medical referrals are made as necessary. Case management including referral to further residential or outpatient treatment is available.

"On duty" means that period of time during which a staff person is responsible for the care and supervision of one or more clients.

"Outpatient facility" means any publicly or privately owned institution, establishment or other entity by whatever name or designation which provides a variety of treatment interventions [which individually are generally of] less than three consecutive hours duration for mentally ill [or ,] mentally retarded [persons, or persons addicted to the intemperate use of narcotic drugs, alcohol or other stimulants , or substance abusing persons] including the detoxification, treatment or rehabilitation of drug addicts through the use of the controlled drug methadone. These interventions are provided in a nonresidential setting to individuals, groups and families and include but are not limited to emergency services, crisis intervention, [diagnosis and evaluation,] counseling, psychotherapy, behavior management, chemotherapy, ambulatory detoxification, and methadone detoxification and maintenance. The term outpatient facility [does not include specifically includes] the treatment rooms or offices used to provide the services of: [(i) a facility providing a program of outpatient services operated by a community mental health, mental retardation and substance abuse services board established pursuant to Chapter 10 (§ 37.1-194 et seq.) of Title 37.1 of the Code of Virginia; (ii) a facility providing a program of outpatient services funded wholly or in part, directly or indirectly, by a community mental health, mental retardation and substance abuse services board established pursuant to Chapter 10 (§ 37.1-194 et seq.) of Title 37.1 of the Code of Virginia; (iii) a facility providing a program of outpatient services to substance abusing persons including the detoxification, treatment or rehabilitation of drug addicts through the use of the controlled drug methadone; or (iv) a facility providing a program of outpatient services that is owned, operated, or controlled by a corporation organized pursuant to the provisions of either Chapter 9 (§ 13.1-601 et seq.) or Chapter 10 (§ 13.1-801 et seq.) of Title 13.1 of the Code of Virginia. The term outpatient facility

does not include the treatment rooms or offices used to provide the services of:]

[1. Professional associations organized by three or more practitioners of the same healing art or by three or more psychologist under the provisions of Chapter 25 (§ 54-873 et seq.) of Title 54 of the Code of Virginia for the sole and specific purpose of rendering the same and specific professional service, provided that the associates and any employees of the association who render professional services on behalf of the association are individually licensed under the provisions of Title 54 of the Code of Virginia to practice the same healing art or to practice psychology;

2. Professional corporations organized by one or more practitioners of the same healing art or by practitioners of the same behavioral science profession under the provisions of Chapter 7 (§ 13.1-642 et seq.) of Title 13.1 of the Code of Virginia for the sole and specific purpose of rendering the same and specific professional services, provided that the shareholders and any employees of the professional corporation who render professional services on behalf of the professional corporation are individually licensed under the provisions of Title 54 of the Code of Virginia to practice the same healing art or to practice the same behavioral science profession;

3. General partnerships formed under the provisions of Chapter 1 (§ 50-1 et seq.) of Title 50 of the Code of Virginia by two or more individual practitioners of the same healing art or of the same behavioral science profession for the sole and specific purpose of rendering the same and specific professional service, provided that the partners and any employees of the general partnership who render professional services on behalf of the general partnership are individually licensed under the provisions of Title 54 of the Code of Virginia to practice the same healing art or to practice the same behavioral science profession;]

[4. 1.] Individual practitioners of the healing arts licensed under the provisions of Chapter 12 (§ 54-273 et seq.) of Title 54 of the Code of Virginia;

[5. 2.] Individual practitioners of the behavioral science professions licensed under the provisions of Chapter 28 (§ 54-923 et seq.) of Title 54 of the Code of Virginia;

[6. 3.] Psychiatric hospitals licensed pursuant to the provisions of Chapter 8 (§ 37.1-179 et seq.) of Title 37.1 of the Code of Virginia, provided that such treatment rooms or offices are situated on the same premises as the psychiatric hospital so licensed; [or]

[4. Group practices as defined in these regulations; or]

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[7. 5.] Day support programs licensed pursuant to the provisions of Chapter 8 (§ 37.1-179 et seq.) of Title 37.1 of the Code of Virginia.

["Outpatient substance abuse facility" means an establishment which provides in a nonresidential setting a variety of services to substance abusing persons and their families including assessment, direct substance abuse treatment services which the facility's organization can itself provide, and indirect treatment services which the facility's organization secures through referral, on both a scheduled and unscheduled basis.]

"Patient" [or "Resident"] means a person voluntarily or involuntarily admitted to or residing in a facility licensed pursuant to the provisions of Chapter 8 (§ 37.1-179 et seq.) of Title 37.1 of the Code of Virginia.

"Physical restraint" means any act by the facility or staff which exercises the use of physical confrontation or force with clients as a method or technique of managing harmful client or resident behavior.

"Placement" means any activity of any person which provides assistance to a client in locating and effecting a move to [a] supported residential [program setting settings] including assessing the client's residential needs, assessing the service characteristics of various residential options and providing assistance to the client in selecting the residential setting that will meet his residential needs.

"Premises" means the tract(s) of land on which any part of a facility is located and any buildings on such tract(s) of land.

"Private hospital" means a hospital or similar institution which is not operated by [the department any state or federal agency] and is duly licensed pursuant to the provisions of § 37.1-179 et seq. of the Code of Virginia and includes psychiatric wards of general hospitals.

"Private institution" means an establishment which is not operated by [the department any state or federal agency] and which is licensed pursuant to the provisions of § 37.1-179 et seq. of the Code of Virginia.

"Professional service" means any type of personal service to the public which requires as a condition precedent to the rendering of such service or use of such title the obtaining of a license, certification or other legal authorization from a state examining board issued under the provisions of Title 54 of the Code of Virginia [; except that the phrase 'rendering the same and specific professional service' as used in these regulations in the exclusions from the term "outpatient facility" shall not be interpreted to prohibit such excluded professional associations, professional corporations, and general partnerships from employing such person to assist in rendering the sole and specific professional service for which such entities are organized such as: (i) professional nurses and licensed practical nurses licensed pursuant to

the provisions of Chapter 13.1 (§ 54-267.1 et seq.) of Title 54 of the Code of Virginia; (ii) physical therapists licensed pursuant to the provisions of Chapter 12 (§ 54-273 et seq.) of Title 54 of the Code of Virginia; or (iii) clerks, secretaries, bookkeepers, technicians and other assistants who are not usually and ordinarily considered by custom and practice to be rendering professional service to the public for which a license or other legal authorization is required.]

"Program" means a combination of procedures [or and] activities carried out in order to meet a specific goal or objective.

"Punishment" means the use of an aversive event or the removal of a positive event following a behavior which decreases, or is intended to decrease the probability of that behavior. This includes a pain, loss, or penalty inflicted for a fault or mistake.

"Regional advocate" means a person or persons who perform the functions set forth in Part IV of the Rules And Regulations Assuring the Rights of Clients in Community Programs and who are appointed by the Commissioner after consultation with the State Human Rights Director.

"Rehabilitation" means assistance provided for [a disabled an] individual [with a disability] to return to his fullest potential in occupational, social and psychological life by reducing the residual effects of his [handicapping condition disability].

"Resident" means a person admitted to a residential respite care/emergency [services] facility for supervision, care, training or treatment on a 24-hour basis.

"Residential facility" means any publicly or privately owned facility or institution by whatever name or designation which provides 24 hour domiciliary or residential care or treatment for four or more mentally ill [or ,] mentally retarded [persons; or persons addicted to the intemperate use of narcotic drugs, alcohol or other stimulants , or substance abusing persons] including the detoxification, treatment or rehabilitation of drug addicts through the use of the controlled drug methadone, including special residential schools, halfway houses, residential treatment centers, substance abuse treatment and rehabilitation facilities, domiciliary facilities, shelter care facilities, group homes and any other similar or related facility except:

1. A residential facility operated by an agency of the federal government;
2. A private family home;
3. A hospital as defined in [subsection 1 of] § 32.1-123 of the Code of Virginia serving mentally ill persons;

4. A hospital-based medical detoxification [*service program*] ; an inpatient substance abuse facility; [or] an outpatient substance abuse facility using the controlled drug methadone for the detoxification, treatment or rehabilitation of drug addicts [; or a screening and referral facility (substance abuse)] as these facilities are defined in these regulations;

5. A facility or portion of a facility licensed by the State [*Board Department*] of Social Services;

6. A facility or portion of a facility licensed by the State [*Board Department*] of Health;

7. A facility or portion of a facility which provides domiciliary or residential care to children; or

8. A residential respite care/emergency [*shelter services*] facility [; ;]

[9. Woodrow Wilson Rehabilitation Center; or

10. A supported residential program as defined in these regulations.]

["*Residential respite care/emergency services*" means the provision of periodic residential care for periods not to exceed 21 consecutive days duration for crisis stabilization, emergency care or to provide temporary relief to parents/guardians from responsibility for the direct care of the adult client.]

"Residential respite care/emergency [*shelter services*] facility" means a facility that is specifically approved to provide [*periodic*] residential respite care/emergency [*shelter*] services for four or more [*mentally ill, mentally retarded, or substance abusing*] residents, but does not include:

1. A residential facility as defined in these regulations;

2. A residential facility operated by an agency of the federal government;

3. A private family home;

4. A hospital as defined in [*subsection 1 of*] § 32.1-123 of the Code of Virginia serving mentally ill persons;

5. A hospital-based medical detoxification [*service program*] ; [*and an*] inpatient substance abuse facility; [or] an outpatient substance abuse facility using the controlled drug methadone for the detoxification, treatment or rehabilitation of drug addicts [; or a screening and referral facility (substance abuse)] as these facilities are defined in these regulations;

6. A facility or portion of a facility licensed by the State [*Board Department*] of Social Services;

7. A facility or portion of a facility licensed by the State [*Board Department*] of Health;

8. A facility or a portion of a facility which provides domiciliary or residential care to children; or

9. A supported residential program as defined in these regulations.

["*Respite care/emergency services*" means the provision of periodic residential care for periods not to exceed 21 consecutive days duration for crisis stabilization, emergency shelter or to provide temporary relief to parents/guardians from responsibility for the direct care of the client.]

"Residential service system" means a service component of a licensed supported residential program as defined in these regulations which provides sponsored placement and supportive services to clients in: (i) supervised apartments operated by the supported residential program; (ii) specialized [*adult*] foster care placements provided in private family homes; (iii) residential respite care/emergency [*shelter services*] facilities; [or] (iv) [*in*] contracted beds in licensed residential facilities [; or (v) supported independent living settings].

"Right" means that to which one has a natural [; or] legal [or moral] claim.

["*Sanitize*" means to wash or rinse with water containing a laundry bleach with an active ingredient of 5.25% sodium hypochlorite. The amount of bleach used may be in accordance with manufacturer's recommendation on the package.

"Screening and referral facility (substance abuse)" means an organization which provides services in a nonresidential setting to determine the type and extent of the substance abuse problem of the individual seeking help and which is conducted by persons competent to make such judgments and to direct, guide and link the recipient to other appropriate services and follow-up on services rendered.]

"Seclusion" means confining a client in a room with the door secured in any manner that will prohibit the client from opening it.

"Severe weather" means extreme environmental or climatic conditions which pose a threat to the health, safety or welfare of clients.

["*Sobering-up shelter service*" means a residential program/service offered to people under the influence of intoxicants that provides a safe place to 'sleep it off.' Trained staff are present to monitor withdrawal. People who experience medical complications are sent to a hospital emergency room. Outpatient or intermediate care facility referral may be available.]

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"Social detoxification [~~service~~ program] " means a residential [~~program/service~~ program] which enables intoxicated persons to safely withdraw from the effects of intoxicants. Trained staff are present to monitor vital signs. People who experience medical complications are sent to a hospital emergency room [or other appropriate medical facility] . The [~~program/service~~ program] does not prescribe medication although clients may remain on prescription drugs while in the program if a physician authorizes the use of such drugs. Clients participating in social detoxification services receive supervised care during withdrawal followed by alcohol [or drug] education, an opportunity to attend [~~Alcoholics Anonymous~~] meetings [of self help groups such as Alcoholics Anonymous] and individual and group counseling. Case management including referral to further residential or outpatient treatment is available.

"Specialized [~~adult~~] foster care" means the provision of [~~domiciliary~~] care to [~~adult~~] clients in private family homes in which family members have been specially trained in the characteristics and needs in private family home settings.

"Standard" means a statement which describes in measurable terms a required minimum performance level.

"State hospital" means a hospital, training school or other such institution operated by the department for the care and treatment of the mentally ill or mentally retarded.

"State Human Rights Committee" means a committee of nine members appointed by the board pursuant to the Rules and Regulations to Assure the Rights of Residents of Facilities Operated by the Department of Mental Health [and ,] Mental Retardation [and the Rules and Regulations to Assure the Rights of Clients in Community Programs and Substance Abuse Services] whose responsibility it shall be to perform the functions specified in those regulations [and the Rules and Regulations to Assure the Rights of Clients in Community Programs] . The term "state human rights committee" includes any subcommittee thereof.

"Substance abuse" means the use, without compelling medical reason, of any substance which results in psychological or physiological dependency as a function of continued use in such a manner as to induce mental, emotional or physical impairment and cause socially dysfunctional or socially disordering behavior.

["Substance abusing person" means a person who uses, without compelling medical reason, any substance which results in psychological or physiological dependency as a function of continued use in such a manner as to induce mental, emotional or physical impairment and cause socially dysfunctional or socially disordering behavior. This term includes persons addicted to the intemperate use of narcotic drugs, alcohol or other stimulants as well as such substances as cannabis, cocaine, hallucinogens, inhalants,

PCP, and sedatives.]

"Substantial compliance" means a demonstration by a facility or other entity of full compliance with sufficient applicable regulations to clearly demonstrate that its program and physical plant can provide reasonably safe and adequate care while approved plans of action to correct findings of noncompliance are being implemented.

"Supervised apartment" means a single unit housing three or fewer clients [both with and without residential staff who provide 24 hour domiciliary or residential care or treatment or a single unit housing four or more clients without residential staff who provide 24 hour domiciliary or residential care or treatment] that is owned, rented [or ,] leased [, or otherwise controlled] by a licensed supported residential program in which its clients are placed and provided with supportive services. The licensed supported residential program is responsible for the selection, inspection, approval and monitoring of such units with respect to building safety, maintenance, repair, fire safety and sanitation, including the solicitation of inspections and approvals for such units by local building, fire and health authorities when required, but such units shall not be required to be individually licensed by the department.

["Supported independent living settings" means a variety of residential alternatives that are owned, rented or leased directly by clients who are being provided with supportive services by a licensed supported residential program. The licensed supported residential program may provide assistance to clients in their selection of such residential alternatives, but such units shall not require the formal approval of the licensed supported residential program, nor shall such units be required to be individually licensed by the department.]

["Supportive services" means a variety of interventions provided to clients in community-based residential settings to enhance their ability to adjust to and maintain their residence in those settings. Such supportive services may include financial assistance, case management, training or assistance in activities of daily living, homemaker services, vocational assistance, crisis intervention or similar assistance but does not include interventions which are part of active, ongoing treatment]

"Supported residential program" means any publicly or privately operated facility, institution or other entity which provides placement, domiciliary care, residential respite care/emergency [shelter] services or supportive services in supported residential settings to mentally ill [or ,] mentally retarded [persons or to persons addicted to the intemperate use of narcotic drugs, alcohol or other stimulants , or substance abusing persons] . Supported residential settings may include (i) residential respite care/emergency [shelter services] facilities, (ii) residential service systems which sponsor a number of single housing units for three or fewer persons such as supervised apartments or specialized [~~adult~~] foster care

provided in private family homes, [~~or~~] (iii) contracted beds in licensed residential facilities [, or (iv) supported independent living settings]. The term supported residential program does not include:

1. A residential facility operated by an agency of the federal government;
2. A residential facility as defined in these regulations;
3. A hospital as defined in [subsection 1 of] § 32.1-123 of the Code of Virginia serving mentally ill persons;
4. A hospital-based medical detoxification [service program]; an inpatient substance abuse facility; [or] an outpatient substance abuse facility using the controlled drug methadone for the detoxification, treatment or rehabilitation of drug addicts [; a screening and referral facility (substance abuse); or a detoxification facility] as these facilities are defined in these regulations;
5. A facility or portion of a facility licensed by the State [~~Board~~ Department] of Social Services;
6. A facility or portion of a facility licensed by the State [~~Board~~ Department] of Health;
- [~~7. An entity which provides placement and supportive services to children;]~~
- [~~8. 7.] A residential respite care/emergency [shelter services] facility; or~~
- [~~9. 8.] A program or service provided by a local department of welfare/social services.~~

"Supported residential settings" means (i) residential respite care/emergency [shelter services] facilities, (ii) residential service systems which sponsor a number of single housing units for three or fewer persons such as supervised apartments or specialized [~~adult~~] foster care provided in private family homes, [~~or~~] (iii) contracted beds in licensed residential facilities [, or (iv) supported independent living settings].

["Supportive services" means a variety of interventions provided to clients in community-based residential settings to enhance their ability to adjust to and maintain their residence in those settings. Such supportive services may include financial assistance, case management, training or assistance in activities of daily living, homemaker services, vocational assistance, crisis intervention or similar assistance but does not include interventions which are part of active, ongoing treatment.]

"Time-out procedure" means a systematic behavior management technique designed to reduce or eliminate inappropriate behavior by temporarily removing a client from contact with people or other reinforcing stimuli

through confining the client alone to a special time-out room that is unfurnished or sparsely furnished and which contains few reinforcing environmental stimuli. The time-out room shall not be locked nor the door secured in any manner that will prohibit the client from opening it.

["Transitional domiciliary substance abuse facility" means a facility which provides an organized program of domiciliary and supportive services, to four or more substance abusing persons unrelated by birth or marriage, and such services are administered according to the degree of transitional needs of service recipients. As distinguished from the intermediate care facility, this type of facility provides part-time residential treatment services as exemplified by halfway houses, quarterway houses, and other community residential facilities wherein the resident may leave the facility for part of the day for work, training, education or other community based services.]

"Treatment" means any [individually planned] intervention which [~~helps~~ is intended to help] a person in the reduction or amelioration of disability, discomfort, symptoms, disorders or undesirable changes or conditions specific to physical, mental, behavioral or social functioning.

Article 2. Legal Base

§ 1.2. Pursuant to § 37.1-179 et seq. of the Code of Virginia, no person shall establish, conduct, maintain or operate in this Commonwealth any facility or institution as defined in § 37.1-179 without first being duly licensed, except where such facility or institution is exempt from licensing.

Article 3. Facilities and Entities Subject to Licensure Under These Regulations.

§1.3. No person shall establish, conduct, maintain or operate in this Commonwealth any supported residential program or residential respite care/emergency [shelter services] facility as defined in § 1.1 of these regulations without first being duly licensed, except where such program is exempt from licensing.

Article 4. General Licensing Requirements.

§1.4 All supported residential programs and residential respite care/emergency [shelter services] facilities shall demonstrate an acceptable level of compliance with these regulations and other applicable statutory requirements and shall submit a plan of corrective action acceptable to the commissioner for remedying within a specified time any noncompliance with these regulations in order to be licensed to operate in this Commonwealth.

Article 5. Separate License Required.

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§ 1.5. A separate license shall be required by facilities, establishments, or institutions maintained on separate premises even though they are operated under the same management. Separate buildings on the same grounds utilized for the same licensed program or activity shall not be required to have separate licenses. In the event alterations or additions increase the bed capacity of a facility, approval by the commissioner and a new or modified license shall be obtained before beginning operation of the additional space. [Supported residential programs may be issued a single license.]

Article 6.

Preapplication Consultation Services.

§ 1.6. Upon receipt of an inquiry or a referral, preapplication consultation services will be made available by the licensure office.

§ 1.7. Preapplication consultation may be designed to accomplish the following purposes:

1. To explain regulations and statutes;
2. To help the potential applicant explore the operational demands of a licensed facility;
3. To provide assistance in locating sources of information and technical assistance;
4. To refer the potential applicant to appropriate agencies such as the Department of Health, State Fire Marshal, local fire department and local building officials; and
5. To comment, upon request, on plans for proposed construction or on existing property in terms of suitability for the purposes proposed.

Article 7.

Application for License or License Renewal.

§ 1.8. A request for an original application shall be made in writing to the department.

§ 1.9. Application for license or license renewal to establish or maintain a facility shall be made in writing and submitted to the department upon the application forms secured from the department.

§ 1.10. Structural changes in a proposed or existing [residential respite care/emergency services] facility shall not be undertaken until notification has been made to the department and building plans for such structural changes have been approved by the department.

§ 1.11. Written zoning approval or a use permit where required by local jurisdictions shall be a prerequisite for an original license.

§ 1.12. A certificate of use and occupancy or approval

from the authorized inspection agency for building code compliance, when applicable, shall be a prerequisite for original licensure.

§ 1.13. A check or money order for the license fee, payable to the Treasurer of Virginia, shall be forwarded to the department with the application. The board may fix a reasonable fee not in excess of \$50 for each license issued, and for any renewal thereof.

§ 1.14. Every facility shall be designated by a permanent and distinctive name and physical location which shall appear on the application for license or license renewal and which shall not be changed without first securing approval of the department. [The facility's distinctive name shall be consistent with its licensed purpose and shall not imply that the facility is providing services for which it is not licensed.]

§ 1.15. Corporations sponsoring facilities shall maintain their corporate status in accordance with Virginia law. Corporations not organized and empowered solely to operate facilities shall provide for such operations in their charters.

§ 1.16. Corporate applicants shall provide the name and address of the registered agent and a copy of the articles of incorporation.

§ 1.17. Ownership interest shall be made fully known to the department and in the case of corporations, all individuals or entities holding 5.0% or more of total ownership shall be identified by name and address.

§ 1.18. Application for license renewal should be submitted to the department at least 60 days prior to the expiration date.

Article 8.

The License.

§ 1.19. The commissioner may issue a license to a facility making application for a license only after he is satisfied that: (i) the program outlined will contribute to the appropriate care, rehabilitation or treatment of clients; (ii) the applicant meets all applicable health, safety, sanitation, building and zoning requirements, either local or state; (iii) the applicant substantially complies with all provisions of these regulations; and (iv) the applicant has submitted a plan of corrective action acceptable to the commissioner for remedying within a specified time any noncompliance with these regulations.

§ 1.20. The commissioner may issue to a facility or institution that has fulfilled the conditions listed in § 1.19 a full license that is effective for any period not to exceed two years from its date of issuance, unless it is revoked or surrendered sooner.

§ 1.21. The commissioner at his discretion may issue a conditional license to operate a new facility or institution

in order to permit the applicant to demonstrate compliance with all applicable requirements. Such a conditional license may be renewed, but such conditional license and any renewals thereof shall not exceed a period of six successive months, unless it is revoked or surrendered sooner.

§ 1.22. The commissioner may issue a provisional license to a facility or institution which has previously been fully licensed when such facility or institution is temporarily unable to comply with all licensing regulations. Such provisional license may be issued for any period not to exceed 90 days and shall not be renewed.

§ 1.23. The terms of any license issued shall include: (i) the operating name of the facility; (ii) the name of the individual, partnership, association or corporation or public agency to whom the license is issued; (iii) the physical location of the facility; (iv) the nature of the population served; (v) [~~when appropriate~~] the maximum number of persons to be accepted for care [in a residential respite care/emergency services facility] ; (vi) the effective dates of the license; and (vii) other specifications prescribed within the context of the regulations.

§ 1.24. The license is not assignable or transferable and automatically expires when there is a change of ownership, sponsorship, or [~~location, or~~] when there is a substantial change in services or clientele which would alter the evaluation findings and terms under which the facility was licensed. [When there is a change of location of the facility, the license certificate must be modified pursuant to the procedure required by § 1.35 of these regulations to reflect the new location.]

§ 1.25. The current license shall be posted at all times at the facility in a place conspicuous to the public.

§ 1.26. Each residential respite care/emergency [services] facility license issued by the commissioner shall specify the facility's bed capacity, i.e. the maximum number of persons that the facility is permitted to house. The number of beds allowed shall be subject to approval by the department and shall so appear on the license issued by the commissioner.

§ 1.27. No facility shall operate more beds than the number for which it is licensed except in a catastrophic emergency when temporary permission may be granted by the commissioner.

§ 1.28. At no time shall residents be housed in areas which have not been approved by the department.

§ 1.29. A request for an increase in bed capacity shall be made in writing to the department.

[§ 1.30. No increase in beds will be granted without written approval of the department subject to Certificate of Public Need review.]

[Article 9. Certificate of Public Need.

§ 1.31. Prior to the commencement of any proposed facility or project as defined in §§ 32.1-102.1 to 32.1-102.11 of the Code of Virginia, application shall be made to the State Health Commissioner for certification that there exists a public need for such a project in accordance with Chapter 4 of Title 32.1 of the Code of Virginia. A copy of such certificate or exemption therefrom shall be submitted with the application.]

Article [~~10~~. 9.] Inspection.

[§ 1.32. § 1.30.] Each applicant or licensee agrees as a condition of application or license to permit properly designated representatives of the department to enter upon and inspect any and all premises for which a license has either been applied or issued, including any [client records and] books and records relating to the operation of the facility to verify information contained in the application, or to assure compliance with all laws, rules and regulations relating thereto, during all hours of operation of such facility and at any other reasonable hour.

Article [~~11~~. 10.] Early Compliance.

[§ 1.33. § 1.31.] A provisional or conditional license may be replaced with a full license when all of the following conditions exist:

1. The facility has complied with all regulations cited in noncompliance at the time of issuance of the provisional or conditional license well in advance of its expiration date and the facility is in substantial compliance with all other regulations.
2. Compliance has been verified by an on-site observation by a representative(s) of the department or by written evidence provided by the licensee; and
3. All other terms of the license remain the same.

[§ 1.34. § 1.32.] A request to replace a provisional or conditional license and to issue a full license shall be made in writing to the department by the licensee.

[§ 1.35. § 1.33.] If the request is approved, the effective date of the new license will be the same as the beginning date of the provisional or conditional license.

Article [~~12~~. 11.] Situation Requiring a New Application.

[§ 1.36. § 1.34.] A new application shall be filed in the following circumstances:

1. Change in ownership or sponsorship; [or]

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[~~2.~~ Change of location; or]

[~~3.~~ 2.] Substantial change in services provided or target population.

Article [~~12.~~ 12.] Modification of License.

[~~§ 1.37.~~ § 1.35.] The terms of a license [(see §§ 1.23 and 1.24)] may be modified during the term of the license with respect to the number of beds or other conditions which do not constitute substantial changes in the services or target population.

The licensee shall [submit a written report to notify] the department [~~at~~ at least 30 days prior to any proposed change in location of the offices of a licensed supported residential program. The licensee shall submit to the department at least 60 days prior to implementation a report describing] any contemplated changes in operation [of a licensed supported residential program or of a licensed residential respite care/emergency services facility, including a change of its location,] which would affect either the terms of the license or the continuing eligibility for a license.

[In the case of a proposed change in location of the offices of a licensed supported residential program the licensee shall within 30 days of such a change in location submit a written report which shall include the following information and attachments: (i) physical location of the facility as provided on the current license, (ii) the physical location of the proposed new site, (iii) a diagram providing the measured dimensions of the rooms and their proposed functions, (iv) written zoning approval or a use permit where required by the local jurisdiction, (v) a certificate of use and occupancy or approval from the authorized inspection agency for building code compliance, when applicable, and (vi) a copy of a report indicating approval by the local fire authority, and (vii) a description of any proposed change in services provided or target population at the new site.

In the case of a proposed change in location of a residential respite care/emergency services facility the licensee shall submit to the department at least 60 days prior to implementation of such a change in location a written report which shall include for the proposed new site the following information and attachments: (i) present physical location of the facility as provided on the current license, (ii) the physical location of the proposed new site, (iii) a diagram providing the measured dimensions of the rooms and their proposed functions, (iv) the number of beds to be located in each bedroom, (v) written zoning approval or a use permit where required by the local jurisdiction, and (vi) a description of any proposed change in services provided or target population at the new site. Prior to final approval by the department of a proposed change in location and the issuance of a modified license, the licensee shall submit to the department for the proposed location: (i) a certificate of use and occupancy

or approval from the authorized inspection agency for building code compliance, when applicable, and (ii) a copy of a report indicating approval by the local fire authority.
]

A determination will be made as to whether changes may be approved and the license modified accordingly or whether an application for a new license must be filed. The licensee will be notified in writing within 30 days as to whether the modification is approved or a new license is required.

Article [~~14.~~ 13.] Allowable Variance.

[~~§ 1.38.~~ § 1.36.] The department has the sole authority to waive a regulation either temporarily or permanently when in its opinion:

1. Enforcement will create an undue hardship;
2. The regulation is not specifically required by statute or by the regulations of another government agency; and
3. Client care would not be adversely affected.

[~~§ 1.39.~~ § 1.37.] Any request for an allowable variance shall be submitted in writing to the department.

[~~§ 1.40.~~ § 1.38.] The denial of request for a variance is appealable through the normal appeals process when it leads to the denial or revocation of a license.

Article [~~15.~~ 14.] Investigation of Complaints and Allegations.

[~~§ 1.41.~~ § 1.39.] The department is responsible for complete and prompt investigation of all complaints and allegations. Suspected criminal violations shall be reported to the appropriate law-enforcement authority.

Article [~~16.~~ 15.] Revocation, Suspension or Refusal of License.

[~~§ 1.42.~~ § 1.40.] The commissioner may revoke or suspend any license issued, or refuse issuance of a license, on any of the following grounds:

1. Violation of any provisions of Chapter 8 (§ 37.1-179, et seq.) of Title 37.1 of the Code of Virginia, or any applicable and valid rule or regulation made pursuant to such provisions;
2. Permitting, aiding or abetting the commission of an illegal act in a facility or institution licensed under these regulations.
3. Conduct or practices detrimental to the welfare of any client of a facility or institution licensed under these regulations.

[~~§ 1-42.~~ § 1.41.] Whenever the commissioner revokes, suspends or denies a license, the provisions of the Administration Process Act (§ 9-6.14:1 et seq. of the Code of Virginia) shall apply.

[~~§ 1-44.~~ § 1.42.] If a license is revoked or refused as herein provided, a new application for license may be considered by the commissioner when the conditions upon which such action was based have been corrected and satisfactory evidence of this fact has been furnished. In no event, however, may an applicant reapply for a license after the commissioner has refused or revoked a license until a period of six months from the effective date of such action has elapsed unless the commissioner in his sole discretion believes that there has been such a change in the conditions causing refusal of the prior application or revocation of the license as to justify the new application.

[~~§ 1-45.~~ § 1.43.] When an appeal of the final decision of the commissioner to refuse to issue a license or to revoke or suspend a license is taken by the applicant pursuant to § 37.1-186 of the Code of Virginia, the six month period shall be extended until a final decision has been rendered on appeal. A new license may then be granted after proper inspection has been made and all provisions of § 37.1-179 et seq. of the Code of Virginia, and applicable rules and regulations made thereunder have been complied with and recommendations to such effect have been made to the commissioner upon the basis of an inspection by any authorized representative or agent of the department.

[~~§ 1-46.~~ § 1.44.] Suspension of a license shall in all cases be for an indefinite time and the suspension may be lifted and rights under the license fully or partially restored at such time as the commissioner determines, upon basis of such an inspection, that the rights of the licensee appear to so require and the interests of the public will not be jeopardized by resumption of operation.

Article [~~17.~~ 16.] Suppression of Unlawful Operations.

[~~§ 1-47.~~ § 1.45.] If any facility or institution is being operated in violation of the provisions of § 37.1-179 et seq. of the Code of Virginia, or of any applicable rules and regulations made under such provisions, the commissioner, in addition to other remedies, may institute any appropriate action or proceedings to prevent such unlawful operation and to restrain, correct or abate such violation or violations. Such action or proceeding shall be instituted in the circuit court of the county or city where such institution, hospital or home is located, and such court shall have jurisdiction to enjoin such unlawful operation or such violation or violations.

Article [~~18.~~ 17.] Penalty.

[~~§ 1-48.~~ § 1.46.] Any person violating any provision of § 37.1-179 et seq. of the Code of Virginia, or any applicable

rule and regulation made under such provisions shall be guilty of a Class 3 misdemeanor, and each day, or part thereof, of continuation of any such violation shall constitute a separate offense.

Article [~~19.~~ 18.] Reports.

[~~§ 1-49.~~ § 1.47.] Each licensee shall file such reasonable reports and provide such reasonable information at such times as the department from time to time may require.

PART II. ORGANIZATION AND ADMINISTRATION.

Article 1. Governing Body.

§ 2.1. The facility shall clearly identify the corporation, association, partnership, individual, or public agency that is the licensee.

§ 2.2. The licensee shall clearly identify any subordinate board, body, entity or person to whom it delegates the legal responsibilities and duties of the licensee for the operation of the facility.

Article 2. Responsibilities of the Licensee.

§ 2.3. The licensee shall appoint a qualified chief administrative officer to whom it delegates in writing the authority and responsibility for the administrative direction of the facility.

§ 2.4. The licensee shall develop and implement written policies governing the licensee's relationship to the chief administrative officer that shall include, but shall not be limited to:

1. Annual evaluation of the performance of the chief administrative officer; and

2. Provision for the chief administrative officer to meet with the governing body or with the immediate supervisor to periodically review the services being provided, the personnel needs and fiscal management of the facility.

§ 2.5. The licensee shall review, develop and implement programs and administrative changes in accord with the defined purpose of the facility.

Article 3. Fiscal Responsibility.

§ 2.6. The facility shall have a documented plan of financing which gives evidence that there are sufficient funds to operate.

§ 2.7. A new facility shall with the initial application

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document funds or a line of credit sufficient to cover at least 90 days of operating expense, unless, the facility is operated by a state or local government agency, board or commission.

§ 2.8. A new facility operated by a corporation, unincorporated organization or association, an individual or partnership, shall submit with the initial application evidence of financial responsibility. This shall include:

1. A working budget showing projected revenue and expenses for the first year of operation; and
2. A balance sheet showing assets and liabilities.

[§ 2.9. Facilities operated by state or local government agencies, boards and commissions shall submit with the initial application and with each renewal application evidence of financial responsibility. This shall include a working budget showing appropriated revenue and projected expenses for the coming year.]

[§ 2.10. § 2.9.] Facilities operated by corporations, unincorporated organizations or associations, individuals or partnerships shall submit with each renewal application evidence of financial responsibility. This shall include:

1. A operating statement showing revenue and expenses for the past operating year;
2. A working budget showing projected revenue and expenses for the coming year;
3. A balance sheet showing assets and liabilities; and
4. A written assurance from the licensee that the documentation provided for in paragraphs one, two and three above presents a complete and accurate financial report reflecting the current fiscal condition of the facility.

[§ 2.11. § 2.10.] The facility shall provide additional evidence of financial responsibility as the licensing authority, at its discretion, may require.

Article 4. Internal Operating Procedures.

[§ 2.12. § 2.11.] There shall be evidence of a system of financial record keeping that is consistent with generally accepted accounting principles unless the facility is a state or local government operated program operating as required by the State Auditor of Public Accounts.

[§ 2.13. § 2.12.] There shall be a written policy, consistent with generally accepted accounting principles, for the collection and disbursement of funds unless the facility is a state or government operated program operating as required by the State Auditor of Public Accounts.

[§ 2.14. § 2.13.] There shall be a system of financial record keeping that shows a separation of the [facility's] accounts [for the operations permitted by the license] from all other records [unless the facility is a state or local government operated program operating as required by the State Auditor of Public Accounts].

Article 5. Insurance.

[§ 2.15. § 2.14.] A facility shall maintain liability insurance covering the premises and the facility's operations, including professional liability [unless the facility is operated by a state or local government agency which provides a program of self insurance].

[§ 2.16. § 2.15.] There shall be liability insurance on vehicles operated by the facility.

Article 6. Bonding.

[§ 2.17. § 2.16.] Those members of the governing body and staff who have been authorized responsibility for handling the funds of the facility shall be bonded [unless the facility is operated by a state or local government agency, board or commission].

Article 7. Relationship to the Licensing Authority.

[§ 2.18. § 2.17.] The facility shall submit or make available to the licensing authority such reports and information as the licensing authority may require to establish compliance with these regulations and with applicable statutes and appropriate statutes.

[§ 2.19. § 2.18.] The governing body or its official representative shall notify the licensing authority within 10 working days of:

1. Any [significant] changes in administrative structure or newly hired chief administrative officer; and
2. Any pending changes in the program which will affect the types of services offered or the types of clients to be served.

[§ 2.20. § 2.19.] In the event of a disaster, fire, emergency or any other condition at the facility that may jeopardize the health, safety and well-being of the clients in care, the facility shall notify the licensing authority of the conditions at the facility and the status of the clients in care as soon as possible.

Article 8. Participation of Clients in Research.

[§ 2.21. § 2.20.] The facility shall establish and implement written policies and procedures regarding the

participation of clients as subjects in research that are consistent with Chapter 13 of Title 37.1 of the Code of Virginia unless the facility has established and implemented a written policy explicitly prohibiting the participation of clients as subjects of human research as defined by the above statute.

PART III. PERSONNEL.

Article 1. Health Information.

§ 3.1. Health information required by these regulations shall be maintained for all staff members.

Article 2. Initial Tuberculosis Examination and Report.

§ 3.2. Within 30 days of employment each staff member shall obtain an evaluation indicating the absence of tuberculosis in a communicable form except that an evaluation shall not be required for an individual who: (i) has separated from employment with a facility licensed by the Commonwealth of Virginia that required such screening, (ii) has a break in service of six months or less, and (iii) submits the original statement of tuberculosis screening.

§ 3.3. Each individual shall submit a statement that he is free of tuberculosis in a communicable form including the type(s) of test(s) used and the test result(s).

§ 3.4. The statement shall be signed by a licensed physician, the physician's designee, or an official of a local health department.

§ 3.5. The statement shall be filed in the individual's personnel record.

Article 3. Subsequent Evaluations for Tuberculosis.

§ 3.6. Any individual who comes in contact with a known case of tuberculosis or who develops chronic respiratory symptoms of four weeks duration or longer shall, within 30 days of exposure/development, receive an evaluation in accord with Part III, Article 2.

Article 4. Physical or Mental Health of Personnel.

§ 3.7. At the request of the licensee/administrator of the facility or the licensing authority a report of examination by a licensed physician [or other appropriate licensed professional] shall be obtained when there are indications that the care of clients may be jeopardized by the physical, mental or emotional health of a specific individual.

§ 3.8. Any individual who, upon examination [by a

licensed physician] or as a result of tests, shows indication of a physical or mental condition which may jeopardize the safety of clients in care or which would prevent the performance of duties:

1. Shall immediately be removed from contact with clients and food services to [clients residents] ; and

2. Shall not be allowed contact with clients or food served to [clients residents] until the condition is cleared to the satisfaction of the examining physician [or other appropriate licensed professional] as evidenced by a signed statement by the physician [or other appropriate licensed professional].

Article 5. Job Responsibilities.

§ 3.9. The chief administrative officer shall be responsible to the governing body for:

1. The overall administration of the program;
2. Implementation of all policies;
3. Maintenance of the physical plant; and
4. Fiscal management of the [residential] facility.

§ 3.10. The program director shall be responsible for the development and implementation of the programs and services offered by the facility.

§ 3.11. When a facility is licensed to care for 13 or more clients, a full time, qualified staff member shall fulfill the duties of the program director.

[§ 3.12. If not provided by external resources, counseling and social services shall be provided by a staff member(s) qualified to provide such services.]

[§ 3.12. § 3.12.] The residential care worker or [adult] foster parent shall have direct responsibility for guidance and supervision of the clients to whom he is assigned. This shall include:

1. Overseeing the general welfare and safety of clients; and
2. Helping to meet the goals and objectives of any required service or treatment plan.

[§ 3.14. § 3.13.] Sufficient qualified relief staff shall be employed to maintain required [staff/client ratios staffing levels] during:

1. Regularly scheduled time off of permanent staff; and
2. Unscheduled absences of permanent staff.

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[~~§ 3-15.~~ *Services of a licensed physician shall be available for treatment of clients as needed.*

§ 3-16. *Any nurse employed shall hold a current nursing license issued by the Commonwealth of Virginia.]*

Article 6. Staff Qualifications.

[~~§ 3-17.~~ § 3.14.] *Any person who assumes or is designated to assume the responsibilities of a staff position or any combination of staff positions employed at the facility shall meet the qualifications of that position(s) and shall fully comply with all applicable regulations for that position.*

[§ 3.15.] *Any person who is employed to function as a nurse, as a practitioner of the healing arts, or as a practitioner of the behavioral science professions shall be duly licensed pursuant to the requirements of Title 54 of the Code of Virginia unless such person is exempt from such licensure requirements.]*

[~~§ 3-18.~~ § 3.16.] *When services or consultation are obtained on a contract basis they shall [when required by law] be provided by professionally [qualified licensed] personnel.*

Article 7. Personnel Records.

[~~§ 3-19.~~ § 3.17.] *A separate up-to-date personnel record shall be maintained for each staff member [and adult foster parent]. The record shall include:*

1. *A complete employment application form or other written material providing:
 - a. *Identifying information (name, address, phone number, social security number, and any names previously utilized);*
 - b. *Educational history; and*
 - c. *Employment history.**
2. *Written references or notations of oral references;*
3. *Reports of required health examinations; and*
4. *Annual performance evaluations.*

[~~§ 3-20.~~ § 3.18.] *Each personnel record shall be retained in its entirety for two years after employment ceases.*

Article 8. Personnel Policies.

[~~§ 3-21.~~ § 3.19.] *The licensee shall have [organizationally] approved written personnel policies.*

[~~§ 3-22.~~ § 3.20.] *Written personnel policies shall be*

readily accessible to each staff member.

[~~§ 3-23.~~ § 3.21.] *Each staff member and [adult] foster parent shall demonstrate a working knowledge of those policies and procedures that are applicable to his specific position.*

Article 9. Job Descriptions.

[~~§ 3-24.~~ § 3.22.] *For each staff position there shall be a written job description which shall as a minimum include:*

1. *The job title;*
2. *The duties and responsibilities of the incumbent;*
3. *The job title of the immediate supervisor; and*
4. *The minimum knowledge, skills and abilities required for entry level performance of the job.*

[~~§ 3-25.~~ § 3.23.] *A copy of the job description shall be given to each person assigned to that position at the time of employment or assignment.*

Article 10. Volunteers and Students Receiving Professional Training.

[~~§ 3-26.~~ § 3.24.] *If a facility uses volunteers or students receiving professional training it shall develop written policies governing their selection and use. A facility that does not use volunteers shall have a written policy stating that volunteers will not be utilized.*

[~~§ 3-27.~~ § 3.25.] *The facility shall not be dependent upon the use of volunteers/students to ensure provision of basic services.*

[~~§ 3-28.~~ § 3.26.] *The selection of volunteers/students and their orientation, training, scheduling, supervision and evaluation shall be the [sole] responsibility of designated staff members.*

[~~§ 3-29.~~ § 3.27.] *Responsibilities of volunteers/students shall be clearly defined.*

[~~§ 3-30.~~ § 3.28.] *All volunteers/students shall have qualifications appropriate to the services they render based on experience or orientation.*

[~~§ 3-31.~~ § 3.29.] *Volunteers/students shall be subject to all regulations governing confidential treatment of personal information.*

[~~§ 3-32.~~ § 3.30.] *Volunteers/students shall be informed regarding [liability their potential legal liabilities] and [their responsibilities for the] protection of clients [issues].*

Article 11. Staff Supervision and Evaluation.

[~~§ 3.32.~~ § 3.31.] The facility shall implement written policies and procedures to provide staff supervision and evaluation that include provisions for:

1. Regularly scheduled supervision;
2. Evaluations which are based on job descriptions and performance criteria;
3. Annual written performance evaluations;
4. Discussions of staff evaluations with staff being evaluated;
5. Delineating strengths as well as weaknesses of the staff, and recommendations for improved performance;
6. Evaluation reports which are signed by both the employee and the supervisor who did the evaluation; and
7. Access by employees to their personnel files.

Article 12. Staff Development.

[~~§ 3.34.~~ § 3.32.] New employees, relief staff, appropriate members of [specialized] foster families, volunteers and students shall within [~~one calendar month~~ ten working days] of employment be given orientation [~~and training~~] regarding the objectives and philosophy of the facility, practices of confidentiality, [critical personnel policies,] other policies and procedures that are applicable to their specific positions, and their specific duties and responsibilities.

[§ 3.33.] New employees, relief staff, appropriate members of specialized foster families, volunteers and students shall within one calendar month of employment successfully complete an orientation to general personnel policies and on-the-job training, including performance observation by a supervisor, regarding all critical job tasks related to their specific positions. Critical job tasks shall be established in the form of a written checklist for each position.]

[~~§ 3.35.~~ § 3.34.] Each new staff member [and foster parent] shall receive the orientation [~~and training~~] required by [~~§ 3.34~~ § 3.32 and shall receive the performance observation required by § 3.33] prior to assuming [sole] responsibility for supervision of one or more clients.

[~~§ 3.36.~~ § 3.35.] Provision shall be made for staff development activities, designed to update staff [and appropriate members of specialized foster families] on items in [~~§ 3.34~~ §§ 3.32 and 3.33] and to enable them to perform their job responsibilities adequately. Such staff development activities include, but shall not necessarily be

limited to, supervision [~~and~~ ,] formal training [, and academic education. Individualized staff development needs assessments and action plans shall be performed and updated annually].

[~~§ 3.37.~~ § 3.36.] Participation of staff, appropriate members of [specialized] foster families, volunteers and students in orientation, training and staff development activities shall be documented [for each employee and foster parent and shall include, as appropriate:

1. Course title or topic area;
2. Instructor or source;
3. Pretest and post-test scores or grades, if applicable;
4. Classroom hours or academic credit hours;
5. Dates attended].

Article 13. Staffing Patterns.

[~~§ 3.38.~~ § 3.37.] Except for foster family members no person shall be scheduled to work more than six consecutive days between rest days.

[~~§ 3.39.~~ § 3.38.] Except for foster family members, direct care staff who have at least one 24-consecutive-hour period on duty during a week shall have an average of not less than two days off per week in any four-week period. This shall be in addition to vacation time and holidays.

[~~§ 3.40.~~ § 3.39.] Except for foster family members, direct care staff who do not have at least one 24-consecutive-hour period on duty during a week shall have an average of not less than two days off per week in any four-week period. This shall be in addition to vacation time and holidays.

[~~§ 3.41.~~ § 3.40.] Except for foster family members, direct care staff who do not have at least one 24-consecutive-hour period on duty during a week shall not be on duty more than 16 consecutive hours except in emergencies when relief staff are not available.

[~~§ 3.42.~~ § 3.41.] In buildings where 30 or more residents are sleeping there shall be no less than one direct care staff member awake and on duty during night hours.

[~~§ 3.43.~~] There shall be at least one direct care staff member awake on each floor and on each major wing of each floor where 30 or more residents are sleeping.

§ 3.44. When residents are away from the facility they shall be furnished with a telephone number(s) where appropriate person(s) may be reached.]

[~~§ 3.45.~~ § 3.42.] Residential respite care/emergency [shelter services] facilities [other than those serving

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mentally retarded persons] shall have clinical staffing patterns that are adequate and appropriate in relationship to:

1. The needs of the resident population being served;
2. The hours and days the facility operates;
3. Assessment, therapeutic, and follow-up functions;
4. Intensity and kinds of treatment;
5. Nature of resident disabilities; and
6. Carrying out appropriate resident care evaluations, peer review, and utilization review procedures.

[§ 3.46. For those residential respite care/emergency shelter facilities serving mentally retarded adults, the following staff ratios shall be maintained:

1. For programs serving profoundly retarded adults there shall be one staff member for each four residents present during each shift. Regardless of the number of residents present, at least one staff member shall be present at all times.

2. For programs serving severely, moderately and mildly retarded adults there shall be at least one staff member for each 12 residents. If no residents are at home, a staff member shall be on call. If at least one resident is home during the day shift, at least one staff member shall be present unless planned for and indicated in the resident's individualized service plan.]

[§ 3.43. Staff supervision levels for individual clients admitted to a supported residential program shall be established in terms of staff/client ratios and documented as a part of the individualized services plan required by § 5.26 of these regulations. Such staff supervision levels shall define the minimum supervisory requirement for each shift and indicate whether the client may be unsupervised for a specific purpose and for a specified period of time.

§ 3.44. Staff supervision levels for individual clients admitted for residential respite care/emergency services and for individual residents admitted to a residential respite care/emergency services facility shall be established in terms of staff/client ratios and documented as a part of the admission procedures required by § 5.17 of these regulations. Such staff supervision levels shall define the minimum supervisory requirement for each shift and indicate whether the resident may be unsupervised for a specific purpose and for a specified period of time.]

Article 14.

Minimum Qualifications of [Adult Specialized] Foster Families.

[§ 3.47. § 3.45.] Foster parents shall be at least 18 years

old.

[§ 3.48. § 3.46.] Prior to approval of the home for the placement of clients, each permanent member of the household shall obtain an evaluation indicating the absence of tuberculosis in a communicable form except that an evaluation shall not be required for an individual who: (i) has separated from employment with a facility licensed by the Commonwealth of Virginia that requires such screening, (ii) has a break in service of six months or less, and (iii) submits the original statement of tuberculosis screening.

[§ 3.49. § 3.47.] Each individual shall submit a statement that he is free of tuberculosis in a communicable form including the types(s) of test(s) used and the test result(s).

[§ 3.50. § 3.48.] The statement shall be signed by a licensed physician, the physician's designee, or an official of a local health department.

[§ 3.51. § 3.49.] The statement shall be filed in the individual's personnel record.

[§ 3.52. § 3.50.] Any individual who comes in contact with a known case of tuberculosis or who develops chronic respiratory symptoms of four weeks duration or longer shall, within 30 days of exposure/development, receive an evaluation in accord with [§§ 3.48 through 3.50 §§ 3.46 through 3.48].

[§ 3.53. § 3.51.] The total number of persons residing in [an adult a] foster home including clients and permanent members of the foster family shall not exceed [six seven].

[§ 3.54. § 3.52.] The income and financial resources of the foster family shall be sufficient to assure continuing maintenance of the foster home.

[§ 3.55. § 3.53.] When a single [adult] foster parent or both foster parents are employed, there shall be plans approved by the supported residential program for the [level of] care and supervision [of required by] the client during the absence of the foster parent(s).

PART IV. RESIDENTIAL ENVIRONMENT.

Article 1. Applicability.

§ 4.1. [All of the regulations in Part IV except Article 16 shall apply to residential respite care/emergency facilities. The regulations in Part IV, Articles 2 through 5, 7, 10, 11 (except § 4.30), 13 (except § 4.51), 14, and 15 shall apply to the office facilities of a supported residential program. The regulations in Article 16 shall apply to supervised apartments and to private family homes providing specialized foster care. The regulations in PART IV apply as follows:

1. Residential respite care/emergency facilities:
Articles 2 through 14;

2. The office facilities of a licensed supported residential program:

- a. Article 2 (except § 4.3.3);
 - b. Article 3 (except §§ 4.4 and 4.5);
 - c. Article 4;
 - d. Article 5 (except § 4.15);
 - e. Article 7 (except § 4.30);
 - f. Article 10;
 - g. Article 11 (except § 4.39);
 - h. Article 12;
 - i. Article 13 (except § 4.50 with respect to food service and § 4.51); and
 - j. Article 14.
3. Supervised apartments and to private family homes providing specialized foster care: Article 15.]

Article 2. Buildings, Inspections and Building Plans.

§ 4.2. All buildings and installed equipment shall be inspected and approved by the local building official when required. This approval shall be documented by a Certificate of Use and Occupancy [or other acceptable documentation] indicating that the building is classified for its proposed licensed purpose.

§ 4.3. At the time of the original application and at least annually thereafter the buildings shall be inspected and approved by:

1. Local fire authorities with respect to fire safety and fire hazards, except in state operated facilities;
2. State fire officials, where applicable; and
3. State or local health authorities, whose inspection and approval shall include:
 - a. General sanitation;
 - b. The sewage disposal system;
 - c. The water supply;
 - d. Food service operation; and
 - e. Swimming pools.

Article 3. Plans and Specifications for New Buildings and Additions, Conversions, and Structural Modifications to Existing Buildings.

§ 4.4. Building plans and specifications for new construction, conversion of existing buildings, and any structural modifications or additions to existing [licensed] buildings [licensed as residential respite care/emergency services facilities] shall be submitted to and approved by the licensing authority and the following authorities, where applicable, before construction begins:

1. Local building officials;
2. Local fire departments;
3. Local or state health departments; and
4. Office of the State Fire Marshal.

§ 4.5. Documentation of the approvals required by [§ 4.3 § 4.4] shall be submitted to the licensing authority.

§ 4.6. All electrical, carpentry and plumbing work at the facility shall be performed under a proper permit from the building official if such a permit is required by the Uniform Statewide Building Code. Such work shall be inspected and approved by the building official, if required [; and such work shall be performed by a licensed contractor].

Article 4. Heating Systems, Ventilation and Cooling Systems.

§ 4.7. Heat shall be evenly distributed in all rooms occupied by clients such that a temperature no less than 65°F is maintained, unless otherwise mandated by state or federal authorities.

§ 4.8. Natural or mechanical ventilation to the outside shall be provided in all rooms used by clients.

§ 4.9. All doors and windows [capable of] being used for ventilation shall be [fully] screened [unless screening particular doors and windows is explicitly prohibited in writing by state or local fire authorities and those doors and windows are not used for ventilation].

§ 4.10. Air conditioning or mechanical ventilating systems, such as electric fans, shall be provided in all rooms occupied by clients when the temperature in those rooms exceeds 85°F.

§ 4.11. Heating systems annually, prior to the heating season, shall be inspected, cleaned and have their filters changed [by a contractor].

Article 5. Lighting.

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§ 4.12. Artificial lighting shall be by electricity.

§ 4.13. All areas within buildings shall be lighted for safety.

§ 4.14. Lighting shall be sufficient for the activities being performed in a specific area.

§ 4.15. Operable flashlights or battery lanterns shall be available for each staff member on the premises between dusk and dawn for use in emergencies.

§ 4.16. [~~Outside~~ Provision shall be made for outside] entrances and parking areas [~~shall to~~] be lighted for protection against injuries and intruders.

Article 6. Sleeping Areas.

§ 4.17. Male residents shall have separate bedrooms from female residents [, unless such residents are married to each other, in which case only one married couple may be assigned to a single bedroom].

§ 4.18. No more than four residents may share a bedroom or sleeping area except in detoxification facilities.

§ 4.19. No required path of travel to the bathroom shall be through another bedroom [~~not under immediate control of the occupant of the first bedroom~~].

§ 4.20. When a facility is not subject to the Virginia Public Building Safety Regulations or the Uniform Statewide Building Code, residents who are dependent upon wheelchairs, crutches, canes or other mechanical devices for assistance in walking shall be assigned sleeping quarters on ground level and provided with a planned means of effective egress for use in emergencies.

§ 4.21. In facilities licensed, established, constructed or reconstructed after the effective date of these regulations, sleeping quarters shall meet the following space requirements:

1. There shall not be less than 450 cubic feet of air space per person;
2. There shall not be less than 80 square feet floor area in a bedroom accommodating only one person;
3. There shall not be less than 60 square feet of floor area per person in rooms accommodating two or more persons; and
4. All ceilings shall be at least 7-1/2 feet in height.

§ 4.22. Each resident shall have a separate, clean, comfortable bed equipped with mattress, pillow, blanket(s), bed linens, and, if needed a waterproof mattress cover.

§ 4.23. Bed linens shall be changed at least every seven

days or more often, if needed.

§ 4.24. Each resident shall be assigned drawer space and closet space, or their equivalent, accessible to the sleeping area for storage of clothing and personal belongings.

§ 4.25. Smoking by any person shall be prohibited in sleeping areas.

§ 4.26. [The facility shall provide for designated smoking areas If smoking is permitted the facility shall designate specific areas for smoking].

Article 7. Plumbing and Toilet Facilities.

§ 4.27. All plumbing shall be maintained in good operating condition.

§ 4.28. There shall be an adequate supply of hot and cold running water available at all times.

§ 4.29. Precautions shall be taken to prevent scalding from running water. In all newly constructed facilities mixing faucets shall be installed.

§ 4.30. [~~There~~ For all residential respite care/emergency services facilities established after the effective date of these regulations there] shall be at least one toilet, one hand basin and shower/bath for every four [~~clients~~ residents] in care.

Article 8. Privacy for Residents.

§ 4.31. Where bathrooms are not designated for individual use, each toilet shall be enclosed for privacy.

§ 4.32. Where bathrooms are not designated for individual use, bathtubs and showers shall provide for visual privacy for bathing by use of enclosures, curtains or other appropriate means.

§ 4.33. Every sleeping area shall have a door that may be closed for privacy or quiet and this door shall readily open in case of fire or other emergency.

§ 4.34. Windows in sleeping areas and dressing areas shall provide for privacy.

Article 9. Living Rooms/Indoor Recreation Space.

§ 4.35. Each living unit shall contain a living room or an area for informal use for relaxation and entertainment. The furnishings shall provide for a comfortable and homelike environment that is age-appropriate.

Article 10. Buildings and Grounds.

§ 4.36. Buildings and grounds, including roads, pavements, parking lots, stairways, railings and other potentially hazardous areas shall be safe and properly maintained.

Article 11.
Equipment and Furnishings.

§ 4.37. All furnishings and equipment shall be safe and suitable to the characteristics of the clients and the services provided.

§ 4.38. There shall be at least one continuously operable, nonpay telephone accessible to staff in each building in which clients participate in programs.

§ 4.39. Meals shall be served in areas equipped with sturdy tables and benches or chairs.

§ 4.40. [~~Dead bolt locks shall not be used on doors~~ All doors at the facility shall be equipped to permit egress without the use of a key in case of a fire or other emergency].

§ 4.41. The use of portable space heaters is prohibited unless specifically approved in writing by the local fire authority.

[~~Article 12.~~
~~Staff Quarters.~~

§ 4.42. A separate (private) bathroom and bedroom shall be provided for staff and their families when staff are required to be in the living unit for 24 hours or more except, that when there are no more than four persons, including staff and family of staff, residing in or on duty in the living unit, a private bathroom is not required for staff.]

Article [~~13.~~ 12.]
Housekeeping and Maintenance.

[§ 4.42. § 4.42.] The interior and exterior of all buildings, including required locks and mechanical devices, shall be maintained in good repair.

[§ 4.44. § 4.43.] The interior and exterior of all buildings and grounds shall be kept clean and free of rubbish.

[§ 4.45. § 4.44.] All buildings shall be well-ventilated and free of stale, musty and foul odors.

[§ 4.46. § 4.45.] Buildings shall be kept free of flies, roaches, rats and other vermin.

[§ 4.47. § 4.46.] Walk-in refrigerators, freezers, and other enclosures shall be equipped to permit emergency exits.

[§ 4.48. § 4.47.] All furnishings, linens and indoor and outdoor equipment shall be kept in good repair.

[§ 4.49. § 4.48.] Space shall be provided for safe storage

of items such as first aid equipment, household supplies, recreational equipment, luggage, out-of-season clothing, and other materials.

[§ 4.50. § 4.49.] Lead based paint shall not be used on any surfaces and items with which clients and staff come in contact.

Article [~~14.~~ 13.]
Support Functions.

[§ 4.51. § 4.50.] Facilities shall provide [and are responsible] for support functions including, but not limited to, food service, maintenance of buildings and grounds, and housekeeping.

[§ 4.52. § 4.51.] [Clients Residents] shall not be [solely responsible for support functions and shall not be] assigned duties beyond their physical or mental capacity to perform.

Article [~~15.~~ 14.]
Firearms and Weapons.

[§ 4.52. § 4.52.] No firearms, pellet guns, air rifles or other weapons shall be permitted on the premises of the facility [unless they are in the possession of law-enforcement officers or of licensed security personnel].

Article [~~16.~~ 15.]
Requirements for the Approval and Maintenance of
the Residential Environment of Supervised
Apartments and Specialized Foster Homes.

[§ 4.54. § 4.53.] The supported residential program shall implement written policies and procedures for the selection, approval and monitoring of supervised apartments and sponsored specialized [~~adult~~] foster homes with respect to building safety, maintenance, repair, fire safety and sanitation including the solicitation of inspections and approvals for such units by local building, fire and health authorities when required. Such policies and procedures shall include but shall not be limited to the requirements of [§§ 4.55 §§ 4.54] through [~~4.65~~ 4.66] of this article. [Such policies and procedures may provide that the initial physical plant selection and approval process normally performed by the supported residential program may be waived with respect to a proposed sponsored foster home when the supported residential program has documentation on file that the proposed sponsored foster home has been studied and approved by staff of the local department of social services, but this shall not relieve the supported residential program from the responsibility of continually monitoring sponsored specialized foster homes with respect to building safety, maintenance, repair, fire safety and sanitation during the period of their use to house clients of the supported residential program.]

[§ 4.55. § 4.54.] When either the sewage disposal system

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or the water supply of a proposed supervised apartment or proposed [~~adult~~] foster home is not part of a municipal system, it shall be inspected and approved by the local department of health prior to approval of the supervised apartment or [~~adult~~] foster home as a supported residential setting and reinspected and approved annually thereafter.

[~~§ 4.56.~~ § 4.55.] Each supervised apartment and each specialized [~~adult~~] foster home shall have a working telephone.

[~~§ 4.57.~~ § 4.56.] All doors and windows used for ventilation shall be screened.

[~~§ 4.58.~~ § 4.57.] Each client residing in a supervised apartment or in a sponsored specialized [~~adult~~] foster home shall be assigned drawer space and closet space, or their equivalent, accessible to the sleeping area for storage of clothing and personal belongings.

[~~§ 4.59.~~ § 4.58.] Each client shall have a separate, clean, comfortable bed equipped with mattress, pillow, blanket(s), bed linens, and, if needed a waterproof mattress cover.

[~~§ 4.60.~~ § 4.59.] Bed linens shall be changed at least every seven days or more often, if needed.

[~~§ 4.61.~~ § 4.60.] Male clients shall have separate bedrooms from female clients [, unless such clients are married to each other, in which case only one married couple may be assigned to a single bedroom].

[~~§ 4.62.~~ § 4.61.] No more than four clients may share a bedroom or sleeping area.

[~~§ 4.63.~~ § 4.62.] Clients who are dependent upon wheelchairs, crutches, canes or other mechanical devices for assistance in walking shall be assigned sleeping quarters on ground level and provided with a planned means of effective egress for use in emergencies.

[~~§ 4.64.~~ § 4.63.] Smoking by any person shall be prohibited in sleeping areas.

[~~§ 4.65.~~ § 4.64.] Each supervised apartment and each [~~adult~~] foster home shall have a written plan for evacuation in case of an emergency [and this plan shall be reviewed at least annually with the foster parents by staff of the supported residential program].

[§ 4.65.] Portable fire extinguishers shall be installed and maintained in each supervised apartment and in each specialized foster home in accordance with state and local fire/building code requirements. In those buildings where no such code requirements apply, on each floor of each supervised apartment and of each specialized foster home there shall be installed and maintained at least one approved type ABC portable fire extinguisher having at least a 2A rating.

§ 4.66. Smoke detectors or smoke detection systems shall be installed and maintained in each supervised apartment and in each specialized foster home in accordance with state and local fire/building code requirements. In those buildings where no such code requirements apply, on each floor of each supervised apartment and of each specialized foster home there shall be installed and maintained at least one approved and properly installed smoke detector:

1. In each hallway;
2. At the top of each interior stairway;
3. In each area designated for smoking;
4. In or immediately adjacent to each room with a furnace or other heat source;
5. In each additional location directed by the local building official, the local fire authority, or the state fire authority.]

PART V. PROGRAMS AND SERVICES.

Article 1.

Residential Services in a Residential Respite Care/Emergency [~~Shelter Services~~] Facility.

§ 5.1. In a residential respite care/emergency [~~shelter services~~] facility there shall be evidence of a structured program of care that is designed to:

1. Meet the resident's physical needs;
2. Provide protection, guidance and supervision;
3. Promote a sense of security and self-worth; and
4. Meet the objectives of any required service plan.

§ 5.2. There shall be evidence of a structured daily routine that is designed to assure the delivery of program services.

§ 5.3. A daily activity log shall be maintained as a means of informing staff of significant happenings or problems experienced by residents including health and dental complaints or injuries.

§ 5.4. Entries in the daily activity log shall be signed or initialed by the person making the entry.

Article 2.

Program Description and Annual Program Review.

§ 5.5. Each licensee shall develop a written comprehensive program description for the [licensed program or] facility that includes the following elements:

1. A mission statement identifying the philosophy and

global intentions of the [licensed program or] facility;

2. A clear description of the characteristics and the needs of the population to be served [, including the minimum levels of staff supervision required for the population to be served] ; and

3. A clear identification of the program components and services to be provided.

[§ 5.6. Each licensee shall develop and implement a written evaluation system that is designed to provide specific utilization data and information regarding the extent to which program goals and objectives have been achieved.]

[§ 5.7. § 5.6.] Each licensee shall review, at least annually, the program of the [licensed program or] facility in the light of the population served and the objectives of the facility.

[§ 5.8. § 5.7.] Based on the written results of the annual program review, the licensee shall review, develop and implement indicated program and administrative changes in accord with the defined mission of the facility.

Article 3.
Admission Criteria.

[§ 5.9. § 5.8.] Each [program or] facility shall have written [criteria for admission information] that shall be made available to all parties when admission is being considered [: Such criteria which] shall include:

1. A description of the population to be served;
2. A description of the types of services offered;
3. Criteria for acceptance into the programs; and
4. Intake [and admission] procedures [including necessary referral documentation].

[§ 5.10. § 5.9.] The facility shall accept and serve only those clients whose needs are compatible with those services provided through the facility.

[§ 5.11. § 5.10.] A facility shall not knowingly accept into care a client whose health or behavior shall present a clear and present danger to the client or others served by the facility.

Article 4.
Documented Diagnostic Study of the Client [Admitted to a Supported Residential Program].

[§ 5.12. § 5.11.] Acceptance for care, other than for [residential] respite care/emergency services, shall be based on an evaluation of a documented diagnostic study of the client.

[§ 5.13. § 5.12.] At the time of admission to the program each client's record shall contain all of the elements of the documented diagnostic study of the client.

[§ 5.14. § 5.13.] The documented diagnostic study of the client shall include all of the following elements:

[1. A formal request or written application for admission;]

[2. 1.] Identifying information documented on a face sheet (see [§ 5.15 § 5.14]);

[2. 2.] Physical examination as specified in [§ 5.59 § 5.52] ;

[4. 3.] Medical history (see [§ 5.16 § 5.15]);

[5. 4.] A statement concerning the client's recent vocational and educational history and skills;

[6. 5.] Results of any psychiatric or psychological evaluations of the client, if applicable;

[7. 6.] Social and developmental summary (see [§ 5.17 § 5.16]);

[8. 7.] Reason for referral; and

[9. 8.] Rationale for acceptance.

[§ 5.15. § 5.14.] Identifying information on a face sheet shall include:

[1. Unique client identifier;]

[1. 2.] Full name of client;

[2. 3.] Last known residence;

[3. 4.] Date of birth;

[4. Birthplace;]

5. Sex of client;

6. [Racial and national background Race of client] ;

[7. Social security number;

8. Religious preference;]

[9. 7.] Custody status indicating name and address of legal guardian, if any;

[10. 8.] Names, addresses and telephone numbers for emergency contacts, parents, guardians or representatives of the referring agency, as applicable;

[11. 9.] Criminal justice status, if any; and

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[~~12~~. 10.] Date of admission.

[~~§ 5-16~~. § 5.15.] A medical history shall include:

1. Serious illnesses and chronic conditions of the client's parents and siblings, if known;

[2. Recent physical complaints;]

[~~2~~. 3.] Past serious illnesses, infectious diseases, serious injuries and hospitalizations;

[~~3~~. 4.] Psychological, psychiatric and neurological examinations, if applicable;

[5. Drug use profile as required by § 5.56;]

[~~4~~. 6.] Substance abuse history including onset of use, types of substances, frequency of use, quantity of use, method of administration, if applicable; [and]

[~~6~~. 7.] Name, address and telephone number or client's physician(s), when information is available [; and .]

[~~6~~. Name, address and telephone number of client's dentist(s), when information is available.]

[~~§ 5-17~~. § 5.16.] A social and developmental summary shall include:

1. Description of family structure and relationships;

2. Previous service history;

3. Current behavioral functioning including strengths [; talents;] and problems; [and]

4. Documentation of need for services [; and .]

[~~5~~. Names, ages and sex of siblings.]

Article 5.

Admission Procedures for [Residential] Respite Care/Emergency [Shelter] Services or Admission to a Residential Respite Care/Emergency [Shelter Services] Facility.

[~~§ 5-18~~. § 5.17.] At the time of admission for [residential] respite/care emergency [shelter] services or admission to a residential respite care/emergency [services] facility the following shall be documented in the client's record:

[~~1~~. A written request for admission or documentation of an oral request for care;]

[~~2~~. 1.] Identifying information documented on a face sheet which shall include:

[a. Unique client or resident identifier;]

[~~a~~. b.] Full name of [client or] resident;

[~~b~~. c.] Last known residence;

[~~e~~. d.] Date of birth;

[~~d~~. e.] Sex of [client or] resident;

[~~e~~. f.] [~~Racial and national background~~ Race of client or resident];

[~~f~~. g.] Names and addresses of persons or agencies to be contacted in case of emergency; [and]

[~~g~~. Client's social security number; and]

h. Date of admission.

[~~3~~. 2.] The client's [or resident's] health status including:

a. A statement of known or obvious illnesses and handicapping conditions;

b. A statement of medications currently being taken;

c. A statement of the client's [or resident's] general health status; and

d. Name, address and telephone number of client's [or resident's] physician, if known; and

[3. A statement defining the client's or resident's need for staff supervision in terms of staff/client ratios. Such staff supervision levels shall define the minimum supervisory requirement for each shift and indicate whether the client or resident may be unsupervised for a specific purpose and for a specified period of time.]

4. A statement describing the client's [or resident's] need for [residential] respite care/emergency [shelter] services.

[~~§ 5-19~~. § 5.18.] When identifying information is not available the reason shall be documented on the face sheet.

[Article 6. Community Relations.

[~~§ 5-20~~. Opportunities shall be provided for the residents in a group living situation to participate in activities and to utilize resources in the community.]

Article [~~7~~. 6.] Work and Employment.

[~~§ 5-21~~. § 5.19.] Any assignment of chores, which are paid or unpaid work assignments, shall be in accordance with the age, health, ability, and service plan of the client

resident.

[§ 5.22. The facility shall ensure that any resident employed inside or outside the facility is paid at least at the minimum wage required by the applicable law concerning wages and hours and that such employment complies with all applicable laws governing labor and employment.

§ 5.23. Any money earned through employment of a resident shall accrue to the sole benefit of that resident.]

Article [8. 7.]
Grievance Procedures.

[§ 5.24. § 5.20.] The facility shall have written grievance procedures which shall be made known to clients upon admission.

Article [8. 8.]
Human Rights.

[§ 5.25. § 5.21.] The facility shall comply with the applicable human rights regulations promulgated pursuant to § 37.1-84.1 of the Code of Virginia.

Article [10. 9.]
Services Planning Policies and Procedures.

[§ 5.26. § 5.22.] Each licensee shall develop and implement written policies and procedures to be followed by staff in services planning, implementation and review.

Article [11. 10.]
Services Plan.

[§ 5.27. § 5.23.] A written individualized services plan [covering the services to be provided by the supported residential program], based on information derived from the documented diagnostic study of the client and other assessments made by the facility shall be developed and implemented for each client within 30 days of admission and placed in the client's master file, except that the requirements of the regulations in Part V Articles [11 through 13 10 through 12] shall not apply to residents admitted to a residential respite care/emergency [shelter services] facility or to clients admitted solely for [residential] respite care/emergency [shelter] services.

[§ 5.28. The following parties shall participate, unless clearly inappropriate, in developing the initial individualized services plan:

1. The client;
2. The client's family or legally authorized representative;
3. The referring agency; and
4. Facility staff.]

[§ 5.24. The client and his family as appropriate and the facility staff shall participate in developing the initial individualized services plan.]

[§ 5.29. § 5.25.] The [degree of] participation [; or lack thereof,] of [each of] the parties [listed referred to] in [§ 5.28 § 5.24] in developing the services plan shall be documented in the client's record.

[§ 5.30. § 5.26.] The [written] individualized services plan [, based on information derived from the documented diagnostic study of the client required by PART V, Article 4, and other assessments made by the facility,] shall include, but not necessarily be limited to, the following:

1. A statement of the client's problems [and current level of functioning including strengths and weaknesses,] and corresponding treatment/training needs;
2. A statement of goals and a sequence of measurable objectives to meet the above identified needs;
3. A statement of services to be rendered and frequency of services to accomplish the above goals and objectives;
4. A statement identifying the individual(s) or organization(s) that will provide the services specified in the statement of services;
5. A statement of the timetable for the accomplishment of the client's goals and objectives; [and]
6. The estimated length of the client's need for services [; ;]
- [7. A statement defining the client's need for staff supervision in terms of staff/client ratios. Such staff supervision levels shall define the minimum supervisory requirement for each shift and indicate whether the client may be unsupervised for a specific purpose and for a specified period of time; and
8. A statement identifying the individual(s) responsible for the overall coordination and integration of the services specified in the plan.]

Article [12. 11.]
Quarterly Progress Reports.

[§ 5.31. § 5.27.] There shall be review and update of the client's individualized services plan by the staff and the assigned case coordinator. Such reviews and updates shall occur at a frequency appropriate to the rate and intensity of services provided, but no less than quarterly.

[§ 5.32. § 5.28.] Written progress [summary] reports completed [at least] quarterly shall be included in each

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client's record and shall include, but not be limited to:

1. Reports of significant incidents, both positive and negative;

2. Changes in client's social [, emotional] and family situation;

[3. Summary of the client's social, emotional and physical development during the previous three months including a listing of any specialized services and any ongoing medications prescribed;]

[4. 3.] [Documentation of the appropriateness of the client's involvement in the program Review and revision of the services plan as appropriate];

[5. 4.] Update of the appropriateness of the treatment goals;

[6. Update of the client's involvement in all necessary services;]

[7. 5.] Update of [any] contract with parent(s) or guardian (if applicable and legally permissible);

[8. 6.] The evaluation of client progress [and client outcomes] ; and

[9. 7.] Tentative discharge plans [, if appropriate] .

Article [13. 12.]
Annual Services Plan Review.

[§ 5.23. At least annually the following parties shall participate, unless clearly inappropriate, in formally reviewing and rewriting the services plan based on the client's current level of functioning and needs:

1. The client;

2. The client's family or legally authorized representative;

3. The referring agency; and

4. Facility staff.

§ 5.29. At least annually the client and his family as appropriate and the facility or program staff shall participate in formally reviewing and rewriting the services plan based on the client's current level of functioning and needs.]

[§ 5.34. § 5.30.] The [degrees of] participation [; or lack thereof,] of [each of] the parties [listed referred to] in [§ 5.23 § 5.29] in [reviewing and rewriting developing] the services plan shall be documented in the client's record.

Article [14. 13.]

Services Plan for [Residential] Respite Care/Emergency [Shelter] Services.

[§ 5.35. § 5.31.] [A For each client or resident remaining in care for more than 72 hours a] written individualized services plan including the elements required by [§ 5.36 § 5.32] shall be developed for each [client or] resident admitted for [residential] respite care/emergency [shelter] services and placed in the [client's or] resident's case file within [72 hours seven days] after admission.

[§ 5.36. § 5.32.] The written individualized services plan shall include:

1. The [client's or] resident's description, if appropriate, of his need for [residential] respite care/emergency [shelter] services;

2. If appropriate, documentation of contact with the [client's or] resident's parent, guardian or other family member to obtain his description of the resident's need for [residential] respite care/emergency [shelter] services;

3. The facility staff's assessment of the [client's or] resident's need for [residential] respite care/emergency [shelter] services;

4. A plan of action including:

a. Services already provided immediately after admission;

b. Services to be provided;

c. Activities to be provided;

d. Name of assigned case manager;

e. Who is to provide services and activities;

f. When services and activities are to be provided;

g. Other service resources in the community which will be coordinated on behalf of the [client or] resident or to which the [client or] resident will be referred, if any; and

5. The anticipated date of discharge; and

6. An assessment of the [client's or] resident's continuing need for services.

Article [15. 14.]
Client Records.

[§ 5.37. § 5.33.] A separate case record on each client shall be maintained and shall include all correspondence relating to the care of that client.

[~~§ 5.39.~~ § 5.34.] Each case record shall be kept up to date and in a uniform manner [~~through an ongoing case review. This case review shall include a determination of whether client records contain all the service documentation required by the program and applicable regulations and standards.~~]

[~~§ 5.39.~~ § 5.35.] Case records shall be maintained in such manner as to be accessible to staff for use in working with the client.

Article [~~16.~~ 15.]
Confidentiality of Client Records.

[~~§ 5.40.~~ § 5.36.] The facility shall make information available only to those legally authorized to have access to that information under federal and state laws.

[~~§ 5.41.~~ § 5.37.] There shall be written policy and procedures to protect the confidentiality of records which govern acquiring information, access, duplication, and dissemination of any portion of the records. [~~The policy shall specify what information is available to the client.~~]

Article [~~17.~~ 16.]
Suspected Abuse or Neglect.

[~~§ 5.42.~~ § 5.38.] Written policies and procedures related to abuse and neglect shall be distributed to all staff members.

These shall include:

1. Acceptable methods for behavior management of clients;
2. Procedures for handling accusations against staff; and
3. Procedures for promptly referring suspected cases of abuse and neglect to the local protective service unit and for cooperating with the unit during any investigation.

[~~§ 5.43.~~ § 5.39.] The client's record [or the administrative record] shall include;

1. Date and time the suspected abuse or neglect occurred;
2. Description of the incident;
3. Action taken as a result of the incident; and
4. Name of the person to whom the report was made at the local department.

Article [~~18.~~ 17.]
Storage of Confidential Records.

[~~§ 5.44.~~ § 5.40.] Records shall be kept in areas which are

accessible only to authorized staff.

[~~§ 5.45.~~ § 5.41.] When not in use, active [and closed] records shall be stored in a locked metal file cabinet or other locked metal compartment [or in a locked room].

[~~§ 5.46.~~ When not in use, closed records shall be kept in a locked compartment or in a locked room.]

Article [~~19.~~ 18.]
Disposition of Client Records.

[~~§ 5.47.~~ § 5.42.] Client records shall be kept in their entirety for a minimum of three years after the date of the discharge unless otherwise specified by state or federal requirements.

[~~§ 5.48.~~ § 5.43.] Permanent information shall be kept on each client even after the disposition of the client's record unless otherwise specified by state or federal requirements.

Such information shall include:

1. Client's name;
2. Date [and place] of client's birth;
3. Dates of admission and discharge; and
4. Name and address of legal guardian, if any.

[~~§ 5.49.~~ § 5.44.] Each facility shall have a written policy to provide for the disposition of records in the event the facility ceases operation.

[Article 20:
Service Coordination.

§ 5.50. Each facility shall develop and implement written policies and procedures for case coordination that shall provide for the assignment of a case coordinator to each client.

§ 5.51. The duties of the case coordinator shall include:

1. Serving as the liaison between the program and the client's family or legally authorized representative;
2. Providing ongoing assessment of the client's general needs through the use of program reports and evaluation information provided by each service;
3. Ensuring systematic and inclusive individualized services plans, when required, through monitoring the continuity and range of services delivered;
4. Developing and reviewing the specific individualized services plans with additions and deletions in service delivery at least on a quarterly basis;
5. Providing coordination, linkage, and referral to all

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direct and generic services within the program and in the community;

6. Providing coordination and referral at the time of discharge;

7. Identifying the individual or agency responsible for follow-up and aftercare; and

8. Documenting follow-up when appropriate.]

Article [~~21~~. 19.]

Discharge and Case Closure.

[§ ~~5-52~~. § 5.45.] Each facility shall develop and implement written policies and procedures regarding discharge and case closure including:

1. Written criteria for a client's completion of the program; and

2. Conditions under which a client may be discharged before completion of the program.

[§ ~~5-53~~. § 5.46.] No later than 30 days after discharge a [~~comprehensive~~] discharge summary shall be placed in the client's record and it shall contain:

1. Admission date;

2. Discharge date;

3. Name of client's case coordinator, if assigned;

4. Information concerning currently prescribed medication including when and why it was prescribed, the dosage, and whether it is to be continued;

5. Summary of the [services provided and] client's progress [toward treatment goals] since admission;

6. Reasons for discharge; and

7. Follow-up and referral plans and requirements.

Article [~~22~~. 20.]

Health Care Procedures.

[§ ~~5-54~~. § 5.47.] Facilities shall have written policies and procedures for [the prompt provision of promptly obtaining] emergency medical [~~or dental~~] services.

[§ ~~5-55~~. § 5.48.] A well stocked first aid kit [; approved by the local rescue squad or Red Cross,] shall be maintained and readily accessible for minor injuries and medical emergencies.

[§ ~~5-56~~. § 5.49.] At all times that staff is required to be present there shall be at least one staff member on the premises who has received within the past three years a basic certificate in standard first aid (multimedia, personal

safety, or standard first aid modular) issued by the American Red Cross or other recognized authority except that this requirement [~~does shall~~] not apply during those hours when a licensed [physician,] nurse or certified emergency medical technician (EMT) is present at the facility [, nor shall this requirement apply to individual supervised apartments or specialized foster homes].

[§ ~~5-57~~. § 5.50.] [At all times that staff is required to be present there shall be at least one staff member on the premises who has received a current certificate Within ninety days after employment each direct care staff member of a residential respite care/emergency services facility shall successfully complete a training course] in cardiopulmonary resuscitation [appropriate to the clients served by the facility and receive a certificate of completion] issued by the American Red Cross or other recognized authority. [This requirement shall not apply to licensed physicians, nurses or certified emergency medical technicians (EMT's) employed by the facility.]

[§ ~~5-58~~. § 5.51.] The following written information concerning each client or resident shall be readily accessible to staff who may have to respond to a medical [~~or dental~~] emergency:

1. Name, address, and telephone number of the physician [~~or dentist~~] to be notified;

2. Name, address, and telephone number of relative or other person to be notified;

3. Medical insurance company name and policy or Medicaid number;

4. Information concerning:

a. Use of medication,

b. Medication allergies,

c. Any history of substance abuse, and

d. Significant medical problems;

5. Written consent authorizing the facility to transport the client to receive emergency medical [~~or dental~~] services; and

6. Written permission for emergency medical [~~or dental~~] care.

Article [~~23~~. 21.]

Physical Examinations for Clients.

[§ ~~5-59~~. § 5.52.] Except for admissions for [residential] respite care/emergency [shelter] services each client accepted for services by supported residential programs shall have a physical examination by or under the direction of a licensed physician no earlier than 90 days prior to admission to the program, except that the report

of an examination within the preceding 12 months shall be acceptable if a client transfers from one residential facility licensed, certified or accredited by a state or federal agency to another, or a physical examination shall be conducted within 30 days after admission if the client is admitted on an emergency basis and a report of a physical examination is not available.

[~~§ 5-60.~~ § 5.53.] Each physical examination report shall include:

1. General physical condition, including documentation of apparent freedom from communicable disease including tuberculosis;
2. Allergies, chronic conditions, and handicaps, if any;
3. Restriction of physical activities, if any;
4. Recommendations for further treatment, immunizations, and other examinations indicated;
5. The date of the physical examination; and
6. The signature of a licensed physician, the physician's designee, or an official of a local health department.

Article [~~24.~~ 22.]

Use of Tobacco Products and Other Substances.

[~~§ 5-61.~~ § 5.54.] No client under 16 shall be permitted to purchase, possess or use tobacco products.

[~~§ 5-62.~~ § 5.55.] Each facility shall have a written policy addressing the use of alcoholic beverages.

[~~§ 5-63.~~ Each facility shall have a written policy addressing the possession or use of illegal drugs.]

Article [~~25.~~ 23.]

Medication.

[~~§ 5-64.~~ § 5.56.] As part of the data collected at admission to the program a drug use profile shall be developed for each client which includes:

1. History of prescription and nonprescription drugs being taken at the time of admission and for the previous six months.
2. Drug allergies, idiosyncratic or adverse drug reactions.
3. Ineffective medication therapy.

[~~§ 5-66.~~ § 5.57.] There shall be written policies and procedures regarding the storage, delivery and administration of prescription and nonprescription medications used by [~~clients residents~~]. The policies and procedures shall include, require and provide for:

1. All medications shall be stored in a securely locked storage area and properly labeled.

2. In accordance with § 54-524.65 of the Code of Virginia, Virginia Drug Control Act, prescription medications shall only be administered by a physician, dentist, pharmacist, nurse or medication technician.

3. In accordance with § 54-524.65 of the Code of Virginia, Virginia Drug Control Act, prescription medications [, which are normally self-administered by a resident of the facility,] may be [~~delivered administered~~] by [~~any designated an~~] employee [~~for self-administration by the client under the supervision of the program director and only by the order of a physician. The designated employee must have of the facility who has~~] successfully completed a medication assistance training program [~~endorsed approved~~] by the Virginia Board of Nursing [, when authorized in writing by the physician and administered in accordance with the physician's instructions pertaining to dosage, frequency and manner of administration].

4. Only those [~~clients residents~~] judged by the program staff to have an adequate level of functioning shall be allowed to self-administer nonprescription medication and this shall be documented in the [~~client's resident's~~] record.

5. Controlled substances brought into the program by [~~clients residents~~] shall not be administered (including self-administration) unless they are identified and accompanied by a physician's or dentist's written order.

6. Procedures for documenting the administration of medication, medication errors, and drug reactions, obtaining emergency medical assistance, and disposal of medications.

7. Documentation of drugs prescribed following admission shall include:

- a. The date prescribed;
- b. Drug product name;
- c. Dosage;
- d. Strength;
- e. Route;
- f. Schedule;
- g. Dates medication discontinued or changed;
- h. Total supply of medication prescribed; and
- i. Signature of physician ordering medication.

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8. Each program shall [have written policies and procedures regarding the review of medication therapy which shall insure and] provide for a quarterly review [by a physician (in conjunction with program staff when needed)] of the individual [client's resident's medication] therapy plan [by a physician (in conjunction with program staff when needed) which] shall include:

a. Documentation of the need for continued use of medication therapy including multiple drug usage [; with evidence that treatment strategies other than medication therapy are under consideration].

b. Documentation of all contraindications and unusual effects for specific [clients residents] (where appropriate).

9. The attending physician shall be notified immediately of drug reactions or medication errors.

10. Procedures for documenting that [clients residents] or a legally authorized representative are informed of the potential side effects of prescribed medication.

11. All staff who [supervise have planned involvement with] clients shall be informed of any known side effects of medication clients use and the symptoms of the effect.

Article [26: 24.]

Nutrition [Requirements in Residential Respite Care/Emergency Services Facilities].

[§ 5-65: § 5.58.] Provision shall be made for each [client resident] to have three nutritionally balanced meals daily.

[§ 5-66: § 5.59.] Menus shall be planned at least one week in advance.

[§ 5-67: § 5.60.] The menus, including any deviations, shall be kept on file for at least two months.

[§ 5-68: § 5.61.] The daily diet for [clients residents] shall be based on the generally accepted "Four Food Groups" system of nutrition planning. (The Virginia Polytechnic Institute and State University Extension Service is available for consultation.)

Article [27: 25.]

Clothing.

[§ 5-69: § 5.62.] Provision shall be made for each [resident client] to have [his own adequate supply of] clean, comfortable, well-fitting clothes and shoes [for indoor and outdoor wear].

[§ 5-70: § 5.63.] The [resident client] shall be allowed to take personal clothing when the [resident client] leaves the facility.

Article [28: 26.]

Behavior Management.

[§ 5-71: § 5.64.] Each facility shall implement written policies and procedures concerning behavior management that are directed toward maximizing the growth and development of the individual. These policies and procedures shall:

1. Emphasize positive approaches;

2. Define and list techniques that are used and available for use in the order of their relative degree of intrusiveness or restrictiveness;

3. Specify the staff members who may authorize the use of each technique;

4. Specify the processes for implementing such policies and procedures;

5. Specify the mechanism for monitoring and controlling the use of behavior management techniques; and

6. Specify the methods for documenting their use.

[§ 5-72: § 5.65.] In the list required by [§ 5-71, subdivision 2, § 5.64.2] of techniques that are used and available for use, intrusive aversive therapy if allowed shall be designated as the most intrusive technique.

[§ 5-73: § 5.66.] A written behavior management plan utilizing intrusive aversive therapy shall not be implemented with any client until the local human rights committee has determined:

1. That the client or his authorized representative has made an informed decision to undertake the proposed intrusive aversive therapy, and in the case of a minor who is capable of making an informed decision, that the concurrent consent of the parent has been obtained;

2. That the proposed intrusive aversive therapy has been recommended by a licensed [or a license eligible] clinical psychologist;

3. That the facility has satisfactorily demonstrated that the proposed intrusive aversive therapy plan does not involve a greater risk of physical or psychological injury or discomfort to the client than the behaviors that the plan is designed to modify;

4. That there is documentation that a representative sample of less intrusive behavior management procedures have been tried without success;

5. That more appropriate behaviors are being positively reinforced;

6. That a licensed physician has certified that in his opinion, the intrusive aversive procedure will not endanger the health of the client;

7. That the aversive treatment technique is measurable and can be uniformly applied;

8. That the aversive treatment program specifies the behavioral objective, the frequency of application of the aversive technique, the time limit for both application of the technique and the overall length of the program, and the collection of behavioral data to determine the program's effectiveness; [and]

9. That the program is developed, implemented and monitored by staff professionally trained in behavior modification programming, and is witnessed by an approved professionally trained staff person;

[§ 5-74. § 5.67.] The local human rights committee having made the determinations required by [§ 5-73 § 5.66] shall then approve the proposed intrusive aversive therapy plan for a period not to exceed 90 days. The plan shall be monitored through unannounced visits by a designated human rights advocate. In order for the plan to be continued, the local human rights committee shall again make the determinations required in [§ 5-73 § 5.66].

[§ 5-75. § 5.68.] The advocate or regional advocate shall be informed daily of all applications of a noxious stimulus in an approved intrusive aversive therapy program.

[§ 5-76. § 5.69.] The client subjected to intrusive aversive therapy procedures and the advocate or regional advocate shall be given an opportunity to obtain an independent clinical and local human rights committee review of the necessity and propriety of their use at any time.

Article [29. 27.]

Prohibited Means of Punishment.

[§ 5-77. § 5.70.] The following methods of punishment, whether spontaneous or a deliberate technique for effecting behavioral change or part of a behavior management program, shall be prohibited:

1. Deprivation of drinking water or nutritionally balanced snacks or meals;
2. Prohibition of contacts and visits with attorney, probation officer, or placing agency representative;
3. Prohibition of contacts and visits with family or legal guardian [except where specifically permitted by other applicable regulations];
4. Delay or withholding of incoming or outgoing mail [except where specifically permitted by other applicable regulations];
5. Any action which is humiliating, degrading, harsh,

or abusive;

6. Corporal punishment as defined in these regulations;

7. Subjection to unclean and unsanitary living conditions;

8. Deprivation of opportunities for bathing and access to toilet facilities;

9. Deprivation of health care including counseling; and

10. Administration of laxatives, enemas, or emetics.

Article [30. 28.]

Chemical or Mechanical Restraints.

[§ 5-78. § 5.71.] The use of mechanical or chemical restraints is prohibited unless [such use is specifically permitted by other applicable regulations carried out in compliance with applicable human rights regulations promulgated pursuant to § 37.1-84.1 of the Code of Virginia].

Article [31. 29.]

Physical Restraint.

[§ 5-79. § 5.72.] A client may be physically restrained only when the client's uncontrolled behavior would result in harm to the client or others [or destruction of property] and when less restrictive interventions have failed.

[§ 5-80. § 5.73.] The use of physical restraint shall be only that which is minimally necessary to protect the client or others [or to prevent the destruction of property].

[§ 5-81. If the use of physical restraint is unsuccessful in calming and moderating the client's behavior the client's physician, the rescue squad, the police or other emergency resource shall be contacted for assistance.]

[§ 5-82. § 5.74.] Any application of physical restraint shall be fully documented in the client's record as to date, time, staff involved, circumstances, reasons for use of physical restraint, [duration of physical restraint,] extent of physical restraint used, the results of physical restraint and the disposition of the incident requiring physical restraint.

Article [32. 30.]

Seclusion.

[§ 5-83. § 5.75.] Seclusion of a client in a room with the door secured in any manner that will prohibit the client from opening it shall be prohibited unless carried out in compliance with applicable human rights regulations promulgated pursuant to § 37.1-84.1 of the Code of Virginia.

Article [33. 31.]

Time-out Procedures.

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[~~§ 5.84.~~ § 5.76.] Time-out procedures may only be used at times and under conditions specified in the facility's disciplinary or behavior management policies.

[~~§ 5.85.~~ § 5.77.] When a client is placed in a time-out room, the room shall not be locked nor the door secured in any manner that will prohibit the client from opening it.

[~~§ 5.86.~~ § 5.78.] Any client in a time-out room shall be able to communicate with staff.

[~~§ 5.87.~~ § 5.79.] The use of time-out procedures shall not be used for periods longer than 15 consecutive minutes.

[~~§ 5.88.~~ § 5.80.] Written documentation shall be maintained verifying that each client placed in a time-out room has been checked by staff at least every 15 minutes.

[~~§ 5.89.~~ § 5.81.] A client placed in a time-out room shall have bathroom privileges according to need.

[~~§ 5.90.~~ § 5.82.] If a meal is scheduled while a client is in time-out, the meal shall be provided to the client at the end of the time-out procedure.

Article [~~34.~~ 32.]

[~~Adult~~] Foster Home Study and Approval.

[~~§ 5.91.~~ § 5.83.] The supported residential program shall prepare a written study and approve each [~~adult~~] foster home prior to the placement of a client in the [~~adult~~] foster home [unless the supported residential program has documentation on file that the proposed foster home has been studied and approved by staff of the local department of social services for the type of client to be placed in the proposed foster home by the supported residential program].

[~~§ 5.92.~~ § 5.84.] The date of approval of the [~~adult~~] foster home shall be documented in the foster home record.

[~~§ 5.93.~~ § 5.85.] The foster home study shall be based on a minimum of three face-to-face interviews with each foster parent, including at least one joint interview in the home; and all other members of the household shall be interviewed at least once.

[~~§ 5.94.~~ § 5.86.] The foster home study shall be written and shall include the information gathered as well as the supported residential program's assessment of the following areas:

1. Each applicant's reasons for and expectations of becoming [~~an adult~~ a] foster home parent for client's served by the supported residential program;

2. Each applicant's ability to function as [~~an adult~~ a] foster home parent including interpersonal skills, understanding of the type of clients to be placed, prior

experiences with such clients, attitudes toward such clients, and ability to work cooperatively with the program;

3. The abilities of all members of the household to accept such clients and their typical behaviors, and the experienced members of the household in sharing with and caring for persons not related to them;

4. The social adjustment of children of the foster parent applicant [~~such as peer relationships and school performance~~];

5. The current functioning within the family including marital relationships and routines of the family's daily life;

6. The applicant's social, extended family and neighborhood relationships;

7. The financial resources of the foster family in relation to its expenses including an examination of financial management to date and employment status and stability;

8. Each household member's health status;

9. The physical environment of the foster home including the following (see also Article [~~13~~ 15] of Part IV):

a. The availability and use of sleeping space;

b. The availability of recreation space;

c. The availability of storage space;

d. The housekeeping standards of the home;

e. The neighborhood;

f. The accessibility of the home to community resources;

10. At least three personal references;

11. The number, age, sex and special characteristics of clients who could be cared for successfully in the home including the foster parent applicant's preferences for the type of client to be placed and the reasons for those preferences; and

12. Documentation of the qualifications as specified by [~~Article 35~~ PART III, Article 14 of these regulations] and of any qualifications established by the supported residential program.

[~~§ 5.96.~~ § 5.87.] The supported residential program shall reevaluate each [~~adult~~] foster home annually.

[~~§ 5.97.~~ § 5.88.] The reevaluation shall be written and

shall cover the same topics as the initial evaluation. It shall indicate any changes in status as well as the following areas:

1. The program's evaluation of the performance of the foster parents;
2. Problems which may have occurred with the foster family during the past year;
3. The stability of the home;
4. The relationship between the clients in care and the family members;
5. A brief descriptive summary of the adjustment of each client placed in the home during the year and the specific impact of the family members on that client's progress; and
6. An assessment of the needs of family members for further orientation and training related to their role as [adult] foster parents.

PART VI. DISASTER OR EMERGENCY PLANS.

Article 1. Disaster or Emergency Procedures.

§ 6.1. In residential respite care/emergency [shelter services] facilities established written procedures shall be made known to all staff and residents, as appropriate for health and safety, for use in meeting specific emergencies including:

1. Severe weather;
2. Loss of utilities;
3. Missing persons;
4. Severe injury; and
5. Emergency evacuations [including alternate housing].

Article 2. Written Fire Plan.

§ 6.2. Each supported residential program [office] and [each] residential respite care/emergency [shelter services] facility with the consultation and approval of the appropriate local fire authority shall develop a written plan to be implemented in case of a fire at the [supported residential program office or the residential respite care/emergency services] facility.

§ 6.3. Each fire plan shall address the responsibilities of staff and residents with respect to:

1. Sounding of fire alarms;
2. Evacuation procedures including assembly points, head counts, primary and secondary means of egress, evacuation of residents with special needs (i.e., deaf, blind, multi-handicapped) and checking to ensure complete evacuation of the building(s);
3. A system for alerting fire fighting authorities;
4. Use, maintenance and operation of fire fighting and fire warning equipment;
5. Fire containment procedures including closing of fire doors, fire windows or other fire barriers;
6. Posting of floor plans showing primary and secondary means of egress; and
7. Other special procedures developed with the local fire authority.

§ 6.4. Floor plans showing primary and secondary means of egress shall be posted on each floor in locations determined by the appropriate local fire authority.

§ 6.5. The written fire plan shall be reviewed with the local fire authority at least annually and updated, if necessary.

§ 6.6. The procedures and responsibilities reflected in the written fire plan shall be made known to all staff and residents.

Article 3. Posting of Fire Emergency Phone Number.

§ 6.7. The telephone number of the fire department to be called in case of fire shall be prominently posted on or next to each telephone in each building.

Article 4. Portable Fire Extinguishers.

§ 6.8. Portable fire extinguishers shall be installed and maintained in each supported residential program [office] and residential respite care/emergency [shelter services] facility in accordance with state and local fire/building code requirements. In those buildings where no such code requirements apply, on each floor there shall be installed and maintained at least one approved type ABC portable fire extinguisher having at least a 2A rating.

§ 6.9. Fire extinguishers shall be mounted on a wall or post where they are clearly visible and so that the top is not more than five feet from the floor except that if a fire extinguisher weighs more than 140 pounds it shall be installed so that the top is not more than 2-1/2 feet from the floor. They shall be easy to reach and remove and they shall not be tiled down, locked in a cabinet, or placed in a closet or on the floor except that where

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extinguishers are subject to malicious use, locked cabinets may be used provided they include a means of emergency access.

§ 6.10. All required fire extinguishers shall be maintained in operable condition at all times.

§ 6.11. Each fire extinguisher shall be checked by properly oriented facility staff at least once each month to ensure that the extinguisher is available and appears to be in operable condition. A record of these checks shall be maintained for at least two years and shall include the date and initials of the person making the inspection.

§ 6.12. Each fire extinguisher shall be professionally maintained at least once each year. Each fire extinguisher shall have a tag or label securely attached which indicates the month and year the maintenance check was last performed and which identifies the company performing the service.

Article 5. Smoke Alarms.

§ 6.13. Smoke detectors or smoke detection systems shall be installed and maintained in each supported residential program [office] and residential respite care/emergency [shelter services] facility in accordance with state and local fire/building code requirements. In those buildings where no such code requirements apply, the facility shall provide at least one approved and properly installed smoke detector:

1. In each hallway;
2. At the top of each interior stairway;
3. In each area designated for smoking;
4. In or immediately adjacent to each room with a furnace or other heat source; [and]
5. In each additional location directed by the local building official, the local fire authority, or the state fire authority.

§ 6.14. Each smoke detector shall be maintained in operable condition at all times.

§ 6.15. If the facility is provided with single station smoke detectors, each smoke detector shall be tested by properly oriented staff at least once a month and if it is not functioning, it shall be restored to proper working order. A record of these tests shall be maintained for at least two years and shall include the date and initials of the person making the test.

§ 6.16. If the facility is provided with an automatic fire alarm system, the system shall be inspected by a qualified professional firm at least annually. A record of these inspections shall be maintained for at least two years and

shall include the date and the name of the firm making the inspections.

Article 6. Fire Drills.

§ 6.17. At least one fire drill (the simulation of fire safety procedures included in the written fire plan) shall be conducted [for staff during] each month in each building at the residential respite care/emergency [shelter services] facility [normally] occupied by residents.

§ 6.18. Fire drills [at the residential respite care/emergency services facility] shall include, at a minimum:

1. Sounding of fire alarm;
2. Practice in building evacuation procedures;
3. Practice in alerting fire fighting authorities;
4. Simulated use of fire fighting equipment;
5. Practice in fire containment procedures; and
6. Practice of other simulated fire safety procedures as may be required by the facility's written fire plan.

[§ 6.19. At least once during each six-month period a review of fire emergency procedures shall be conducted and documented for staff at the supported residential program office which shall include, at a minimum:

1. Procedures for sounding of fire alarms;
2. Practice in building evacuation and fire containment procedures; and
3. Practice in alerting fire fighting authorities.]

[~~§ 6.19.~~ § 6.20.] During any three consecutive calendar months, at least one fire drill shall be conducted during each shift [in each building at the residential respite care/emergency services facility normally occupied by residents].

[~~§ 6.20.~~ § 6.21.] False alarms shall not be counted as fire drills.

[~~§ 6.21.~~ § 6.22.] The facility shall designate at least one staff member to be responsible for conducting and documenting fire drills.

[~~§ 6.22.~~ § 6.23.] A record shall be maintained on each fire drill conducted and shall include the following information:

1. Building in which the drill was conducted;
2. Date of drill;

- 3. Time of drill;
- 4. Amount of time to evacuate building;
- 5. Specific problems encountered;
- 6. Specific tasks completed:
 - a. Doors and windows closed,
 - b. Head count,
 - c. Practice in notifying fire authority, and
 - d. Other;
- 7. Summary; and
- 8. Signature of staff member responsible for conducting and documenting the drill.

[§ 6.23. § 6.24.] The record for each fire drill shall be retained for two years subsequent to the drill.

[§ 6.24. § 6.25.] The facility shall designate a staff member to be responsible for the fire drill program at the facility who shall:

- 1. Ensure that fire drills are conducted at the times and intervals required by these regulations and the facility's written fire plan;
- 2. Review fire drill reports to identify problems in the conduct of fire drills and in the implementation of the requirements of the fire plan;
- 3. Consult with local fire authorities, as needed, and plan, implement and document training or other actions taken to remedy any problems found in the implementation of the procedures required by the written fire plan; and
- 4. Consult and cooperate with the local fire authority to plan and implement an educational program for facility staff and residents on topics in fire prevention and fire safety.

Article 7.
Training in Fire Procedures.

[§ 6.25. § 6.26.] Each new staff member shall be trained in fire procedures and fire drill procedures within seven days after employment.

[§ 6.26. § 6.27.] Each new staff member shall be trained in fire procedures and fire drill procedures prior to assuming sole responsibility for the supervision of one or more residents.

[§ 6.27. § 6.28.] Residents shall be oriented as to fire procedures at time of admission.

Article 8.
Poison Control.

[§ 6.28. § 6.29.] The telephone number of a regional poison control center shall be posted on or next to at least one nonpay telephone in each building in which residents participate in programs.

[§ 6.29. § 6.30.] At least one 30cc bottle of Syrup of Ipecac shall be available on the premises of the [residential respite care/emergency services] facility for use at the direction of the poison control center or physician.

Article 9.
Use of Vehicles and Power Equipment.

[§ 6.30. § 6.31.] Any transportation provided [by the program or facility directly or through contract] for [or used by] clients shall be in compliance with state and federal laws relating to:

- 1. Vehicle safety and maintenance;
- 2. Licensure of vehicles; and
- 3. Licensure of drivers.

[§ 6.31. § 6.32.] There shall be written safety rules for transportation of clients, including handicapped clients, appropriate to the population served.

[§ 6.32. § 6.33.] There shall be written safety rules for the use and maintenance of vehicles and power equipment.

Article 10.
Control of Deviant or Criminal Behavior.

[§ 6.33. § 6.34.] The person in charge of the facility shall take all reasonable precautions to assure that no client is exposed to, or instigates such behavior as might be physically [; or] emotionally [or morally] injurious to himself or to another person.

[§ 6.34. § 6.35.] Any incident relating to the operation of the facility which results in serious injury or death shall be investigated by the person in charge of the facility, appropriately reported to local authorities, and immediately reported to the department. A written report of the incident shall be made and kept on file by the facility and made available for review by authorized personnel.

* * * * *

Title of Regulation: VR 470-02-09. Rules and Regulations for the Licensure of Outpatient Facilities.

Statutory Authority: §§ 37.1-10 and 37.1-179.1 of the Code of Virginia.

Final Regulations

Effective Date: July 1, 1988

Summary:

Under the current definitions in the Code of Virginia (§ 37.1-179 et seq.), the Department of Mental Health, Mental Retardation and Substance Abuse Services is responsible for the licensure of facilities and institutions providing care or treatment to mentally ill, mentally retarded and substance abusing persons.

The term "outpatient facility" includes any publicly or privately owned institution, establishment or other entity by whatever name or designation which provides a variety of treatment interventions generally of less than three consecutive hours duration for mentally ill, mentally retarded, or substance abusing persons including the detoxification, treatment or rehabilitation of drug addicts through the use of the controlled drug methadone. These interventions are provided in a nonresidential setting to individuals, groups and families and include, but are not limited to, emergency services, crisis intervention, diagnosis and evaluation, counseling, psychotherapy, behavior management, chemotherapy, ambulatory detoxification, and methadone detoxification and maintenance. The term outpatient facility specifically includes the treatment rooms or offices used to provide the services of: (i) a facility providing a program of outpatient services operated by a community mental health, mental retardation and substance abuse services board established pursuant to Chapter 10 (§ 37.1-194 et seq.) of Title 37.1 of the Code of Virginia; (ii) a facility providing a program of outpatient services funded wholly or in part, directly or indirectly, by a community mental health, mental retardation and substance abuse services board established pursuant to Chapter 10 (§ 37.1-194 et seq.) of Title 37.1 of the Code of Virginia; (iii) a facility providing a program of outpatient services to substance abusing persons including the detoxification, treatment or rehabilitation of drug addicts through the use of the controlled drug methadone; or (iv) a facility providing a program of outpatient services that is owned, operated, or controlled by a corporation organized pursuant to the provisions of either Chapter 9 (§ 13.1-601 et seq.) or Chapter 10 (§ 13.1-801 et seq.) of Title 13.1 of the Code of Virginia. The term outpatient facility does not include the treatment rooms or offices used to provide the services of, among others, individual licensed practitioners of the healing arts or the behavioral science professions or "group practices."

The term "group practice" means one or more practitioners of the healing arts or practitioners of the behavioral science professions who are individually licensed under the provisions of Title 54 of the Code of Virginia and their employees who are individually licensed under the provisions of Title 54 of the Code of Virginia or who are otherwise legally authorized to

render professional services within this Commonwealth, who have for purposes of convenience or efficiency associated or grouped themselves through the use of shared office space or administrative support in order to provide professional services within the scope and limits of their individual and respective professional licenses, whether the association is informal or has been formalized through an organization such as a professional association organized pursuant to the provisions of Chapter 25 (§ 54-873 et seq.) of Title 54 of the Code of Virginia, a professional corporation organized pursuant to the provisions of Chapter 7 (§ 13.1-542 et seq.) of Title 13.1 of the Code of Virginia, or a general partnership organized under the provisions of Chapter 1 (§ 50-1 et seq.) of Title 50 of the Code of Virginia.

These regulations articulate the minimum requirements for licensure of outpatient facilities in order to protect the health and safety of mentally ill, mentally retarded and substance abusing clients in outpatient facilities and to assure that they receive services that are appropriate to meet their identified needs.

The regulations are comprised of the following issues which have impact on outpatient facilities subject to licensure:

Organization and administration, personnel, physical environment, programs and services, disaster or emergency plans, and special requirements for outpatient methadone treatment facilities.

In response to public comment the definition of "outpatient facility" has been revised and a new definition for "group practice" has been provided. In the proposed regulation "private practice" organizations were excluded from the term "outpatient facility." The definitions of the excluded "private practice" organizations included "practitioners of the same healing art or of the same behavioral science profession." As a result of public comment these definitions were seen as inadequate to achieve the intended exclusion from the term "outpatient facility" of those informal and formal groups of licensed or license eligible practitioners who have for purposes of convenience or efficiency associated or grouped themselves, whether they are practicing the same or a different healing art or behavioral science profession. Therefore, the term "group practice" has been defined in the final regulation to cover such formal and informal organizations of licensed practitioners, and "group practice" is excluded from the term "outpatient facility" so that such a group or association is excluded from subjectivity to licensure as an outpatient facility.

Other substantial changes in response to public comment include clarifying other definitions; providing technical amendments to various regulations to

achieve consistency with other departmental regulations and requirements such as human rights regulations, "core services definitions," and standard data elements for statistical reporting; revising certain licensing procedures to enhance their efficiency and to reduce unnecessary burdens for licensees; revising or eliminating certain requirements that are not appropriate for outpatient or day support facilities; and revising other requirements to make them more consistent with current standards of practice and operational realities.

These are new regulations that will replace the current Rules and Regulations for the Licensure of Substance Abuse Treatment and Rehabilitation Facilities with respect to their applicability to substance abuse outpatient facilities and will subject to licensure for the first time outpatient facilities serving mentally ill, emotionally disturbed, or mentally retarded persons.

VR 470-02-09. Rules and Regulations for the Licensure of Outpatient Facilities.

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PART I. INTRODUCTION.

Article 1. Definitions.

§ 1.1. The following words and terms, when used in these regulations, shall have the following meaning, unless the context clearly indicates otherwise:

"Advocate" means a person or persons appointed by the commissioner after consultation with the State Human Rights Director and the local human rights committee who exercise the duties set forth in Part III of the Rules and Regulations to Assure the Rights of Residents of Facilities Operated by the Department of Mental Health [and ,] Mental Retardation [and Substance Abuse Services].

["Alcoholic" means a person who: (i) through the use of alcohol has become dangerous to the public or himself; or (ii) because of such alcohol use is medically determined to be in need of medical or psychiatric care, treatment, rehabilitation, or counseling.]

"Allegation" means an accusation that a facility is operating without a license.

["Alternative day support arrangements" means day support alternatives other than programs that provide day treatment/partial hospitalization, psychosocial rehabilitation, extended sheltered employment or work activity, adult developmental/activity center/developmental day programming for adults, education, recreation, or supported or transitional employment, which assist clients in locating day support settings and may provide program staff, follow along, or assistance to the clients. The focus may be on assistance to the client to maintain the independent day support arrangement.]

"Ambulatory detoxification [services program]" means a program [/service] provided [in a day treatment/partial hospitalization program or] in an outpatient facility to people under the influence of intoxicants that provides a safe place to withdraw from such intoxicants, but the term "ambulatory detoxification [services program]" does not include detoxification and treatment with the controlled drug methadone (see Part VII). Trained staff are present to monitor withdrawal. People who experience medical complications are sent to a hospital emergency room [or other appropriate medical facility] . Clients may be referred to an outpatient substance abuse facility or to an intermediate care facility when appropriate.

"Applicant" means the person, corporation, partnership, association or public agency which has applied for a license.

"Behavior management" means planned and systematic use of various techniques selected according to group and individual differences of the [residents clients] and designed to teach awareness of situationally appropriate behavior, to strengthen desirable behavior, and to reduce or to eliminate undesirable behavior. (The term is consistently generic and is not confined to those techniques which derive specifically from behavior therapy, operant conditioning, etc.)

"Board" means the State Mental Health [and ,] Mental Retardation [and Substance Abuse Services] Board.

"Case record" or "record" means written information assembled in one folder or binder relating to one individual. This information includes social and medical data, agreements, notations of ongoing information, service plan with periodic revisions, aftercare plans and discharge summary, and any other data related to the client.

"Child" means any person legally defined as a child under state law.

"Client" means [mentally ill or mentally retarded persons, or persons addicted to the intemperate use of narcotic drugs, alcohol or other stimulants a person receiving treatment or other services from a program, facility, institution or other entity licensed under these regulations whether that person is referred to as a patient, resident, student, consumer, recipient or another term].

"Commissioner" means the Commissioner of Mental Health [and ,] Mental Retardation [and Substance Abuse Services].

"Complaint" means an accusation against a licensed facility regarding an alleged violation of regulations or law.

"Corporal punishment" means the inflicting of pain or discomfort to the body through actions such as but not limited to striking or hitting with any part of the body or with an implement; or through pinching, pulling or shaking; or through any similar action which normally inflicts pain or discomfort.

"Day off" means a period of not less than 32 consecutive hours during which a staff person has no responsibility to perform duties related to the facility. Each successive day off immediately following the first shall consist of not less than 24 additional consecutive hours.

"Day support program" means any publicly or privately operated facility, institution or other entity which provides [~~day support services~~ a planned program of treatment or training interventions generally of more than three consecutive hours duration] to mentally ill [~~or ,~~] mentally retarded [~~persons or to persons addicted to the intemperate use of narcotic drugs, alcohol or other stimulants but ,~~ or substance abusing persons. Day support program services may include the detoxification, treatment or rehabilitation of drug addicts through the use of the controlled drug methadone. These interventions are provided in a nonresidential setting and focus on the treatment of pathological conditions or on the training or strengthening of client abilities to deal with everyday life. The term "day support program"] does not include [entities whose primary function is to provide]:

1. [~~Sheltered workshops~~ Extended sheltered employment or work activity programs];
2. Supported or transitional employment programs;
3. Alternative day support arrangements;
4. Educational programs;
5. Recreational programs; [~~or~~]
6. Outpatient facilities [licensed pursuant to the provisions of Chapter 8 (§ 37.1-179 et seq.) of Title 37.1 of the Code of Virginia; or]

[7. Day treatment/partial hospitalization programs provided by psychiatric hospitals licensed pursuant to the provisions of Chapter 8 (§ 37.1-179 et seq.) of Title 37.1 of the Code of Virginia, provided that such day treatment/partial hospitalization programs are situated on the same premises as the psychiatric hospital so licensed.]

["Day support services" means a planned program of treatment or training interventions of more than three consecutive hours duration for mentally ill or mentally retarded persons or for persons addicted to the intemperate use of narcotic drugs, alcohol or other stimulants including the detoxification, treatment or rehabilitation of drug addicts through the use of the controlled drug methadone. These interventions are provided in a nonresidential setting and focus on the treatment of pathological conditions or on the training or strengthening of client abilities to deal with everyday life. "Day support services" includes such services as day treatment/partial hospitalization, psychosocial rehabilitation, work activity and adult development day programs. The term "day support services" does not include such services as sheltered employment, supported or transitional employment, alternative day support arrangements, education or recreational services.]

"Day treatment/partial hospitalization" means a treatment program that includes the major diagnostic, medical, psychiatric, psychosocial, prevocational and educational treatment modalities designed for patients with serious mental disorders or substance abuse problems who require coordinated, intensive, comprehensive and multidisciplinary treatment of pathological conditions not provided in outpatient facility settings.

"Department" means the Department of Mental Health [and ,] Mental Retardation [and Substance Abuse Services] .

"Detoxification facility" means a residential facility or a portion thereof that is licensed according to the provisions of Chapter 8 (§ 37.1-179 et seq.) of Title 37.1 of the Code of Virginia as a nonhospital medical detoxification [service; a sobering-up shelter service program] or a social detoxification [service program] , but does not include a hospital based medical detoxification [service program] or an inpatient substance abuse facility as defined in these regulations.

"Drug addict" means a person who: (i) through the use of habit forming drugs or other drugs enumerated in the Virginia Drug Control Act (§ 54-524.1 et seq.) of the Code of Virginia, as controlled drugs, has become dangerous to the public or himself; or (ii) because of such drug use, is medically determined to be in need of medical or psychiatric care, treatment, rehabilitation or counseling.

"Facility" or "institution" means any facility not operated by an agency of the federal government by whatever name or designation which provides care or treatment for mentally ill [~~or ,~~] mentally retarded [persons, or persons addicted to the intemperate use of narcotic drugs, alcohol or other stimulants , or substance abusing persons] including the detoxification, treatment or rehabilitation of drug addicts through the use of the controlled drug methadone. Such institution or facility shall include a hospital as defined in [subsection 1 of] § 32.1-123 of the Code of Virginia, outpatient clinic, special

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school, halfway house, home and any other similar or related facility.

["Group practice" means one or more practitioners of the healing arts or practitioners of the behavioral science professions who are individually licensed under the provisions of Title 54 of the Code of Virginia and their employees who are individually licensed under the provisions of Title 54 of the Code of Virginia or who are otherwise legally authorized to render professional services within this Commonwealth, who have for purposes of convenience or efficiency associated or grouped themselves through the use of shared office space or administrative support in order to provide professional services within the scope and limits of their individual and respective professional licenses, whether the association is informal or has been formalized through an organization such as a professional association organized pursuant to the provisions of Chapter 25 (§ 54-873 et seq.) of Title 54 of the Code of Virginia, a professional corporation organized pursuant to the provisions of Chapter 7 (§ 13.1-542 et seq.) of Title 13.1 of the Code of Virginia, or a general partnership organized under the provisions of Chapter 1 (§ 50-1 et seq.) of Title 50 of the Code of Virginia.]

"Hospital" or "hospitals" when not modified by the words "state" or "private" means both state hospitals and private hospitals devoted to or with facilities for the care and treatment of mentally ill, mentally retarded or substance abusing persons.

"Hospital-based medical detoxification [service program] " means a program [/service] which offers medical treatment to persons suffering from alcohol or other drug intoxication. This service is provided in a hospital under the direction of a physician and hospital staff and is designed to monitor and control medical complications and other disorders which may be associated with withdrawal.

"Human research" means any medical or psychological [investigation designed to develop or contribute to general knowledge and research] which utilizes human subjects who may be exposed to the possibility of physical or psychological injury as a consequence of participation as subjects and which departs from the application of those established and accepted methods appropriate to meet the subjects' needs but does not include:

1. The conduct of biological studies exclusively utilizing tissue [of or] fluids after their removal or withdrawal from [a] human subject in the course of standard medical practice;
2. Epidemiological investigations; or
3. Medical treatment of an experimental nature intended to save or prolong the life of the subject in danger of death, to prevent the subject from becoming disfigured or physically or mentally incapacitated [or to improve the quality of the subject's life].

"Individualized service plan" means a written plan of action developed, and modified at intervals, to meet the [unique] needs of each client. It specifies short and long-term goals, the methods and time frames for reaching the goals and the individuals responsible for carrying out the plan.

"Inpatient substance abuse facility" means an organization established to provide effective intervention [in a hospital setting] for substance abuse by providing medical detoxification and by treating the medical and psychiatric complications of substance abuse through an organized medical and professional staff, with continuous nursing service at the hospital level of care, when such organized plan of substance abuse services can be separately identified.

["Intermediate care substance abuse facility" means an organization established to provide a continuous, structured residential program of services including assessment, counseling, vocational and social rehabilitation for four or more substance abusing persons. This type of facility provides full-time residential treatment services and is exemplified by therapeutic communities and residential treatment centers.]

"Intrusive aversive therapy" means a formal behavior modification technique designed to reduce or eliminate severely maladaptive, violent or self-injurious behavior through the application of noxious or painful stimuli contingent upon the exhibition of such behavior. The term shall not include actions defined in these regulations as corporal punishment, nor does it include verbal therapies, seclusion, physical or mechanical restraints used in conformity with the applicable human rights regulations promulgated pursuant to § 37.1-84.1 of the Code of Virginia, or psychotropic medications which are not used for purposes of intrusive aversive therapy.

"Licensee" means the person, corporation, partnership, association, or public agency to whom a license is issued and who is legally responsible for compliance with the regulations and statutory requirements relating to the facility.

"Local human rights committee" means a committee of at least five members broadly representative of professional and consumer groups appointed by the State Human Rights Committee for each group of community services board or licensed organization after consultation with the commissioner, and whose responsibility shall be to perform the functions specified in applicable human rights regulations. Except where otherwise provided, the term "local human rights committee" shall mean this body or any subcommittee thereof.

"Mechanical restraint" means the application of machinery or tools as a means of physically restraining or controlling a resident's behavior, such as handcuffs, straitjackets or shackles but not including bed straps, bed rails, slings and other devices employed to support or

protect physically incapacitated residents.

"Mental retardation" means substantial subaverage general intellectual functioning which originates during the development period and is associated with impairment in adaptive behavior.

"Nonhospital medical detoxification [service program] " means a program [/service] which provides a medically supervised withdrawal from alcohol [and/] or other drug intoxication in a nonhospital setting. Twenty-four hour nursing care and the services of on-call physicians are available. Services include medical screening and evaluation, basic laboratory analysis, physical exams and chemotherapy, as ordered by a physician. Medical referrals are made as necessary. Case management including referral to further residential or outpatient treatment is available.

"On duty" means that period of time during which a staff person is responsible for the care and supervision of one or more residents.

"Outpatient facility" means any publicly or privately owned institution, establishment or other entity by whatever name or designation which provides a variety of treatment interventions [generally] of less than three consecutive hours duration for mentally ill [or ,] mentally retarded [persons; or persons addicted to the intemperate use of narcotic drugs, alcohol or other stimulants , or substance abusing persons] including the detoxification, treatment or rehabilitation of drug addicts through the use of the controlled drug methadone. These interventions are provided in a nonresidential setting to individuals, groups and families and include but are not limited to emergency services, crisis intervention, [diagnosis and evaluation,] counseling, psychotherapy, behavior management, chemotherapy, ambulatory detoxification, and methadone detoxification and maintenance. The term outpatient facility [does not include specifically includes] the treatment rooms or offices used to provide the services of: [(i) a facility providing a program of outpatient services operated by a community mental health, mental retardation and substance abuse services board established pursuant to Chapter 10 (§ 37.1-194 et seq.) of Title 37.1 of the Code of Virginia; (ii) a facility providing a program of outpatient services funded wholly or in part, directly or indirectly, by a community mental health, mental retardation and substance abuse services board established pursuant to Chapter 10 (§ 37.1-194 et seq.) of Title 37.1 of the Code of Virginia; (iii) a facility providing a program of outpatient services to substance abusing persons including the detoxification, treatment or rehabilitation of drug addicts through the use of the controlled drug methadone; or (iv) a facility providing a program of outpatient services that is owned, operated, or controlled by a corporation organized pursuant to the provisions of either Chapter 9 (§ 13.1-601 et seq.) or Chapter 10 (§ 13.1-801 et seq.) of Title 13.1 of the Code of Virginia. The term outpatient facility does not include the treatment rooms or offices used to

provide the services of:]

[1. Professional associations organized by three or more practitioners of the same healing art or by three or more psychologists under the provisions of Chapter 25 (§ 54-873 et seq.) of Title 54 of the Code of Virginia for the sole and specific purpose of rendering the same and specific professional service, provided that the associates and any employees of the association who render professional services on behalf of the association are individually licensed under the provisions of Title 54 of the Code of Virginia to practice the same healing art or to practice psychology;

2. Professional corporations organized by one or more practitioners of the same healing art or by practitioners of the same behavioral science profession under the provisions of Chapter 7 (§ 13.1-542 et seq.) of Title 13.1 of the Code of Virginia for the sole and specific purpose of rendering the same and specific professional service, provided that the shareholders and any employees of the professional corporation who render professional services on behalf of the professional corporation are individually licensed under the provisions of Title 54 of the Code of Virginia to practice the same healing art or to practice the same behavioral science profession;

3. General partnerships formed under the provisions of Chapter 1 (§ 50-1 et seq.) of Title 50 of the Code of Virginia by two or more individual practitioners of the same healing art or of the same behavioral science profession for the sole and specific purpose of rendering the same and specific professional service, provided that the partners and any employees of the general partnership who render professional services on behalf of the general partnership are individually licensed under the provisions of Title 54 of the Code of Virginia to practice the same healing art or to practice the same behavioral science profession;]

[4. 1.] Individual practitioners of the healing arts licensed under the provisions of Chapter 12 (§ 54-273 et seq.) of Title 54 of the Code of Virginia.

[5. 2.] Individual practitioners of the behavioral science professions licensed under the provisions of Chapter 28 (§ 54-923 et seq.) of Title 54 of the Code of Virginia;

[6. 3.] Psychiatric hospitals licensed pursuant to the provisions of Chapter 8 (§ 37.1-179 et seq.) of Title 37.1 of the Code of Virginia, provided that such treatment rooms or offices are situated on the same premises as the psychiatric hospital so licensed; [or]

[4. Group practices as defined in these regulations; or]

[7. 5.] Day support programs licensed pursuant to

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the provisions of Chapter 8 (§ 37.1-179 et seq.) of Title 37.1 of the Code of Virginia.

["Outpatient substance abuse facility" means an establishment which provides in a nonresidential setting a variety of services to substance abusing persons and their families including assessment, direct substance abuse treatment services which the facility's organization can itself provide, and indirect treatment services which the facility's organization secures through referral, on both a scheduled and unscheduled basis.]

"Patient" [or "Resident"] " means a person voluntarily or involuntarily admitted to or receiving services from a facility licensed according to the provisions of Chapter 8 (§ 37.1-179 et seq.) of Title 37.1 of the Code of Virginia.

"Physical restraint" means any act by the facility or staff which exercises the use of physical confrontation or force, or both, with [residents clients] as a method or technique of managing harmful client behavior.

"Premises" means the tract(s) of land on which any part of a residential facility is located and any buildings on such tract(s) of land.

"Private hospital" means a hospital or similar institution which is not operated by [the department any state or federal agency] and is duly licensed pursuant to the provisions of § 37.1-179 et seq. of the Code of Virginia and includes psychiatric wards of general hospitals.

"Private institution" means an establishment which is not operated by [the department any state or federal agency] and which is licensed pursuant to the provisions of under § 37.1-179 et seq. of the Code of Virginia.

"Professional service" means any type of personal service to the public which requires as a condition precedent to the rendering of such services or use of such title the obtaining of a license, certification or other legal authorization from a state examining board issued under the provisions of Title 54 of the Code of Virginia [; except that the phrase 'rendering the same and specific professional service' as used in these regulations in the exclusions from the term "outpatient facility" shall not be interpreted to prohibit such excluded professional associations, professional corporations, and general partnerships from employing such person to assist in rendering the sole and specific professional service for which such entities are organized such as: (i) professional nurses and licensed practical nurses licensed pursuant to the provisions of Chapter 13.1 (§ 54-367.1 et seq.) of Title 54 of the Code of Virginia; (ii) physical therapists licensed pursuant to the provisions of Chapter 12 (§ 54-273 et seq.) of Title 54 of the Code of Virginia; or (iii) clerks, secretaries, bookkeepers, technicians and other assistants who are not usually and ordinarily considered by custom and practice to be rendering professional service to the public for which a license or other legal authorization is required.]

"Program" means a combination of procedures or activities carried out in order to meet a specific goal or objective.

"Punishment" means the use of an aversive event or the removal of a positive event following a behavior which decreases, or is intended to decrease the probability of that behavior. This includes a pain, loss, or penalty inflicted for a fault or mistake.

"Regional advocate" means a person or persons who perform the functions set forth in Part IV of the Rules and Regulations Assuring the Rights of Clients in Community Programs and who are appointed by the commissioner after consultation with the State Human Rights Director.

"Rehabilitation" means assistance provided for [a disabled an] individual [with a disability] to return to his fullest potential in occupational, social and psychological life by reducing the residual effects of his [handicapping condition disability].

"Resident" means a person admitted to a residential facility for supervision, care, training or treatment on a 24 hour basis. [For the purpose of these regulations, the words "resident" and "client" are used interchangeably.]

"Residential facility" means any publicly or privately owned facility or institution by whatever name or designation which provides 24 hour domiciliary or residential care or treatment for four or more mentally ill [or ,] mentally retarded [persons, or persons addicted to the intemperate use of narcotic drugs, alcohol or other stimulants , or substance abusing persons] including the detoxification, treatment or rehabilitation of drug addicts through the use of the controlled drug methadone, including special residential schools, halfway houses, residential treatment centers, substance abuse treatment and rehabilitation facilities, domiciliary facilities, shelter care facilities, group homes and any other similar or related facility except:

1. A residential facility operated by an agency of the federal government;
2. A private family home;
3. A hospital as defined in [subsection 1 of] § 32.1-123 of the Code of Virginia serving mentally ill persons;
4. A hospital-based medical detoxification [service program] ; an inpatient substance abuse facility; an outpatient substance abuse facility using the controlled drug methadone for the detoxification, treatment or rehabilitation of drug addicts [; or a screening and referral facility (substance abuse)] as these facilities are defined in these regulations;
5. A facility or portion of a facility licensed by the

State [Board Department] of Social Services;

6. A facility or portion of a facility licensed by the State [Board Department] of Health;

7. A facility or portion of a facility which provides domiciliary or residential care to children; or

8. A residential respite care/emergency [shelter services] facility.

[9. Woodrow Wilson Rehabilitation Center; or

10. A supported residential program as defined in these regulations.]

["Residential respite care/emergency services" means the provision of periodic residential care for periods not to exceed 21 consecutive days duration for crisis stabilization, emergency care or to provide temporary relief to parents/guardians from responsibility for the direct care of the adult client.]

"Residential respite care/emergency [shelter services] facility" means a facility that is specifically approved to provide periodic residential respite care/emergency [shelter] services for four or more [clients mentally ill, mentally retarded, or substance abusing residents], but does not include:

1. A residential facility as defined in these regulations;
2. A residential facility operated by an agency of the federal government;
3. A private family home;
4. A hospital as defined in [subsection 1 of] § 32.1-123 of the Code of Virginia serving mentally ill persons;
5. A hospital-based medical detoxification [service program]; an inpatient substance abuse facility; [or] an outpatient substance abuse facility using the controlled drug methadone for the detoxification, treatment or rehabilitation of drug addicts [; or a screening and referral facility (substance abuse)] as these facilities are defined in these regulations;
6. A facility or portion of a facility licensed by the State [Board Department] of Social Services;
7. A facility or portion of a facility licensed by the State [Board Department] of Health; [or]
8. A facility or portion of a facility which provides domiciliary or residential care to children [; or]

[9. A supported residential program as defined in these regulations.]

["Residential respite care/emergency shelter services" means the provision of periodic residential care for periods not to exceed 21 consecutive days duration for crisis stabilization, emergency shelter or to provide temporary relief to parents/guardians from responsibility for the direct care of the client.]

"Right" means that to which one has a natural [; or] legal [or moral] claim.

["Sanitize" means to wash or rinse with water containing a laundry bleach with an active ingredient of 5-25% sodium hypochlorite. The amount of bleach used may be in accordance with manufacturer's recommendation on the package.]

"Screening and referral facility (substance abuse)" means an organization which provides services in a nonresidential setting to determine the type and extent of the substance abuse problem of the individual seeking help and which is conducted by persons competent to make such judgments and to direct, guide and link the recipient to other appropriate services and follow-up on services rendered.]

"Seclusion" means confining a client in a room with the door secured in any manner that will prohibit the client from opening it.

"Severe weather" means extreme environmental or climatic conditions which pose a threat to the health, safety or welfare of residents.

["Sobering-up shelter service" means a residential program/service offered to people under the influence of intoxicants that provides a safe place to "sleep it off." Trained staff are present to monitor withdrawal. People who experience medical complications are sent to a hospital emergency room. Outpatient or intermediate care facility referral may be available.]

"Social detoxification [service program]" means a residential [program/service program] which enables intoxicated persons to safely withdraw from the effects of intoxicants. Trained staff are present to monitor vital signs. People who experience medical complications are sent to a hospital emergency room [or other appropriate medical facility]. The program [/service] does not prescribe medication although clients may remain on prescription drugs while in the program if a physician authorizes the use of such drugs. Clients participating in social detoxification services receive supervised care during withdrawal followed by alcohol [or drug] education, an opportunity to attend [Alcoholics Anonymous] meetings [of self help groups such as Alcoholics Anonymous] and individual and group counseling. Case management including referral to further residential or outpatient treatment is available.

"Standard" means a statement which describes in measurable terms a required minimum performance level.

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"State hospital" means a hospital, training school or other such institution operated by the department for the care and treatment of the mentally ill or mentally retarded.

"State human rights committee" means a committee of nine members appointed by the board pursuant to the Rules and Regulations to Assure the Rights of Residents of Facilities Operated by the Department of Mental Health [and ,] Mental Retardation [and Substance Abuse Services and the Rules and Regulations to Assure the Rights of Clients in Community Programs] whose responsibility it shall be to perform the functions specified in those regulations [and the Rules and Regulations to Assure the Rights of Clients in Community Programs]. The term "state human rights committee" includes any subcommittee thereof.

"Substance abuse" means the use, without compelling medical reason, of any substance which results in psychological or physiological dependency as a function of continued use in such a manner as to induce mental, emotional or physical impairment and cause socially dysfunctional or socially disordering behavior.

["Substance abusing person" means a person who uses, without compelling medical reason, any substance which results in psychological or physiological dependency as a function of continued use in such a manner as to induce mental, emotional or physical impairment and cause socially dysfunctional or socially disordering behavior. This term includes persons addicted to the intemperate use of narcotic drugs, alcohol or other stimulants as well as such substances as cannabis, cocaine, hallucinogens, inhalants, PCP, and sedatives.]

"Substantial compliance" means a demonstration by a facility of full compliance with sufficient applicable regulations to clearly demonstrate that its program and physical plant can provide reasonably safe and adequate care while approved plans of action to correct findings of noncompliance are being implemented.

["Supported residential program" means any publicly or privately operated facility, institution or other entity which provides placement, domiciliary care, residential respite care/emergency services or supportive services in supported residential settings to mentally ill, mentally retarded, or substance abusing persons. Supported residential settings may include (i) residential respite care/emergency services facilities, (ii) residential service systems which sponsor a number of single housing units for three or fewer persons such as supervised apartments or specialized foster care provided in private family homes, (iii) contracted beds in licensed residential facilities, or (iv) supported independent living settings. The term supported residential program does not include:

1. A residential facility operated by an agency of the federal government;

2. A residential facility as defined in these regulations;

3. A hospital as defined in subsection 1 of § 32.1-123 of the Code of Virginia serving mentally ill persons;

4. A hospital-based medical detoxification program; an inpatient substance abuse facility; or an outpatient substance abuse facility using the controlled drug methadone for the detoxification, treatment or rehabilitation of drug addicts as these facilities are defined in these regulations;

5. A facility or portion of a facility licensed by the State Department of Social Services;

6. A facility or portion of a facility licensed by the State Department of Health;

7. A residential respite care/emergency services facility; or

8. A program or service provided by a local department of welfare/social services.]

"Time-out procedure" means a systematic behavior management technique designed to reduce or eliminate inappropriate behavior by temporarily removing a client from contact with people or other reinforcing stimuli through confining the client alone to a special time-out room that is unfurnished or sparsely furnished and which contains few reinforcing environmental stimuli. The time-out room shall not be locked nor the door secured in any manner that will prohibit the client from opening it.

["Transitional domiciliary substance abuse facility" means a facility which provides an organized program of domiciliary and supportive services, to four or more substance abusing persons unrelated by birth or marriage, and such services are administered according to the degree of transitional needs of service recipients. As distinguished from the intermediate care facility, this type of facility provides part-time residential treatment services as exemplified by halfway houses, quarterway houses, and other community residential facilities wherein the resident may leave the facility for part of the day for work, training, education or other community based services.]

"Treatment" means any [individually planned] intervention which [helps is intended to help] a person in the reduction or amelioration of disability, discomfort, symptoms, disorders or undesirable changes or conditions specific to physical, mental, behavioral or social functioning.

Article 2. Legal Base.

§ 1.2. Pursuant to § 37.1-179 et seq. of the Code of Virginia, no person shall establish, conduct, maintain or operate in this Commonwealth any facility or institution as defined in § 37.1-179 without first being duly licensed,

except where such facility or institution is exempt from licensing.

Article 3.
Facilities Subject to Licensure Under These
Regulations.

§ 1.3. No person shall establish, conduct, maintain or operate in this Commonwealth any outpatient facility as defined in § 1.1 of these regulations without first being duly licensed, except where such outpatient facility is exempt from licensing.

Article 4.
General Licensing Requirements.

§ 1.4. All outpatient facilities shall demonstrate an acceptable level of compliance with these regulations and other applicable statutory requirements and shall submit a plan of corrective action acceptable to the commissioner for remedying within a specified time any noncompliance with these regulations in order to be licensed to operate in this Commonwealth.

Article 5.
Separate License Required.

§ 1.5. A separate license shall be required by facilities, establishments, or institutions maintained on separate premises even though they are operated under the same management [, except that a single license may be issued when in the judgment of the commissioner the activities carried out at such separate premises constitute a single and distinct program of outpatient services. When the commissioner has approved the issuance of a single license covering the activities at separate premises, a single application specifying the locations of the separate premises shall be submitted, provided that the required zoning and building code approvals and fire inspections for each site are included] . Separate buildings on the same grounds utilized for the same licensed program or activity shall not be required to have separate licenses. [In the event alterations or additions increase the bed capacity of a facility, approval by the commissioner and a new or modified license shall be obtained before beginning operation of the additional space.]

Article 6.
Preapplication Consultation Services.

§ 1.6. Upon receipt of an inquiry or a referral, preapplication consultation services will be made available by the Licensure Office.

§ 1.7. Preapplication consultation may be designed to accomplish the following purposes:

1. To explain regulations and statutes;
2. To help the potential applicant explore the operational demands of a licensed facility;

3. To provide assistance in locating sources of information and technical assistance;

4. To refer the potential applicant to appropriate agencies such as the Department of Health, State Fire Marshal, local fire department and local building officials; and

5. To comment, upon request, on plans for proposed construction or on existing property in terms of suitability for the purposes proposed.

Article 7.
Application for License or License Renewal.

§ 1.8. A request for an original application shall be made in writing to the department.

§ 1.9. Application for license or license renewal to establish or maintain a facility shall be made in writing and submitted to the department upon the application forms secured from the department.

[~~§ 1.10.~~ Structural changes in a proposed or existing facility shall not be undertaken until notification has been made to the department and building plans for such structural changes have been approved by the department.]

[~~§ 1.11.~~ § 1.10.] Written zoning approval or a use permit where required by local jurisdictions shall be a prerequisite for an original license.

[~~§ 1.12.~~ § 1.11.] A certificate of use and occupancy or approval from the authorized inspection agency for building code compliance, when applicable, shall be a prerequisite for original licensure.

[~~§ 1.13.~~ § 1.12.] A check or money order for the license fee, payable to the Treasurer of Virginia, shall be forwarded to the department with the application. The board may fix a reasonable fee not in excess of \$50 for each license issued, and for any renewal thereof.

[~~§ 1.14.~~ § 1.13.] Every [outpatient] facility shall be designated by a permanent and distinctive name and physical [~~location~~ location(s)] which shall appear on the application for license or license renewal and which shall not be changed without first securing approval of the department. [The facility's distinctive name shall be consistent with its licensed purpose and shall not imply that the facility is providing services for which it is not licensed.]

[~~§ 1.15.~~ § 1.14.] Corporations sponsoring outpatient facilities shall maintain their corporate status in accordance with Virginia law. Corporations not organized and empowered solely to operate outpatient facilities shall provide for such operations in their charters.

[~~§ 1.16.~~ § 1.15.] Corporate applicants shall provide the

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name and address of the registered agent and a copy of the articles of incorporation.

[~~§ 1-17.~~ § 1.16.] Ownership interest shall be made fully known to the department and in the case of corporations, all individuals or entities holding 5.0% or more of total ownership shall be identified by name and address.

[~~§ 1-18.~~ § 1.17.] Application for license renewal should be submitted to the department at least 60 days prior to the expiration date.

Article 8. The License.

[~~§ 1-19.~~ § 1.18.] The commissioner may issue a license to an outpatient facility making application for a license only after he is satisfied that: (i) the program outlined will contribute to the appropriate care, rehabilitation or treatment of clients; (ii) the applicant meets all applicable health, safety, sanitation, building and zoning requirements, either local or state; (iii) the applicant substantially complies with all provisions of these regulations; and (iv) the applicant has submitted a plan of corrective action acceptable to the commissioner for remedying with a specified time any noncompliance with these regulations.

[~~§ 1-20.~~ § 1.19.] The commissioner may issue to a facility or institution that has fulfilled the conditions listed in [~~§ 1-19~~ § 1.18] a full license that is effective for any period not to exceed two years from its date of issuance, unless it is revoked or surrendered sooner.

[~~§ 1-21.~~ § 1.20.] The commissioner at his discretion may issue a conditional license to operate a new facility or institution in order to permit the applicant to demonstrate compliance with all applicable requirements. Such a conditional license may be renewed, but such conditional license and any renewals thereof shall not exceed a period of six successive months, unless it is revoked or surrendered sooner.

[~~§ 1-22.~~ § 1.21.] The commissioner may issue a provisional license to a facility or institution which has previously been fully licensed when such facility or institution is temporarily unable to comply with all licensing regulations. Such provisional license may be issued for any period not to exceed 90 days and shall not be renewed.

[~~§ 1-23.~~ § 1.22.] The terms of any license issued shall include: (i) the operating name of the facility; (ii) the name of the individual, partnership, association or corporation or public agency to whom the license is issued; (iii) the physical [~~location~~ location(s)] of the facility; (iv) the nature of the population served; [~~(v)~~ ~~when appropriate the maximum number of persons to be accepted for care;~~ (v)] the effective dates of the license; and [~~(vi)~~ (vi)] other specifications prescribed within the context of the regulations.

[~~§ 1-24.~~ § 1.23.] The license is not assignable or transferable and automatically expires when there is a change of ownership, sponsorship, or [~~location, or~~] when there is a substantial change in services or clientele which would alter the evaluation findings and terms under which the facility was licensed. [When there is a change of location of the facility, the license certificate must be modified pursuant to the procedure required by § 1.30 of these regulations to reflect the new location.]

[~~§ 1-25.~~ § 1.24.] The current license shall be posted at all times at the [~~facility~~ facility(s)] in a place conspicuous to the public.

[~~§ 1-26.~~ Each residential facility license issued by the commissioner shall specify the facility's bed capacity, i.e. the maximum number of persons that the facility is permitted to house. The number of beds allowed shall be subject to approval by the department and shall so appear on the license issued by the commissioner.

§ 1.27. No facility shall operate more beds than the number for which it is licensed except in a catastrophic emergency when temporary permission may be granted by the commissioner.

§ 1.28. At no time shall clients be housed in areas which have not been approved by the department.

§ 1.29. A request for an increase in bed capacity shall be made in writing to the department.

§ 1.30. No increase in beds will be granted without written approval of the department subject to Certificate of Public Need review.

Article 9. Certificate of Public Need.

§ 1.31. Prior to the commencement of any proposed facility or project as defined in §§ 32-1-102.1 through 32-1-102.11 of the Code of Virginia, application shall be made to the State Health Commissioner for certification that there exists a public need for such a project in accordance with Chapter 4 (§ 32-1-102.1 et seq.) of Title 32-1 of the Code of Virginia. A copy of such certificate or exemption therefrom shall be submitted with the application.]

Article [~~10.~~ 9.] Inspection.

[~~§ 1-32.~~ § 1.25.] Each applicant or licensee agrees as a condition of application or license to permit properly designated representatives of the department to enter upon and inspect any and all premises for which a license has either been applied or issued, including [client records and] any books and records relating to the operation of the facility to verify information contained in the application, or to assure compliance with all laws, rules and regulations relating thereto, during all hours of

operation of such facility and at any other reasonable hour.

Article [~~11~~. 10.]
Early Compliance.

[§ ~~1-33~~. § 1.26.] A provisional or conditional license may be replaced with a full license when all of the following conditions exist:

1. The facility has complied with all regulations cited in noncompliance at the time of issuance of the provisional or conditional license well in advance of its expiration date and the facility is in substantial compliance with all other regulations;
2. Compliance has been verified by an on-site observation by a representative(s) of the department or by written evidence provided by the licensee; and
3. All other terms of the license remain the same.

[§ ~~1-34~~. § 1.27.] A request to replace a provisional or conditional license and to issue a full license shall be made in writing to the department by the licensee.

[§ ~~1-35~~. § 1.28.] If the request is approved, the effective date of the new license will be the same as the beginning date of the provisional or conditional license.

Article [~~12~~. 11.]
Situation Requiring a New Application.

[§ ~~1-36~~. § 1.29.] A new application shall be filed in the following circumstances:

1. Change in ownership or sponsorship, or both; [or]
- [~~2. Change of location; or~~]
- [~~3. 2.~~] Substantial change in services provided or target population, or both.

Article [~~13~~. 12.]
Modification of License.

[§ ~~1-37~~. § 1.30. The terms of a license [see §§ 1.22 and 1.23)] may be modified during the term of the license with respect to [the number of beds or other] conditions which do not constitute substantial changes in the services or target population.

The licensee shall [submit a written report to notify] the department [of at least 30 days prior to any proposed change in location and shall submit to the department at least 60 days prior to implementation a report describing] any [other] contemplated changes in operation which would affect either the terms of the license or the continuing eligibility for a license.

[In the case of a proposed change in location the

licensee shall within 30 days of such a change in location submit a written report which shall include for each new site the following information and attachments: (i) physical location of the facility as provided on the current license, (ii) the physical location of the proposed new site, (iii) a diagram providing the measured dimensions of the treatment rooms and their proposed functions, (iv) written zoning approval or a use permit where required by the local jurisdiction, (v) a certificate of use and occupancy or approval from the authorized inspection agency for building code compliance, when applicable, and (vi) a copy of a report indicating approval by the local fire authority.]

A determination will be made as to whether changes may be approved and the license modified accordingly or whether an application for a new license must be filed. The license will be notified in writing within 30 days as to whether the modification is approved or a new license is required.

Article [~~14~~. 13.]
Allowable Variance.

[§ ~~1-38~~. § 1.31.] The department has the sole authority to waive a regulation either temporarily or permanently when in its opinion:

1. Enforcement will create an undue hardship;
2. The regulation is not specifically required by statute or by the regulations of another government agency; and
3. Client care would not be adversely affected.

[§ ~~1-39~~. § 1.32.] Any request for an allowable variance shall be submitted in writing to the department.

[§ ~~1-40~~. § 1.33.] The denial of request for a variance is appealable through the normal appeals process when it leads to the denial or revocation of a license.

Article [~~15~~. 14.]
Investigation of Complaints and Allegations.

[§ ~~1-41~~. § 1.34.] The department is responsible for complete and prompt investigation of all complaints and allegations. Suspected criminal violations shall be reported to the appropriate law enforcement authority.

Article [~~16~~. 15.]
Revocation, Suspension or Refusal of License.

[§ ~~1-42~~. § 1.35.] The commissioner may revoke or suspend any license issued, or refuse issuance of a license, on any of the following grounds:

1. Violation of any provisions of Chapter 8 (§ 37.1-179 et seq.) of Title 37.1 of the Code of Virginia, or any applicable and valid rule or regulation made pursuant

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to such provisions;

2. Permitting, aiding or abetting the commission of an illegal act in a facility or institution licensed under these regulations.

3. Conduct or practices detrimental to the welfare of any client of a facility or institution licensed under these regulations.

[~~§ 1-43~~ § 1.36. Whenever the commissioner revokes, suspends or denies a license, the provisions of the Administrative Process Act (§ 9-6.14.1 et seq. [of the] Code of Virginia) shall apply.

[~~§ 1-44~~ § 1.37.] If a license is revoked or referred as herein provided, a new application for license may be considered by the commissioner when the conditions upon which such action was based have been corrected and satisfactory evidence of this fact has been furnished. In no event, however, may an applicant reapply for a license after the commissioner has refused or revoked a license until a period of six months from the effective date of such action has elapsed unless the commissioner in his sole discretion believes that there has been such a change in the conditions causing refusal of the prior application or revocation of the license as to justify the new application.

[~~§ 1-45~~ § 1.38.] When an appeal of the final decision of the commissioner to refuse to issue a license or to revoke or suspend a license is taken by the applicant pursuant to § 37.1-186 of the Code of Virginia, the six-month period shall be extended until a final decision has been rendered on appeal. A new license may then be granted after proper inspection has been made and all provisions of § 37.1-179 et seq. of the Code of Virginia, and applicable rules and regulations made thereunder have been complied with and recommendations to such effect have been made to the commissioner upon the basis of an inspection by any authorized representative or agent of the department.

[~~§ 1-46~~ § 1.39.] Suspension of a license shall in all cases be for an indefinite time and the suspension may be lifted and rights under the license fully or partially restored at such time as the commissioner determines, upon the basis of such an inspection, that the rights of the licensee appear to so require and the interests of the public will not be jeopardized by resumption of operation.

Article [~~17~~ 16.]

Suppression of Unlawful Operations.

[~~§ 1-47~~ § 1.40.] If any facility or institution is being operated in violation of the provisions of Chapter 8 (§ 37.1-179 et seq.) of Title 37.1 of the Code of Virginia, or of any applicable rules and regulations made under such provisions, the commissioner, in addition to other remedies, may institute any appropriate action or proceedings to prevent such unlawful operation and to restrain, correct or abate such violation or violations. Such

action or proceeding shall be instituted in the circuit court of the county or city where such institution, hospital or home is located, and such court shall have jurisdiction to enjoin such unlawful operation or such violation or violations.

Article [~~18~~ 17.]

Penalty.

[~~§ 1-48~~ § 1.41.] Any person violating any provision of Chapter 8 (§ 37.1-179 et seq.) of Title 37.1 of the Code of Virginia, or any applicable rule and regulation made under such provisions shall be guilty of a Class 3 misdemeanor, and each day, or part thereof, of continuation of any such violation shall constitute a separate offense.

Article [~~19~~ 18.]

Reports.

[~~§ 1-49~~ § 1.42.] Each licensee shall file such reasonable reports and provide such reasonable information at such times as the department from time to time may require.

PART II. ORGANIZATION AND ADMINISTRATION.

Article 1. Governing Body.

§ 2.1. The outpatient facility shall clearly identify the corporation, association, partnership, individual, or public agency that is the licensee.

§ 2.2. The licensee shall clearly identify any subordinate board, body, entity or person to whom it delegates the legal responsibilities and duties of the licensee for the operation of the facility.

Article 2. Responsibilities of the Licensee.

§ 2.3. The licensee shall appoint a qualified chief administrative officer to whom it delegates in writing the authority and responsibility for the administrative direction of the facility.

§ 2.4. The licensee shall develop and implement written policies governing the licensee's relationship to the chief administrative officer that shall include, but shall not be limited to:

1. Annual evaluation of the performance of the chief administrative officer; and

2. Provision for the chief administrative officer to meet with the governing body or with the immediate supervisor to periodically review the services being provided, the personnel needs and fiscal management of the facility.

§ 2.5. The licensee shall review, develop and implement

programs and administrative changes in accord with the defined purpose of the facility.

Article 3. Fiscal Responsibility.

§ 2.6. The facility shall have a documented plan of financing which gives evidence that there are sufficient funds to operate.

§ 2.7. A new facility shall, with the initial application, document funds or a line of credit sufficient to cover at least 90 days of operating expenses unless the facility is operated by a state or local government agency, board or commission.

§ 2.8. A new facility operated by a corporation, unincorporated organization or association, an individual or partnership shall submit with the initial application evidence of financial responsibility. This shall include:

1. A working budget showing projected revenue and expenses for the first year of operation; and
2. A balance sheet showing assets and liabilities.

[~~§ 2.9.~~ Facilities operated by state or local government agencies, boards, and commissions shall submit with the initial application and with each renewal application evidence of financial responsibility. This shall include a working budget showing appropriated revenue and projected expenses for the coming year.]

[~~§ 2.10.~~ § 2.9.] Facilities operated by corporations, unincorporated organizations or associations, individuals or partnerships shall submit with each renewal application evidence of financial responsibility. This shall include:

1. An operating statement showing revenue and expenses for the past operating year;
2. A working budget showing projected revenue and expenses for the coming year;
3. A balance sheet showing assets and liabilities; and
4. A written assurance from the licensee that the documentation provided for in paragraphs one, two and three above presents a complete and accurate financial report reflecting the current fiscal condition of the facility.

[~~§ 2.11.~~ § 2.10.] The facility shall provide additional evidence of financial responsibility as the licensing authority, at its discretion, may require.

Article 4. Internal Operating Procedures.

[~~§ 2.12.~~ § 2.11.] There shall be evidence of a system of financial record keeping that is consistent with generally

accepted accounting principles unless the facility is a state or local government operated program operating as required by the State Auditor of Public Accounts.

[~~§ 2.13.~~ § 2.12.] There shall be a written policy, consistent with generally accepted accounting principles, for the collection and disbursement of funds unless the facility is a state or government operated program operating as required by the State Auditor of Public Accounts.

[~~§ 2.14.~~ § 2.13.] There shall be a system of financial record keeping that shows a separation of the [~~facility's~~] accounts [for the operations permitted by the license] from all other records [unless the facility is a state or government operated program operating as required by the State Auditor of Public Accounts].

Article 5. Insurance.

[~~§ 2.15.~~ § 2.14.] A facility shall maintain liability insurance covering the premises and the facility's operations, including professional liability [unless the facility is operated by a state or local government agency which provides a program of self insurance].

[~~§ 2.16.~~ § 2.15.] There shall be liability insurance on vehicles operated by the facility.

Article 6. Bonding.

[~~§ 2.17.~~ § 2.16.] Those members of the governing body and staff who have been authorized responsibility for handling the funds of the facility shall be bonded [unless the facility is operated by a state or local government agency, board or commission].

Article 7. Relationship to the Licensing Authority.

[~~§ 2.18.~~ § 2.17.] The facility shall submit or make available to the licensing authority such reports and information as the licensing authority may require to establish compliance with these regulations and with applicable statutes and appropriate statutes.

[~~§ 2.19.~~ § 2.18.] The governing body or its official representative shall notify the licensing authority within 10 working days of:

1. Any [significant] changes in administrative structure or newly hired chief administrative officer; and
2. Any pending changes in the program which will affect the types of services offered or the types of clients to be served.

[~~§ 2.20.~~ § 2.19.] In the event of a disaster, fire,

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emergency or any other condition at the facility that may jeopardize the health, safety, and well-being of the clients in care, the facility shall notify the licensing authority of the conditions at the facility and the status of the clients in care as soon as possible.

Article 8. Participation of Clients in Research.

[~~§ 2.21.~~ § 2.20.] The facility shall establish and implement written policies and procedures regarding the participation of clients as subjects in research that are consistent with Chapter 13 (§ 37.1-234 et seq.) of Title 37.1 of the Code of Virginia unless the facility has established and implemented a written policy explicitly prohibiting the participation of clients as subjects of human research as defined by the above statute.

PART III. PERSONNEL.

Article 1. Health Information.

§ 3.1. Health information required by these regulations shall be maintained for all staff members.

Article 2. Initial Tuberculosis Examination and Report.

§ 3.2. Within 30 days of employment each staff member shall obtain an evaluation indicating the absence of tuberculosis in a communicable form except that an evaluation shall not be required for an individual who (i) has separated from employment with a facility licensed by the Commonwealth of Virginia that requires such screening, (ii) has a break in service of six months or less, and (iii) submits the original statement of tuberculosis screening.

§ 3.3. Each individual shall submit a statement that he is free of tuberculosis in a communicable form including the type(s) of test(s) used and the test result(s).

§ 3.4. The statement shall be signed by a licensed physician, the physician's designee, or an official of a local health department.

§ 3.5. The statement shall be filed in the individual's personnel record.

Article 3. Subsequent Evaluations for Tuberculosis.

§ 3.6. Any individual who comes in contact with a known case of tuberculosis or who develops chronic respiratory symptoms of four weeks duration or longer shall, within 30 days of exposure/development, receive an evaluation in accord with Part III, Article 2 of these regulations.

Article 4.

Physical or Mental Health of Personnel.

§ 3.7. At the request of the licensee/administrator of the facility or the licensing authority a report of examination by a licensed physician [or other appropriate licensed professional] shall be obtained when there are indications that the care of clients may be jeopardized by the physical, mental, or emotional health of a specific individual.

§ 3.8. Any individual who, upon examination [by a licensed physician] or as a result of tests, shows indication of a physical or mental condition which may jeopardize the safety of clients in care or which would prevent the performance of duties:

1. Shall immediately be removed from contact with clients [and food service to clients] ; and
2. Shall not be allowed contact with clients [or food served to clients] until the condition is cleared to the satisfaction of the examining physician [or other appropriate licensed professional] as evidenced by a signed statement by the physician [or other appropriate licensed professional].

Article 5. Job Responsibilities.

§ 3.9. The chief administrative officer shall be responsible to the governing body for:

1. The overall administration of the program;
2. Implementation of all policies;
3. Maintenance of the physical plant; and
4. Fiscal management of the outpatient facility.

§ 3.10. The program director shall be responsible for the development and implementation of the programs and services offered by the outpatient facility.

[~~§ 3.11. When a facility is licensed/certified to care for 13 or more clients, a full time, qualified staff member shall fulfill the duties of the program director.~~

~~§ 3.12. If not provided by external resources, counseling and social services shall be provided by a staff member(s) qualified to provide such services.~~

~~§ 3.13. Sufficient qualified relief staff shall be employed to maintain required staff/client ratios during:~~

1. Regularly scheduled time off of permanent staff; and
2. Unscheduled absences of permanent staff.

~~§ 3.14. Services of a licensed physician shall be available~~

for treatment of clients as needed.

§ 3-15. Any nurse employed shall hold a current nursing license issued by the Commonwealth of Virginia.]

Article 6. Staff Qualifications.

[§ 3-16. § 3.11.] Any person who assumes or is designated to assume the responsibilities of a staff position or any combination of staff positions employed at the facility shall meet the qualifications of that position(s) and shall fully comply with all applicable regulations for that position.

[§ 3.12. Any person who is employed to function as a nurse, as a practitioner of the healing arts, or as a practitioner of the behavioral science professions shall be duly licensed pursuant to the requirements of Title 54 of the Code of Virginia unless such person is exempt from such licensure requirements.]

[§ 3-17. § 3.13.] When services or consultation are obtained on a contract basis they shall [when required by law] be provided by professionally [qualified licensed] personnel.

Article 7. Personnel Records.

[§ 3-18. § 3.14.] A separate up-to-date personnel record shall be maintained for each staff member. The record shall include:

1. A complete employment application form or other written material providing:
 - a. Identifying information (name, address, phone number, social security number, and any names previously utilized);
 - b. Educational history; and
 - c. Employment history.
2. Written references or notations of oral references;
3. Reports of required health examinations; and
4. Annual performance evaluations.

[§ 3-19. § 3.15.] Each personnel record shall be retained in its entirety for two years after employment ceases.

Article 8. Personnel Policies.

[§ 3-20. § 3.16.] The licensee shall have [organizationally] approved written personnel policies.

[§ 3-21. § 3.17.] Written personnel policies shall be readily accessible to each staff member.

[§ 3-22. § 3.18.] Each staff member shall demonstrate a working knowledge of those policies and procedures that are applicable to his specific staff position.

Article 9. Job Descriptions.

[§ 3-23. § 3.19.] For each staff position there shall be a written job description which shall as a minimum include:

1. The job title;
2. The duties and responsibilities of the incumbent;
3. The job title of the immediate supervisor; and
4. The minimum knowledge, skills and abilities required for entry level performance of the job.

[§ 3-24. § 3.20.] A copy of the job description shall be given to each person assigned to that position at the time of employment or assignment.

Article 10. Volunteers and Students Receiving Professional Training.

[§ 3-25. § 3.21.] If a facility uses volunteers or students receiving professional training it shall develop written policies governing their selection and use. [A facility that does not use volunteers shall have a written policy stating that volunteers will not be utilized.]

[§ 3-26. § 3.22.] The facility shall not be dependent upon the use of volunteers/students to ensure provision of basic services.

[§ 3-27. § 3.23.] The selection of volunteers/students and their orientation, training, scheduling, supervision and evaluation shall be the [sole] responsibility of designated staff members.

[§ 3-28. § 3.24.] Responsibilities of volunteers/students shall be clearly defined.

[§ 3-29. § 3.25.] All volunteers/students shall have qualifications appropriate to the services they render based on experience or orientation.

[§ 3-30. § 3.26.] Volunteers/students shall be subject to all regulations governing confidential treatment of personal information.

[§ 3-31. § 3.27.] Volunteers/students shall be informed regarding [liability their potential legal liabilities] and [their responsibilities for the] protection of clients' [issues].

Article 11. Staff Supervision and Evaluation.

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[~~§ 3-32.~~ § 3.28.] The facility shall implement written policies and procedures to provide staff supervision and evaluation that include provisions for:

1. Regularly scheduled supervision;
2. Evaluations which are based on job descriptions and performance criteria;
3. Annual written performance evaluations;
4. Discussions of staff evaluations with staff being evaluated;
5. Delineating strengths as well as weaknesses of the staff, and recommendations for improved performance;
6. Evaluation reports which are signed by both the employee and the supervisor who did the evaluation; and
7. Access by employees to their personnel files.

Article 12. Staff Development.

[~~§ 3-33.~~ § 3.29.] New employees, [relief staff,] volunteers and students shall within [one calendar month 10 working days] of employment be given orientation [and training] regarding the objectives and philosophy of the facility, practices of confidentiality, [critical personnel policies,] other policies and procedures that are applicable to their specific positions, and their specific duties and responsibilities.

[§ 3.30. New employees, volunteers and students shall within one calendar month of employment successfully complete an orientation to general personnel policies and on-the-job training, including performance observation by a supervisor, regarding all critical job tasks related to their specific positions. Critical job tasks shall be established in the form of a written checklist for each position.]

[§ 3-34. Each new staff member shall receive the orientation and training required by § 3-33 prior to assuming sole responsibility for supervision of one or more clients.]

[~~§ 3-35.~~ § 3.31.] Provision shall be made for staff development activities, designed to update staff on items in [~~§ 3-34~~ §§ 3.29 and 3.30] and to enable them to perform their job responsibilities adequately. Such staff development activities include, but shall not necessarily be limited to, supervision [and ,] formal training [, and academic education. Individualized staff development needs, assessments and action plans shall be performed and updated annually].

[~~§ 3-36.~~ § 3.32.] Participation of staff, volunteers and students in orientation, training and staff development activities shall be documented [for each employee and

shall include, as appropriate:

1. Course title or topic area;
2. Instructor or source;
3. Pretest and post-test scores or grades, if applicable;
4. Classroom hours or academic credit hours;
5. Dates attended.]

Article 13. Staffing Patterns.

[~~§ 3-37.~~ No person shall be scheduled to work more than six consecutive days between rest days.

§ 3-38. Direct care staff who have at least one 24-consecutive-hour period on duty during a week shall have an average of not less than two days off per week in any four-week period. This shall be in addition to vacation time and holidays.

§ 3-39. Direct care staff who do not have at least one 24-consecutive-hour period on duty during a week shall have an average of not less than two days off per week in any four-week period. This shall be in addition to vacation time and holidays.

§ 3-40. Direct care staff who do not have at least one 24-consecutive-hour period on duty during a week shall not be on duty more than 16 consecutive hours except in emergencies when relief staff are not available.]

[~~§ 3-41.~~ § 3.33.] Facilities [other than those serving mentally retarded persons] shall have clinical staffing patterns that are adequate and appropriate in relationship to:

1. The needs of the client population being served;
2. The hours and days the facility operates;
3. Assessment, therapeutic, and follow-up functions;
4. Intensity and kinds of treatment;
5. Nature of client disabilities; and
6. Carrying out appropriate patient care evaluations, peer review, and utilization review procedures.

[~~§ 3-42.~~ For those facilities serving mentally retarded adults, the following staff ratios shall be maintained:

1. For programs serving profoundly retarded adults there shall be one staff member for each four clients present during each shift. Regardless of the number of clients present, at least one staff member shall be present at all times.

2. For programs serving severely, moderately and mildly retarded adults there shall be at least one staff member for each 12 clients. If no clients are at home, a staff member shall be on call. If at least one client is home during the day shift, at least one staff member shall be present unless planned for and indicated in the client's Individualized Service Plan.]

PART IV.
PHYSICAL ENVIRONMENT.

Article 1.
Buildings, Inspections and Building Plans.

§ 4.1. All buildings and installed equipment shall be inspected and approved by the local building official when required. This approval shall be documented by a Certificate of Use and Occupancy [or other acceptable documentation] indicating that the building is classified for its proposed licensed purpose.

§ 4.2. At the time of the original application and at least annually thereafter the buildings shall be inspected and approved by:

1. Local fire authorities with respect to fire safety and fire hazards, except in state operated facilities;
2. State fire officials, where applicable [; and .]

[3. State or local health authorities, whose inspection and approval shall include:

- a. General sanitation;
- b. The sewage disposal system;
- c. The water supply;
- d. Food service operation; and
- e. Swimming pools.]

§ 4.3. When a facility is not subject to the Virginia Public Building Safety Regulations or the Uniform Statewide Building Code, residents who are dependent upon wheelchairs, crutches, canes or other mechanical devices for assistance in walking shall be served on ground level and provided with a planned means of effective egress for use in emergencies.

Article 2.
[Plans and Specifications for New Buildings and Additions, Conversions, and Structural Modifications to Existing Buildings.
Electrical, Carpentry and Plumbing Work.]

[§ 4.4. Building plans and specifications for new construction, conversion of existing buildings, and any structural modifications or additions to existing licensed buildings shall be submitted to and approved by the

licensing authority and the following authorities, where applicable, before construction begins:

1. Local building officials;
2. Local fire departments;
3. Local or state health departments; and
4. Office of the State Fire Marshal.

§ 4.5. Documentation of the approvals required by § 4.3 shall be submitted to the licensing authority.]

[§ 4.6. § 4.4.] All electrical, carpentry and plumbing work at the facility shall be performed under a proper permit from the building official if such a permit is required by the Uniform Statewide Building Code. Such work shall be inspected and approved by the building official, if required [; and such work shall be performed by a licensed contractor].

Article 3.
Heating Systems, Ventilation and Cooling Systems.

[§ 4.7. § 4.5.] Heat shall be evenly distributed in all rooms occupied by clients such that a temperature no less than 65°F is maintained, unless otherwise mandated by state or federal authorities.

[§ 4.8. § 4.6.] Natural or mechanical ventilation to the outside shall be provided in all rooms used by clients.

[§ 4.9. § 4.7.] All doors and windows [capable of] being used for ventilation shall be [fully] screened [unless screening particular doors and windows is explicitly prohibited in writing by state or local fire authorities and those doors and windows are not used for ventilation].

[§ 4.10. § 4.8.] Air conditioning or mechanical ventilating systems, such as electric fans, shall be provided in all rooms occupied by clients when the temperature in those rooms exceeds 85°F.

[§ 4.11. § 4.9.] Heating systems annually, prior to the heating season, shall be inspected, cleaned and have their filters changed [by a contractor].

Article 4.
Lighting.

[§ 4.12. § 4.10.] Artificial lighting shall be by electricity.

[§ 4.13. § 4.11.] All areas within buildings shall be lighted for safety.

[§ 4.14. § 4.12.] Lighting shall be sufficient for the activities being performed in a specific area.

[§ 4.15. Operable flashlights or battery lanterns shall be available for each staff member on the premises between

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~~dusk and dawn for use in emergencies.]~~

[~~§ 4.16. § 4.13. Outside~~ During operating hours] entrances and parking areas shall be lighted for protection against injuries [~~and intruders~~].

Article 5. Plumbing and Toilet Facilities.

[~~§ 4.17. § 4.14.~~] All plumbing shall be maintained in good operating condition.

[~~§ 4.18. § 4.15.~~] There shall be an adequate supply of hot and cold running water available at all times.

[~~§ 4.19. § 4.16.~~] Precautions shall be taken to prevent scalding from running water. In all newly constructed facilities mixing faucets shall be installed.

[~~§ 4.20. There shall be at least one toilet and one hand basin for every four clients in care.~~]

Article 6. Privacy for Clients.

[~~§ 4.21. § 4.17.~~] Where bathrooms are not designated for individual use, each toilet shall be enclosed for privacy.

Article 7. Buildings and Grounds.

[~~§ 4.22. § 4.18.~~] Buildings and grounds, including roads, pavements, parking lots, stairways, railings and other potentially hazardous areas shall be safe and properly maintained.

Article 8. Equipment and Furnishings.

[~~§ 4.23. § 4.19.~~] All furnishings and equipment shall be safe and suitable to the characteristics of the clients and the services provided.

[~~§ 4.24. § 4.20.~~] There shall be at least one continuously operable, nonpay telephone accessible to staff in each building in which clients participate in programs.

[~~§ 4.25. Meals, if provided, shall be served in areas equipped with sturdy tables and benches or chairs.~~]

[~~§ 4.26. § 4.21.~~] [~~Dead bolt locks shall not be used on doors~~ All doors at the facility shall be equipped to permit egress without the use of a key in case of a fire or other emergency].

[~~§ 4.27. § 4.22.~~] The use of portable space heaters is prohibited unless specifically approved in writing by the local fire authority.

Article 9. Housekeeping and Maintenance.

[~~§ 4.28. § 4.23.~~] The interior and exterior of all buildings, including required locks and mechanical devices, shall be maintained in good repair.

[~~§ 4.29. § 4.24.~~] The interior and exterior of all buildings and grounds shall be kept clean and free of rubbish.

[~~§ 4.30. § 4.25.~~] All buildings shall be well-ventilated and free of stale, musty and foul odors.

[~~§ 4.31. § 4.26.~~] Buildings shall be kept free of flies, roaches, rats and other vermin.

[~~§ 4.32. Walk-in refrigerators, freezers, and other enclosures shall be equipped to permit emergency exits.~~]

[~~§ 4.33. § 4.27.~~] All furnishings [; ~~furnishings~~] and indoor and outdoor equipment shall be kept in good repair.

[~~§ 4.34. § 4.28.~~] Space shall be provided for safe storage of items such as first aid equipment, household supplies, recreational equipment, and other materials.

[~~§ 4.35. § 4.29.~~] Lead based paint shall not be used on any surfaces and items with which clients and staff come in contact.

Article 10. Support Functions.

[~~§ 4.36. § 4.30.~~] Facilities shall provide [and are responsible] for support functions including, but not limited to, maintenance of buildings and grounds [;] and housekeeping.

[~~§ 4.37. Clients shall not be solely responsible for support functions and shall not be assigned duties beyond their physical or mental capacity to perform.~~]

Article 11. Firearms and Weapons.

[~~§ 4.38. § 4.31.~~] No firearms, pellet guns, air rifles or other weapons shall be permitted on the premises of the facility [unless they are in the possession of law enforcement officers or of licensed security personnel].

PART V. PROGRAMS AND SERVICES.

Article 1. Program Description and Annual Program Review.

§ 5.1. Each licensee shall develop a written comprehensive program description for the facility that includes the following elements:

1. A mission statement identifying the philosophy and global intentions of the facility;
2. A clear description of the characteristics and the

needs of the population to be served; and

3. A clear identification of the program components and services to be provided.

[§ 5-2. Each licensee shall develop and implement a written evaluation system that is designed to provide specific utilization data and information regarding the extent to which program goals and objectives have been achieved.]

[§ 5-2. § 5.2.] Each licensee shall review, at least annually, the program of the facility in the light of the population served and the objectives of the facility.

[§ 5-4. § 5.3.] Based on the written results of the annual program review, the licensee shall review, develop and implement indicated program and administrative changes in accord with the defined mission of the facility.

Article 2. Admission Criteria.

[§ 5-5. § 5.4.] Each facility shall have written [criteria for admission information] that [shall may] be made available to all parties when admission is being considered [: Such criteria which] shall include:

1. A description of the population to be served;
2. A description of the types of services offered;
3. Criteria for acceptance into the program; and
4. Intake [and admission] procedures [including necessary referral documentation].

[§ 5-6. § 5.5.] The facility shall accept and serve only those clients whose needs are compatible with those services provided through the facility.

[§ 5-7. A facility shall not knowingly accept into care a client whose health or behavior shall present a clear and present danger to the client or others served by the facility.]

Article 3. Documented Diagnostic Study of the Client.

[§ 5-8. Acceptance for care shall be based on an evaluation of a documented diagnostic study of the client, except that this requirement shall not apply to admissions for emergency services, diagnostic services, ambulatory detoxification services, or to admissions for detoxification and treatment services using the controlled drug methadone. (See Part VII.)]

[§ 5-9. § 5.6.] [At the time of an Within 30 days after] admission to the outpatient facility for services the client's record shall contain all of the elements of the documented diagnostic study of the client [, except that this

requirement shall not apply to admissions for ambulatory detoxification services (see Article 4 of Part V) or to admissions for detoxification and treatment services using the controlled drug methadone (see Part VII)].

[§ 5-10. § 5.7.] The documented diagnostic study of the client shall include all of the following elements:

[1. A formal request or written application for admission;]

[2. 1.] Identifying information documented on a face sheet (see [§ 5-11 § 5.8]);

[3. A physical examination as specified in § 5-55 or documentation of an assessment of the client's current physical condition using a protocol or screening procedure developed pursuant to the requirements of § 5-14;]

[4. 2.] Medical history (see [§ 5-12 § 5.9]);

[5. A statement concerning the client's recent vocational and educational history and skills;]

[6. 3.] Results of any psychiatric or psychological evaluations of the client, if applicable;

[7. 4.] Social and developmental summary (see [§ 5-13 § 5.10]); [and]

[8. 5.] Reason for referral [; and .]

[9. Rationale for acceptance.]

[5-11. § 5.8.] Identifying information on a face sheet shall include:

[1. Unique client identifier;]

[1. 2.] Full name of client;

[2. 3.] Last known residence;

[3. 4.] Date of birth;

[4. Birthplace;]

5. Sex of client;

6. [Racial and national background Race of Client];

[7. Social security number;

8. Religious preference;]

[9. 7.] Custody status indicating name and address of legal guardian, if any;

[10. 8.] Names, addresses and telephone numbers for emergency contacts, spouse, parents, guardians or

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representatives of the referring agency, as applicable;

[~~11~~. 9.] Criminal justice status, if any; and

[~~12~~. 10.] Date of admission.

[§ ~~5-12~~. § 5.9.] A medical history shall include:

1. Serious illnesses and chronic conditions of the client's parents and siblings, if known;

[2. Recent physical complaints;]

[~~2~~. 3.] Past serious illnesses, infectious diseases, serious injuries and hospitalizations;

[~~3~~. 4.] Psychological, psychiatric and neurological examinations, if applicable;

[5. Drug use profile as required by § 5.41;]

[~~4~~. 6.] Substance abuse history including onset of use, types of substances, frequency of use, quantity of use, method of administration, if applicable. [and]

[~~5~~. 7.] Name, address and telephone number of client's physician(s), when information is available; and

[~~6~~. Name, address and telephone number of client's dentist(s), when information is available.]

[§ ~~5-13~~. § 5.10.] A social and developmental summary shall include:

1. Description of family structure and relationships;

2. Previous service history;

3. Current behavioral functioning including strengths [; talents;] and problems; [and]

4. Documentation of need for services [; and].

[~~5~~. Names, ages and sex of siblings.]

[Article 4.

Protocol for Assessing the Current Physical Condition of Clients.

§ 5.14. Each outpatient facility shall in consultation with a licensed physician develop and implement written policies and procedures for assessing the current physical condition of clients who are being considered for admission to an outpatient facility and who are unable to present a report of a physical examination by or under the direction of a licensed physician performed no earlier than 90 days prior to admission to the program. Such policies and procedures shall include but shall not be limited to:

1. A protocol of screening instrument to be used by

clinical staff to gather and document data about the client derived from interviewing and visual observation that may be used to assess the current physical condition of prospective clients;

2. Operational criteria, involving data derived from a physical examination as specified in § 5.55 or from the administration of the protocol or screening instrument developed pursuant to the requirements of subdivision 1 above, for referral of clients to a physician for medical assessment and treatment; and

3. Operational criteria, involving data derived from a physical examination as specified in § 5.55 or from the administration of the protocol or screening instrument developed pursuant to the requirements of subdivision 1 above and embodied in a written agreement with a local hospital(s) emergency room, for referral and transportation of clients for emergency medical services when needed.]

Article [~~5~~. 4.]

Procedures for Admissions for Outpatient Ambulatory Detoxification Services.

[§ ~~5-15~~. § 5.11.] Each outpatient facility offering [a program of] ambulatory detoxification services other than outpatient detoxification and treatment services using the controlled drug methadone (see Part VII) shall in consultation with a licensed physician develop [and implement] written policies and procedures for [implementing] intake screening including but not limited to:

1. Requirements for documenting identifying information on clients;

2. Requirements for assessing and documenting the medical history and initial physical condition of clients including as a minimum: (i) measurement of blood alcohol content; (ii) respiration rate; (iii) pulse rate; (iv) blood pressure; and (v) body temperature; and

3. Operational criteria for admission for ambulatory detoxification services and for referral to other resources including operational criteria embodied in a written agreement with a local hospital(s) emergency room for referral and transportation of clients for emergency medical services when needed.

Article [~~6~~. 5.]

Work and Employment.

[§ ~~5-16~~. § 5.12.] Any assignment of chores, which are paid or unpaid work assignments, shall be in accordance with the age, health, ability, and service plan of the client.

[§ ~~5-17~~. The facility shall ensure that any client employed inside or outside the facility is paid at least at the minimum wage required by the applicable law concerning wages and hours and that such employment complies with

all applicable laws governing labor and employment.

§ 5.18. Any money earned through employment of a client shall accrue to the sole benefit of that client.]

Article [7. 6.]
Grievance Procedures.

[§ 5.19. § 5.13.] The facility shall have written grievance procedures which shall be made known to clients upon admission.

Article [8. 7.]
Human Rights.

[§ 5.20. § 5.14.] The facility shall comply with the applicable human rights regulations promulgated pursuant to § 37.1-84.1 of the Code of Virginia.

Article [9. 8.]
Treatment Planning Policies and Procedures.

[§ 5.21. § 5.15.] Each licensee shall develop and implement written policies and procedures to be followed by staff in treatment planning, implementation and review.

Article [10. 9.]
Treatment Plan.

[§ 5.22. § 5.16.] A written individualized treatment plan [covering the services to be provided by the outpatient facility] , based on information derived from the documented diagnostic study of the client and other assessments made by the facility, shall be developed and implemented for each client [within 30 days of admission by the fourth visit with the assigned treating therapist] and placed in the client's master file, except that the requirements of the regulations in Part V Articles [H through I 9 and 10] shall not apply to admissions for emergency services, diagnostic services, ambulatory detoxification and treatment using the controlled drug methadone (see Part VII).

[§ 5.23. The following parties shall participate, unless clearly inappropriate, in developing the initial individualized treatment plan:

1. The client;
2. The client's family or legally authorized representative;
3. The referring agency; and
4. Facility staff.

[§ 5.17. The client and his family as appropriate and the facility staff shall participate in developing the initial individualized treatment plan.]

[§ 5.24. § 5.18.] The [degree of] participation [; or lack

thereof,] of [each of] the parties [listed referred to] in [§ 5.23 § 5.17] in developing the treatment plan shall be documented in the client's record.

[§ 5.25. § 5.19.] The individualized treatment plan [, based on information derived from the documented diagnostic study of the client required by Part V, Article 3 of this regulation, and other assessments made by the facility,] shall include, but not necessarily be limited to, the following:

1. A statement of the client's problems [and current level of functioning including strengths and weaknesses,] and corresponding treatment/training needs;

2. A statement of goals and a sequence of measurable objectives to meet the above identified needs;

3. A statement of services to be rendered and frequency of services to accomplish the above goals and objectives;

4. A statement identifying the individual(s) or organization(s) that will provide the services specified in the statement of services;

[5. A statement of the timetable for the accomplishment of the client's goals and objectives; and]

[6. 5.] The estimated length of the client's need for services [: ; and]

[6. A statement identifying the individual(s) responsible for the overall coordination and integration of the services specified in the plan.]

Article [H. 10.]
Quarterly Progress Reports.

[§ 5.26. § 5.20. There shall be a review and update of the client's individualized treatment plan by the staff and the assigned case coordinator. Such reviews and updates shall occur at a frequency appropriate to the rate and intensity of services provided, but no less than quarterly.

[§ 5.27. § 5.21.] Written progress [summary] reports completed [at least] quarterly shall be included in each client's record and shall include, but not be limited to:

[1. Reports of significant incidents, both positive and negative;

2. Changes in client's social and family situation;

3. Summary of the client's emotional and physical development during the previous three months including a listing of any specialized services and any ongoing medications prescribed;

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[1. Evaluation of the client's progress toward treatment goals and client outcomes;]

[4. 2.] [Documentation of the appropriateness of the client's involvement in the program Review and revision of the services plan as appropriate];

[5. 3.] Update of the appropriateness of the treatment goals;

[6. Update of the client's involvement in all necessary services;]

[7. 4.] Update of [any] contract with parent(s) or guardian (if applicable and legally permissible); [and]

[8. The evaluation of client progress and client outcomes; and

9. Tentative discharge plans.]

[5. The need for continuing treatment.]

[Article 12. Annual Treatment Plan Review.

§ 5.28. At least annually the following parties shall participate, unless clearly inappropriate, in formally reviewing and rewriting the treatment plan based on the client's current level of functioning and needs:

1. The client;
2. The client's family or legally authorized representative;
3. The referring agency; and
4. Facility staff.

§ 5.29. The degrees of participation, or lack thereof, of each of the parties listed in § 5.28 in reviewing and rewriting the treatment plan shall be documented in the client's record.]

Article [13. 11.] Ambulatory Detoxification Services.

[§ 5.30. § 5.22.] Each outpatient facility offering [a program of] ambulatory detoxification services other than outpatient detoxification and treatment with the controlled drug methadone (see Part VII) shall in consultation with a licensed physician develop [and implement] written policies and procedures for [implementing] detoxification services including but not limited to:

1. Monitoring of the physical and mental condition of clients including monitoring and recording of the client's vital signs (respiration rate, pulse rate, blood pressure and body temperature) every hour during the

three hours after admission;

2. Therapeutic services directly related to and necessary for the detoxification process including but not limited to:

- a. Ongoing medical services if provided as an integral part of the detoxification programs;
- b. Referral to emergency medical services when appropriate;
- c. Activities designed to motivate clients to continue treatment after detoxification;
- d. Opportunities to participate in or be introduced to [self-help groups such as] Alcoholics Anonymous and Narcotics Anonymous;
- e. Individual and group counseling/support if provided as a part of the detoxification program; and
- f. Case management including referral and follow-up for further residential or outpatient treatment.

Article [14. 12.] Client Records.

[§ 5.31. § 5.23.] A separate case record on each client shall be maintained and shall include all correspondence relating to the care of that client.

[§ 5.32. § 5.24.] Each case record shall be kept up to date and in a uniform manner [through an ongoing case review. This case review shall include a determination of whether client records contain all the service documentation required by the program and applicable regulations and standards].

[§ 5.33. § 5.25.] Case records shall be maintained in such manner as to be accessible to staff for use in working with the client.

Article [15. 13.] Confidentiality of Client Records.

[§ 5.34. § 5.26.] The facility shall make information available only to those legally authorized to have access to that information under federal and state laws.

[§ 5.35. § 5.27.] There shall be written policy and procedures to protect the confidentiality of records which govern acquiring information, access, duplication, and dissemination of any portion of the records. [The policy shall specify what information is available to the client.]

Article [16. 14.] Suspected Abuse or Neglect.

[§ 5.36. § 5.28.] Written policies and procedures related

to abuse and neglect shall be distributed to all staff members. These shall include:

1. Acceptable methods for behavior management of clients;
2. Procedures for handling accusations against staff; and
3. Procedures for promptly referring suspected cases of abuse and neglect to the local protective service unit and for cooperating with the unit during any investigation.

[~~§ 5.37.~~ § 5.29.] The client's record [or the administrative record] shall include:

1. Date and time the suspected abuse or neglect occurred;
2. Description of the incident;
3. Action taken as a result of the incident; and
4. Name of the person to whom the report was made at the local department.

Article [~~17.~~ 15.]
Storage of Confidential Records.

[~~§ 5.38.~~ § 5.30.] Records shall be kept in areas which are accessible only to authorized staff.

[~~§ 5.39.~~ § 5.31.] When not in use, active [and closed] records shall be stored in a locked metal file cabinet or other locked metal compartment [or in a locked room].

[~~§ 5.40.~~ When not in use, closed records shall be kept in a locked compartment or in a locked room.]

Article [~~18.~~ 16.]
Disposition of Client Records.

[~~§ 5.41.~~ § 5.32.] Client records shall be kept in their entirety for a minimum of three years after the date of the discharge unless otherwise specified by state or federal requirements.

[~~§ 5.42.~~ § 5.33.] Permanent information shall be kept on each client even after the disposition of the client's records unless otherwise specified by state or federal requirements. Such information shall include:

1. Client's name;
2. Date [and place] of client's birth;
3. Dates of admission and discharge; and
4. Name and address of legal guardian, if any.

[~~§ 5.43.~~ § 5.34.] Each facility shall have a written policy to provide for the disposition of records in the event the facility ceases operation.

[Article 19.
Service Coordination.

§ 5.44. Each facility shall develop and implement written policies and procedures for case coordination that shall provide for the assignment of a case coordinator to each client.

§ 5.45. The duties of the case coordinator shall include:

1. Serving as the liaison between the program and the client's family or legally authorized representative;
2. Providing ongoing assessment of the client's general needs through the use of program reports and evaluation information provided by each service;
3. Ensuring systematic and inclusive individualized treatment plans, when required, through monitoring the continuity and range of services delivered;
4. Developing and reviewing the specific individualized treatment plans with additions and deletions in service delivery on a quarterly basis;
5. Providing coordination, linkage, and referral to all direct and generic services within the program and in the community;
6. Providing coordination and referral at the time of discharge;
7. Identifying the individual or agency responsible for follow-up and aftercare; and
8. Documenting follow-up when appropriate.]

Article [~~20.~~ 17.]
Discharge and Case Closure.

[~~§ 5.46.~~ § 5.35.] Each facility shall develop and implement written policies and procedures regarding discharge and case closure including:

1. Written criteria for a client's completion of the program; and
2. Conditions under which a client may be discharged before completion of the program.

[~~§ 5.47.~~ § 5.36.] No later than 30 days after discharge a [comprehensive] discharge summary shall be placed in the client's record and it shall contain:

1. Client's admission date;
2. Client's discharge date;

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3. Name of client's case coordinator, if assigned;
4. Information concerning currently prescribed medication including when and why it was prescribed, the dosage, and whether it is to be continued;
5. Summary of [services provided and] the client's progress [toward treatment goals] since admission;
6. Reasons for discharge; and
7. Follow-up and referral plans and requirements.

Article [21: 18.] Health Care Procedures.

[§ 5.48: § 5.37.] Facilities shall have written policies and procedures for [the prompt provision of promptly obtaining] emergency medical [or dental] services.

[§ 5.49: § 5.38.] A well stocked first aid kit [; approved by the local rescue squad or Red Cross;] shall be maintained and readily accessible for minor injuries and medical emergencies.

[§ 5.50: At all times that staff are required to be present there shall be at least one staff member on the premises who has received within the past three years a basic certificate in standard first aid (Multimedia, Personal Safety, or Standard First Aid Modular) issued by the American Red Cross or other recognized authority except that this requirement does not apply during those hours when a licensed nurse or certified emergency medical technician (EMT) is present at the facility.

§ 5.51: At all times that staff are required to be present there shall be at least one staff member on the premises who has received a current certificate in cardiopulmonary resuscitation issued by the American Red Cross or other recognized authority.]

[§ 5.52: § 5.39.] Within 90 days after employment each staff member of an outpatient facility who provides direct care to clients receiving ambulatory detoxification services other than detoxification and treatment with the controlled substance methadone (see Part VII) shall successfully complete a training course for social setting detoxification workers approved by the department.

[§ 5.53: § 5.40.] The following written information concerning each client shall be readily accessible to staff who may have to respond to a medical [or dental] emergency:

1. Name, address, and telephone number of the physician [or dentist] to be notified;
2. Name, address, and telephone number of relative or other person to be notified;
3. Medical insurance company name and policy or

Medicaid number;

4. Information concerning:
 - a. Use of medication,
 - b. Medication allergies,
 - c. Any history of substance abuse, and
 - d. Significant medical problems [; .]

[5. Written consent authorizing the facility to transport the client to receive emergency medical or dental services; and

6. Written permission for emergency medical or dental care.

Article 22: Physical Examinations for Clients.

§ 5.54: Each client accepted for services in outpatient facility programs; other than those clients accepted for emergency services; diagnostic services; ambulatory detoxification services; or for detoxification and treatment with the controlled drug methadone; shall have an assessment of his current physical condition using a protocol or screening procedure developed pursuant to the requirements of § 5.14 or a physical examination by or under the direction of a licensed physician no earlier than 90 days prior to admission to the program; except that the report of a physical examination performed within the preceding 12 months by a state hospital or facility licensed pursuant to the provisions of Chapter 8 (§ 37.1-179 et seq.) of Title 37.1 of the Code of Virginia shall be acceptable.

§ 5.55: Each physical examination report shall include:

1. General physical condition; including documentation of apparent freedom from communicable disease including tuberculosis;
2. Allergies; chronic conditions; and handicaps; if any;
3. Restriction of physical activities; if any;
4. Recommendations for further treatment; immunizations; and other examinations indicated;
5. The date of the physical examination; and
6. The signature of a licensed physician; the physician's designee; or an official of a local health department.

Article 23: Use of Tobacco Products and Other Substances.

§ 5.56: No client under age 16 shall be permitted to purchase, possess or use tobacco products.

§ 5-57. Each facility shall have a written policy addressing the use of alcoholic beverages.

§ 5-59. Each facility shall have a written policy addressing the possession or use of illegal drugs.]

Article [24. 19.]
Medication.

[§ 5-59. § 5.41.] As part of the [date data] collected at admission to the program a drug use profile shall be developed for each client which includes:

1. History of prescription and nonprescription drugs being taken at the time of admission and for the previous six months.
2. Drug allergies, idiosyncratic or adverse drug reactions.
3. Ineffective medication therapy.

[§ 5-60. § 5.42.] There shall be written policies and procedures regarding the storage, delivery and administration of prescription and nonprescription medications used by clients. The policies and procedures shall include, require and provide for:

1. All medications shall be stored in a securely locked storage area and properly labeled.
2. In accordance with § 54-524.65 of the Code of Virginia, Virginia Drug Control Act, prescription medications shall only be administered by a physician, dentist, pharmacist, nurse or medication technician.
3. In accordance with § 54-524.65 of the Code of Virginia, Virginia Drug Control Act, prescription medications [, which are normally self-administered by a client of the facility,] may be [delivered administered] by [any designated an] employee [for self-administration by the client under the supervision of the program director and only by the order of a physician. The designated employee must have of the facility who has] successfully completed a medication assistance training program [endorsed approved] by the Virginia Board of Nursing [, when authorized in writing by the physician and administered in accordance with the physician's instructions pertaining to dosage, frequency and manner of administration. Employees who distribute to a specific client individually prescribed medication that has been prepackaged, sealed, and labeled by a physician or pharmacist for use by that client away from the outpatient facility shall not be required to complete a medication assistance training program].

[4. Only those clients judged by the program staff to have any adequate level of functioning shall be allowed to self-administer nonprescription medication and this shall be documented in the client's record.

5. Controlled substances brought into the program by clients shall not be administered (including self-administration) unless they are identified and accompanied by a physician's or dentist's written order.]

[6. 4.] Procedures for documenting the administration of medication, medication errors, and drug reactions, obtaining emergency medical assistance, and disposal of medications.

[7. 5.] Documentation of drugs prescribed following admission shall include:

- a. The date prescribed;
- b. Drug product name;
- c. Dosage;
- d. Strength;
- e. Route;
- f. Schedule;
- g. Dates medication discontinued or changed;
- h. Total supply of medication prescribed; and
- i. Signature of physician ordering medication.

[8. 6.] Each program shall [have written policies and procedures regarding the review of medication therapy which shall ensure and] provide for a quarterly review [by a physician (in conjunction with program staff when needed)] of the individual client's [outpatient facility prescribed medication] therapy plan [by a physician (in conjunction with program staff when needed)] which] shall include:

- a. Documentation of the need for continued use of medication therapy including multiple drug usage [; with evidence that treatment strategies other than medication therapy are under consideration.]
- b. Documentation of all contraindications and unusual effects for specific clients (where appropriate).

[9. 7.] The attending physician shall be notified immediately of drug reactions or medication errors.

[10. 8.] Procedures for documenting that clients or a legally authorized representative, or both, are informed of the potential side effects of prescribed medication.

[11. 9.] All staff who [supervise have planned involvement with] clients shall be informed of any known side effects of medication clients use and the

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symptoms of the effect.

Article [~~25~~. 20.] Nutrition.

[~~§ 5.61~~. § 5.43.] If [~~food is meals are~~] served, provision shall be made for each client to have nutritionally balanced meals.

[~~§ 5.62~~. Menus shall be planned at least one week in advance.

§ 5.63. The menus, including any deviations, shall be kept on file for at least two months.

§ 5.64. The daily diet for clients shall be based on the generally accepted "Four Food Groups" system of nutrition planning. (The Virginia Polytechnic Institute and State University Extension Service is available for consultation.)]

Article [~~26~~. 21.] Behavior Management.

[~~§ 5.65~~. § 5.44.] Each facility shall implement written policies and procedures concerning behavior management that are directed toward maximizing the growth and development of the individual. These policies and procedures shall:

1. Emphasize positive approaches;
2. Define and list techniques that are used and available for use in the order of their relative degree of intrusiveness or restrictiveness;
3. Specify the staff members who may authorize the use of each technique;
4. Specify the processes for implementing such policies and procedures;
5. Specify the mechanism for monitoring and controlling the use of behavior management techniques; and
6. Specify the methods for documenting their use.

[~~§ 5.66~~. § 5.45.] In the list required by subdivision 2 of [~~§ 5.65~~ § 5.44] of techniques that are used and available for use, intrusive aversive therapy if allowed shall be designated as the most intrusive technique.

[~~§ 5.67~~. § 5.46.] A written behavior management plan utilizing intrusive aversive therapy shall not be implemented with any client until the local human rights committee has determined:

1. That the client or his authorized representative has made an informed decision to undertake the proposed intrusive aversive therapy, and in the case of a minor

who is capable of making an informed decision, that the concurrent consent of the parent has been obtained;

2. That the proposed intrusive aversive therapy has been recommended by a licensed [or license eligible] clinical psychologist;

3. That the facility has satisfactorily demonstrated that the proposed intrusive aversive therapy plan does not involve a greater risk of physical or psychological injury or discomfort to the client than the behaviors that the plan is designed to modify;

4. That there is documentation that a representative sample of less intrusive behavior management procedures have been tried without success;

5. That more appropriate behaviors are being positively reinforced;

6. That a licensed physician has certified that in his opinion, the intrusive aversive procedure will not endanger the health of the client;

7. That the aversive treatment technique is measurable and can be uniformly applied;

8. That the aversive treatment program specifies the behavioral objective, the frequency of application of the aversive technique, the time limit for both application of the technique and the overall length of the program, and the collection of behavioral data to determine the program's effectiveness; [and]

9. That the program is developed, implemented and monitored by staff professionally trained in behavior modification programming, and is witnessed by an approved professionally trained staff person;

[~~§ 5.68~~. § 5.47.] The local human rights committee having made the determinations required by [~~§ 5.67~~ § 5.46] shall then approve the proposed intrusive aversive therapy plan for a period not to exceed 90 days. The plan shall be monitored through unannounced visits by a designated human rights advocate. In order for the plan to be continued, the local human rights committee shall again make the determinations required in [~~§ 5.67~~. § 5.46].

[~~§ 5.69~~. § 5.48.] The advocate or regional advocate shall be informed daily of all applications of a noxious stimulus in an approved intrusive aversive therapy program.

[~~§ 5.70~~. § 5.49.] The client subjected to intrusive aversive therapy procedures and the advocate or regional advocate shall be given an opportunity to obtain an independent clinical and local human rights committee review of the necessity and propriety of their use at any time.

Article [~~27~~. 22.] Prohibited Means of Punishment.

[~~§ 5-71.~~ § 5.50.] The following methods of punishment, whether spontaneous or a deliberate technique for effecting behavioral change or part of a behavior management program, shall be prohibited:

1. Deprivation of drinking water or nutritionally balanced snacks or meals;
2. Prohibition of contacts and visits with attorney, probation officer, or placing agency representative;
3. Prohibition of contacts and visits with family or legal guardian [~~except where specifically permitted by other applicable regulations~~] ;
4. Delay or withholding of incoming or outgoing mail [~~except where specifically permitted by other applicable regulations~~] ;
5. Any action which is humiliating, degrading, harsh, or abusive;
6. Corporal punishment as defined in these regulations;
7. Subjection to unclean and unsanitary living conditions;
8. Deprivation of opportunities for bathing and access to toilet facilities;
9. Deprivation of health care including counseling; and
10. Administration of laxatives, enemas, or emetics.

Article [~~28.~~ 23.]
Chemical or Mechanical Restraints.

[~~§ 5-72.~~ § 5.51.] The use of mechanical or chemical restraints is prohibited [~~unless such use is specifically permitted by other applicable regulations carried out in compliance with applicable human rights regulations promulgated pursuant to § 37.1-84.1 of the Code of Virginia~~] .

Article [~~29.~~ 24.]
Physical Restraints.

[~~§ 5-73.~~ § 5.52.] A client may be physically restrained only when the client's uncontrolled behavior would result in harm to the client or others [~~or destruction of property~~] and when less restrictive interventions have failed.

[~~§ 5-74.~~ § 5.53.] The use of physical restraint shall be only that which is minimally necessary to protect the client or others [~~or to prevent the destruction of property~~] .

[~~§ 5-75.~~ If the use of physical restraint is unsuccessful in calming and moderating the client's behavior the client's physician, the rescue squad, the police or other emergency resource shall be contacted for assistance.]

[~~§ 5-76.~~ § 5.54.] Any application of physical restraint shall be fully documented in the client's record as to date, time, staff involved, circumstances, reasons for use of physical restraint, [~~duration of physical restraint,~~] extent of physical restraint used, the results of physical restraint and the disposition of the incident requiring physical restraint.

Article [~~30.~~ 25.]
Seclusion.

[~~§ 5-77.~~ § 5.55.] Seclusion of a client in a room with the door secured in any manner that will prohibit the client from opening it shall be prohibited unless carried out in compliance with applicable human rights regulations promulgated pursuant to § 37.1-84.1 of the Code of Virginia.

Article [~~31.~~ 26.]
Time-out Procedures.

[~~§ 5-78.~~ § 5.56.] Time-out procedures may only be used at times and under conditions specified in the facility's disciplinary or behavior management policies.

[~~§ 5-79.~~ § 5.57.] When a client is placed in a time-out room, the room shall not be locked nor the door secured in any manner that will prohibit the client from opening it.

[~~§ 5-80.~~ § 5.58.] Any client in a time-out room shall be able to communicate with staff.

[~~§ 5-81.~~ § 5.59.] The use of time-out procedures shall not be used for periods longer than 15 consecutive minutes.

[~~§ 5-82.~~ § 5.60.] Written documentation shall be maintained verifying that each client placed in a time-out room has been checked by staff at least every 15 minutes.

[~~§ 5-83.~~ § 5.61.] A client placed in a time-out room shall have bathroom privileges according to need.

[~~§ 5-84.~~ § 5.62.] If a meal is scheduled while a client is in time-out, the meal shall be provided to the client at the end of the time-out procedure.

PART VI.
DISASTER OR EMERGENCY PLANS.

Article 1.
Disaster or Emergency Procedures.

§ 6.1. Established written procedures shall be made known to all staff [~~and clients, as appropriate for health and safety,~~] for use in meeting specific emergencies including:

1. Severe weather;
2. Loss of utilities;

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3. Missing persons;
4. Severe injury; and
5. Emergency evacuations.

Article 2. Written Fire Plan.

§ 6.2. Each facility with the consultation and approval of the appropriate local fire authority shall develop a written plan to be implemented in case of a fire at the facility.

§ 6.3. Each fire plan shall address the responsibilities of staff [and clients] with respect to:

1. Sounding of fire alarms;
2. Evacuation procedures including assembly points, [head counts,] primary and secondary means of egress, evacuation of clients with special needs (i.e., deaf, blind, multi-handicapped) and checking to ensure complete evacuation of the buildings(s);
3. A system for alerting fire fighting authorities;
4. Use, maintenance and operation of fire fighting and fire warning equipment;
5. Fire containment procedures including closing of fire doors, fire windows or other fire barriers;
6. Posting of floor plans showing primary and secondary means of egress; and
7. Other special procedures developed with the local fire authority.

§ 6.4. Floor plans showing primary and secondary means of egress shall be posted on each floor in locations determined by the appropriate local fire authority.

§ 6.5. The written fire plan shall be reviewed with the local fire authority at least annually and updated, if necessary.

§ 6.6. The procedures and responsibilities reflected in the written fire plan shall be made known to all staff [and residents].

Article 3. Posting of Fire Emergency Phone Number.

§ 6.7. The telephone number of the fire department to be called in case of fire shall be prominently posted on or next to each telephone in each building in which clients participate in programs.

Article 4. Portable Fire Extinguishers.

§ 6.8. Portable fire extinguishers shall be installed and maintained in the facility in accordance with state and local fire/building code requirements. In those buildings where no such code requirements apply, on each floor there shall be installed and maintained at least one approved type ABC portable fire extinguisher having at least a 2A rating.

§ 6.9. Fire extinguishers shall be mounted on a wall or post where they are clearly visible and so that the top is not more than five feet from the floor except that if a fire extinguisher weighs more than 140 pounds it shall be installed so that the top is not more than 2-1/2 feet from the floor. They shall be easy to reach and remove and they shall not be tiled down, locked in a cabinet, or placed in a closet or on the floor except that where extinguishers are subject to malicious use, locked cabinets may be used provided they include a means of emergency access.

§ 6.10. All required fire extinguishers shall be maintained in operable condition at all times.

§ 6.11. Each fire extinguisher shall be checked by properly oriented facility staff at least once each month to ensure that the extinguisher is available and appears to be in operable condition. A record of these checks shall be maintained for at least two years and shall include the date and initials of the person making the inspection.

§ 6.12. Each fire extinguisher shall be professionally maintained at least once each year. Each fire extinguisher shall have a tag or label securely attached which indicates the month and year the maintenance check was last performed and which identifies the company performing the service.

Article 5. Smoke Alarms.

§ 6.13. Smoke detectors or smoke detection systems shall be installed and maintained in the facility in accordance with state and local fire/building code requirements. In those buildings where no such code requirements apply, the facility shall provide at least one approved and properly installed smoke detector:

1. In each hallway;
2. At the top of each interior stairway;
3. In each area designated for smoking;
4. In or immediately adjacent to each room with a furnace or other heat source; [and]
5. In each additional location directed by the local building official, the local fire authority, or the state fire authority.

§ 6.14. Each smoke detector shall be maintained in

operable condition at all times.

§ 6.15. If the facility is provided with single station smoke detectors, each smoke detector shall be tested by properly oriented staff at least once a month and if it is not functioning, it shall be restored to proper working order. A record of these tests shall be maintained for at least two years and shall include the date and initials of the person making the test.

§ 6.16. If the facility is provided with an automatic fire alarm system, the system shall be inspected by a qualified professional firm at least annually. A record of these inspections shall be maintained for at least two years and shall include the date and the name of the firm making the inspections.

Article 6.
Fire Drills.

§ 6.17. At least one fire drill (the simulation of fire safety procedures included in the written fire plan) shall be conducted [for staff during] each [~~month~~ six-month period] in each building at the facility [normally] occupied by clients.

§ 6.18. Fire drills shall include, at a minimum:

1. Sounding of fire alarms;
2. Practice in building evacuation [and fire containment] procedures; [and]
3. Practice in alerting fire fighting authorities [; ,]
- [4. Simulated use of fire fighting equipment;
5. Practice in fire containment procedures; and
6. Practice of other simulated fire safety procedures as may be required by the facility's written fire plan.

§ 6.19. During any three consecutive calendar months, at least one fire drill shall be conducted during each shift.]

[§ 6.20. § 6.19.] False alarms shall not be counted as fire drills.

[§ 6.21. § 6.20.] The facility shall designate at least one staff member to be responsible for conducting and documenting fire drills.

[§ 6.22. § 6.21.] A record shall be maintained on each fire drill conducted and shall include the following information:

1. Building in which the drill was conducted;
2. Date of drill;
3. Time of drill;

4. Amount of time to evacuate building;

5. Specific problems encountered;

6. Specific tasks completed:

a. Doors and windows closed,

[b. Head count,]

[e. b.] Practice in notifying fire authority, and

[d. c.] Other;

7. Summary; and

8. Signature of staff member responsible for conducting and documenting the drill.

[§ 6.23. § 6.22.] The record for each fire drill shall be retained for two years subsequent to the drill.

[§ 6.24. § 6.23.] The facility shall designate a staff member to be responsible for the fire drill program at the facility who shall:

1. Ensure that fire drills are conducted at the times and intervals required by these regulations and the facility's written fire plan;

2. Review fire drill reports to identify problems in the conduct of fire drills and in the implementation of the requirements of the fire plan;

3. Consult with local fire authorities, as needed, and plan, implement and document training or other actions taken to remedy any problems found in the implementation of the procedures required by the written fire plan; and

4. Consult and cooperate with the local fire authority to plan and implement an educational program for facility staff and residents on topics in fire prevention and fire safety.

Article 7.
Training in Fire Procedures.

[§ 6.25. § 6.24.] Each new staff member shall be trained in fire procedures and fire drill procedures within seven days after employment.

[§ 6.26. Each new staff member shall be trained in fire procedures and fire drill procedures prior to assuming sole responsibility for the supervision of one or more clients.

§ 6.27. Residents shall be oriented as to fire procedures at time of admission.]

Article 8.
Poison Control.

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[~~§ 6.20.~~ § 6.25.] The telephone number of a regional poison control center shall be posted on or next to at least one nonpay telephone in each building in which clients participate in programs.

[~~§ 6.20.~~ § 6.26.] At least one 30cc bottle of Syrup of Ipecac shall be available on the premises of the facility for use at the direction of the poison control center or physician.

Article 9.

Use of Vehicles [and Power Equipment.]

[~~§ 6.30.~~ § 6.27.] Any transportation provided [by the program or facility directly or through contract] for [~~or used by~~] clients shall be in compliance with state and federal laws relating to:

1. Vehicle safety and maintenance;
2. Licensure of vehicles; and
3. Licensure of drivers.

[~~§ 6.31.~~ There shall be written safety rules for transportation of clients, including handicapped clients appropriate to the population served:

~~§ 6.32.~~ There shall be written safety rules for the use and maintenance of vehicles and power equipment.]

Article 10.

Control of Deviant or Criminal Behavior.

[~~§ 6.33.~~ § 6.28.] The person in charge of the facility shall take all reasonable precautions to assure that no client is exposed to, or instigates such behavior as might be physically [; or] emotionally [~~or morally~~] injurious to himself or to another person.

[~~§ 6.34.~~ § 6.29.] Any incident relating to the operation of the facility which results in serious injury or death shall be investigated by the person in charge of the facility, appropriately reported to local authorities, and immediately reported to the department. A written report of the incident shall be made and kept on file by the facility and made available for review by authorized personnel.

PART VII. OUTPATIENT METHADONE TREATMENT FACILITIES.

Article 1. Applicability.

§ 7.1. Compliance with the regulations in Part VII is required for the licensure of outpatient methadone treatment facilities. These requirements are in addition to those requirements in Parts II through VI when outpatient facilities utilize the narcotic drug methadone as part of an

outpatient substance abuse treatment and rehabilitation program because such a program requires more stringent admission procedures and criteria; drug administration procedures; record content and procedures; and services provided.

Article 2. Definitions.

§ 7.2. The following words and terms, when used in this part, shall have the following meaning unless the context clearly indicates otherwise:

“Detoxification treatment using methadone” means the administering or dispensing of methadone as a substitute narcotic drug in decreasing doses to reach a drug free state in a period not to exceed 21 days [, or such other period as may be permitted by applicable federal regulations,] in order to withdraw an individual who is dependent on heroin or other morphine-like drug from the use of these drugs. A repeat episode of detoxification may not be initiated until one week after the completion of the previous detoxification.

“Licensed methadone treatment facility” means a person, partnership, governmental agency, corporation or association, licensed by the commissioner to operate a methadone treatment program.

“Maintenance treatment using methadone” means the continued administering or dispensing of methadone, in conjunction with provision of appropriate social and medical services, at relatively stable dosage levels for a period in excess of 21 days as an oral substitute for heroin or other morphine-like drugs, for an individual dependent on heroin.

[“Methadone treatment program” means a person or organization furnishing a comprehensive range of services using methadone for the detoxification or maintenance treatment, or both, of narcotic addicts, conducting initial evaluation of patients and providing ongoing treatment at a specified location or locations.]

“State Methadone Authority” means the commissioner of the department or his designee.

Article 3. Program Objectives.

§ 7.3. The objectives of a methadone treatment facility shall be:

1. To enable drug dependent patients to become productive citizens;
2. To promote the eventual withdrawal of patients from drug dependency;
3. To protect patients and society from any harmful effects of drug misuse;

4. To evaluate the effects of methadone in the treatment and rehabilitation of drug dependent patients; and

5. To promote the safe and controlled use of methadone according to sound medical practice and to prevent abuse or misuse of methadone.

Article 4. Program and Services.

§ 7.4. A licensed methadone treatment facility shall include facilities, resources and staff adequate to provide and shall provide or make appropriate arrangements for providing the following services:

1. Medical care; a written agreement with a hospital for the purpose of providing necessary emergency, inpatient, or ambulatory care for facility patients must be provided;
2. Individual or group therapy and family therapy;
3. Vocational rehabilitation services;
4. Educational services;
5. Counseling;
6. Other services should include social services and recreational therapy; and
7. Urinalysis. Random urine samples shall be collected from each prospective methadone client for analysis as part of the admission procedure to the program. Upon active methadone clients, at least eight additional random urinalysis shall be performed during the first year in maintenance treatment and at least quarterly random urinalysis shall be performed on each client in maintenance treatment for more than one year, except that a random urinalysis shall be performed monthly on each client who receives a six-day supply of take-home medication. Specimens shall be collected from each client in a manner that minimizes falsification. Urine collected shall be qualitatively analyzed for the morphine radical, other opiates, cocaine, methadone, barbiturates, amphetamines, and quinine, as well as other drugs as indicated. The results of this urinalysis are necessary for the overall treatment planning for individual clients receiving services and shall not be used in a punitive manner except to reduce or discontinue take home privileges.

Article 5. Admissions.

§ 7.5. A patient may be admitted to a licensed facility only upon approval of the facility director following evaluation and examination.

§ 7.6. Each person selected as a patient for a maintenance program regardless of age, shall be determined by a facility physician to be currently physiologically dependent upon a narcotic drug and must have first become dependent at least one year prior to admission to a maintenance program except that:

1. A person who has resided in a penal or chronic care institution for one month or longer may be admitted to methadone maintenance treatment within 14 days prior to release or discharge or within three months after release from such an institution without evidence to support findings of physiological dependence, provided the person would have been eligible for admission prior to incarceration or institutionalization. Documented evidence of the prior residence in a penal or chronic care institution and evidence of all other findings and the criteria used to determine such findings shall be recorded in the patient's record by the admitting physician or by program personnel supervised by the admitting physician.

2. Pregnant patients, regardless of age or prior addiction history, who are otherwise eligible for methadone maintenance treatment, may be admitted to a maintenance regimen provided the medical director of the facility certifies in his judgment that such treatment is medically justified. Notification and justification for this patient's admission to methadone treatment will be communicated to the State Methadone Authority. Within six weeks after termination of the pregnancy, the physician shall enter an evaluation of the patient's treatment into the patient's record indicating whether she should remain in a maintenance treatment or be detoxified. Pregnant patients shall be given the opportunity for prenatal care either by the methadone program or by referral to appropriate health care providers. This shall be documented in the patient's record.

3. A patient who has been treated and subsequently detoxified from methadone maintenance treatment may be readmitted to methadone maintenance treatment without evidence to support findings of current physiologic dependence up to six months after discharge provided that prior methadone maintenance treatment of six months or more is documented from the program attended and that the admitting program physician, in his reasonable clinical judgment, finds readmission to methadone maintenance treatment to be medically justified.

§ 7.7. The safety and effectiveness of methadone when used in the treatment of patients under 18 years of age has not been proved by adequate clinical study. Special procedures are, therefore, necessary to assure that patients under age 16 years will not be admitted to maintenance treatment and that patients between 16 and 18 years of age be admitted to maintenance treatment only under limited conditions.

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§ 7.8. Patients between 16 and 18 years of age who are admitted and under treatment in approved programs on the effective date of these regulations may continue in maintenance treatment. No new patients between 16 and 18 years of age may be admitted to a methadone treatment program unless a parent, legal guardian, or legally authorized representative signs form FD-2635, "Consent to Methadone Treatment". Methadone maintenance treatment of new patients between the age of 16 and 18 years will be permitted only with (i) a documented history of two or more unsuccessful attempts at detoxification, (ii) a documented history of dependence on heroin or other morphine-like drugs beginning one year or more prior to application for treatment, and (iii) approval of such action by the State Methadone Authority. No patient under age 16 may be continued or started on maintenance treatment, but these patients may be detoxified and retained in the program in a drug-free state for follow-up and aftercare. Persons under 16 years of age may be admitted to methadone maintenance treatment in certain rare cases if prior approval is obtained from both the Food and Drug Administration and State Methadone Authority.

§ 7.9. Patients under age 18 who are not admitted to maintenance treatment may be detoxified. Detoxification may not exceed three weeks. A repeat episode of detoxification may not be initiated until four weeks after the completion of the previous detoxification.

§ 7.10. The following patients shall not be admitted to a licensed methadone program without prior approval of the State Methadone Authority:

1. Patients with serious concomitant physical illness may be included in methadone maintenance treatment only when comprehensive medical care is available. Such patients require careful observation for any adverse effects of methadone and interactions with other medications. The physician should promptly report adverse effects and evidence of interactions to the Food and Drug Administration.

2. Psychotic patients may be included in methadone maintenance treatment when adequate psychiatric consultation and care is available. Administration of concomitant psychotropic agents requires careful observation for possible drug interaction. Such occurrences should be promptly reported to the Food and Drug Administration.

Medical directors who intend to include in their program patients in categories 1 and 2 should so state in their protocols and give assurances of appropriate precautions.

§ 7.11. In exercising his professional judgment, the medical director, clinical director, or supervising clinician may refuse a particular person admission to treatment even if that person meets the admission requirements. The exclusion of the patient from treatment and the

justification for such action shall be documented in the person's intake record by the medical director, clinical supervisor, or supervising clinician. However, it is the responsibility of the facility to recommend alternative treatment referrals for persons who have been denied admission.

§ 7.12. On admission to a licensed methadone facility, and periodically thereafter, each patient must provide information and data or submit to evaluations including, but not limited to the following:

1. Social history, including:

- a. Age;
- b. Sex;
- c. Educational history;
- d. Employment history;
- e. History of substance abuse of all types;
- f. Prior substance abuse treatment history;
- g. Current legal problems, if any;
- h. Criminal history, if any; and
- i. Contact person to notify in case of emergency;

2. Medical history and history of psychiatric illness;

3. Formal psychiatric examination of patients with a prior history of psychiatric treatment and in those whom there is a question of psychosis [~~and/or~~ or] competence to give informed consent;

4. Assessment of the degree of physical dependence on, and psychic craving for, narcotics and other drugs;

5. Evaluation of attitudes and motivations for participation in the program;

6. Physical examination and any laboratory or other special examination indicated in the judgment of the medical director;

7. Tuberculin test;

8. Serologic test for syphilis;

9. Bacteriological culture for gonorrhea;

10. Recommended lab exam:

- a. Complete blood count;
- b. Routine and microscopic urinalysis;

- c. Liver functions profile;
- d. When tuberculin test is positive, chest x-ray;
- e. Australian antigen Hb ag. Testing (Haa testing);
- f. When clinically indicated, an EKG; and
- g. Pregnancy test for females and a pap smear when appropriate.

§ 7.13. Each person shall be informed concerning the possible risks associated with the use of methadone. Participation in the program shall be voluntary. The facility director shall ensure that all the relevant facts concerning the use of methadone are clearly and adequately explained to the patient and that all patients (including those under 18) shall sign, with knowledge and understanding of its contents, the first part of Form FD 2635 "Consent to Methadone Treatment". Parents or guardians of patients under age 18 shall also sign the second part of this form. Form 2635 shall be signed again for each readmission if a two-week lapse in treatment has preceded the readmission.

§ 7.14. Each patient shall be provided with a written statement describing the program. The patient shall sign a statement to the effect that he accepts and understands the program and will:

1. Present himself daily for medication. Such medication shall be taken orally in front of a licensed practitioner (registered nurse, licensed practical nurse, physician, or pharmacist);
2. Behave according to designated treatment requirements;
3. Attend such classes, group session or interviews to which he is assigned;
4. Not use illicit substances; and
5. Give a urine sample in front of an attendant regularly, when requested.

Article 6. Dismissal From Program.

§ 7.15. Patients may be dismissed from the program at the discretion of the director when he determines that the program or the patient's treatment will be adversely affected by the conduct of the patient, such as:

1. Continued illegal use of narcotics or other drugs;
2. Conviction of a misdemeanor or felony;
3. Failure to cooperate with the program;
4. Repeated failure to keep appointments in the

treatment program;

5. Repeated failure to take medication as directed; or
6. Conduct which adversely affects the patient, other patients or the program.

§ 7.16. Patients who are dismissed from the program for misconduct may appeal the dismissal decision through a formal appeals procedure that has been developed by the program. Decisions of these appeal proceedings shall be recorded in the patient's records.

§ 7.17. Before leaving the program, a patient shall be given the opportunity for detoxification from methadone according to a plan approved by the medical director of the program.

§ 7.18. A patient from one methadone facility must be properly identified before starting treatment at any other methadone facility. A letter of transfer from the medical director, including a description and photograph of the patient, summary of pertinent clinical information, must be received by the receiving methadone facility within two weeks of the patient receiving methadone. A confirming telephone conversation with a licensed practitioner concerning the current dosage, particular medical problems and reason for transfer must be documented in the patient's chart prior to his receiving methadone.

§ 7.19. Consideration may be given to discontinuing methadone for participants who have maintained satisfactory adjustment over an extended period of time. In such cases, follow-up evaluation is to be obtained periodically.

Article 7. Dosage and Dosage Administration.

§ 7.20. All take-home doses of methadone or oral administration in liquid form shall be prepared under the immediate supervision of a licensed pharmacist or physician and shall be in a suitable vehicle formulated to minimize misuse by parenteral and accidental ingestion.

§ 7.21. Take-home medication shall be labeled under the direct supervision of the pharmacist or physician.

§ 7.22. All methadone for outpatient use shall be dispensed in containers whose composition is chemically and physically compatible with methadone and its vehicle so as to maintain the integrity and effectiveness of the container and its contents. These containers shall be glass, light resistant and tightly closed with child-resistant effectiveness of not less than 85% without a demonstration and not less than 80% after a demonstration of the proper means of opening such special packaging.

§ 7.23. Methadone shall be administered by a physician licensed and registered under state and federal law to prescribe narcotic drugs for patients or by an agent of the

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physician supervised by and pursuant to the order of the physician. Such agent shall be limited to a pharmacist, a registered nurse, or a practical nurse, all licensed by the Commonwealth of Virginia. The licensed physician assumes responsibility for the amounts of methadone administered or dispensed. All changes in dosage schedule shall be recorded and signed by the physician.

Article 8. Maintenance Treatment.

§ 7.24. The usual initial dose is 20-40 milligrams. Subsequently, the dosage may be adjusted individually as tolerated and required to a maintenance level of approximately 40-120 milligrams daily.

§ 7.25. For daily dosages above 100 milligrams patients shall ingest medication under observation six days per week. These patients may be allowed take-home medication for one day per week only.

§ 7.26. A daily dose of 100 milligrams or more shall be justified in the medical record. For daily dosages above 100 milligrams or, for take-home doses above 100 milligrams per day, prior approval shall be obtained from the State Methadone Authority.

Article 9. Frequency of Attendance.

§ 7.27. For detoxification, the drug will be administered daily under close observation.

§ 7.28. For maintenance initially, the patient shall receive the medication under observation daily for at least six days a week.

§ 7.29. In maintenance treatment, after demonstrating satisfactory adherence to the program requirements for at least three months by participating actively in the program activities [~~and/or~~ or] by participating in educational, vocational and homemaking activities, those patients whose employment, education or homemaking responsibilities would be hindered by daily attendance may be permitted to reduce to three times weekly the time when they must ingest the drug under observation. Such patients shall receive no more than a two day take-home supply.

Article 10. Take-home Medications.

§ 7.30. With continuing adherence to the program's requirements and progressive rehabilitation for at least two years after entrance into the program, such patients may be permitted twice weekly visits to the facility for methadone ingestion under observation with a three day take-home supply.

§ 7.31. Prior to reducing the frequency of visits, documentation of the patient's progress and the need for reducing the frequency of visits, shall be recorded in the

patient's record.

§ 7.32. Additional take-home medication may be provided at the discretion of the medical director in exceptional circumstances such as illness, family crisis or necessary travel where hardship would result from requiring the customary daily observed medication intake for the specific period in question. However, under no circumstances shall take-home dosage exceed a two-week supply.

Article 11. Security Measures.

§ 7.33. Security measures shall be taken to prevent diversion of methadone into illicit channels. Stocks of methadone shall be kept at the minimum quantity consistent with the needs of the patient population. Security measures shall be outlined by the program director in the license application form.

Article 12. Patient Records.

§ 7.34. Director of accredited methadone programs are required to maintain detailed patient records which shall include but not be limited to:

1. Preliminary intake interview;
2. Social history;
3. Physical and psychological evaluation;
4. Patient consent form;
5. Current treatment plan accompanied by progress recordings. Initial treatment plan shall be documented in each patient's record within four weeks after admission;
6. Laboratory report;
7. Amount of methadone administered or dispensed;
8. Results of urinalysis;
9. Patient attendance record;
10. Detailed account of any adverse reaction, deaths, premature births, or adverse reactions displayed by a newborn which, in the opinion of the attending physician, are due to methadone shall be reported within one month to the Food and Drug Administration and State Methadone Authority on Form FD-1639, "Drug Experience Report"; [and]

11. An evaluation of the patient's treatment and progress shall be carried out at least quarterly by the primary counselor. A review of client progress by clinical staff supervisors or consultants will be

undertaken at least semi-annually. These evaluations shall be documented in the patients' records.

Article 13. Program Records.

§ 7.35. Each licensed methadone facility shall be registered with the Drug Enforcement Administration under the category which applies to its business activity.

§ 7.36. Methadone shall be obtained only by use of DEA Form 222 from a Drug Enforcement Administration registered manufacturer or wholesaler and delivered directly to the facility or procured by the program pharmacist from the wholesaler.

§ 7.37. The facility shall keep accurate records of receipt and disbursement as required by the drug Enforcement Administration and the Virginia State Board of Pharmacy.

Article 14. Confidentiality of Patient Records.

§ 7.38. Disclosure of patient records maintained by any facility shall be governed by 42 CFR Part 2 of the Code of Federal Regulations [~~(7/1/75)~~ (6/9/87)] and every program shall comply with the provisions contained therein. Records relating to the receipt, storage, and distribution of narcotic medication shall also be subject to inspection as provided by federal and state controlled substances laws; but use or disclosure of records identifying patients shall be limited to actions involving the facility or its personnel.

§ 7.39. Every licensed facility may protect the privacy of patients therein by withholding from all persons not employed by such facility or otherwise connected with the conduct of the facility operations, the names or other identifying characteristics of such patients where the facility director has reasonable grounds to believe that such information may be used to conduct any criminal investigation or prosecution of the patient. Facilities may not be compelled in any federal, state or local, civil, criminal, administrative or other proceedings to furnish such information. This does not require the withholding of information authorized to be furnished pursuant to 42 CFR Part 2, nor does it invalidate any legal process to compel the furnishing of information in accordance with 42 CFR Part 2. Furthermore, a licensed facility shall permit a duly authorized employee of the Food and Drug Administration or the State Methadone Authority to have access to and copy all records relating to the use of methadone in accordance with the provisions of 42 CFR Part 2 and shall reveal them only when necessary in a related administrative or court proceeding.

§ 7.40. The following records are to be maintained on file at a licensed methadone treatment facility:

1. FD-2632. Application for approval of use of methadone in a treatment program;

2. FD-2633. Medical responsibility statement for use of methadone in a treatment program;

3. FD-2634. Annual report for treatment program using methadone NDATUS;

4. FD-2636. (if hospital) Hospital request for methadone for detoxification treatment;

5. FD-1639. Drug Experience Report.

Article 15. Evaluation.

§ 7.41. Evaluation of the safety of methadone administered over prolonged periods of time is to be based on results of physical examinations, laboratory examinations, adverse reactions, and results of special procedures when such have been carried out.

§ 7.42. Evaluation of effectiveness of rehabilitation is to be based upon, but not limited to, such criteria as:

1. Social adjustment verified whenever possible by family members of other reliable persons;
2. Withdrawal from methadone and achievement of an enduring drug-free status;
3. Assessment of progress in meeting current treatment plan;
4. Occupational adjustment verified by employers or record of earnings;
5. Extent of drug abuse;
6. Extent of alcohol abuse; and
7. Arrest records.

Article 16. Special Conditions for Use of Methadone in Hospitals for Detoxification and Treatment.

§ 7.43. The following words and terms, when used in this article, shall have the following meaning, unless the content clearly indicates otherwise:

"Detoxification treatment using methadone" means the administering of methadone as a substitute narcotic drug in decreasing doses to reach a drug-free state in a period not to exceed 21 days in order to withdraw an individual who is dependent on heroin or other morphine-like drugs from the use of such drugs.

"Temporary maintenance treatment" means (i) treatment of an opiate-addicted patient hospitalized for medical or surgical problems other than opiate addiction; and (ii) emergency treatment of an opiate-addicted person on an inpatient or outpatient basis for not more than 72

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hours for such addiction.

§ 7.44. Methadone may be administered or dispensed in a hospital in either oral or parenteral form.

§ 7.45. Temporary maintenance treatment may be instituted in a hospital for an opiate-addicted patient for a medical or surgical problem (other than the addiction) which would be complicated by the patient's not receiving maintenance doses of an opiate. In such instances, the patient may be treated with methadone during the critical period of his hospital confinement. Such patient need not be currently enrolled in a licensed methadone treatment program.

§ 7.46. An opiate-addicted patient may be treated on an emergency inpatient or outpatient basis for not more than 72 hours until he can be admitted to a licensed methadone treatment facility. This 72-hour emergency treatment may be given to a patient who has no medical or surgical problem other than opiate addiction. This treatment shall not be renewed or extended for any given patient. Methadone shall be dispensed and administered daily by the hospital. No take-home doses shall be allowed for this treatment regimen.

§ 7.47. If the hospital is located in the same locality as a licensed methadone treatment facility, the facility may provide the methadone for a patient who is hospitalized for treatment for a condition other than narcotic addiction and who is presently enrolled in the methadone treatment program, provided:

1. A licensed practitioner from the facility (registered nurse, pharmacist, physician or licensed practical nurse) shall administer the methadone directly to the patient on a daily basis.
2. No hospital personnel shall administer the methadone to the patient if the methadone facility's drug supply is used.
3. The facility shall not leave a stock of doses for the patient within the hospital. The hospital may use its own stock of methadone in any available formulation if it so elects. Medical personnel within the hospital may then administer the drug to the patient.
4. Hospitals which wish to provide detoxification or maintenance of an opiate addicted person who has been admitted solely for his addiction problem shall submit FDA Form 2636, "Hospital Request for Methadone for Analgesia in Severe Pain, and Detoxification and Temporary Maintenance Treatment" as well as registering with the Drug Enforcement Administration on form DEA 363 "New Application for Registration Under Narcotic Addict Treatment Act of 1974."

* * * * *

Title of Regulation: VR 470-02-10. Rules and Regulations for the Licensure of Day Support Programs.

Statutory Authority: §§ 37.1-10 and 37.1-179 of the Code of Virginia.

Effective Date: July 1, 1988

Summary:

Under the current definitions in the Code of Virginia (§ 37.1-179 et seq.), the Department of Mental Health, Mental Retardation and Substance Abuse Services is responsible for the licensure of facilities and institutions providing care or treatment to mentally ill, mentally retarded and substance abusing persons.

The term "day support program" includes, with certain exceptions, any publicly or privately operated facility, institution or other entity which provides a planned program of treatment or training interventions generally of more than three consecutive hours duration for mentally ill, mentally retarded, or substance abusing persons. Day support program services may include the detoxification, treatment or rehabilitation of drug addicts through the use of the controlled drug methadone. These interventions are provided in a nonresidential setting and focus on the treatment of pathological conditions or on the training or strengthening of client abilities to deal with everyday life.

These regulations articulate the minimum requirements for licensure of day support programs in order to protect the health and safety of mentally ill, mentally retarded and substance abusing clients in day support programs and to assure that they receive services that are appropriate to meet their identified needs.

The regulations are comprised of the following issues which have impact on day support programs subject to licensure:

Organization and administration, personnel, physical environment, programs and services, disaster or emergency plans, and special requirements for methadone treatment facilities.

Substantial changes in response to public comment include clarifying certain definitions; providing technical amendments to various regulations to achieve consistency with other departmental regulations and requirements such as human rights regulations, "core services definitions," and standard data elements for statistical reporting; revising certain licensing procedures to enhance their efficiency and to reduce unnecessary burdens for licensees; revising or eliminating certain requirements that are not appropriate for outpatient or day support facilities; and revising other requirements to make them more

consistent with current standards of practice and operational realities.

These are new regulations that will subject this type of facility to licensure for the first time.

VR 470-02-10. Rules and Regulations for the Licensure of Day Support Programs.

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PART I. INTRODUCTION.

Article I. Definitions.

§ 1.1. The following words and terms, when used in these regulations, shall have the following meaning, unless the context clearly indicates otherwise:

"Adult developmental day program" means a program that provides instruction and training for mentally retarded/developmentally disabled adults (age 18 or older) that is designed to assist them to progress toward independent living.

"Advocate" means a person or persons appointed by the commissioner after consultation with the State Human Rights Director and the local human rights committee who exercise the duties set forth in Part III of the Rules and Regulations to Assure the Rights of Residents of Facilities Operated by the Department of Mental Health [and ,] Mental Retardation [and Substance Abuse Services].

["Alcoholic" means a person who: (i) through the use of alcohol has become dangerous to the public or himself; or (ii) because of such alcohol use is medically determined to be in need of medical or psychiatric care, treatment, rehabilitation, or counseling.]

"Allegation" means an accusation that a facility is operating without a license.

"Alternative day support arrangements" means [services that are designed to assist clients in locating day support settings and may provide program staff, follow along, or

assistance to clients in maintaining the independent day support arrangement. This term does not include such services as day treatment/partial hospitalization, psychosocial rehabilitation, work activity, adult developmental day programs, extended sheltered employment, supported or transitional employment, alternative day support arrangements, education, or recreational services; day support alternatives other than programs that provide day treatment/partial hospitalization, psychosocial rehabilitation, extended sheltered employment or work activity, adult developmental/activity center/developmental day programming for adults, education, recreation, or supported or transitional employment, which assist clients in locating day support settings and may provide program staff, follow along, or assistance to the clients. The focus may be on assistance to the client to maintain the independent day support arrangement.]

"Ambulatory detoxification [services program] " means a program [/service] provided in a day treatment/partial hospitalization program [or an outpatient facility] to people under the influence of intoxicants that provides a safe place to withdraw from such intoxicants, but the term "ambulatory detoxification [services program] " does not include detoxification and treatment with the controlled drug methadone (see Part VII). Trained staff are present to monitor withdrawal. People who experience medical complications are sent to a hospital emergency room [or other appropriate medical facility] . Clients may be referred to an outpatient substance abuse facility or to an intermediate care facility when appropriate.

"Applicant" means the person, corporation, partnership, association or public agency which has applied for a license.

"Behavior management" means planned and systematic use of various techniques selected according to group and individual differences of the clients and designed to teach awareness of situationally appropriate behavior, to strengthen desirable behavior, and to reduce or to eliminate undesirable behavior. (The term is consistently generic and is not confined to those techniques which derive specifically from behavior therapy, operant conditioning, etc.)

"Board" means the State Mental Health [and ,] Mental Retardation [and Substance Abuse Services] Board.

"Case record" or "record" means written information assembled in one folder or binder relating to one individual. This information includes social and medical data, agreements, notations of ongoing information, service plan with periodic revisions, aftercare plans and discharge summary, and any other data related to the client.

"Child" means any person legally defined as a child under the law of the Commonwealth.

"Client" means [mentally ill or mentally retarded

persons, or persons addicted to the intemperate use of narcotic drugs, alcohol or other stimulants a person receiving treatment or other services from a program, facility, institution or other entity licensed under these regulations whether that person is referred to as a patient, resident, student, consumer, recipient or another term] .

"Commissioner" means the Commissioner of Mental Health [and ,] Mental Retardation [and Substance Abuse Services] .

"Complaint" means an accusation against a licensed facility regarding an alleged violation of regulations or law.

"Corporal punishment" means the inflicting of pain or discomfort to the body through actions such as but not limited to striking or hitting with any part of the body or with an implement; or through pinching, pulling, or shaking; or through any similar action which normally inflicts pain or discomfort.

"Day off" means a period of not less than 32 consecutive hours during which a staff person has no responsibility to perform duties related to the facility. Each successive day off immediately following the first shall consist of not less than 24 additional consecutive hours.

"Day support program" means any publicly or privately operated facility, institution or other entity which provides [day support services a planned program of treatment or training interventions generally of more than three consecutive hours duration] to mentally ill [or ,] mentally retarded [persons or to persons addicted to the intemperate use of narcotic drugs, alcohol or other stimulants but , or substance abusing persons. Day support program services may include the detoxification, treatment or rehabilitation of drug addicts through the use of the controlled drug methadone. These interventions are provided in a nonresidential setting and focus on the treatment of pathological conditions or on the training or strengthening of client abilities to deal with everyday life. The term "day support program"] does not include [entities whose primary function is to provide] :

1. Extended sheltered employment or work activity programs;
2. Supported or transitional employment programs;
3. Alternative day support arrangements;
4. Educational programs;
5. Recreational programs; [or]
6. Outpatient facilities licensed pursuant to the provisions of Chapter 8 (§ 37.1-179 et seq.) of Title 37.1 of the Code of Virginia; [or]

[7. Day treatment/partial hospitalization programs provided by psychiatric hospitals licensed pursuant to the provisions of Chapter 8 (§ 37.1-179 et seq.) of Title 37.1 of the Code of Virginia, provided that such day treatment/partial hospitalization programs are situated on the same premises as the psychiatric hospital so licensed] .

["Day support services" means a planned program of treatment or training interventions which individually are more than three consecutive hours duration for mentally ill or mentally retarded persons or for persons addicted to the intemperate use of narcotic drugs, alcohol or other stimulants including the detoxification, treatment or rehabilitation of drug addicts through the use of the controlled drug methadone. These interventions are provided in a nonresidential setting and focus on the treatment of pathological conditions or on the training or strengthening of client abilities to deal with everyday life. Day support services include such services as day treatment/partial hospitalization, psychosocial rehabilitation, and adult developmental day programs. The term day support services does not include such services as extended sheltered employment or work activity programs, supported or transitional employment services, alternative day support arrangements, educational services, or recreational services.]

"Day treatment/partial hospitalization" means a treatment program that includes the major diagnostic, medical, psychiatric, psychosocial, prevocational and educational treatment modalities designed for patients with serious mental disorders or substance abuse problems who require coordinated, intensive, comprehensive and multidisciplinary treatment of pathological conditions not provided in outpatient facility settings.

"Department" means the Department of Mental Health [and ,] Mental Retardation [and Substance Abuse Services] .

"Detoxification facility" means a residential facility or a portion thereof that is licensed pursuant to the provisions of Chapter 8 (§ 37.1-179 et seq.) of Title 37.1 of the Code of Virginia as a nonhospital medical detoxification [service, a sobering-up shelter service program] or a social detoxification [service program] , but does not include a hospital-based medical detoxification [service program] or an inpatient substance abuse facility as defined in these regulations.

"Drug addict" means a person who: (i) through the use of habit forming drugs or other drugs enumerated in the Virginia Drug Control Act (§ 54-524.1 et seq.) as controlled drugs, has become dangerous to the public or himself; or (ii) because of such drug use, is medically determined to be in need of medical or psychiatric care, treatment, rehabilitation or counseling.

"Educational/recreational program" means a program designed to provide education, recreation, enrichment, and

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leisure time activities for mentally ill [or ,] mentally retarded [persons, or persons addicted to the intemperate use of narcotic drugs, alcohol or other stimulants , or substance abusing persons]. Such a program may consist of daily, weekly, or monthly activities which are carried out during the summer months or throughout the year.

"Extended sheltered employment or work activity" means a program which provides remunerative employment for mentally ill, mentally retarded or substance abusing clients as a step in the rehabilitation process for those who cannot be readily absorbed into the competitive labor market. Such a program may include a sheltered employment program and a specialized vocational training program.

"Facility" or "institution" means any facility not operated by an agency of the federal government by whatever name or designation which provides care or treatment for mentally ill [or ,] mentally retarded [persons, or persons addicted to the intemperate use of narcotic drugs, alcohol or other stimulants , or substance abusing persons] including the detoxification, treatment or rehabilitation of drug addicts through the use of the controlled drug methadone. Such institution or facility shall include a hospital as defined in [subsection 1 of] § 32.1-123 of the Code of Virginia, outpatient clinic, special school, halfway house, home and any other similar or related facility.

["Group practice" means one or more practitioners of the healing arts or practitioners of the behavioral science professions who are individually licensed under the provisions of Title 54 of the Code of Virginia and their employees who are individually licensed under the provisions of Title 54 of the Code of Virginia or who are otherwise legally authorized to render professional services within this Commonwealth, who have for purposes of convenience or efficiency associated or grouped themselves through the use of shared office space or administrative support in order to provide professional services within the scope and limits of their individual and respective professional licenses, whether the association is informal or has been formalized through an organization such as a professional association organized pursuant to the provisions of Chapter 25 (§ 54-873 et seq.) of Title 54 of the Code of Virginia, a professional corporation organized pursuant to the provisions of Chapter 7 (§ 13.1-542 et seq.) of Title 13.1 of the Code of Virginia, or a general partnership organized under the provisions of Chapter 1 (§ 50-1 et seq.) of Title 50 of the Code of Virginia.]

"Hospital" or "hospitals" when not modified by the words "state" or "private" means both state hospitals and private hospitals devoted to or with facilities for the care and treatment of mentally ill, mentally retarded or substance abusing persons.

"Hospital-based medical detoxification [service program] " means a program [/service] which offers medical treatment to persons suffering from alcohol or other drug

intoxication. This service is provided in a hospital under the direction of a physician and hospital staff and is designed to monitor and control medical complications and other disorders which may be associated with withdrawal.

"Human research" means any medical or psychological [investigation designed to develop or contribute to general knowledge and research] which utilizes human subjects who may be exposed to the possibility of physical or psychological injury as a consequence of participation as subjects and which departs from the application of those established and accepted methods appropriate to meet the subjects' needs but does not include:

1. The conduct of biological studies exclusively utilizing tissue [or or] fluids after their removal or withdrawal from [a] human subject in the course of standard medical practice;
2. Epidemiological investigations; or
3. Medical treatment of an experimental nature intended to save or prolong the life of the subject in danger of death, to prevent the subject from becoming disfigured or physically or mentally incapacitated [or to improve the quality of the subject's life].

"Individualized service plan" means a written plan of action developed, and modified at intervals, to meet the [unique] needs of each client. It specifies short and long-term goals, the methods and time frames for reaching the goals and the individuals responsible for carrying out the plan.

"Inpatient substance abuse facility" means an organization established to provide effective intervention [in a hospital setting] for substance abuse by providing medical detoxification and by treating the medical and psychiatric complication of substance abuse through an organized medical and professional staff, with continuous nursing service at the hospital level of care, when such organized plan of substance abuse services can be separately identified.

["Intermediate care substance abuse facility" means an organization established to provide a continuous, structured residential program of services including assessment, counseling, vocational and social rehabilitation for four or more substance abusing persons. This type of facility provides full-time residential treatment services and is exemplified by therapeutic communities and residential treatment centers.]

"Intrusive aversive therapy" means a formal behavior modification technique designed to reduce or eliminate severely maladaptive, violent or self-injurious behavior through the application of noxious or painful stimuli contingent upon the exhibition of such behavior. The term shall not include actions defined in these regulations as corporal punishment, nor does it include verbal therapies, seclusion, physical or mechanical restraints used in

conformity with the applicable human rights regulations promulgated pursuant to § 37.1-84.1 of the Code of Virginia, or psychotropic medications which are not used for purposes of intrusive aversive therapy.

"Licensee" means the person, corporation, partnership, association, or public agency to whom a license is issued and who is legally responsible for compliance with the regulations and statutory requirements relating to the facility.

"Local human rights committee" means a committee of at least five members broadly representative of professional and consumer groups appointed by the State Human Rights Committee for each group of community services board or licensed organization after consultation with the commissioner, and whose responsibility shall be to perform the functions specified in applicable human rights regulations. Except where otherwise provided, the term "local human rights committee" shall mean this body or any subcommittee thereof.

"Mechanical restraint" means the application of machinery or tools as a means of physically restraining or controlling a client's behavior, such as handcuffs, straitjackets or shackles but not including bed straps, bed rails, slings and other devices employed to support or protect physically incapacitated clients.

"Mental retardation" means substantial subaverage general intellectual functioning which originates during the developmental period and is associated with impairment in adaptive behavior.

"Nonhospital medical detoxification [service program]" means a program [/service] which provides a medically supervised withdrawal from alcohol or other drug intoxication in a nonhospital setting. Twenty-four hour nursing care and the services of on-call physicians are available. Services include medical screening and evaluation, basic laboratory analysis, physical exams and chemotherapy, as ordered by a physician. Medical referrals are made as necessary. Case management including referral to further residential or outpatient treatment is available.

"On duty" means that period of time during which a staff person is responsible for the care and supervision of one or more clients.

"Outpatient facility" means any publicly or privately owned institution, establishment or other entity by whatever name or designation which provides a variety of treatment interventions [which individually are generally] of less than three consecutive hours duration for mentally ill [or ,] mentally retarded [persons; or persons addicted to the intemperate use of narcotic drugs, alcohol or other stimulants , or substance abusing persons] including the detoxification, treatment or rehabilitation of drug addicts through the use of the controlled drug methadone. These interventions are provided in a nonresidential setting to

individuals, groups and families and include but are not limited to emergency services, crisis intervention, [diagnosis and evaluation,] counseling, psychotherapy, behavior management, chemotherapy, ambulatory detoxification, and methadone detoxification and maintenance. The term outpatient facility [does not include specifically includes] the treatment rooms or offices used to provide the services of: [(i) a facility providing a program of outpatient services operated by a community mental health, mental retardation and substance abuse services board established pursuant to Chapter 10 (§ 37.1-194 et seq.) of Title 37.1 of the Code of Virginia; (ii) a facility providing a program of outpatient services funded wholly or in part, directly or indirectly, by a community mental health, mental retardation and substance abuse services board established pursuant to Chapter 10 (§ 37.1-194 et seq.) of Title 37.1 of the Code of Virginia; (iii) a facility providing a program of outpatient services to substance abusing persons including the detoxification, treatment or rehabilitation of drug addicts through the use of the controlled drug methadone; or (iv) a facility providing a program of outpatient services that is owned, operated, or controlled by a corporation organized pursuant to the provisions of either Chapter 9 (§ 13.1-601 et seq.) or Chapter 10 (§ 13.1-801 et seq.) of Title 13.1 of the Code of Virginia. The term outpatient facility does not include the treatment rooms or offices used to provide the services of:]

[1. Professional associations organized by three or more practitioners of the same healing art or by three or more psychologists under the provisions of Chapter 25 (§ 54-873 et seq.) of Title 54 of the Code of Virginia for the sole and specific purpose of rendering the same and specific professional service, provided that the associates and any employees of the association who render professional services on behalf of the association are individually licensed under the provisions of Title 54 of the Code of Virginia to practice the same healing art or to practice psychology;

2. Professional corporations organized by one or more practitioners of the same healing art or by practitioners of the same behavioral science profession under the provisions of Chapter 7 (§ 13.1-542 et seq.) of Title 13.1 of the Code of Virginia for the sole and specific purpose of rendering the same and specific professional service, provided that the shareholders and any employees of the professional corporation who render professional services on behalf of the professional corporation are individually licensed under the provisions of Title 54 of the Code of Virginia to practice the same healing art or to practice the same behavioral science profession;

3. General partnerships formed under the provisions of Chapter 1 (§ 50-1 et seq.) of Title 50 of the Code of Virginia by two or more individual practitioners of the same healing art or of the same behavioral science profession for the sole and specific purpose of

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~~rendering the same and specific professional service, provided that the partners and any employees of the general partnership who render professional services on behalf of the general partnership are individually licensed under the provisions of Title 54 of the Code of Virginia to practice the same healing art or to practice the same behavioral science profession;]~~

[4. 1.] Individual practitioners of the healing arts licensed under the provisions of Chapter 12 (§ 54-273 et seq.) of Title 54 of The Code of Virginia;

[5. 2.] Individual practitioners of the behavioral science professions licensed under the provisions of Chapter 28 (§ 54-923 et seq.) of Title 54 of the Code of Virginia;

[6. 3.] Psychiatric hospitals licensed pursuant to the provisions of Chapter 8 (§ 37.1-179 et seq.) of Title 37.1 of the Code of Virginia, provided that such treatment rooms or offices are situated on the same premises as the psychiatric hospital so licensed; [or]

[4. Group practices as defined in these regulations; or]

[7. 5.] Day support programs licensed pursuant to the provisions of Chapter 8 (§ 37.1-179 et seq.) of Title 37.1 of the Code of Virginia.

[~~“Outpatient substance abuse facility” means an establishment which provides in a nonresidential setting a variety of services to substance abusing persons and their families including assessment, direct substance abuse treatment services which the facility’s organization can itself provide, and indirect treatment services which the facility’s organization secures through referral, on both a scheduled and unscheduled basis.]~~

“Patient” or “resident” means a person voluntarily or involuntarily admitted to or residing in a facility licensed pursuant to the provisions of Chapter 8 (§ 37.1-179 et seq.) of Title 37.1 of the Code of Virginia.

“Physical restraint” means any act by the facility or staff which exercises the use of physical confrontation or force with clients as a method or technique of managing harmful client behavior.

“Premises” means the tract(s) of land on which any part of a facility is located and any buildings on such tract(s) of land.

“Private hospital” means a hospital or similar institution which is not operated by [the department any state or federal agency] and is duly licensed pursuant to the provisions of § 37.1-179 et seq. of the Code of Virginia and includes psychiatric wards of general hospitals.

“Private institutions” means an establishment which is not operated by [the department any state or federal

agency] and which is licensed pursuant to the provisions of § 37.1-179 et seq. of the Code of Virginia.

“Professional service” means any type of personal service to the public which requires as a condition precedent to the rendering of such service or use of such title the obtaining of a license, certification or other legal authorization from a state examining board issued under the provisions of Title 54 of the Code of Virginia [; except that the phrase ‘rendering the same and specific professional service’ as used in these regulations in the exclusions from the term “outpatient facility” shall not be interpreted to prohibit such excluded professional associations, professional corporations, and general partnerships from employing such persons to assist in rendering the sole and specific professional service for which such entities are organized such as: (i) professional nurses and licensed practical nurses licensed pursuant to the provisions of Chapter 13.1 (§ 54-267.1 et seq.) of Title 54 of the Code of Virginia; (ii) physical therapists licensed pursuant to the provisions of Chapter 12 (§ 54-273 et seq.) of Title 54 of the Code of Virginia; or (iii) clerks, secretaries, bookkeepers, technicians and other assistants who are not usually and ordinarily considered by custom and practice to be rendering professional service to the public for which a license or other legal authorization is required.]

“Program” means a combination of procedures [or and] activities carried out in order to meet a specific goal or objective.

“Psychosocial rehabilitation” means a program for mentally ill or substance abusing clients that provides basic opportunities and services, such as socialization, evaluation, training, vocational [, recreational] and educational opportunities, and advocacy, in the context of a supportive environment in the community focusing on normalization. Psychosocial rehabilitation programs emphasize strengthening client abilities to deal with the tasks of everyday life rather than the treatment of pathological conditions.

“Punishment” means the use of an aversive event or the removal of a positive event following a behavior which decreases, or is intended to decrease the probability of that behavior. This includes a pain, loss, or penalty inflicted for a fault or mistake.

“Regional advocate” means a person or persons who perform the functions set forth in Part IV of the Rules and Regulations Assuring the Rights of Clients in Community Programs and who are appointed by the commissioner after consultation with the State Human Rights Director.

“Rehabilitation” means assistance provided for [a disabled an] individual [with a disability] to return to his fullest potential in occupational, social and psychological life by reducing the residual effects of his [handicapping condition disability].

"Resident" means a person admitted to a residential facility for supervision, care, training or treatment on a 24-hour basis. [For the purpose of these regulations, the words "resident" and "client" are used interchangeably.]

"Residential facility" means any publicly or privately owned facility or institution by whatever name or designation which provides 24-hour domiciliary or residential care or treatment for four or more mentally ill [or ,] mentally retarded [persons, or persons addicted to the intemperate use of narcotic drugs, alcohol or other stimulants , or substance abusing persons] including the detoxification, treatment or rehabilitation of drug addicts through the use of the controlled drug methadone, including special residential schools, halfway houses, residential treatment centers, substance abuse treatment and rehabilitation facilities, domiciliary facilities, shelter care facilities, group homes and any other similar or related facility except:

1. A residential facility operated by an agency of the federal government;
2. A private family home;
3. A hospital as defined in [subsection 1 of] § 32.1-123 of the Code of Virginia serving mentally ill persons;
4. A hospital-based medical detoxification [service program] ; an inpatient substance abuse facility; [or] an outpatient substance abuse facility using the controlled drug methadone for the detoxification, treatment or rehabilitation of drug addicts [; or a screening and referral facility (substance abuse)] as these facilities are defined in these regulations;
5. A facility or portion of a facility licensed by the State [Board Department] of Social Services;
6. A facility or portion of a facility licensed by the State [Board Department] of Health;
7. A facility or portion of a facility which provides domiciliary or residential care to children; [or]
8. A residential respite care/emergency [shelter services] facility.
- [9. Woodrow Wilson Rehabilitation Center; or
10. A supported residential program as defined in these regulations.]

["Residential respite care emergency services" means the provision of periodic residential care for periods not to exceed 21 consecutive days duration for crisis stabilization, emergency care or to provide temporary relief to parents/guardians from responsibility for the direct care of the adult client.]

"Residential respite care/emergency [shelter services] facility" means a facility that is specifically approved to provide periodic residential respite care/emergency [shelter] services for four or more [persons mentally ill, mentally retarded, or substance abusing residents] but does not include:

1. A residential facility as defined in these regulations;
2. A residential facility operated by an agency of the federal government;
3. A private family home;
4. A hospital as defined in [subsection 1 of] § 32.1-123 of the Code of Virginia serving mentally ill persons;
5. A hospital-based medical detoxification [service program] ; an inpatient substance abuse facility; [or] an outpatient substance abuse facility using the controlled drug methadone for the detoxification, treatment or rehabilitation of drug addicts [; or a screening and referral facility (substance abuse)] as these facilities are defined in these regulations;
6. A facility or portion of a facility licensed by the State [Board Department] of Social Services;
7. A facility or portion of a facility licensed by the State [Board Department] of Health;
8. A facility or portion of a facility which provides domiciliary or residential care to children; or
9. A supported residential program as defined in these regulations.

["Residential respite care/emergency shelter services" means the provision of periodic residential care for periods not to exceed 21 consecutive days duration for crisis stabilization, emergency shelter or to provide temporary relief to parents/guardians from responsibility for the direct care of the adult client.]

"Right" means that to which one has a natural [; or] legal [or moral] claim.

["Sanitize" means to wash or rinse with water containing a laundry bleach with an active ingredient of 5.25% sodium hypochlorite. The amount of bleach used may be in accordance with manufacturer's recommendation on the package.

"Screening and referral facility (substance abuse)" means an organization which provides services in a nonresidential setting to determine the type and extent of the substance abuse problem of the individual seeking help and which is conducted by persons competent to make such judgements and to direct, guide and link the recipient to other appropriate services and follow-up on services

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rendered.]

"Seclusion" means confining a client in a room with the door secured in any manner that will prohibit the client from opening it.

"Severe weather" means extreme environmental or climatic conditions which pose a threat to the health, safety or welfare of clients.

["~~Sobering-up shelter service~~" means a residential program/service offered to people under the influence of intoxicants that provides a safe place to "sleep it off." Trained staff are present to monitor withdrawal. People who experience medical complications are sent to a hospital emergency room. Outpatient or intermediate care facility referral may be available.]

"Social detoxification [service program] " means a residential program [/service] which enables intoxicated persons to safely withdraw from the effects of intoxicants. Trained staff are present to monitor vital signs. People who experience medical complications are sent to a hospital emergency room [or other appropriate medical facility] . The program [/service] does not prescribe medication although clients may remain on prescription drugs while in the program if a physician authorizes the use of such drugs. Clients participating in social detoxification services receive supervised care during withdrawal followed by alcohol [or drug] education, an opportunity to attend [~~Alcoholics Anonymous~~] meetings [of self help groups such as Alcoholics Anonymous] and individual and group counseling. Case management including referral to further residential or outpatient treatment is available.

"Standard" means a statement which describes in measurable terms a required minimum performance level.

"State hospital" means a hospital, training school or other such institution operated by the department for the care and treatment of the mentally ill or mentally retarded.

"State Human Rights Committee" means a committee of nine members appointed by the board pursuant to the Rules and Regulations to Assure the Rights of Residents of Facilities Operated by the Department of Mental Health [and ,] Mental Retardation [and the Rules and Regulations to Assure the Rights of Clients in Community Programs and Substance Abuse Services] whose responsibility it shall be to perform the functions specified in those regulations [and the Rules and Regulations to Assure the Rights of Clients in Community Programs] . The term "state human rights committee" includes any subcommittee thereof.

"Substance abuse" means the use, without compelling medical reason, of any substance which results in psychological or physiological dependency as a function of continued use in such a manner as to induce mental,

emotional or physical impairment and cause socially dysfunctional or socially disordering behavior.

["~~Substance abusing person~~" means a person who uses, without compelling medical reason, any substance which results in psychological or physiological dependency as a function of continued use in such a manner as to induce mental, emotional or physical impairment and cause socially dysfunctional or socially disordering behavior. This term includes persons addicted to the intemperate use of narcotic drugs, alcohol or other stimulants as well as such substances as cannabis, cocaine, hallucinogens, inhalants, PCP, and sedatives.]

"Substantial compliance" means a demonstration by a facility of full compliance with sufficient applicable regulations to clearly demonstrate that its program and physical plant can provide reasonably safe and adequate care while approved plans of action to correct findings of noncompliance are being implemented.

"Supported or transitional employment" means a program which provides paid employment, often paying at or above minimum wage, in a variety of normal business or industry-integrated work settings with job site training and ongoing support services provided by professional program staff to facilitate job retention by clients. These programs serve severely handicapped individuals irrespective of age or vocational potential. Examples of such a program include work enclaves and supported employment in competitive settings.

"Supported residential program" means any publicly or privately operated facility, institution or other entity which provides placement, domiciliary care, residential respite care/emergency [~~shelter~~] services or supportive services in supported residential settings to mentally ill [~~or~~ ,] mentally retarded [~~persons or persons addicted to the intemperate use of narcotic drugs, alcohol or other stimulants~~ , or substance abusing persons] . Supported residential settings may include (i) residential respite care/emergency [~~shelter~~ services] facilities, (ii) residential service systems which sponsor a number of single housing units for three or fewer persons such as supervised apartments or specialized [~~adult~~] foster care provided in private family homes, [~~or~~] (iii) contracted beds in licensed residential facilities [, or (iv) supported independent living settings] . The term supported residential program does not include:

1. A residential facility operated by an agency of the federal government;
2. A residential facility as defined in these regulations;
3. A hospital as defined in [subsection 1 of] § 32.1-123 of the Code of Virginia serving mentally ill persons;
4. A hospital-based medical detoxification [service program] ; an inpatient substance abuse facility; [or]

an outpatient substance abuse facility using the controlled drug methadone for the detoxification, treatment or rehabilitation of drug addicts [; or a screening and referral facility (substance abuse)] as these facilities are defined in these regulations;

5. A facility or portion of a facility licensed by the State [~~Board~~ Department] of Social Services;

6. A facility or portion of a facility licensed by the State [~~Board~~ Department] of Health;

[~~7. A facility or portion of a facility which provides domiciliary or residential care to children;]~~

[~~8. 7.] A residential respite care/emergency [shelter services] facility [as defined in these regulations] ; or~~

[~~9. 8.] A program or service provided by a local department of welfare/social services.~~

"Time-out procedure" means a systematic behavior management technique designed to reduce or eliminate inappropriate behavior by temporarily removing a client from contact with people or other reinforcing stimuli through confining the client alone to a special time-out room that is unfurnished or sparsely furnished and which contains few reinforcing environmental stimuli. The time-out room shall not be locked nor the door secured in any manner that will prohibit the client from opening it.

["Transitional domiciliary substance abuse facility" means a facility which provides an organized program of domiciliary and supportive services, to four or more substance abusing persons unrelated by birth or marriage, and such services are administered according to the degree of transitional needs of service recipients. As distinguished from the intermediate care facility, this type of facility provides part-time residential treatment services as exemplified by halfway houses, quarterway houses, and other community residential facilities wherein the resident may leave the facility for part of the day for work, training, education or other community based services.]

"Treatment" means any [individually planned] intervention which [helps is intended to help] a person in the reduction or amelioration of disability, discomfort, symptoms, disorders or undesirable changes or conditions specific to physical, mental, behavioral or social functioning. -

Article 2. Legal Base.

§ 1.2. Pursuant to § 37.1-179 et seq. of the Code of Virginia, no person shall establish, conduct, maintain or operate in this Commonwealth any facility or institution as defined in § 37.1-179 without first being duly licensed, except where such facility or institution is exempt from licensing.

Article 3. Facilities Subject to Licensure Under These Regulations.

§ 1.3. No person shall establish, conduct, maintain or operate in this Commonwealth any day support program as defined in § 1.1 of these regulations without first being duly licensed, except where such day support program is exempt from licensing.

Article 4. General Licensing Requirements.

§ 1.4. All day support programs shall demonstrate an acceptable level of compliance with these regulations and other applicable statutory requirements and shall submit a plan of corrective action acceptable to the Commissioner for remedying within a specified time any noncompliance with these regulations in order to be licensed to operate in this Commonwealth.

Article 5. Separate License Required.

§ 1.5. A separate license shall be required by facilities, establishments, or institutions maintained on separate premises even though they are operated under the same management. Separate buildings on the same grounds utilized for the same licensed program or activity shall not be required to have separate licenses. [In the event alterations or additions increase the bed capacity of a facility, approval by the commissioner and a new or modified license shall be obtained before beginning operation of the additional space.]

Article 6. Preapplication Consultation Services.

§ 1.6. Upon receipt of an inquiry or a referral, preapplication consultation services will be made available by the licensure office.

§ 1.7. Preapplication consultation may be designed to accomplish the following purposes:

1. To explain regulations and statutes;
2. To help the potential applicant explore the operational demands of a licensed facility;
3. To provide assistance in locating sources of information and technical assistance;
4. To refer the potential applicant to appropriate agencies such as the Department of Health, State Fire Marshal, local fire department and local building officials; and
5. To comment, upon request, on plans for proposed construction or on existing property in terms of suitability for the purposes proposed.

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Article 7.

Application for License or License Renewal.

§ 1.8. A request for an original application shall be made in writing to the department.

§ 1.9. Application for license or license renewal to establish or maintain a facility shall be made in writing and submitted to the department upon the application forms secured from the department.

§ 1.10. Structural changes in a proposed or existing facility shall not be undertaken until notification has been made to the department and building plans for such structural changes have been approved by the department.

§ 1.11. Written zoning approval or a use permit where required by local jurisdictions shall be a prerequisite for an original license.

§ 1.12. A certificate of use and occupancy or approval from the authorized inspection agency for building code compliance, when applicable, shall be a prerequisite for original licensure.

§ 1.13. A check or money order for the license fee, payable to the Treasurer of Virginia, shall be forwarded to the department with the application. The board may fix a reasonable fee not in excess of \$50 for each license issued, and for any renewal thereof.

§ 1.14. Every facility shall be designated by a permanent and distinctive name and physical location which shall appear on the application for license or license renewal and which shall not be changed without first securing approval of the department. [The facility's distinctive name shall be consistent with its licensed purpose and shall not imply that the facility is providing services for which it is not licensed.]

§ 1.15. Corporations sponsoring day support programs shall maintain their corporate status in accordance with Virginia law. Corporations not organized and empowered solely to operate day support programs shall provide for such operations in their charters.

§ 1.16. Corporate applicants shall provide the name and address of the registered agent and a copy of the articles of incorporation.

§ 1.17. Ownership interest shall be made fully known to the department and in the case of corporations, all individuals or entities holding 5.0% or more of total ownership shall be identified by name and address.

§ 1.18. Application for license renewal should be submitted to the department at least 60 days prior to the expiration date.

Article 8. The License.

§ 1.19. The commissioner may issue a license to a day support program making application for a license only after he is satisfied that: (i) the program outlined will contribute to the appropriate care, rehabilitation or treatment of clients; (ii) the applicant meets all applicable health, safety, sanitation, building and zoning requirements, either local or state; (iii) the applicant substantially complies with all provisions of these regulations; and (iv) the applicant has submitted a plan of corrective action acceptable to the commissioner for remedying with a specified time any noncompliance with these regulations.

§ 1.20. The commissioner may issue to a facility or institution that has fulfilled the conditions listed in § 1.19 a full license that is effective for any period not to exceed two years from its date of issuance, unless it is revoked or surrendered sooner.

§ 1.21. The commissioner at his discretion may issue a conditional license to operate a new facility or institution in order to permit the applicant to demonstrate compliance with all applicable requirements. Such a conditional license may be renewed, but such conditional license and any renewals thereof shall not exceed a period of six successive months, unless it is revoked or surrendered sooner.

§ 1.22. The commissioner may issue a provisional license to a facility or institution which has previously been fully licensed when such facility or institution is temporarily unable to comply with all licensing regulations. Such provisional license may be issued for any period not to exceed 90 days and shall not be renewed.

§ 1.23. The terms of any license issued shall include: (i) the operating name of the facility; (ii) the name of the individual, partnership, association or corporation or public agency to whom the license is issued; (iii) the physical location of the facility; (iv) the nature of the population served; [~~(v) when appropriate the maximum number of persons to be accepted for care;~~ ~~(vi)~~ (v)] the effective dates of the license; and [~~(vii)~~ (vi)] other specifications prescribed within the context of the regulations.

§ 1.24. The license is not assignable or transferable and automatically expires when there is a change of ownership, sponsorship, or [~~location~~, or] when there is a substantial change in services or clientele which would alter the evaluation findings and terms under which the facility was licensed. [When there is a change of location of the facility, the license certificate shall be modified pursuant to the procedure required by § 1.31 of these regulations to reflect the new location.]

§ 1.25. The current license shall be posted at all times at the facility in a place conspicuous to the public.

[§ 1.26. Each residential facility license issued by the commissioner shall specify the facility's bed capacity, i.e. the maximum number of persons that the facility is permitted to house. The number of beds allowed shall be

subject to approval by the department and shall so appear on the license issued by the commissioner.

§ 1-27. No facility shall operate more beds than the number for which it is licensed except in a catastrophic emergency when temporary permission may be granted by the commissioner.

§ 1-28. At no time shall clients be housed in areas which have not been approved by the department.

§ 1-29. A request for an increase in bed capacity shall be made in writing to the department.

§ 1-30. No increase in beds will be granted without written approval of the department subject to Certificate of Public Need review.

Article 9.
Certificate of Public Need.

§ 1-31. Prior to the commencement of any proposed facility or project as defined in §§ 32-1-102.1 to 32-1-102.11 of the Code of Virginia, application shall be made to the State Health Commissioner for certification that there exists a public need for such a project in accordance with Chapter 4 Title 32-1 of the Code of Virginia. A copy of such certificate or exemption therefrom shall be submitted with the application.]

Article [10. 9.]
Inspection.

[§ 1-32. § 1.26.] Each applicant or licensee agrees as a condition of application or license to permit properly designated representatives of the department to enter upon and inspect any and all premises for which a license has either been applied or issued, including [client records and] any books and records relating to the operation of the facility to verify information contained in the application, or to assure compliance with all laws, rules and regulations relating thereto, during all hours of operation of such facility and at any other reasonable hour.

Article [11. 10.]
Early Compliance.

[§ 1-33. § 1.27.] A provisional or conditional license may be replaced with a full license when all of the following conditions exist:

1. The facility has complied with all regulations cited in noncompliance at the time of issuance of the provisional or conditional license well in advance of its expiration date and the facility is in substantial compliance with all other regulations;
2. Compliance has been verified by an on-site observation by a representative(s) of the department or by written evidence provided by the licensee; and

3. All other terms of the license remain the same.

[§ 1-34. § 1.28.] A request to replace a provisional or conditional license and to issue a full license shall be made in writing to the department by the licensee.

[§ 1-35. § 1.29.] If the request is approved, the effective date of the new license will be the same as the beginning date of the provisional or conditional license.

Article [12. 11.]
Situation Requiring a New Application.

[§ 1-36. § 1.30.] A new application shall be filed in the following circumstances:

1. Change in ownership or sponsorship; [or]

[2. Change of location; or]

[3. 2.] Substantial change in services provided or target population.

Article [13. 12.]
Modification of License.

[§ 1-37. § 1.31.] The terms of a license [(see §§ 1.23 and 1.24)] may be modified during the term of the license with respect to [the number of beds or other] conditions which do not constitute substantial changes in the services or target population.

The licensee shall submit a written report to the department [of at least 60 days prior to] any [proposed change in location or any other] contemplated changes in operation which would affect either the terms of the license or the continuing eligibility for a license. [In the case of a proposed change in location the written report shall include for the proposed new site the following information and attachments: (i) present physical location of the facility as provided on the current license, (ii) the physical location of the proposed new site, (iii) a diagram providing the measured dimensions of the rooms and their proposed functions, (iv) written zoning approval or a use permit where required by the local jurisdiction, and (v) a description of any proposed change in services provided or target population at the new site. Prior to final approval by the Department of a proposed change in location and the issuance of a modified license, the licensee shall submit to the department for the proposed location: (i) a certificate of use and occupancy or approval from the authorized inspection agency for building code compliance, when applicable, and (ii) a copy of a report indicating approval by the local fire authority.]

A determination will be made as to whether changes may be approved and the license modified accordingly or whether an application for a new license must be filed. The licensee will be notified in writing within 30 days as to whether the modification is approved or a new license is required.

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Article [~~14~~ 13.] Allowable Variance.

[~~§ 1-38~~ § 1.32.] The department has the sole authority to waive a regulation either temporarily or permanently when in its opinion:

1. Enforcement will create an undue hardship;
2. The regulation is not specifically required by statute or by the regulations of another government agency; and
3. Client care would not be adversely affected.

[~~§ 1-39~~ § 1.33.] Any request for an allowable variance shall be submitted in writing to the department.

[~~§ 1-40~~ § 1.34.] The denial of request for a variance is appealable through the normal appeals process when it leads to the denial or revocation of a license.

Article [~~15~~ 14.] Investigation of Complaints and Allegations.

[~~§ 1-41~~ § 1.35.] The department is responsible for complete and prompt investigation of all complaints and allegations. Suspected criminal violations shall be reported to the appropriate law-enforcement authority.

Article [~~16~~ 15.] Revocation, Suspension or Refusal of License.

[~~§ 1-42~~ § 1.36.] The commissioner may revoke or suspend any license issued, or refuse issuance of a license, on any of the following grounds:

1. Violation of any provisions of Chapter 8 [of Title 37.1] (§ 37.1-179 et seq.) of the Code of Virginia, or any applicable and valid rule or regulation made pursuant to such provisions;
2. Permitting, aiding or abetting the commission of an illegal act in a facility or institution licensed under these regulations; or
3. Conduct or practices detrimental to the welfare of any client of a facility or institution licensed under these regulations.

[~~§ 1-43~~ § 1.37.] Whenever the commissioner revokes, suspends or denies a license, the provisions of the Administrative Process Act (§ 9-6.14:1 et seq. [→] of the Code of Virginia [)] shall apply.

[~~§ 1-44~~ § 1.38.] If a license is revoked or refused as herein provided, a new application for license may be considered by the commissioner when the conditions upon which such action was based have been corrected and satisfactory evidence of this fact has been furnished. In no event, however, may an applicant reapply for a license

after the commissioner has refused or revoked a license until a period of six months from the effective date of such action has elapsed unless the commissioner in his sole discretion believes that there has been such a change in the conditions causing refusal of the prior application or revocation of the license as to justify the new application.

[~~§ 1-45~~ § 1.39.] When an appeal of the final decision of the commissioner to refuse to issue a license or to revoke or suspend a license is taken by the applicant pursuant to § 37.1-186 of the Code of Virginia, the six month period shall be extended until a final decision has been rendered on appeal. A new license may then be granted after proper inspection has been made and all provisions of § 37.1-179 et seq. of the Code of Virginia, and applicable rules and regulations made thereunder have been complied with and recommendations to such effect have been made to the commissioner upon the basis of an inspection by any authorized representative or agent of the department.

[~~§ 1-46~~ § 1.40.] Suspension of a license shall in all cases be for an indefinite time and the suspension may be lifted and rights under the license fully or partially restored at such time as the commissioner determines, upon basis of such an inspection, that the rights of the licensee appear to so require and the interests of the public will not be jeopardized by resumption of operation.

Article [~~17~~ 16.] Suppression of Unlawful Operations.

[~~§ 1-47~~ § 1.41.] If any facility or institution is being operated in violation of the provisions of § 37.1-179 et seq. of the Code of Virginia, or of any applicable rules and regulations made under such provisions, the commissioner, in addition to other remedies, may institute any appropriate action or proceedings to prevent such unlawful operation and to restrain, correct or abate such violation or violations. Such action or proceeding shall be instituted in the circuit court of the count or city where such institution, hospital or home is located, and such court shall have jurisdiction to enjoin such unlawful operation or such violation or violations.

Article [~~18~~ 17.] Penalty.

[~~§ 1-48~~ § 1.42.] Any person violating any provision of § 37.1-179 et seq. of the Code of Virginia, or any applicable rule and regulation made under such provisions shall be guilty of a Class 3 misdemeanor, and each day, or part thereof, of continuation of any such violation shall constitute a separate offense.

Article [~~19~~ 18.] Reports.

[~~§ 1-49~~ § 1.43.] Each licensee shall file such reasonable reports and provide such reasonable information at such times as the department from time to time may require.

PART II.
ORGANIZATION AND ADMINISTRATION.

Article 1.
Governing Body.

§ 2.1. The day support program shall clearly identify the corporation, association, partnership, individual, or public agency that is the licensee.

§ 2.2. The licensee shall clearly identify any subordinate board, body, entity or person to whom it delegates the legal responsibilities and duties of the licensee for the operation of the facility.

Article 2.
Responsibilities of the Licensee.

§ 2.3. The licensee shall appoint a qualified chief administrative officer to whom it delegates in writing the authority and responsibility for the administrative direction of the facility.

§ 2.4. The licensee shall develop and implement written policies governing the licensee's relationship to the chief administrative officer that shall include, but shall not be limited to:

1. Annual evaluation of the performance of the chief administrative officer; and

2. Provision for the chief administrative officer to meet with the governing body or with the immediate supervisor to periodically review the services being provided, the personnel needs and fiscal management of the facility.

§ 2.5. The licensee shall review, develop and implement programs and administrative changes in accord with the defined purpose of the facility.

Article 3.
Fiscal Responsibility.

§ 2.6. The facility shall have a documented plan of financing which gives evidence that there are sufficient funds to operate.

§ 2.7. A new facility shall with the initial application document funds or a line of credit sufficient to cover at least 90 days of operating expenses unless the facility is operated by a state or local government agency, board or commission.

§ 2.8. A new facility operated by a corporation, unincorporated organization or association, an individual or partnership shall submit with the initial application evidence of financial responsibility. This shall include:

1. A working budget showing projected revenue and expenses for the first year of operation; and

2. A balance sheet showing assets and liabilities.

[~~§ 2.9.~~ Facilities operated by state or local government agencies, boards and commissions shall submit with the initial application and with each renewal application evidence of financial responsibility. This shall include a working budget showing appropriated revenue and projected expenses for the coming year.]

[~~§ 2.10.~~ § 2.9.] Facilities operated by corporations, unincorporated organizations or associations, individuals or partnerships shall submit with each renewal application evidence of financial responsibility. This shall include:

1. An operating statement showing revenue and expenses for the past operating year;

2. A working budget showing projected revenue and expenses for the coming year;

3. A balance sheet showing assets and liabilities; and

4. A written assurance from the licensee that the documentation provided for in paragraphs one, two and three above presents a complete and accurate financial report reflecting the current fiscal condition of the facility.

[~~§ 2.11.~~ § 2.10.] The facility shall provide additional evidence of financial responsibility as the licensing authority, at its discretion, may require.

Article 4.
Internal Operating Procedures.

[~~§ 2.12.~~ § 2.11.] There shall be evidence of a system of financial record keeping that is consistent with generally accepted accounting principles unless the facility is a state or local government operated program operating as required by the State Auditor of Public Accounts.

[~~§ 2.13.~~ § 2.12.] There shall be a written policy, consistent with generally accepted accounting principles, for the collection and disbursement of funds unless the facility is a state or government operated program operating as required by the State Auditor of Public Accounts.

[~~§ 2.14.~~ § 2.13.] There shall be a system of financial record keeping that shows a separation of the [~~facility's~~] accounts [for the operations permitted by the license] from all other records [unless the facility is a state or local government operated program operating as required by the State Auditor of Public Accounts].

Article 5.
Insurance.

[~~§ 2.15.~~ § 2.14.] A facility shall maintain liability insurance covering the premises and the facility's operations, including professional liability [unless the

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facility is operated by a state or local government agency which provides a program of self insurance].

[~~§ 2-16.~~ § 2.15.] There shall be liability insurance on vehicles operated by the facility.

Article 6. Bonding.

[~~§ 2-17.~~ § 2.16.] Those members of the governing body and staff who have been authorized responsibility for handling the funds of the facility shall be bonded [unless the facility is operated by a state or local government agency, board or commission].

Article 7. Relationship to the Licensing Authority.

[~~§ 2-18.~~ § 2.17.] The facility shall submit or make available to the licensing authority such reports and information as the licensing authority may require to establish compliance with these regulations and with applicable statutes and appropriate statutes.

[~~§ 2-19.~~ § 2.18.] The governing body or its official representative shall notify the licensing authority within 10 working days of:

1. Any [significant] changes in administrative structure or newly hired chief administrative officer; and
2. Any pending changes in the program which will affect the types of services offered or the types of clients to be served.

[~~§ 2-20.~~ § 2.19.] In the event of a disaster, fire, emergency or any other condition at the facility that may jeopardize the health, safety and well-being of the clients in care, the facility shall notify the licensing authority of the conditions at the facility and the status of the clients in care as soon as possible.

Article 8. Participation of Clients in Research.

[~~§ 2-21.~~ § 2.20.] The facility shall establish and implement written policies and procedures regarding the participation of clients as subjects in research that are consistent with Chapter 13 of Title 37.1 of the Code of Virginia unless the facility has established and implemented a written policy explicitly prohibiting the participation of clients as subjects of human research as defined by the above statute.

PART III. PERSONNEL.

Article 1. Health Information.

§ 3.1. Health information required by these regulations shall be maintained for all staff members.

Article 2. Initial Tuberculosis Examination and Report.

§ 3.2. Within 30 days of employment each staff member shall obtain an evaluation indicating the absence of tuberculosis in a communicable form except that an evaluation shall not be required for an individual who (i) has separated from employment with a facility licensed by the Commonwealth of Virginia that requires such screening, (ii) has a break in service of six months or less, and (iii) submits the original statement of tuberculosis screening.

§ 3.3. Each individual shall submit a statement that he is free of tuberculosis in a communicable form including the type(s) of test(s) used and the test result(s).

§ 3.4. The statement shall be signed by a licensed physician, the physician's designee, or an official of a local health department.

§ 3.5. The statement shall be filed in the individual's personnel record.

Article 3. Subsequent Evaluations for Tuberculosis.

§ 3.6. Any individual who comes in contact with a known case of tuberculosis or who develops chronic respiratory symptoms of four weeks duration or longer shall, within 30 days of exposure/development, receive an evaluation in accord with Part III, Article 2 of these regulations.

Article 4. Physical or Mental Health of Personnel.

§ 3.7. At the request of the licensee/administrator of the facility or the licensing authority a report of examination by a licensed physician [or other appropriate licensed professional] shall be obtained when there are indications that the care of clients may be jeopardized by the physical, mental, or emotional health of a specific individual.

§ 3.8. Any individual who, upon examination [~~by a licensed physician~~] or as a result of tests, shows indication of a physical or mental condition which may jeopardize the safety of clients in care or which would prevent the performance of duties:

1. Shall immediately be removed from contact with clients and food service to clients; and
2. Shall not be allowed contact with clients or food served to clients until the condition is cleared to the satisfaction of the examining physician [or other appropriate licensed professional] as evidenced by a signed statement by the physician [or other

appropriate licensed professional].

Article 5. Job Responsibilities.

§ 3.9. The chief administrative officer shall be responsible to the governing body for:

1. The overall administration of the program;
2. Implementation of all policies;
3. Maintenance of the physical plant; and
4. Fiscal management of the facility.

§ 3.10. The program director shall be responsible for the development and implementation of the programs and services offered by the day support program.

[~~§ 3.11.~~ § 3.11. When a facility is licensed to care for 13 or more clients, a full-time, qualified staff member shall fulfill the duties of the program director.

§ 3.12. If not provided by external resources, counseling and social services shall be provided by a staff member(s) qualified to provide such services.]

[~~§ 3.12.~~ § 3.11.] Sufficient qualified relief staff shall be employed to maintain required [~~staff/client ratios~~ staffing levels] during:

1. Regularly scheduled time off of permanent staff; and
2. Unscheduled absences of permanent staff.

[~~§ 3.14.~~ § 3.14. Services of a licensed physician shall be available for treatment of clients as needed.

§ 3.15. Any nurse employed shall hold a current nursing license issued by the Commonwealth of Virginia.]

Article 6. Staff Qualifications.

[~~§ 3.16.~~ § 3.12.] Any person who assumes or is designated to assume the responsibilities of a staff position or any combination of staff positions employed at the facility shall meet the qualifications of that position(s) and shall fully comply with all applicable regulations for that position.

[§ 3.13. Any person who is employed to function as a nurse, as a practitioner of the healing arts, or as a practitioner of the behavioral science professions shall be duly licensed pursuant to the requirements of Title 54 of the Code of Virginia unless such person is exempt from such licensure requirements.]

[~~§ 3.17.~~ § 3.14.] When services or consultation are obtained on a contract basis they shall [when required by

law] be provided by professionally [~~qualified licensed~~] personnel.

Article 7. Personnel Records.

[~~§ 3.18.~~ § 3.15.] A separate up-to-date personnel record shall be maintained for each staff member. The record shall include:

1. A complete employment application form or other written material providing:
 - a. Identifying information (name, address, phone number, social security number, and any names previously utilized);
 - b. Educational history; and
 - c. Employment history;
2. Written references or notations of oral references;
3. Reports of required health examinations; and
4. Annual performance evaluations.

[~~§ 3.19.~~ § 3.16.] Each personnel record shall be retained in its entirety for two years after employment ceases.

Article 8. Personnel Policies.

[~~§ 3.20.~~ § 3.17.] The licensee shall have [organizationally] approved written personnel policies.

[~~§ 3.21.~~ § 3.18.] Written personnel policies shall be readily accessible to each staff member.

[~~§ 3.22.~~ § 3.19] Each staff member shall demonstrate a working knowledge of those policies and procedures that are applicable to his specific staff position.

Article 9. Job Descriptions.

[~~§ 3.23.~~ § 3.20.] For each staff position there shall be a written job description which shall as a minimum include:

1. The job title;
2. The duties and responsibilities of the incumbent;
3. The job title of the immediate supervisor; and
4. The minimum knowledge, skills and abilities required for entry level performance of the job.

[~~§ 3.24.~~ § 3.21.] A copy of the job description shall be given to each person assigned to that position at the time of employment or assignment.

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Article 10.

Volunteers and Students Receiving Professional Training.

[~~§ 2-25.~~ § 3.22.] If a facility uses volunteers or students receiving professional training it shall develop written policies governing their selection and use. [~~A facility that does not use volunteers shall have a written policy stating that volunteers will not be utilized.~~]

[~~§ 2-26.~~ § 3.23.] The facility shall not be dependent upon the use of volunteers/students to ensure provision of basic services.

[~~§ 2-27.~~ § 3.24.] The selection of volunteers/students and their orientation, training, scheduling, supervision and evaluation shall be the [~~sole~~] responsibility of designated staff members.

[~~§ 2-28.~~ § 3.25.] Responsibilities of volunteers/students shall be clearly defined.

[~~§ 2-29.~~ § 3.26.] All volunteers/students shall have qualifications appropriate to the services they render based on experience or orientation.

[~~§ 2-30.~~ § 3.27.] Volunteers/students shall be subject to all regulations governing confidential treatment of personal information.

[~~§ 2-31.~~ § 3.28.] Volunteers/students shall be informed regarding [~~ability~~ their potential legal liabilities] and [their responsibilities for the] protection of clients [~~issues~~].

Article 11.

Staff Supervision and Evaluation.

[~~§ 2-32.~~ § 3.29.] The facility shall implement written policies and procedures to provide staff supervision and evaluation that include provisions for:

1. Regularly scheduled supervision;
2. Evaluations which are based on job descriptions and performance criteria;
3. Annual written performance evaluations;
4. Discussions of staff evaluations with staff being evaluated;
5. Delineating strengths as well as weaknesses of the staff, and recommendations for improved performance;
6. Evaluation reports which are signed by both the employee and the supervisor who did the evaluation; and
7. Access by employees to their personnel files.

Article 12.

Staff Development.

[~~§ 2-33.~~ § 3.30.] New employees, relief staff, volunteers and students shall within [~~one calendar month~~ 10 working days] of employment be given orientation [~~and training~~] regarding the objectives and philosophy of the facility, practices of confidentiality, [~~critical personnel policies,~~] other policies and procedures that are applicable to their specific positions, and their specific duties and responsibilities.

[~~§ 3.31.~~ New employees, relief staff, volunteers and students shall within one calendar month of employment successfully complete an orientation to general personnel policies and on-the-job training, including performance observation by a supervisor, regarding all critical job tasks related to their specific positions. Critical job tasks shall be established in the form of a written checklist for each position.]

[~~§ 2-34.~~ Each new staff member shall receive the orientation and training required by § 3.33 prior to assuming sole responsibility for supervision of one or more clients.]

[~~§ 2-35.~~ § 3.32.] Provision shall be made for staff development activities, designed to update staff on items in [~~§ 2-33~~ §§ 3.30 and 3.31] and to enable them to perform their job responsibilities adequately. Such staff development activities include, but shall not necessarily be limited to, supervision [~~and~~ ,] formal training [,] and academic education. Individualized staff development needs assessments and action plans shall be performed and updated annually.]

[~~§ 2-36.~~ § 3.33.] Participation of staff, [~~relief staff,~~] volunteers and students in orientation, training and staff development activities shall be documented [~~for each employee and shall include, as appropriate:~~

1. Course title or topic area;
2. Instructor or source;
3. Pretest and post-test scores or grades, if applicable;
4. Classroom hours or academic credit hours;
5. Dates attended.]

Article 13.

Staffing Patterns.

[~~§ 2-37.~~ § 3.34.] No person shall be scheduled to work more than six consecutive days between rest days.

[~~§ 2-38.~~ § 3.35.] Direct care staff who have at least one 24-consecutive-hour period on duty during a week shall have an average of not less than two days off per week in any four-week period. This shall be in addition to vacation

time and holidays.

[~~§ 3-39.~~ § 3.36.] Direct care staff who do not have at least one 24-consecutive-hour period on duty during a week shall have an average of not less than two days off per week in any four-week period. This shall be in addition to vacation time and holidays.

[~~§ 3-40.~~ § 3.37.] Direct care staff who do not have at least one 24-consecutive-hour period on duty during a week shall not be on duty more than 16 consecutive hours except in emergencies when relief staff are not available.

[~~§ 3-41.~~ § 3.38.] Facilities [~~other than those serving mentally retarded persons~~] shall have clinical staffing patterns that are adequate and appropriate in relationship to:

1. The needs of the client population being served;
2. The hours and days the facility operates;
3. Assessment, therapeutic, and follow-up functions;
4. Intensity and kinds of treatment;
5. Nature of client disabilities; and
6. Carrying out appropriate patient care evaluations, peer review, and utilization review procedures.

[~~§ 3-42.~~ For those facilities serving mentally retarded adults, the following staff ratios shall be maintained:

1. For programs serving profoundly retarded adults there shall be one staff member for each four clients present during each shift. Regardless of the number of clients present, at least one staff member shall be present at all times.

2. For programs serving severely, moderately and mildly retarded adults there shall be at least one staff member for each twelve clients. If at least one client is present, at least one staff member shall be present unless planned for and indicated in the client's Individualized Service Plan.]

PART IV. PHYSICAL ENVIRONMENT.

Article I. Buildings, Inspections and Building Plans.

§ 4.1. All buildings and installed equipment shall be inspected and approved by the local building official when required. This approval shall be documented by a Certificate of Use and Occupancy [or other acceptable documentation] indicating that the building is classified for its proposed licensed purpose.

§ 4.2. At the time of the original application and at least

annually thereafter the buildings shall be inspected and approved by:

1. Local fire authorities with respect to fire safety and fire hazards, except in state operated facilities;
2. State fire officials, where applicable; and
3. State or local health authorities, whose inspection and approval shall include:
 - a. General sanitation;
 - b. The sewage disposal system;
 - c. The water supply;
 - d. Food service operation; and
 - e. Swimming pools.

§ 4.3. When a facility is not subject to the Virginia Public Building Safety Regulations or the Uniform Statewide Building Code, clients who are dependent upon wheelchairs, crutches, canes or other mechanical devices for assistance in walking shall be served on ground level and provided with a planned means of effective egress for use in emergencies.

Article 2. Plans and Specifications for New Buildings and Additions, Conversions, and Structural Modifications to Existing Buildings.

§ 4.4. Building plans and specifications for new construction, conversion of existing buildings, and any structural modifications or additions to existing licensed buildings shall be submitted to and approved by the licensing authority and the following authorities, where applicable, before construction begins:

1. Local building officials;
2. Local fire departments;
3. Local or state health departments; and
4. Office of the State Fire Marshal.

§ 4.5. Documentation of the approvals required by § 4.4 shall be submitted to the licensing authority.

§ 4.6. All electrical, carpentry and plumbing work at the facility shall be performed under a proper permit from the building official if such a permit is required by the Uniform Statewide Building Code. Such work shall be inspected and approved by the building official, if required [, and such work shall be performed by a licensed contractor].

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Heating Systems, Ventilation and Cooling Systems.

§ 4.7. Heat shall be evenly distributed in all rooms occupied by clients such that a temperature no less than 65°F is maintained, unless otherwise mandated by state or federal authorities.

§ 4.8. Natural or mechanical ventilation to the outside shall be provided in all rooms used by clients.

§ 4.9. All doors and windows [~~capable of~~] being used for ventilation shall be [fully] screened [unless screening particular doors and windows is explicitly prohibited in writing by state or local fire authorities and those doors and windows are not used for ventilation].

§ 4.10. Air conditioning or mechanical ventilating systems, such as electric fans, shall be provided in all rooms occupied by clients when the temperature in those rooms exceeds 85°F.

§ 4.11. Heating systems annually, prior to the heating season, shall be inspected, cleaned and have their filters changed [by a contractor].

Article 4. Lighting.

§ 4.12. Artificial lighting shall be by electricity.

§ 4.13. All areas within buildings shall be lighted for safety.

§ 4.14. Lighting shall be sufficient for the activities being performed in a specific area.

§ 4.15. [~~Operable~~ If the facility operates between dusk and dawn,] flashlights or battery lanterns shall be available for each staff member on the premises between dusk and dawn for use in emergencies.

§ 4.16. [~~Outside~~ During operating hours] entrances and parking areas shall be lighted for protection against injuries [and intruders].

Article 5. Plumbing and Toilet Facilities.

§ 4.17. All plumbing shall be maintained in good operating condition.

§ 4.18. There shall be an adequate supply of hot and cold running water available at all times.

§ 4.19. Precautions shall be taken to prevent scalding from running water. In all newly constructed facilities mixing faucets shall be installed.

[~~§ 4.20. There shall be at least one toilet and one hand basin for every four clients in care.]~~

Article 6. Privacy for Clients.

[~~§ 4.21. § 4.20.]~~ Where bathrooms are not designated for individual use, each toilet shall be enclosed for privacy.

Article 7. Buildings and Grounds.

[~~§ 4.22. § 4.21.]~~ Buildings and grounds, including roads, pavements, parking lots, stairways, railings and other potentially hazardous areas shall be safe and properly maintained.

Article 8. Equipment and Furnishings.

[~~§ 4.23. § 4.22]~~ All furnishings and equipment shall be safe and suitable to the characteristics of the clients and the services provided.

[~~§ 4.24. § 4.23.]~~ There shall be at least one continuously operable, nonpay telephone accessible to staff in each building in which clients participate in programs.

[~~§ 4.25. § 4.24.]~~ Meals, if provided, shall be served in areas equipped with sturdy tables and benches or chairs.

[~~§ 4.26. § 4.25.]~~ [~~Dead bolt locks shall not be used on doors. All doors at the facility shall be equipped to permit egress without the use of a key in case of a fire or other emergency.]~~

[~~§ 4.27. § 4.26.]~~ The use of portable space heaters is prohibited unless specifically approved in writing by the local fire authority.

Article 9. Housekeeping and Maintenance.

[~~§ 4.28. § 4.27.]~~ The interior and exterior of all buildings, including required locks and mechanical devices, shall be maintained in good repair.

[~~§ 4.29. § 4.28.]~~ The interior and exterior of all buildings and grounds shall be kept clean and free of rubbish.

[~~§ 4.30. § 4.29.]~~ All buildings shall be well-ventilated and free of stale, musty and foul odors.

[~~§ 4.31. § 4.30.]~~ Buildings shall be kept free of flies, roaches, rats and other vermin.

[~~§ 4.32. § 4.31.]~~ Walk-in refrigerators, freezers, and other enclosures shall be equipped to permit emergency exits.

[~~§ 4.33. § 4.32.]~~ All furnishings, linens and indoor and outdoor equipment shall be kept in good repair.

[~~§ 4.34. § 4.33.]~~ Space shall be provided for safe storage of items such as first aid equipment, household supplies,

recreational equipment, and other materials.

[~~§ 4.35.~~ § 4.34.] Lead based paint shall not be used on any surfaces and items with which clients and staff come in contact.

Article 10. Support Functions.

[~~§ 4.36.~~ § 4.35.] Facilities shall provide [and are responsible] for support functions including, but not limited to, maintenance of buildings and grounds, and housekeeping.

[~~§ 4.37.~~ § 4.36.] Clients shall not be [solely responsible for support functions and shall not be] assigned duties beyond their physical or mental capacity to perform.

Article 11. Firearms and Weapons.

[~~§ 4.38.~~ § 4.37.] No firearms, pellet guns, air rifles or other weapons shall be permitted on the premises of the facility [unless they are in the possession of law-enforcement officers or of licensed security personnel].

PART V. PROGRAMS AND SERVICES.

Article 1. Program Description and Annual Program Review.

§ 5.1. Each licensee shall develop a written comprehensive program description for the facility that includes the following elements:

1. A mission statement identifying the philosophy and global intentions of the facility;
2. A clear description of the characteristics and the needs of the population to be served [, including the minimum levels of staff supervision required for the population to be served] ; and
3. A clear identification of the program components and services to be provided.

[~~§ 5.2.~~ Each licensee shall develop and implement a written evaluation system that is designed to provide specific utilization data and information regarding the extent to which program goals and objectives have been achieved.]

[~~§ 5.3.~~ § 5.2.] Each licensee shall review, at least annually, the program of the facility in the light of the population served and the objectives of the facility.

[~~§ 5.4.~~ § 5.3.] Based on the written results of the annual program review, the licensee shall review, develop and implement indicated program and administrative changes

in accord with the defined mission of the facility.

Article 2. Admission Criteria.

[~~§ 5.5.~~ § 5.4.] Each facility shall have written [criteria for admission information] that [shall may] be made available to all parties when admission is being considered [: Such criteria which] shall include:

1. A description of the population to be served;
2. A description of the types of services offered;
3. Criteria for acceptance into the program; and
4. Intake [and admission] procedures [including necessary referral documentation].

[~~§ 5.6.~~ § 5.5.] The facility shall accept and serve only those clients whose needs are compatible with those services provided through the facility.

[~~§ 5.7.~~ § 5.6.] A facility shall not knowingly accept into care a client whose health or behavior shall present a clear and present danger to the client or others served by the facility.

Article 3. Documented Diagnostic Study of the Client.

[~~§ 5.8.~~ § 5.7.] Acceptance for care shall be based on an evaluation of a documented diagnostic study of the client, except that this requirement shall not apply to admissions for emergency services, diagnostic services, ambulatory detoxification services, or to admissions for detoxification and treatment services using the controlled drug methadone (see Part VII).

[~~§ 5.9.~~ § 5.8.] [At the time of an admission to the day support program for services the client's record shall contain all of the elements of the documented diagnostic study of the client.]

[~~§ 5.10.~~ § 5.9.] The documented diagnostic study of the client shall include all of the following elements:

[1. A formal request or written application for admission;]

[2. 1.] Identifying information documented on a face sheet (see [~~§ 5.11~~ § 5.10]);

[3. A physical examination as specified in ~~§ 5.55~~ or documentation of an assessment of the client's current physical condition using a protocol or screening procedure developed pursuant to the requirements of ~~§ 5.14~~;]

[4. 2.] Medical history (see [~~§ 5.12~~ § 5.11]);

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[~~5~~. 3.] A statement concerning the client's recent vocational and educational history and skills;

[~~6~~. 4.] Results of any psychiatric or psychological evaluations of the client, if applicable;

[~~7~~. 5.] Social and developmental summary (see [~~§ 5-13~~ § 5.12]);

[~~8~~. 6.] Reason for referral; and

[~~9~~. 7.] Rationale for acceptance.

[~~§ 5-11~~. § 5.10.] Identifying information on a face sheet shall include:

[1. Unique client identifier;]

[~~1~~. 2.] Full name of client;

[~~2~~. 3.] Last known residence;

[~~3~~. 4.] Date of birth;

[4. Birthplace;]

5. Sex of client;

6. [Racial and national background Race of client];

[~~7~~. Social security number;

~~8~~. Religious preference;]

[~~9~~. 7.] Custody status indicating name and address of legal guardian, if any;

[~~10~~. 8.] Names, addresses and telephone numbers for emergency contacts, spouse, parents, guardians or representatives of the referring agency, as applicable;

[~~11~~. 9.] Criminal justice status, if any; and

[~~12~~. 10.] Date of admission.

[~~§ 5-12~~. § 5.11.] A medical history shall include:

1. Serious illnesses and chronic conditions of the client's parents and siblings, if known;

[2. Recent physical complaints;]

[~~2~~. 3.] Past serious illnesses, infectious diseases, serious injuries and hospitalization;

[~~3~~. 4.] Psychological, psychiatric and neurological examinations, if applicable;

[5. Drug use profile as required by § 5.52;]

[~~4~~. 6.] Substance abuse history including onset of use,

types of substances, frequency of use, quantity of use, method of administration, if applicable; [and]

[~~5~~. 7.] Name, address and telephone number of client's physician(s), when information is available [; and .]

[~~6~~. Name, address and telephone number of client's dentist(s), when information is available.]

[~~§ 5-13~~. § 5.12.] A social and developmental summary shall include:

1. Description of family structure and relationships;

2. Previous service history;

3. Current behavioral functioning including strengths [; talents;] and problems; [and]

4. Documentation of need for services [; and .]

[~~5~~. Names, ages and sex of siblings.]

[Article 4.

Protocol for Assessing the Current Physical Condition of Clients.

§ 5-14. Each day support program shall in consultation with a licensed physician develop and implement written policies and procedures for assessing the current physical condition of clients who are being considered for admission to a day support program and who are unable to present a report of a physical examination by or under the direction of a licensed physician performed no earlier than 90 days prior to admission to the program. Such policies and procedures shall include but shall not be limited to:

1. A protocol or screening instrument to be used by clinical staff to gather and document data about the client derived from interviewing and visual observation that may be used to assess the current physical condition of prospective clients;

2. Operational criteria, involving data derived from a physical examination as specified in § 5.55 or from the administration of the protocol or screening instrument developed pursuant to the requirements of subdivision 1 above, for referral of clients to a physician for medical assessment and treatment; and

3. Operational criteria, involving data derived from a physical examination as specified in § 5.55 or from the administration of the protocol or screening instrument developed pursuant to the requirements of subdivision 1 above and embodied in a written agreement with a local hospital(s) emergency room, for referral and transportation of clients for emergency medical services when needed.]

Article [6. 4.]

Procedures for Admissions for Day Support Program
Ambulatory Detoxification Services.

[§ 5-15. § 5.13.] Each day support program offering [a program of] ambulatory detoxification services other than [outpatient day support] detoxification and treatment services using the controlled drug methadone (see Part VII) shall in consultation with a licensed physician develop [and implement] written policies and procedures for [implementing] intake screening including but not limited to:

1. Requirements for documenting identifying information on clients;
2. Requirements for assessing and documenting the medical history and initial physical condition of clients including as a minimum; (i) measurement of blood alcohol content; (ii) respiration rate; (iii) pulse rate; (iv) blood pressure; and (v) body temperature; and
3. Operational criteria for admission for ambulatory detoxification services and for referral to other resources including operational criteria [embodied in a written agreement with a local hospital(s) emergency room] for referral and transportation of clients for emergency medical services when needed,

Article [6. 5.]

Work and Employment.

[§ 5-16. § 5.14.] Any assignment of chores, which are paid or unpaid work assignments, shall be in accordance with the age, health, ability, and service plan of the client.

[§ 5-17. § 5.15.] The facility shall ensure that any client employed inside [or outside] the facility is paid at least at the minimum wage required by the applicable law concerning wages and hours and that such employment complies with all applicable laws governing labor and employment.

[§ 5-18. § 5.16.] Any money earned through employment of a client shall accrue to the sole benefit of that client.

Article [7. 6.]

Grievance Procedures.

[§ 5-19. § 5.17.] The facility shall have written grievance procedures which shall be made known to clients upon admission.

Article [8. 7.]

Human Rights.

[§ 5-20. § 5.18.] The facility shall comply with the applicable human rights regulations promulgated pursuant to § 37.1-84.1 of the Code of Virginia.

Article [8. 8.]

Treatment Planning Policies and Procedures.

[§ 5-21. § 5.19.] Each licensee shall develop and implement written policies and procedures to be followed by staff in treatment planning, implementation and review.

Article [10. 9.]

Treatment Plan.

[§ 5-22. § 5.20.] A written individualized treatment plan, based on information derived from the documented diagnostic study of the client and other assessments made by the facility, shall be developed and implemented for each client within 30 days of admission and placed in the client's master file, except that the requirements of the regulations in Part V, Articles [11-13 9-11] shall not apply to admissions for emergency services, diagnostic services, ambulatory detoxification services, or to admissions for detoxification and treatment using the controlled drug methadone (see Part VII).

[§ 5-23. The following parties shall participate, unless clearly inappropriate, in developing the initial individualized treatment plan:

1. The client;
2. The client's family or legally authorized representative;
3. The referring agency; and
4. Facility staff.]

[§ 5.21. The client and his family as appropriate and the facility staff shall participate in developing the initial individualized treatment plan.]

[§ 5-24. § 5.22.] The [degree of] participation [; or lack thereof,] of [each of] the parties [listed referred to] in [§ 5-23 § 5.21] in developing the treatment plan shall be documented in the client's record.

[§ 5-25. § 5.23.] The individualized treatment plan [, based on information derived from the documented diagnostic study of the client required by Part V, Article 3, and other assessments made by the facility,] shall include, but not necessarily be limited to, the following:

1. A statement of the client's problems [and current level of functioning including strengths and weaknesses,] and corresponding treatment/training needs;
2. A statement of goals and a sequence of measurable objectives to meet the above identified needs;
3. A statement of services to be rendered and frequency of services to accomplish the above goals and objectives;

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4. A statement identifying the individual(s) or organization(s) that will provide the services specified in the statement of services;

5. A statement of the timetable for the accomplishment of the client's goals and objectives [; and]

6. The estimated length of the client's need for services [; ;]

[7. A statement defining the client's need for staff supervision in terms of staff/client ratios. Such staff supervision levels shall define the minimum supervisory requirement for each shift and indicate whether the client may be unsupervised for a specific purpose and for a specified period of time; and

8. A statement identifying the individual(s) responsible for the overall coordination and integration of the services specified in the plan.]

Article [~~11~~. 10.] Quarterly Progress Reports.

[§ ~~5-26~~. § 5.24.] There shall be a review and update of the client's individualized treatment plan by the staff and the assigned case coordinator. Such reviews and updates shall occur at a frequency appropriate to the rate and intensity of services provided, but no less than quarterly.

[§ ~~5-27~~. § 5.25.] Written progress [summary] reports completed [at least] quarterly shall be included in each client's record and shall include, but not be limited to:

1. Reports of significant incidents, both positive and negative;

2. Changes in client's social [, emotional] and family situation;

[~~3. Summary of the client's social, emotional and physical development during the previous three months including a listing of any specialized services and any ongoing medications prescribed;~~

4. Documentation of the appropriateness of the client's involvement in the program;

3. Review and revision of the services plan as appropriate;]

[~~5. 4.] Update of the appropriateness of the treatment goals;~~

[~~6. Update of the client's involvement in all necessary services;]~~

[~~7. 5.] Update of [any] contract with parent(s) or guardian (if applicable and legally permissible);~~

[~~8. 6.] The evaluation of client progress [and client outcomes] ; and~~

[~~9. 7.] Tentative discharge plans [, if appropriate].~~

Article [~~12~~. 11.] Annual Treatment Plan Review.

[§ ~~5-28~~. At least annually the following parties shall participate, unless clearly inappropriate, in formally reviewing and rewriting the treatment plan based on the client's current level of functioning and needs:

1. The client;

2. The client's family or legally authorized representative;

3. The referring agency; and

4. Facility staff.

§ 5.26. At least annually the client and his family as appropriate and the facility or program staff shall participate in formally reviewing and rewriting the services plan based on the client's current level of functioning and needs.]

[§ ~~5-29~~. § 5.27.] The [degrees of] participation [; or lack thereof,] of [each of] the parties [listed referred to] in [§ ~~5-28~~ § 5.26] in [reviewing and rewriting the treatment developing the services] plan shall be documented in the client's record.

Article [~~13~~. 12.] Ambulatory Detoxification Services.

[§ ~~5-30~~. § 5.28.] Each day support program offering [a program of] ambulatory detoxification services other than [outpatient day support] detoxification and treatment with the controlled drug methadone (see Part VII) shall in consultation with a licensed physician develop and implement written policies and procedures for detoxification services including but not limited to :

1. Monitoring of the physical and mental condition of clients including monitoring and recording of the client's vital signs (respiration rate, pulse rate, blood pressure and body temperature) every hour during the three hours after admission;

2. Therapeutic services directly related to and necessary for the detoxification process including but not limited to:

a. Ongoing medical services if provided as an integral part of the detoxification program;

b. Referral to emergency medical services when appropriate;

c. Activities designed to motivate clients to continue treatment after detoxification;

d. Opportunities to participate in or be introduced to [self-help groups such as] Alcoholics Anonymous and Narcotics Anonymous;

e. Individual and group counseling/support if provided as a part of the detoxification program; and

f. Case management including referral and follow-up for further residential or outpatient treatment.

Article [14. 13.]
Client Records.

[§ 5.21. § 5.29.] A separate case record on each client shall be maintained and shall include all correspondence relating to the care of that client;

[§ 5.22. § 5.30.] Each case record shall be kept up to date and in a uniform manner [through an ongoing case review. This case review shall include a determination of whether client records contain all the service documentation required by the program and applicable regulations and standards].

[§ 5.23. § 5.31.] Case records shall be maintained in such manner as to be accessible to staff for use in working with the client.

Article [15. 14.]
Confidentiality of Client Records.

[§ 5.24. § 5.32.] The facility shall make information available only to those legally authorized to have access to that information under federal and state laws.

[§ 5.25. § 5.33.] There shall be written policy and procedures to protect the confidentiality of records which govern acquiring information, access, duplication, and dissemination of any portion of the records. [The policy shall specify what information is available to the client.]

Article [16. 15.]
Suspected Abuse or Neglect.

[§ 5.26. § 5.34.] Written policies and procedures related to abuse and neglect shall be distributed to all staff members. These shall include:

1. Acceptable methods for behavior management of clients;
2. Procedures for handling accusations against staff; and
3. Procedures for promptly referring suspected cases of abuse and neglect to the local protective service unit and for cooperating with the unit during any

investigation.

[§ 5.27. § 5.35.] The client's record [or the administrative record] shall include;

1. Date and time the suspected abuse or neglect occurred;
2. Description of the incident;
3. Action taken as a result of the incident; and
4. Name of the person to whom the report was made at the local department.

Article [17. 16.]
Storage of Confidential Records.

[§ 5.28. § 5.36.] Records shall be kept in area which are accessible only to authorized staff.

[§ 5.29. § 5.37.] When not in use, active [and closed] records shall be stored in a locked metal file cabinet or other locked metal compartment [or in a locked room].

[§ 5.40.] When not in use, closed records shall be kept in a locked compartment or in a locked room.]

Article [18. 17.]
Disposition of Client Records.

[§ 5.41. § 5.38.] Client records shall be kept in their entirety for a minimum of three years after the date of the discharge unless otherwise specified by state or federal requirements.

[§ 5.42. § 5.39.] Permanent information shall be kept on each client even after the disposition of the client's record unless otherwise specified by state or federal requirements. Such information shall include:

1. Client's name;
2. Date [and place] of client's birth;
3. Dates of admission and discharge; and
4. Name and address of legal guardian, if any.

[§ 5.43. § 5.40.] Each facility shall have a written policy to provide for the disposition of records in the event the facility ceases operation.

[Article 19.
Service Coordination.

§ 5.44. Each facility shall develop and implement written policies and procedures for case coordination that shall provide for the assignment of a case coordinator to each client.

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§ 5.45. The duties of the case coordinator shall include:

1. *Serving as the liaison between the program and the client's family or legally authorized representative;*
2. *Providing ongoing assessment of the client's general needs through the use of program reports and evaluation information provided by each service;*
3. *Ensuring systematic and inclusive individualized treatment plans; when required; through monitoring the continuity and range of services delivered;*
4. *Developing and reviewing the specific individualized treatment plans with additions and deletions in service delivery on a quarterly basis;*
5. *Providing coordination, linkage, and referral to all direct and generic services within the program and in the community;*
6. *Providing coordination and referral at the time of discharge;*
7. *Identifying the individual or agency responsible for follow-up and aftercare; and*
8. *Documenting follow-up when appropriate.]*

Article [20: 18.] Discharge and Case Closure.

[§ 5.46: § 5.41.] Each facility shall develop and implement written policies and procedures regarding discharge and case closure including;

1. *Written criteria for a client's completion of the program; and*
2. *Conditions under which a client may be discharged before completion of the program.*

[§ 5.47: § 5.42.] No later than 30 days after discharge a [~~comprehensive~~] discharge summary shall be placed in the client's record and it shall contain:

1. *Client's admission date;*
2. *Client's discharge date;*
3. *Name of client's case coordinator, if assigned;*
4. *Information concerning currently prescribed medication including when and why it was prescribed, the dosage, and whether it is to be continued;*
5. *Summary of [services provided and] the client's progress [toward treatment goals] since admission;*
6. *Reasons for discharge; and*

7. Follow-up and referral plans and requirements.

Article [21: 19] Health Care Procedures.

[§ 5.48: § 5.43.] Facilities shall have written policies and procedures for [~~the prompt provision of~~ promptly obtaining] emergency medical [~~or dental~~] services.

[§ 5.49: § 5.44.] A well stocked first aid kit [; approved by the local rescue squad or Red Cross;] shall be maintained and readily accessible for minor injuries and medical emergencies.

[§ 5.50: § 5.45.] At all times that staff is required to be present, there shall be at least one staff member on the premises who has received within the past three years a basic certificate in standard first aid (multimedia, personal safety, or standard first aid modular) issued by the American Red Cross or other recognized authority except that this requirement [~~does shall~~] not apply during those hours when a licensed [physician] nurse or certified emergency medical technician (EMT) is present at the facility.

[§ 5.51: § 5.46.] [~~At all times that staff is required to be present there shall be at least one staff member on the premises who has received a current certificate~~ Within 90 days after employment each direct care staff member of a day support program shall successfully complete a training course] in cardiopulmonary resuscitation [appropriate to the clients served by the facility and receive a certificate of completion] issued by the American Red Cross or other recognized authority. [This requirement shall not apply to licensed physicians, nurses or certified emergency medical technicians (EMT's) employed by the facility.]

[§ 5.52: § 5.47.] Within 90 days after employment each staff member of a day support program who provides direct care to clients receiving ambulatory detoxification services other than detoxification and treatment with the controlled substance methadone (see Part VII) shall successfully complete a training course for social setting detoxification workers approved by the department.

[§ 5.53: § 5.48.] The following written information concerning each client shall be readily accessible to staff who may have to respond to a medical [~~or dental~~] emergency:

1. *Name, address, and telephone number of the physician [or dentist] to be notified;*
2. *Name, address, and telephone number of relative or other person to be notified;*
3. *Medical insurance company name and policy or Medicaid number;*
4. *Information concerning:*

- a. Use of medication;
 - b. Medication allergies;
 - c. Any history of substance abuse; and
 - d. Significant medical problems;
5. Written consent authorizing the facility to transport the client to receive emergency medical [or dental] services; and
6. Written permission for emergency medical [or dental] care.

[Article 22.
Physical Examination for Clients.

§ 5-54. Each client accepted for services in day support programs, other than those clients accepted for emergency services, diagnostic services, ambulatory detoxification services, or for detoxification and treatment with the controlled drug methadone, shall have an assessment of his current physical condition using a protocol or screening procedure developed pursuant to the requirements of § 5-14 or a physical examination by or under the direction of a licensed physician no earlier than 90 days prior to admission to the program, except that the report of a physical examination performed within the preceding 12 months by a state hospital or facility licensed pursuant to the provisions of Chapter 8 (§ 37-1-179 et seq.) of Title 37.1 of the Code of Virginia shall be acceptable.

§ 5-55. Each physical examination report shall include:

- 1. General physical condition, including documentation of apparent freedom from communicable disease including tuberculosis;
- 2. Allergies, chronic conditions, and handicaps, if any;
- 3. Restriction of physical activities, if any;
- 4. Recommendations for further treatment, immunizations, and other examinations indicated;
- 5. The date of the physical examination; and
- 6. The signature of a licensed physician, the physician's designee, or an official of a local health department.]

Article [23. 20.]
Use of Tobacco Products and Other Substances.

[§ 5-56. § 5.49.] No client under age 16 shall be permitted to purchase, possess or use tobacco products.

[§ 5-57. § 5.50.] Each facility shall have a written policy addressing the use of alcoholic beverages.

[§ 5-58. Each facility shall have a written policy addressing the possession or use of illegal drugs.]

Article [24. 21.]
Medication.

[§ 5-59. § 5.51.] As part of the data collected at admission to the program a drug use profile shall be developed for each client which includes:

- 1. History of prescription and nonprescription drugs being taken at the time of admission and for the previous six months.
- 2. Drug allergies, idiosyncratic or adverse drug reactions.
- 3. Ineffective medication therapy.

[§ 5-60. § 5.52.] There shall be written policies and procedures regarding the storage, delivery and administration of prescription and nonprescription medications used by clients. The policies and procedures shall include, require and provide for:

- 1. All medications shall be stored in a securely locked storage area and properly labeled.
- 2. In accordance with § 54-524.65 of the Code of Virginia, Virginia Drug Control Act, prescription medications shall only be administered by a physician, dentist, pharmacist, nurse or medication technician.
- 3. In accordance with § 54-524.65 of the Code of Virginia, Virginia Drug Control Act, prescription medications [, which are normally self-administered by a client of the facility,] may be [delivered administered] by [any designated an] employee [for self-administration by the client under the supervision of the program director and only by the order of a physician. The designated employee shall have of the facility who has] successfully completed a medication assistance training program [endorsed approved] by the Virginia Board of Nursing [, when authorized in writing by the physician and administered in accordance with the physician's instructions pertaining to dosage, frequency and manner of administration. Employees who distribute to a specific client individually prescribed medication that has been prepackaged, sealed, and labeled by a physician or pharmacist for use by that client away from the day support program shall not be required to complete a medication assistance training program].
- 4. Only those clients judged by the program staff to have an adequate level of functioning shall be allowed to self-administer nonprescription medication and this shall be documented in the client's record.
- 5. Controlled substances brought into the program by clients shall not be administered (including

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self-administration) unless they are identified and accompanied by a physician's or dentist's written order.

6. Procedures for documenting the administration of medication, medication errors, and drug reactions, obtaining emergency medical assistance, and disposal of medications.

7. Documentation of drugs prescribed following admission shall include:

- a. The date prescribed;
- b. Drug product name;
- c. Dosage;
- d. Strength;
- e. Route;
- f. Schedule;
- g. Dates medication discontinued or changed;
- h. Total supply of medication prescribed; and
- i. Signature of physician ordering medication.

8. Each program shall [~~have written policies and procedures regarding the review of medication therapy which shall insure and~~] provide for a quarterly review [by a physician (in conjunction with program staff when needed)] of the individual client's [day support program prescribed medication] therapy plan [by a physician (in conjunction with program staff when needed)] which] shall include:

- a. Documentation of the need for continued use of medication therapy including multiple drug usage [; with evidence that treatment strategies other than medication therapy are under consideration].
- b. Documentation of all contraindications and unusual effects for specific clients (where appropriate).

9. The attending physician shall be notified immediately of drug reactions or medication errors.

10. Procedures for documenting that clients or a legally authorized representative are informed of the potential side effects of prescribed medication.

11. All staff who [~~supervise~~] have planned involvement with] clients shall be informed of any known side effects of medication clients use and the symptoms of the effect.

Article [~~25. 22.~~]

Nutrition.

[~~§ 5.61. § 5.53.~~] If [~~food is~~ meals are] served [and controlled by the program], provision shall be made for each client to have nutritionally balanced meals.

[~~§ 5.62. § 5.54.~~] Menus shall be planned at least one week in advance.

[~~§ 5.63. § 5.55.~~] The menus, including any deviations, shall be kept on file for at least two months.

[~~§ 5.64. § 5.56.~~] The daily diet for clients shall be based on the generally accepted "Four Food Groups" system of nutrition planning. (The Virginia Polytechnic Institute and State University Extension Service is available for consultation.)

Article [~~26. 23.~~]
Behavior Management.

[~~§ 5.65. § 5.57.~~] Each facility shall implement written policies and procedures concerning behavior management that are directed toward maximizing the growth and development of the individual. These policies and procedures shall:

1. Emphasis positive approaches;
2. Define and list techniques that are used and available for use in the order of their relative degree of intrusiveness or restrictiveness;
3. Specify the staff members who may authorize the use of each technique;
4. Specify the process for implementing such policies and procedures;
5. Specify the mechanism for monitoring and controlling the use of behavior management techniques; and
6. Specify the methods for documenting their use.

[~~§ 5.66. § 5.58.~~] In the list required by [~~§ 5.65-2~~ subdivision 2 of § 5.57] of techniques that are used and available for use, intrusive aversive therapy if allowed shall be designated as the most intrusive technique.

[~~§ 5.67. § 5.59.~~] A written behavior management plan utilizing intrusive aversive therapy shall not be implemented with any client until the local human rights committee has determined:

1. That the client or his authorized representative has made an informed decision to undertake the proposed intrusive aversive therapy, and in the case of a minor who is capable of making an informed decision, that the concurrent consent of the parent has been obtained;

2. That the proposed intrusive aversive therapy has been recommended by a licensed [or license eligible] clinical psychologist;

3. That the facility has satisfactorily demonstrated that the proposed intrusive aversive therapy plan does not involve a greater risk or physical or psychological injury or discomfort to the client than the behaviors that the plan is designed to modify;

4. That there is documentation that a representative sample of less intrusive behavior management procedures have been tried without success;

5. That more appropriate behaviors are being positively reinforced;

6. That a licensed physician has certified that in his opinion, the intrusive aversive procedure will not endanger the health of the client;

7. That the aversive treatment technique is measurable and can be uniformly applied;

8. That the aversive treatment program specifies the behavioral objective, the frequency of application of the aversive technique, the time limit for both application of the technique and the overall length of the program, and the collection of behavioral data to determine the program's effectiveness; [and]

9. That the promotion is developed, implemented and monitored by staff professionally trained in behavior modification programming, and is witnessed by an approved professionally trained staff person.

[§ 5-68. § 5.60.] The local human rights committee having made the determinations required by [§ 5-67 § 5.59] shall then approve the proposed intrusive aversive therapy plan for a period not to exceed 90 days. The plan shall be monitored through unannounced visits by a designated human rights advocate. In order for the plan to be continued, the local human rights committee shall again make the determinations required in [§ 5-67 § 5.59].

[§ 5-60. § 5.61.] The advocate or regional advocate shall be informed daily of all applications of a noxious stimulus in an approved intrusive aversive therapy program.

[§ 5-70. § 5.62.] The client subjected to intrusive aversive therapy procedures and the advocate or regional advocate shall be given an opportunity to obtain an independent clinical and local human rights committee review of the necessity and propriety of their use at any time.

Article [27. 24.]
Prohibited Means of Punishment.

[§ 5-71. § 5.63.] The following methods of punishment, whether spontaneous or deliberate technique for effecting behavioral change or part of a behavior management

program, shall be prohibited:

1. Deprivation of drinking water or nutritionally balanced snacks, or meals;

2. Prohibition of contracts and visits with attorney, probation officer, or placing agency representative;

3. Prohibition of contracts and visits with family or legal guardian [except where specifically permitted by other applicable regulations];

4. Delay or withholding of incoming or outgoing mail [except where specifically permitted by other applicable regulations];

5. Any action which is humiliating, degrading, harsh, or abusive;

6. Corporal punishment as defined in these regulations;

7. Subjection to unclean and unsanitary living conditions;

8. Deprivation of opportunities for bathing and access to toilet facilities;

9. Deprivation of health care including counseling; and

10. Administration of laxatives, enemas, or emetics.

Article [28. 25.]
Chemical or Mechanical Restraints.

[§ 5-72. § 5.64.] The use of mechanical or chemical restraints is prohibited unless [such use is specifically permitted by other applicable regulations carried out in compliance with applicable human rights regulations promulgated pursuant to § 37.1-84.1 of the Code of Virginia].

Article [29. 26.]
Physical Restraint.

[§ 5-73. § 5.65.] A client may be physically restrained only when the client's uncontrolled behavior would result in harm to the client or others [or destruction of property] and when less restrictive interventions have failed.

[§ 5-74. § 5.66.] The use of physical restraint shall be only that which is minimally necessary to protect the client or others [or to prevent the destruction of property].

[§ 5-75. § 5.67.] If the use of physical restraint is unsuccessful in calming and moderating the client's behavior the client's physician, the rescue squad, the police or other emergency resource shall be contacted for assistance.

[§ 5-76. § 5.68.] Any application of physical restraint shall

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be fully documented in the client's record as to date, time, staff involved, circumstances, reasons for use of physical restraint, [duration of physical restraint,] extent of physical restraint used, the results of physical restraint and the disposition of the incident requiring physical restraint.

Article [~~30~~. 27.] Seclusion.

[~~§ 5.77.~~ § 5.69.] Seclusion of a client in a room with the door secured in any manner that will prohibit the client from opening it shall be prohibited unless carried out in compliance with applicable human rights regulations promulgated pursuant to § 37.1-84.1 of the Code of Virginia.

Article [~~31~~. 28.] Time-out Procedures.

[~~§ 5.78.~~ § 5.70.] Time-out procedures may only be used at times and under conditions specified in the facility's disciplinary or behavior management policies.

[~~§ 5.79.~~ § 5.71.] When a client is placed in a time-out room, the room shall not be locked nor shall the door be secured in any manner that will prohibit the client from opening it.

[~~§ 5.80.~~ § 5.72.] Any client in a time-out room shall be able to communicate with staff.

[~~§ 5.81.~~ § 5.73.] The use of time-out procedures shall not be used for periods of longer than 15 consecutive minutes.

[~~§ 5.82.~~ § 5.74.] Written documentation shall be maintained verifying that each client placed in a time-out room has been checked by staff at least every 15 minutes.

[~~§ 5.83.~~ § 5.75.] A client placed in a time-out room shall have bathroom privileges according to need.

[~~§ 5.84.~~ § 5.76.] If a meal is scheduled while a client is in time-out, the meal shall be provided to the client at the end of the time-out procedure.

PART VI. DISASTER OR EMERGENCY PLANS.

Article 1. Disaster or Emergency Procedures.

§ 6.1. Established written procedures shall be made known to all staff and clients, as appropriate for health and safety, for use in meeting specific emergencies including:

1. Severe weather;
2. Loss of utilities;
3. Missing persons;

4. Severe injury; and

5. Emergency evacuations

Article 2. Written Fire Plan.

§ 6.2. Each facility with the consultation and approval of the appropriate local fire authority shall develop a written plan to be implemented in case of a fire at the facility.

§ 6.3. Each fire plan shall address the responsibilities of staff and clients with respect to:

1. Sounding of fire alarms;

2. Evacuation procedures including assembly points, head counts, primary and secondary means of egress, evacuation of clients with special needs (i.e. deaf, blind, multi-handicapped) and checking to ensure complete evacuation of the building(s);

3. A system for alerting fire fighting authorities;

4. Use, maintenance and operation of fire fighting and fire warning equipment;

5. Fire containment procedures including closing of fire doors, fire windows or other fire barriers;

6. Posting of floor plans showing primary and secondary means of egress; and

7. Other special procedures developed with the local fire authority.

§ 6.4. Floor plans showing primary and secondary means of egress shall be posted on each floor in locations determined by the appropriate local fire authority.

§ 6.5. The written fire plan shall be reviewed with the local fire authority at least annually and updated, if necessary.

§ 6.6. The procedures and responsibilities reflected in the written fire plan shall be made known to all staff and clients.

Article 3. Posting of Fire Emergency Phone Number.

§ 6.7. The telephone number of the fire department to be called in case of fire shall be prominently posted on or next to each telephone in each building in which clients participate in programs.

Article 4. Portable Fire Extinguishers.

§ 6.8. Portable fire extinguishers shall be installed and maintained in the facility in accordance with state and

local fire/building code requirements. In those buildings where no such code requirements apply, on each floor there shall be installed and maintained at least one approved type ABC portable fire extinguisher having at least a 2A rating.

§ 6.9. Fire extinguishers shall be mounted on a wall or a post where they are clearly visible and so that the top is not more than five feet from the floor except that if a fire extinguisher weighs more than 140 pounds it shall be installed so that the top is not more than 2-1/2 feet from the floor. They shall be easy to reach and remove and they shall not be tiled down, locked in a cabinet, or placed in a closet or on the floor except that where extinguishers are subject to malicious use, locked cabinets may be used provided they include a means of emergency access.

§ 6.10. All required fire extinguishers shall be maintained in operable condition at all times.

§ 6.11. Each fire extinguisher shall be checked by properly oriented facility staff at least once each month to ensure that the extinguisher is available and appears to be in operable condition. A record of these checks shall be maintained for at least two years and shall include the date and initials of the person making the inspection.

§ 6.12. Each fire extinguisher shall be professionally maintained at least once each year. Each fire extinguisher shall have a tag or label securely attached which indicates the month and year the maintenance check was last performed and which identifies the company performing the service.

Article 5. Smoke Alarms.

§ 6.13. Smoke detectors or smoke detection systems shall be installed and maintained in the facility in accordance with state and local fire/building code requirements. In those buildings where no such code requirements apply, the facility shall provide at least one approved and properly installed smoke detector:

1. In each hallway;
2. At the top of each interior stairway;
3. In each area designated for smoking;
4. In or immediately adjacent to each room with a furnace or other heat source; [and]
5. In each additional location directed by the local building official, the local fire authority, or the state fire authority.

§ 6.14. Each smoke detector shall be maintained in operable condition at all times.

§ 6.15. If the facility is provided with single station smoke detectors, each smoke detector shall be tested by properly oriented staff at least once a month and if it is not functioning, it shall be restored to proper working order. A record of these tests shall be maintained for at least two years and shall include the date and initials of the person making the test.

§ 6.16. If the facility is provided with an automatic fire alarm system, the system shall be inspected by a qualified professional firm at least annually. A record of these inspections shall be maintained for at least two years and shall include the date and the name of the firm making the inspection.

Article 6. Fire Drills.

§ 6.17. At least one fire drill (the simulation of fire safety procedures included in the written fire plan) shall be conducted each month in each building at the facility [normally] occupied by clients.

§ 6.18. Fire drills shall include, at a minimum:

1. Sounding of fire alarms;
2. Practice in building evacuation procedures;
3. Practice in alerting fire fighting authorities;
4. Simulated use of fire fighting equipment;
5. Practice in fire containment procedures; and
6. Practice of other simulated fire safety procedures as may be required by the facility's written fire plan.

§ 6.19. During any three consecutive calendar months, at least one fire drill shall be conducted during each shift.

§ 6.20. False alarms shall not be counted as fire drills.

§ 6.21. The facility shall designate at least one staff member to be responsible for conducting and documenting fire drills.

§ 6.22. A record shall be maintained on each fire drill conducted and shall include the following information:

1. Building in which the drill was conducted;
2. Date of drill;
3. Time of drill;
4. Amount of time to evacuate building;
5. Specific problems encountered;
6. Specific tasks completed;

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- a. Doors and windows closed,
- b. Head count,
- c. Practice in notifying fire authority, and
- d. Other;

7. Summary; and

8. Signature of staff member responsible for conducting and documenting the drill.

§ 6.23. The record for each fire drill shall be retained for two years subsequent to the drill.

§ 6.24. The facility shall designate a staff member to be responsible for the fire drill program at the facility who shall:

1. Ensure that fire drill are conducted at the times and intervals required by these regulations and the facility's written fire plan;
2. Review fire drill reports to identify problems in the conduct of fire drills and in the implementation of the requirements of the fire plan;
3. Consult with local fire authorities, as needed, and plan, implement and document training or other actions taken to remedy any problems found in the implementation of the procedures required by the written fire plan; and
4. Consult and cooperate with the local fire authority to plan and implement an educational program for facility staff and clients on topics in fire prevention and fire safety.

Article 7. Training in Fire Procedures.

§ 6.25. Each new staff member shall be trained in fire procedures and fire drill procedures within seven days after employment.

§ 6.26. Each new staff member shall be trained in fire procedures and fire drill procedures prior to assuming sole responsibility for the supervision of one or more clients.

§ 6.27. Clients shall be oriented as to fire procedures at time of admission.

Article 8. Poison Control.

§ 6.28. The telephone number of a Regional Poison Control Center shall be posted on or next to at least one nonpay telephone in each building in which clients participate in programs.

§ 6.29. At least one 30cc bottle of Syrup of Ipecac shall be available on the premises of the facility for use at the direction of the Poison Control Center or physician.

Article 9. Use of Vehicles and Power Equipment.

§ 6.30. Any transportation provided [by the program or facility directed or through contract] for [or used by] clients shall be in compliance with state and federal laws relating to:

1. Vehicle safety maintenance;
2. Licensure of vehicles; and
3. Licensure of drivers.

§ 6.31. There shall be written safety rules for transportation of clients, including handicapped clients appropriate to the population served.

§ 6.32. There shall be written safety rules for the use and maintenance of vehicles and power equipment.

Article 10. Control of Deviant or Criminal Behavior.

§ 6.33. The person in charge of the facility shall take all reasonable precautions to assure that no client is exposed to, or instigates such behavior as might be physically [; or] emotionally [or morally] injurious to himself or to another person.

§ 6.34. Any incident relating to the operation of the facility which results in serious injury or death shall be investigated by the person in charge of the facility, appropriately reported to local authorities, and immediately reported to the department. A written report of the incident shall be made and kept on file by the facility and made available for review by authorized personnel.

PART VII. METHADONE TREATMENT FACILITIES.

Article 1. Applicability.

§ 7.1. Compliance with the regulations in Part VII is required for the licensure of day treatment/partial hospitalization programs providing methadone treatment. These requirements are in addition to those requirements in Parts II through VI when treatment facilities utilize the narcotic drug methadone as part of a substance abuse treatment and rehabilitation program because such a program requires more stringent admission procedures and criteria; drug administration procedures; record content and procedures; and services provided.

Article 2.

Definitions.

§ 7.2. The following words and terms, when used in this part, shall have the following meaning unless the context clearly indicates otherwise:

"Detoxification treatment using methadone" means the administering or dispensing of methadone as a substitute narcotic drug in decreasing doses to reach a drug free state in a period not to exceed 21 days [, or such other period as may be permitted by applicable federal regulations,] in order to withdraw an individual who is dependent on heroin or other morphine-like drug from the use of these drugs. A repeat episode of detoxification may not be initiated until one week after the completion of the previous detoxification.

"Licensed methadone treatment facility" means a person, partnership, governmental agency, corporation or association, licensed by the Commissioner to operate a methadone treatment program.

"Maintenance treatment using methadone" means the continued administering or dispensing of methadone, in conjunction with provision of appropriate social and medical services, at relatively stable dosage levels for a period in excess of 21 days as an oral substitute for heroin or other morphine-like drug, for an individual dependent on heroin.

"Methadone treatment program" means a person or organization furnishing a comprehensive range of services using methadone for the detoxification or maintenance treatment of narcotic addicts, conducting initial evaluation of patients and providing ongoing treatment at a specified location or locations.

"State Methadone Authority" means the Commissioner of the department or his designee.

Article 3.

Program Objectives.

§ 7.3. The objectives of a methadone treatment facility shall be:

1. To enable drug dependent patients to become productive citizens;
2. To promote the eventual withdrawal of patients from drug dependency;
3. To protect patients and society from any harmful effects of drug misuse;
4. To evaluate the effects of methadone in the treatment and rehabilitation of drug dependent patients; and
5. To promote the safe and controlled use of methadone according to sound medical practice and to

prevent abuse or misuse of methadone.

Article 4.

Program and Services.

§ 7.4. A licensed methadone treatment facility shall include facilities, resources and staff adequate to provide and shall provide or make appropriate arrangements for providing the following services:

1. Medical care; a written agreement with a hospital for the purpose of providing necessary emergency, inpatient, or ambulatory care for facility patients must be provided;
2. Individual or group therapy and family therapy;
3. Vocational rehabilitation services;
4. Educational services;
5. Counseling;
6. Other services should include social services and recreational therapy; and
7. Urinalysis - Random urine samples shall be collected from each prospective methadone client for analysis as part of the admission procedure to the program. Upon active methadone clients, at least 8 additional random urinalysis shall be performed during the first year in maintenance treatment and at least quarterly random urinalysis shall be performed on each client in maintenance treatment for more than one year, except that a random urinalysis shall be performed monthly on each client who receives a 6-day supply of take-home medication. Specimens shall be collected from each client in a manner that minimizes falsification. Urine collected shall be qualitatively analyzed for the morphine radical, other opiates, cocaine, methadone, barbiturates, amphetamines, and quinine, as well as other drugs as indicated. The results of this urinalysis is necessary for the overall treatment planning for individual clients receiving services and shall not be used in a punitive manner except to reduce or discontinue take home privileges.

Article 5.

Admissions.

§ 7.5. A patient may be admitted to a licensed facility only upon approval of the facility director following evaluation and examination.

§ 7.6. Each person selected as a patient for a maintenance program regardless of age, shall be determined by a facility physician to be currently physiologically dependent upon a narcotic drug and must have first become dependent at least one year prior to admission to a maintenance program except that:

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1. A person who has resided in a penal or chronic care institution for one month or longer may be admitted to methadone maintenance treatment within 14 days prior to release or discharge or within three months after release from such an institution without evidence to support findings of psychological dependence, provided the person would have been eligible for admission prior to incarceration or institutionalization. Documented evidence of the prior residence in a penal or chronic care institution and evidence of all other findings and the criteria used to determine such findings shall be recorded in the patient's record by the admitting physician or by program personnel supervised by the admitting physician.

2. Pregnant patients, regardless of age or prior addiction history, who are otherwise eligible for methadone maintenance treatment, may be admitted to a maintenance regimen provided the medical director of the facility certifies in his judgment that such treatment is medically justified. Notification and justification for this patient's admission to methadone treatment will be communicated to the State Methadone Authority. Within six weeks after termination of the pregnancy, the physician shall enter an evaluation of the patient's treatment into the patient's record indicating whether she should remain in a maintenance treatment or be detoxified. Pregnant patients shall be given the opportunity for prenatal care either by the methadone program or by referral to appropriate health care providers. This shall be documented in the patient's record.

3. A patient who has been treated and subsequently detoxified from methadone maintenance treatment may be readmitted to methadone maintenance treatment without evidence to support findings of current physiologic dependence up to six months after discharge provided that prior methadone maintenance treatment of six months or more is documented from the program attended and that the admitting program physician, in his reasonable clinical judgment, finds readmission to methadone maintenance treatment to be medically justified.

§ 7.7. The safety and effectiveness of methadone when used in the treatment of patients under 18 years of age has not been proved by adequate clinical study. Special procedures are, therefore, necessary to assure that patients under age 16 years will not be admitted to maintenance treatment and that patients between 16 and 18 years of age be admitted to maintenance treatment only under limited conditions.

§ 7.8. Patients between 16 and 18 years of age who are admitted and under treatment in approved programs on the effective date of these regulations may continue in maintenance treatment. No new patients between 16 and 18 years of age may be admitted to a methadone treatment program unless a parent, legal guardian, or

legally authorized representative signs form FD-2635, "Consent to Methadone Treatment". Methadone maintenance treatment of new patients between the age of 16 and 18 years will be permitted only with (i) a documented history of two or more unsuccessful attempts at detoxification, (ii) a documented history of dependence on heroin or other morphine-like drugs beginning one year or more prior to application for treatment, and (iii) approval of such action by the State Methadone Authority. No patient under age 16 may be continued or started on maintenance treatment, but these patients may be detoxified and retained in the program in a drug-free state for follow-up and aftercare. Persons under 16 years of age may be admitted to methadone maintenance treatment in certain rare cases if prior approval is obtained from both the Food and Drug Administration and State Methadone Authority.

§ 7.9. Patients under age 18 who are not admitted to maintenance treatment may be detoxified. Detoxification may not exceed three weeks. A repeat episode of detoxification may not be initiated until four weeks after the completion of the previous detoxification.

§ 7.10. The following patients shall not be admitted to a licensed methadone program without prior approval of the State Methadone Authority:

1. Patients with serious concomitant physical illness may be included in methadone maintenance treatment only when comprehensive medical care is available. Such patients require careful observation for any adverse effects of methadone and interactions with other medications. The physician should promptly report adverse effects and evidence of interactions to the Food and Drug Administration.

2. Psychotic patients may be included in methadone maintenance treatment when adequate psychiatric consultation and care is available. Administration of concomitant psychotropic agents requires careful observation for possible drug interaction. Such occurrences should be promptly reported to the Food and Drug Administration. Medical directors who intend to include in their program patients in categories 1 and 2 should so state in their protocols and give assurances of appropriate precautions.

§ 7.11. In exercising his professional judgment, the medical director, clinical director, or supervising clinician may refuse a particular person admission to treatment even if that person meets the admission requirements. The exclusion of the patient from treatment and the justification for such action shall be documented in the person's intake record by the medical director, clinical supervisor, or supervising clinician. However, it is the responsibility of the facility to recommend alternative treatment referrals for persons who have been denied admission.

§ 7.12. On admission to a licensed methadone facility, and

periodically thereafter, each patient must provide information and data or submit to evaluations including, but not limited to the following:

1. Social history, including:
 - a. Age;
 - b. Sex;
 - c. Educational history;
 - d. Employment history;
 - e. History of substance abuse of all types;
 - f. Prior substance abuse treatment history;
 - g. Current legal problems, if any;
 - h. Criminal history, if any;
 - i. Contact person to notify in case of emergency;
2. Medical history and history of psychiatric illness;
3. Formal psychiatric examination of patients with a prior history of psychiatric treatment and in those whom there is a question of psychosis or competence to give informed consent;
4. Assessment of the degree of physical dependence on, and psychic craving for, narcotics and other drugs;
5. Evaluation of attitudes and motivations for participation in the program;
6. Physical examination and any laboratory or other special examinations indicated in the judgment of the medical director;
7. Tuberculin test;
8. Serologic test for syphilis;
9. Bacteriological culture for gonorrhea;
10. Recommended lab exam:
 - a. Complete blood count;
 - b. Routine and microscopic urinalysis;
 - c. Liver functions profile;
 - d. When tuberculin test is positive, chest x-ray;
 - e. Australian antigen Hb ag. Testing (Haa testing);
 - f. When clinically indicated, and EKG; and

g. Pregnancy test for females and a pap smear when appropriate.

§ 7.13. Each person shall be informed concerning the possible risks associated with the use of methadone. Participation in the program shall be voluntary. The facility director shall insure that all the relevant facts concerning the use of methadone are clearly and adequately explained to the patient and that all patients (including those under 18) shall sign, with knowledge and understanding of its contents, the first part of Form FD 2635 "Consent to Methadone Treatment". Parents or guardians of patients under age 18 shall also sign the second part of this form. Form 2635 shall be signed again for each readmission if a two-week lapse in treatment has preceded the readmission.

§ 7.14. Each patient shall be provided with a written statement describing the program. The patient shall sign a statement to the effect that he accepts and understands the program and will:

1. Present himself daily for medication. Such medication shall be taken orally in front of a licensed practitioner (registered nurse, licensed practical nurse, physician, or pharmacist);
2. Behave according to designated treatment requirements;
3. Attend such classes, group sessions or interviews to which he is assigned;
4. Not use illicit substances; and
5. Give a urine sample in front of an attendant regularly, when requested.

Article 6. Dismissal From Program.

§ 7.15. Patients may be dismissed from the program at the discretion of the director when he determines that the program or the patient's treatment will be adversely affected by the conduct of the patient, such as:

1. Continued illegal use of narcotics or other drugs;
2. Conviction of a misdemeanor or felony;
3. Failure to cooperate with the program;
4. Repeated failure to keep appointments in the treatment program;
5. Repeated failure to take medication as directed; or
6. Conduct which adversely affects the patient, other patients or the program.

§ 7.16. Patients who are dismissed from the program for

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misconduct may appeal the dismissal decision through a formal appeals procedure that has been developed by the program. Decisions of these appeal proceedings shall be recorded in the patient's records.

§ 7.17. Before leaving the program, a patient shall be given the opportunity for detoxification from methadone according to a plan approved by the medical director of the program.

§ 7.18. A patient from one methadone facility must be properly identified before starting treatment at any other methadone facility. A letter of transfer from the medical director, including a description and photograph of the patient, summary of pertinent clinical information, shall be received by the receiving methadone facility within two weeks of the patient receiving methadone. A confirming telephone conversation with a licensed practitioner concerning the current dosage, a particular medical problems and reason for transfer must be documented in the patient's chart prior to his receiving methadone.

§ 7.19. Consideration may be given to discontinuing methadone for participants who have maintained satisfactory adjustment over an extended period of time. In such cases, follow-up evaluation is to be obtained periodically.

Article 7.

Dosage and Dosage Administration.

§ 7.20. All take-home doses of methadone or oral administration in liquid form shall be prepared under the immediate supervision of a licensed pharmacist or physician and shall be in a suitable vehicle formulated to minimize misuse by parenteral and accidental ingestion.

§ 7.21. Take-home medication shall be labeled under the direct supervision of the pharmacist or physician.

§ 7.22. All methadone for outpatient use shall be dispensed in containers whose composition is chemically and physically compatible with methadone and its vehicle so as to maintain the integrity and effectiveness of the container and its contents. These containers shall be glass, light resistant and tightly closed with child-resistant effectiveness of not less than 85% without a demonstration and not less than 80% after a demonstration of the proper means of opening such special packaging.

§ 7.23. Methadone shall be administered by a physician licensed and registered under state and federal law to prescribe narcotic drugs for patients or by an agent of the physician supervised by and pursuant to the order of the physician. Such agent shall be limited to a pharmacist, a registered nurse, or a practical nurse, all licensed by the Commonwealth of Virginia. The licensed physician assumes responsibility for the amounts of methadone administered or dispensed. All changes in dosage schedule shall be recorded and signed by the physician.

Article 8.

Maintenance Treatment.

§ 7.24. The usual initial dose is 20-40 milligrams. Subsequently, the dosage may be adjusted individually as tolerated and required to a maintenance level of approximately 40-120 milligrams daily.

§ 7.25. For daily dosages above 100 milligrams patients shall ingest medication under observation six days per week. These patients may be allowed take-home medication for one day per week only.

§ 7.26. A daily dose of 100 milligrams or more shall be justified in the medical record. For daily dosages above 100 milligrams or, for take-home doses above 100 milligrams per day, prior approval shall be obtained from the State Methadone Authority.

Article 9.

Frequency of Attendance.

§ 7.27. For detoxification, the drug will be administered daily under close observation.

§ 7.28. For maintenance initially, the patient shall receive the medication under observation daily for at least six days a week.

§ 7.29. In maintenance treatment, after demonstrating satisfactory adherence to the program requirements for at least three months by participating actively in the program activities or by participating in educational, vocational and homemaking activities, those patients whose employment, education or homemaking responsibilities would be hindered by daily attendance may be permitted to reduce to three times weekly the time when they must ingest the drug under observation. Such patients shall receive no more than a two day take-home supply.

Article 10.

Take-home Medications.

§ 7.30. With continuing adherence to the program's requirements and progressive rehabilitation for at least two years after entrance into the program, such patients may be permitted twice weekly visits to the facility for methadone ingestion under observation with a three day take-home supply.

§ 7.31. Prior to reducing the frequency of visits, documentation of the patient's progress and the need for reducing the frequency of visits shall be recorded in the patient's record.

§ 7.32. Additional take-home medication may be provided at the discretion of the medical director in exceptional circumstances such as illness, family crisis or necessary travel where hardship would result from requiring the customary daily observed medication intake for the specific period in question. However, under no

circumstances shall take home dosage exceed a two-week supply.

Article 11. Security Measures.

§ 7.33. Security measures shall be taken to prevent diversion of methadone into illicit channels. Stocks of methadone shall be kept at the minimum quantity consistent with the needs of the patient population. Security measures shall be outlined by the program director in the license application form.

Article 12. Patient Records.

§ 7.34. Director of accredited methadone programs are required to maintain detailed patient records which shall include but not be limited to:

- [1.] Preliminary intake interview;
2. Social history;
3. Physical and psychological evaluation;
4. Patient consent form;
5. Current treatment plan accompanied by progress recordings. Initial treatment plan shall be documented in each patient's record within four weeks after admission;
6. Laboratory report;
7. Amount of methadone administered or dispensed;
8. Results of urinalysis;
9. Patient attendance record;
10. Detailed account of any adverse reaction, deaths, premature births, or adverse reactions displayed by a newborn which, in the opinion of the attending physician, are due to methadone shall be reported within one month to the Food and Drug Administration and State Methadone Authority on Form FD-1639 "Drug Experience Report";
11. An evaluation of the patient's treatment and progress shall be carried out at least quarterly by the primary counselor. A review of client progress by clinical staff supervisors or consultants will be undertaken at least semi-annually. These evaluations shall be documented in the patient's records.

Article 13. Program Records.

§ 7.35. Each licensed methadone facility shall be registered with the Drug Enforcement Administration

under the category which applies to its business activity.

§ 7.36. Methadone shall be obtained only by use of DEA Form 222 from a Drug Enforcement Administration registered manufacturer or wholesaler and delivered directly to the facility or procured by the program pharmacist from the wholesaler.

§ 7.37. The facility shall keep accurate records of receipt and disbursement as required by the Drug Enforcement Administration and the Virginia State Board of Pharmacy.

Article 14. Confidentiality of Patient Records.

§ 7.38. Disclosure of patient records maintained by any facility shall be governed by 42 CFR Part 2 of the Code of Federal Regulations [~~(7/1/75)~~ (6/9/87)] and every program shall comply with the provisions contained therein. Records relating to the receipt, storage, and distribution of narcotic medication shall also be subject to inspection as provided by federal and state controlled substances laws; but use or disclosure of records identifying patients shall be limited to actions involving the facility or its personnel.

§ 7.39. Every licensed facility may protect the privacy of patients therein by withholding from all persons not employed by such facility or otherwise connected with the conduct of the facility operations, the names or other identifying characteristics of such patients where the facility director has reasonable grounds to believe that such information may be used to conduct any criminal investigation or prosecution of the patient. Facilities may not be compelled in any federal, state or local, civil, criminal, administrative or other proceedings to furnish such information. This does not require the withholding of information authorized to be furnished pursuant to 42 CFR Part 2, nor does it invalidate any legal process to compel the furnishing of information in accordance with 42 CFR Part 2. Furthermore, a licensed facility shall permit a duly authorized employee of the Food and Drug Administration or the State Methadone Authority to have access to and copy all records relating to the use of methadone in accordance with the provisions of 42 CFR Part 2 and shall reveal them only when necessary in a related administrative or court proceeding.

§ 7.40. The following records are to be maintained on file at a license methadone treatment facility:

1. FD-2632 Application for approval of use of methadone in a treatment program;
2. FD-2633 Medical responsibility statement for use of methadone in a treatment program;
3. FD-2634 Annual report for treatment program using methadone NDATUS;
4. FD-2636 (if hospital) Hospital request for

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methadone for detoxification treatment;

5. FD-1639 Drug Experience Report.

Article 15. Evaluation.

§ 7.41. Evaluation of the safety of methadone administered over prolonged periods of time is to be based on results of physical examinations, laboratory examinations, adverse reactions, and results of special procedures when such have been carried out.

§ 7.42. Evaluation of effectiveness of rehabilitation is to be based upon, but not limited to, such criteria as:

1. Social adjustment verified whenever possible by family members of other reliable persons;
2. Withdrawal from methadone and achievement of an enduring drug-free status;
3. Assessment of progress in meeting current treatment plan;
4. Occupational adjustment verified by employees or record of earnings;
5. Extent of drug abuse;
6. Extent of alcohol abuse; and
7. Arrest records.

Article 16.

Special Conditions for Use of Methadone in Hospitals for Detoxification and Treatment.

§ 7.43. The following words and terms, when used in this article, shall have the following meaning, unless the content clearly indicates otherwise:

"Detoxification treatment using methadone" means the administering of methadone as a substitute narcotic drug in decreasing doses to reach a drug-free state in a period not to exceed 21 days in order to withdraw an individual who is dependent on heroin or other morphine-like drugs from the use of such drugs.

"Temporary maintenance treatment" means (i) treatment of an opiate-addicted patient hospitalized for medical or surgical problems other than opiate addiction; and (ii) emergency treatment of an opiate-addicted person on an inpatient or outpatient basis for not more than 72 hours for such addiction.

§ 7.44. Methadone may be administered or dispensed in a hospital in either oral or parenteral form.

§ 7.45. Temporary maintenance treatment may be instituted in a hospital for an opiate-addicted patient for a

medical or surgical problem (other than the addiction) which would be complicated by the patient's not receiving maintenance doses of an opiate. In such instances, the patient may be treated with methadone during the critical period of his hospital confinement. Such patient need not be currently enrolled in a licensed methadone treatment program.

§ 7.46. An opiate-addicted patient may be treated on an emergency inpatient or outpatient basis for not more than 72 hours until he can be admitted to a licensed methadone treatment facility. This 72 hour emergency treatment may be given to a patient who has no medical or surgical problem other than opiate addiction. This treatment shall not be renewed or extended for any given patient. Methadone shall be dispensed and administered daily by the hospital. No take-home doses shall be allowed for this treatment regimen.

§ 7.47. If the hospital is located in the same locality as a licensed methadone treatment facility, the facility may provide the methadone for a patient who is hospitalized for treatment for a condition other than narcotic addiction and who is presently enrolled in the methadone treatment program, provided:

1. A licensed practitioner from the facility (registered nurse, pharmacist, physician or licensed practical nurse) shall administer the methadone directly to the patient on a daily basis.

2. No hospital personnel shall administer the methadone to the patient if the methadone facility's drug supply is used.

3. The facility shall not leave a stock of doses for the patient within the hospital. The hospital may use its own stock of methadone in any available formulation if it so elects. Medical personnel within the hospital may then administer the drug to the patient.

4. Hospitals which wish to provide detoxification or maintenance of an opiate addicted persons who has been admitted solely for his addiction problem shall submit FDA Form 2636, "Hospital Request for Methadone for Analgesia in Severe Pain, and Detoxification and Temporary Maintenance Treatment" as well as registering with the Drug Enforcement Administration on Form DEA 363 "New Application for Registration Under Narcotic Addict Treatment Act of 1974."

* * * * *

Title of Regulation: VR 470-02-11. Rules and Regulations for the Licensure of Residential Facilities.

Statutory Authority: §§ 37.1-10 and 37.1-179 of the Code of Virginia

Effective Date: July 1, 1988

Summary:

Under the current definitions in the Code of Virginia (§ 37.1-179 et seq.), the Department of Mental Health, Mental Retardation and Substance Abuse Services is responsible for the licensure of facilities and institutions providing care or treatment to mentally ill, mentally retarded and substance abusing persons.

The term "residential facility" includes with certain exceptions any publicly or privately owned facility or institution by whatever name or designation which provides 24 hour domiciliary or residential care or treatment for four or more adult mentally ill, mentally retarded, or substance abusing persons including the detoxification, treatment or rehabilitation of drug addicts through the use of the controlled drug methadone, including special residential schools, halfway houses, residential treatment centers, substance abuse treatment and rehabilitation facilities, domiciliary facilities, shelter care facilities, group homes and any other similar or related facility.

These regulations articulate the minimum requirements for licensure of residential facilities providing care or treatment in order to protect the health and safety of mentally ill, mentally retarded and substance abusing clients in residential facilities and to assure that they receive services that are appropriate to meet their identified needs.

These regulations are comprised of the following issues which have impact on residential facilities subject to licensure:

Organization and administration, personnel, residential environment, programs and services, disaster or emergency plans, and special requirements for residential methadone treatment facilities.

Changes in response to public comment include clarifying certain definitions; providing technical amendments to various regulations to achieve consistency with other departmental regulations and requirements such as human rights regulations, "core services definitions," and standard data elements for statistical reporting; revising certain licensing procedures to enhance their efficiency and to reduce unnecessary burdens for licensees; and revising other requirements to make them more consistent with current standards of practice and operational realities.

These are new regulations that will replace the repealed Rules and Regulations for the Licensure of Group Homes and Halfway Houses and the repealed Rules and Regulations for the Licensure of Substance Abuse Treatment and Rehabilitation Facilities.

VR 470-02-11. Rules and Regulations for the Licensure of Residential Facilities.

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PART I. INTRODUCTION.

Article I. Definitions.

§ 1.1. The following words and terms, when used in these regulations, shall have the following meaning, unless the context clearly indicates otherwise:

"Advocate" means a person or persons appointed by the commissioner after consultation with the State Human Rights Director and the Local Human Rights Committee who exercise the duties set forth in Part III of the Rules and Regulations to Assure the Rights of Residents of Facilities Operated by the Department of Mental Health [and ,] Mental Retardation [and Substance Abuse Services].

["Alcoholic" means a person who: (i) through the use of alcohol has become dangerous to the public or himself; or (ii) because of such alcohol use is medically determined to be in need of medical or psychiatric care, treatment, rehabilitation, or counseling.]

"Allegation" means an accusation that a facility is operating without a license.

["Alternative day support arrangements" means day support alternatives other than programs that provide day treatment/partial hospitalization, psychosocial rehabilitation,

extended sheltered employment or work activity, adult developmental/activity center/developmental day programming for adults, education, recreation, or supported or transitional employment, which assist clients in locating day support settings and may provide program staff, follow along, or assistance to the clients. The focus may be on assistance to the client to maintain the independent day support arrangement.]

"Ambulatory detoxification [~~services program~~]" means a program [~~/service~~] provided [in a day treatment/partial hospitalization system or] in an outpatient facility to people under the influence of intoxicants that provides a safe place to withdraw from such intoxicants, but the term "ambulatory detoxification [~~services program~~]" does not include detoxification and treatment with the controlled drug methadone (see Part VII). Trained staff are present to monitor withdrawal. People who experience medical complications are sent to a hospital emergency room [or other appropriate medical facility]. Clients may be referred to an outpatient substance abuse facility or to an intermediate care facility when appropriate.

"Applicant" means the person, corporation, partnership, association or public agency which has applied for a license.

"Behavior management" means planned and systematic use of various techniques selected according to group and individual differences of the residents and designed to teach awareness of situationally appropriate behavior, to strengthen desirable behavior, and to reduce or to eliminate undesirable behavior. (The term is consistently generic and is not confined to those techniques which derive specifically from behavior therapy, operant conditioning, etc.)

"Board" means the State Mental Health [and ,] Mental Retardation [and Substance Abuse Services] Board.

"Case record" or "Record" means written information assembled in one folder or binder relating to one individual. This information includes social and medical data, agreements, notations of ongoing information, service plan with periodic revisions, aftercare plans and discharge summary, and any other data related to the resident.

"Child" means any person legally defined as a child under state law.

"Client" means [~~mentally ill or mentally retarded persons, or persons addicted to the intemperate use of narcotic drugs, alcohol or other stimulants~~ a person receiving treatment or other services from a program, facility, institution or other entity licensed under these regulations whether that person is referred to as a patient, resident, student, consumer, recipient or another term].

"Commissioner" means the Commissioner of Mental Health [and ,] Mental Retardation [and Substance Abuse

Services].

"Complaint" means an accusation against a licensed facility regarding an alleged violation of regulations or law.

"Corporal punishment" means the inflicting of pain or discomfort to the body through actions such as but not limited to striking or hitting with any part of the body or with an implement; or through pinching, pulling, or shaking; or through any similar action which normally inflicts pain or discomfort.

"Day off" means a period of not less than 32 consecutive hours during which a staff person has no responsibility to perform duties related to the facility. Each successive day off immediately following the first shall consist of not less than 24 additional consecutive hours.

["Day support program" means any publicly or privately operated facility, institution or other entity which provides a planned program of treatment or training interventions generally of more than three consecutive hours duration to mentally ill, mentally retarded, or substance abusing persons. Day support program services may include the detoxification, treatment or rehabilitation of drug addicts through the use of the controlled drug methadone. These interventions are provided in a nonresidential setting and focus on the treatment of pathological conditions or on the training or strengthening of client abilities to deal with everyday life. The term "day support program" does not include entities whose primary function is to provide:

1. Extended sheltered employment or work activity programs;
2. Supported or transitional employment programs;
3. Alternative day support arrangements;
4. Educational programs;
5. Recreational programs;
6. Outpatient facilities licensed pursuant to the provisions of Chapter 8 (§ 37-1.179 et seq.) of Title 37.1 of the Code of Virginia; or
7. Day treatment/partial hospitalization programs provided by psychiatric hospitals licensed pursuant to the provisions of Chapter 8 (§ 37.1-179 et seq.) of Title 37.1 of the Code of Virginia, provided that such day treatment/partial hospitalization programs are situated on the same premises as the psychiatric hospital so licensed.]

"Department" means the Department of Mental Health [and ,] Mental Retardation [and Substance Abuse Services]

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"Detoxification facility" means a residential facility or a portion thereof that is licensed under these regulations as a nonhospital medical detoxification [~~service; a sobering-up shelter service program~~] or a social detoxification [~~service program~~], but does not include a hospital based medical detoxification [~~service program~~] or an inpatient substance abuse facility as defined in these regulations.

"Drug addict" means a person who: (i) through the use of habit forming drugs or other drugs enumerated in the Virginia Drug Control Act (§ 54-524.1 et seq.) as controlled drugs, has become dangerous to the public or himself; or (ii) because of such drug use, is medically determined to be in need of medical or psychiatric care, treatment, rehabilitation or counseling.

"Facility" or "institution" means any facility not operated by an agency of the federal government by whatever name or designation which provides care or treatment for mentally ill [~~or,~~] mentally retarded [~~persons; or persons addicted to the imtemperate use of narcotic drugs, alcohol or other stimulants~~], or substance abusing persons] including the detoxification, treatment or rehabilitation of drug addicts through the use of the controlled drug methadone. Such institution or facility shall include a hospital as defined in subsection 1 of § 32.1-123 of the Code of Virginia, outpatient clinic, special school, halfway house, home and any other similar or related facility.

["Group practice" means one or more practitioners of the healing arts or practitioners of the behavioral science professions who are individually licensed under the provisions of Title 54 of the Code of Virginia and their employees who are individually licensed under the provisions of Title 54 of the Code of Virginia or who are otherwise legally authorized to render professional services within this Commonwealth, who have for purposes of convenience or efficiency associated or grouped themselves through the use of shared office space or administrative support in order to provide professional services within the scope and limits of their individual and respective professional licenses, whether the association is informal or has been formalized through an organization such as a professional association organized pursuant to the provisions of Chapter 25 (§ 54-873 et seq.) of Title 54 of the Code of Virginia, a professional corporation organized pursuant to the provisions of Chapter 7 (§ 13.1-542 et seq.) of Title 13.1 of the Code of Virginia, or a general partnership organized under the provisions of Chapter 1 (§ 50-1 et seq.) of Title 50 of the Code of Virginia.]

"Hospital" or "hospitals" when not modified by the words "state" or "private" means both state hospitals and private hospitals devoted to or with facilities for the care and treatment of mentally ill, mentally retarded or substance abusing persons.

"Hospital-based medical detoxification [~~service program~~]" means a program [~~service~~] which offers medical

treatment to persons suffering from alcohol or other drug intoxication. This service is provided in a hospital under the direction of a physician and hospital staff and is designed to monitor and control medical complications and other disorders which may be associated with withdrawal.

"Human research" means any medical or psychological [~~investigation designed to develop or contribute to general knowledge and research~~] which utilizes human subjects who may be exposed to the possibility of physical or psychological injury as a consequence of participation as subjects and which departs from the application of those established and accepted methods appropriate to meet the subjects' needs but does not include:

1. The conduct of biological studies exclusively utilizing tissue [~~of or~~] fluids after their removal or withdrawal from [a] human subject in the course of standard medical practice;
2. Epidemiological investigations; or
3. Medical treatment of an experimental nature intended to save or prolong the life of the subject in danger of death, to prevent the subject from becoming disfigured or physically or mentally incapacitated [~~or to improve the quality of the subject's life~~].

"Individualized service plan" means a written plan of action developed, and modified at intervals, to meet the [~~unique~~] needs of each resident. It specifies short and long-term goals, the methods and time frames for reaching the goals and the individuals responsible for carrying out the plan.

"Inpatient substance abuse facility" means an organization established to provide effective intervention [~~in a hospital setting~~] for substance abuse by providing medical detoxification and by treating the medical and psychiatric complications of substance abuse through an organized medical and professional staff, with continuous nursing service at the hospital level of care, when such organized plan of substance abuse services can be separately identified.

["~~Intermediate care substance abuse facility~~" means an organization established to provide a continuous, structured residential program of services including assessment, counseling, vocational and social rehabilitation for four or more substance abusing persons. This type of facility provides full-time residential treatment services and is exemplified by therapeutic communities and residential treatment centers.]

"Intrusive aversive therapy" means a formal behavior modification technique designed to reduce or eliminate severely maladaptive, violent or self-injurious behavior through the application of noxious or painful stimuli contingent upon the exhibition of such behavior. The term shall not include actions defined in these regulations as corporal punishment, nor does it include verbal therapies,

seclusion, physical or mechanical restraints used in conformity with the applicable human rights regulations promulgated pursuant to § 37.1-84.1 of the Code of Virginia, or psychotropic medications which are not used for purposes of intrusive aversive therapy.

"Licensee" means the person, corporation, partnership, association, or public agency to whom a license is issued and who is legally responsible for compliance with the regulations and statutory requirements relating to the facility.

"Local human rights committee" means a committee of at least five members broadly representative of professional and consumer groups appointed by the State Human Rights Committee for each group of community services board or licensed organization after consultation with the commissioner, and whose responsibility shall be to perform the functions specified in applicable human rights regulations. Except where otherwise provided, the term "Local human rights committee" shall mean this body or any subcommittee thereof.

"Mechanical restraint" means the application of machinery or tools as a means of physically restraining or controlling a resident's behavior, such as handcuffs, straitjackets or shackles but not including bed straps, bed rails, slings and other devices employed to support or protect physically incapacitated residents.

"Mental retardation" means substantial subaverage general intellectual functioning which originates during the developmental period and is associated with impairment in adaptive behavior.

"Nonhospital medical detoxification [service program]" means a program [/service] which provides a medically supervised withdrawal from alcohol or other drug intoxication in a nonhospital setting. Twenty-four hour nursing care and the services of on-call physicians are available. Services include medical screening and evaluation, basic laboratory analysis, physical exams and chemotherapy, as ordered by a physician. Medical referrals are made as necessary. Case management including referral to further residential or outpatient treatment is available.

"On duty" means that period of time during which a staff person is responsible for the care and supervision of one or more residents.

"Outpatient facility" means any publicly or privately owned institution, establishment or other entity by whatever name or designation which provides a variety of treatment interventions [which individually are generally] of less than three consecutive hours duration for mentally ill [or ,] mentally retarded [persons, or persons addicted to the intemperate use of narcotic drugs, alcohol or other stimulants , or substance abusing persons] including the detoxification, treatment or rehabilitation of drug addicts through the use of the controlled drug methadone. These

interventions are provided in a nonresidential setting to individuals, groups and families and include but are not limited to emergency services, crisis intervention, [diagnosis and evaluation,] counseling, psychotherapy, behavior management, chemotherapy, ambulatory detoxification, and methadone detoxification and maintenance. The term outpatient facility [does not include specifically includes] the treatment rooms or offices used to provide the services of: [(i) a facility providing a program of outpatient services operated by a community mental health, mental retardation and substance abuse services board established pursuant to Chapter 10 (§ 37.1-194 et seq.) of Title 37.1 of the Code of Virginia; (ii) a facility providing a program of outpatient services funded wholly or in part, directly or indirectly, by a community mental health, mental retardation and substance abuse services board established pursuant to Chapter 10 (§ 37.1-194 et seq.) of Title 37.1 of the Code of Virginia; (iii) a facility providing a program of outpatient services to substance abusing persons including the detoxification, treatment or rehabilitation of drug addicts through the use of the controlled drug methadone; or (iv) a facility providing a program of outpatient services that is owned, operated, or controlled by a corporation organized pursuant to the provisions of either Chapter 9 (§ 13.1-601 et seq.) or Chapter 10 (§ 13.1-801 et seq.) of Title 13.1 of the Code of Virginia. The term outpatient facility does not include the treatment rooms or offices used to provide the services of:

[1. Professional associations organized by three or more practitioners of the same healing art or by three or more psychologists under the provisions of Chapter 25 (§ 54-873 et seq.) of Title 54 of the Code of Virginia for the sole and specific purpose of rendering the same and specific professional service; provided that the associates and any employees of the association who render professional services on behalf of the association are individually licensed under the provisions of Title 54 of the Code of Virginia to practice the same healing art or to practice psychology;

2. Professional corporations organized by one or more practitioners of the same healing art or by practitioners of the same behavioral science profession under the provisions of Chapter 7 (§ 13.1-542 et seq.) of Title 13.1 of the Code of Virginia for the sole and specific purpose of rendering the same and specific professional service; provided that the shareholders and any employees of the professional corporation who render professional services on behalf of the professional corporation are individually licensed under the provisions of Title 54 of the Code of Virginia to practice the same healing art or to practice the same behavioral science profession;

3. General partnerships formed under the provisions of Chapter 1 (§ 50-1 et seq.) of Title 50 of the Code of Virginia by two or more individual practitioners of the same healing art or of the same behavioral science

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profession for the sole and specific purpose of rendering the same and specific professional service, provided that the partners and any employees of the general partnership who render professional services on behalf of the general partnership are individually licensed under the provisions of Title 54 of the Code of Virginia to practice the same healing art or to practice the same behavioral science profession;]

[4. 1.] Individual practitioners of the healing arts licensed under the provisions of Chapter 12 (§ 54-273 et seq.) of Title 54 of the Code of Virginia;

[5. 2.] Individual practitioners of the behavioral science professions licensed under the provisions of Chapter 28 (§ 54-923 et seq.) of Title 54 of the Code of Virginia;

[6. 3.] Psychiatric hospitals licensed pursuant to the provisions of Chapter 8 (§ 37.1-179 et seq.) of Title 37.1 of the Code of Virginia, provided that such treatment rooms or offices are situated on the same premises as the psychiatric hospital so licensed; [or]

[4. Group practices as defined in these regulations; or]

[7. 5.] Day support programs licensed pursuant to the provisions of Chapter 8 (§ 37.1-179 et seq.) of Title 37.1 of the Code of Virginia.

["Outpatient substance abuse facility" means an establishment which provides in a nonresidential setting a variety of services to substance abusing persons and their families including assessment, direct substance abuse treatment services which the facility's organization can itself provide, and indirect treatment services which the facility's organization secures through referral, on both a scheduled and unscheduled basis.]

"Patient" or "resident" means a person voluntarily or involuntarily admitted to or residing in a facility licensed pursuant to the provisions of Chapter 8 (§ 37.1-179 et seq.) of Title 37.1 of the Code of Virginia.

"Physical restraint" means any act by the facility or staff which exercises the use of physical confrontation or force with residents as a method or technique of managing harmful resident behavior.

"Premises" means the tract(s) of land on which any part of a residential facility is located and any buildings on such tract(s) of land.

"Private hospital" means a hospital or similar institution which is not operated by [the department any state or federal agency] and is duly licensed pursuant to the provisions of § 37.1-179 et seq. [; of the] Code of Virginia and includes psychiatric wards of general hospitals.

"Private institution" means an establishment which is

not operated by [the department any state or federal agency] and which is licensed pursuant to the provisions of § 37.1-179 et seq. of the Code of Virginia.

"Professional service" means any type of personal service to the public which requires as a condition precedent to the rendering of such service or use of such title the obtaining of a license, certification or other legal authorization from a state examining board issued under the provisions of Title 54 of the Code of Virginia [; except that the phrase "rendering the same and specific professional service" as used in these regulations in the exclusions from the term "outpatient facility" shall not be interpreted to prohibit such excluded professional associations, professional corporations, and general partnerships from employing such person to assist in rendering the sole and specific professional service for which such entities are organized such as: (i) professional nurses and licensed practical nurses licensed pursuant to the provisions of Chapter 13.1 (§ 54-367.1 et seq.) of Title 54 of the Code of Virginia; (ii) physical therapists licensed pursuant to the provisions of Chapter 12 (§ 273 et seq.) of Title 54 of the Code of Virginia; or (iii) clerks, secretaries, bookkeepers, technicians and other assistants who are not usually and ordinarily considered by custom and practice to be rendering professional service to the public for which a license or other legal authorization is required.]

"Program" means a combination of procedures or activities carried out in order to meet a specific goal or objective.

"Punishment" means the use of an aversive event or the removal of a positive event following a behavior which decreases, or is intended to decrease the probability of that behavior. This includes a pain, loss, or penalty inflicted for a fault or mistake.

"Regional Advocate" means a person or persons who perform the functions set forth in Part IV of the Rules and Regulations Assuring the Rights of Clients in Community Programs and who are appointed by the commissioner after consultation with the State Human Rights Director.

"Rehabilitation" means assistance provided for [a disabled an] individual [with a disability] to return to his fullest potential in occupational, social and psychological life by reducing the residual effects of his [handicapping condition disability].

"Resident" means a person admitted to a residential facility for supervision, care, training or treatment on a 24 hour basis. For the purpose of these regulations, the words "resident" and "client" are used interchangeably.

"Residential facility" means any publicly or privately owned facility or institution by whatever name or designation which provides 24 hour domiciliary or residential care or treatment for four or more mentally ill [or ,] mentally retarded [persons, or persons addicted to

the intemperate use of narcotic drugs, alcohol or other stimulants, or substance abusing persons] including the detoxification, treatment or rehabilitation of drug addicts through the use of the controlled drug methadone, including special residential schools, halfway houses, residential treatment centers, substance abuse treatment and rehabilitation facilities, domiciliary facilities, shelter care facilities, group homes and any other similar or related facility except:

1. A residential facility operated by an agency of the federal government;
2. A private family home;
3. A hospital as defined in subsection 1 of § 32.1-123 of the Code of Virginia serving mentally ill persons;
4. A hospital-based medical detoxification [service program] ; an inpatient substance abuse facility; [or] an outpatient substance abuse facility using the controlled drug methadone for the detoxification, treatment or rehabilitation of drug addicts [; or a screening and referral facility (substance abuse)] as these facilities are defined in these regulations [; ;]
5. A facility or portion of a facility licensed by the State [Board Department] of Social Services [; ;]
6. A facility or portion of a facility licensed by the State [Board Department] of Health [; ;]
7. A facility or portion of a facility which provides domiciliary or residential care to children [; ;]
8. A residential respite care/emergency [shelter services] facility;
- [9. Woodrow Wilson Rehabilitation Center; or
10. A supported residential program as defined in these regulations.]

["Residential respite care/emergency services" means the provision of periodic residential care for periods not to exceed 21 consecutive days duration for crisis stabilization, emergency care or to provide temporary relief to parents/guardians from responsibility for the direct care of the adult client.]

"Residential respite care/emergency [shelter services] facility" means a facility that is specifically approved to provide periodic residential respite care/emergency [shelter] services for four or more [persons mentally ill, mentally retarded, or substance abusing residents] but does not include:

1. A residential facility as defined in these regulations;
2. A residential facility operated by an agency of the federal government;

3. A private family home;

4. A hospital as defined in subsection 1 of § 32.1-123 of the Code of Virginia serving mentally ill persons;

5. A hospital-based medical detoxification [service program] ; an inpatient substance abuse facility; [or] an outpatient substance abuse facility using the controlled drug methadone for the detoxification, treatment or rehabilitation of drug addicts [; or a screening and referral facility (substance abuse)] as these facilities are defined in these regulations [; ;]

6. A facility or portion of a facility licensed by the State [Board Department] of Social Services [; ;]

7. A facility or portion of a facility licensed by the State [Board Department] of Health [; ;]

8. A facility or portion of a facility which provides domiciliary or residential care to children; or

9. A supported residential program as defined in these regulations.

["Residential respite care/emergency services" means the provision of periodic residential care for periods not to exceed 21 consecutive days duration for crisis stabilization, emergency care or to provide temporary relief to parents/guardians from responsibility for the direct care of the client.]

["Residential service system" means a service component of a licensed supported residential program as defined in these regulations which provides sponsored placement and supportive services to clients in: (i) supervised apartments operated by the supported residential program; (ii) specialized foster care placements provided in private family homes; (iii) residential respite care/emergency services facilities; (iv) contracted beds in licensed residential facilities; or (v) supported independent settings.]

"Right" means that to which one has a natural [; or] legal [or moral] claim.

["Sanitize" means to wash or rinse with water containing a laundry bleach with an active ingredient of 5.25% sodium hypochlorite. The amount of bleach used may be in accordance with manufacturer's recommendation on the package.

"Screening and referral facility (substance abuse)" means an organization which provides services in a nonresidential setting to determine the type and extent of the substance abuse problem of the individual seeking help and which is conducted by persons competent to make such judgments and to direct, guide and link the recipient to other appropriate services and follow-up on services rendered.]

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"Seclusion" means confining a resident in a room with the door secured in any manner that will prohibit the resident from opening it.

"Severe weather" means extreme environmental or climatic conditions which pose a threat to the health, safety or welfare of residents.

["~~Sobering-up shelter service~~" means a residential program/service offered to people under the influence of intoxicants that provides a safe place to "sleep it off." Trained staff are present to monitor withdrawal. People who experience medical complications are sent to a hospital emergency room. Outpatient or intermediate care facility referral may be available.]

"Social detoxification [service program]" means a residential [program/service program] which enables intoxicated persons to safely withdraw from the effects of intoxicants. Trained staff are present to monitor vital signs. People who experience medical complications are sent to a hospital emergency room [or other appropriate medical facility]. The [program/service program] does not prescribe medication although clients may remain on prescription drugs while in the program if a physician authorizes the use of such drugs. Clients participating in social detoxification services receive supervised care during withdrawal followed by alcohol [or drug] education, an opportunity to attend [~~Alcoholics Anonymous~~] meetings [of self help groups such as Alcoholics Anonymous] and individual and group counseling. Case management including referral to further residential or outpatient treatment is available.

["Specialized foster care" means the provision of care to clients in private family homes in which family members have been specially trained in the characteristics and needs of such clients and techniques for meeting those needs in private family home settings.]

"Standard" means a statement which describes in measurable terms a required minimum performance level.

"State hospital" means a hospital, training school or other such institution operated by the department for the care and treatment of the mentally ill or mentally retarded.

"State human rights committee" means a committee of nine members appointed by the board pursuant to the Rules and Regulations to Assure the Rights of Residents of Facilities Operated by the Department of Mental Health [and ,] Mental Retardation [and the Rules and Regulations to Assure the Rights of Clients in Community Programs and Substance Abuse Services] whose responsibility it shall be to perform the functions specified in those regulations [and the Rules and Regulations to Assure the Rights of Clients in Community Programs] . The term "state human rights committee" includes any subcommittee thereof.

"Substance abuse" means the use, without compelling medical reason, of any substance which results in psychological or physiological dependency as a function of continued use in such a manner as to induce mental, emotional or physical impairment and cause socially dysfunctional or socially disordering behavior.

["Substance abusing person" means a person who uses, without compelling medical reason, any substance which results in psychological or physiological dependency as a function of continued use in such a manner as to induce mental, emotional or physical impairment and cause socially dysfunctional or socially disordering behavior. This term includes persons addicted to the intemperate use of narcotic drugs, alcohol or other stimulants as well as such substances as cannabis, cocaine, hallucinogens, inhalants, PCP, and sedatives.]

"Substantial compliance" means a demonstration by a facility of full compliance with sufficient applicable regulations to clearly demonstrate that its program and physical plant can provide reasonably safe and adequate care while approved plans of action to correct findings of noncompliance are being implemented.

["Supervised apartment" means a single unit housing three or fewer clients both with and without residential staff who provide 24 hour domiciliary or residential care or treatment or a single unit housing four or more clients without residential staff who provide 24 hour domiciliary or residential care or treatment that is owned, rented, leased, or otherwise controlled by a licensed supported residential program in which its clients are placed and provided with supportive services. The licensed supported residential program is responsible for the selection, inspection, approval and monitoring of such units with respect to building safety, maintenance, repair, fire safety and sanitation, including the solicitation of inspections and approvals for such units by local building, fire and health authorities when required, but such units shall not be required to be individually licensed by the department.

"Supported independent living settings" means a variety of residential alternatives that are owned, rented or leased directly by clients who are being provided with supportive services by a licensed supported residential program. The licensed supported residential program may provide assistance to clients in their selection of such residential alternatives, but such units shall not require the formal approval of the licensed supported residential program, nor shall such units be required to be individually licensed by the department.]

"Supported residential program" means any publicly or privately operated facility, institution or other entity which provides placement, domiciliary care, residential respite care/emergency [shelter] services or supportive services in supported residential settings to mentally ill [or ,] mentally retarded [, or substance abusing] persons [or persons addicted to the intemperate use of narcotic drugs, alcohol or other stimulants.] Supported residential settings

may include (i) residential respite care/emergency [shelter services] facilities, (ii) residential service systems which sponsor a number of single housing units for three or fewer persons such as supervised apartments or specialized [adult] foster care provided in private family homes, [or] (iii) contracted beds in licensed residential facilities [, or (iv) supported independent living settings] . The term supported residential program does not include:

1. A residential facility operated by an agency of the federal government;
2. A residential facility as defined in these regulations;
3. A hospital as defined in subsection 1 of § 32.1-123 of the Code of Virginia serving mentally ill persons;
4. A hospital-based medical detoxification [service program] ; an inpatient substance abuse facility; [or] an outpatient substance abuse facility using the controlled drug methadone for the detoxification, treatment or rehabilitation of drug addicts [; or a screening and referral facility (substance abuse)] as these facilities are defined in these regulations.
5. A facility or portion of a facility licensed by the State [Board Department] of Social Services.
6. A facility or portion of a facility licensed by the State [Board Department] of Health.

[7. A facility or portion of a facility which provides domiciliary or residential care to children; or

[8. 7.] A residential respite care/emergency [shelter services] facility [as defined in these regulations] ; or

[9. 8.] A program or service provided by a local department of welfare/social services.

["Supported residential settings" means (i) residential respite care/emergency services facilities, (ii) residential service systems which sponsor a number of single housing units for three or fewer persons such as supervised apartments or specialized foster care provided in private family homes, (iii) contracted beds in licensed residential facilities, or (iv) supported independent living settings.

"Supportive services" means a variety of interventions provided to clients in community-based residential settings to enhance their ability to adjust to and maintain their residence in those settings. Such supportive services may include financial assistance, case management, training or assistance in activities of daily living, homemaker services, vocational assistance, crisis intervention or similar assistance but does not include interventions which are part of active, ongoing treatment.]

"Time-out procedure" means a systematic behavior management technique designed to reduce or eliminate

inappropriate behavior by temporarily removing a resident from contact with people or other reinforcing stimuli through confining the resident alone to a special time-out room that is unfurnished or sparsely furnished and which contains few reinforcing environmental stimuli. The time-out room shall not be locked nor the door secured in any manner that will prohibit the resident from opening it.

["Transitional domiciliary substance abuse facility" means a facility which provides an organized program of domiciliary and supportive services; to four or more substance abusing persons unrelated by birth or marriage, and such services are administered according to the degree of transitional needs of service recipients. As distinguished from the intermediate care facility, this type of facility provides part-time residential treatment services as exemplified by halfway houses, quarterway houses, and other community residential facilities wherein the resident may leave the facility for part of the day for work training, education or other community based services.]

"Treatment" means any [individually planned] intervention which [helps is intended to help] a person in the reduction or amelioration of disability, discomfort, symptoms, disorders or undesirable changes or conditions specific to physical, mental, behavioral or social functioning.

Article 2. Legal Base.

§ 1.2. Pursuant to § 37.1-179 et seq. of the Code of Virginia, no person shall establish, conduct, maintain or operate in this Commonwealth any facility or institution as defined in § 37.1-179 without first being duly licensed, except where such facility or institution is exempt from licensing.

Article 3. Facilities Subject to Licensure Under These Regulations.

§ 1.3. No person shall establish, conduct, maintain or operate in this Commonwealth any residential facility as defined in § 1.1 of these regulations without first being duly licensed, except where such residential facility is exempt from licensing.

Article 4. General Licensing Requirements.

§ 1.4. All residential facilities shall demonstrate an acceptable level of compliance with these regulations and other applicable statutory requirements and shall submit a plan of corrective action acceptable to the commissioner for remedying within a specified time any noncompliance with these regulations in order to be licensed to operate in this Commonwealth.

Article 5. Separate License Required.

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§ 1.5. A separate license shall be required by facilities, establishments, or institutions maintained on separate premises even though they are operated under the same management. Separate buildings on the same grounds utilized for the same licensed program or activity shall not be required to have separate licenses. In the event alterations or additions increase the bed capacity of a facility, approval by the commissioner and a new or modified license shall be obtained before beginning operation of the additional space.

Article 6.

Preapplication Consultation Services.

§ 1.6. Upon receipt of an inquiry or a referral, preapplication consultation services will be made available by the licensure office.

§ 1.7. Preapplication consultation may be designed to accomplish the following purposes:

1. To explain regulations and statutes;
2. To help the potential applicant explore the operational demands of a licensed residential facility;
3. To provide assistance in locating sources of information and technical assistance;
4. To refer the potential applicant to appropriate agencies such as the Department of Health, State Fire Marshal, local fire department and local building officials; and
5. To comment, upon request, on plans for proposed construction or on existing property in terms of suitability for the purposes proposed.

Article 7.

Application for License or License Renewal.

§ 1.8. A request for an original application shall be made in writing to the department.

§ 1.9. Application for license or license renewal to establish or maintain a facility shall be made in writing and submitted to the department upon the application forms secured from the department.

§ 1.10. Structural changes in a proposed or existing facility shall not be undertaken until notification has been made to the department and building plans for such structural changes have been approved by the department.

§ 1.11. Written zoning approval or a use permit where required by local jurisdictions shall be a prerequisite for an original license.

§ 1.12. A certificate of use and occupancy or approval from the authorized inspection agency for building code compliance, when applicable, shall be a prerequisite for

original licensure.

[§ 1.13. A check or money order for the license fee, payable to the Treasurer of Virginia, shall be forwarded to the department with the application. The board may fix a reasonable fee not in excess of \$50 for each license issued, and for any renewal thereof.]

§ 1.14. Every facility shall be designated by a permanent and distinctive name and physical location which shall appear on the application for license or license renewal and which shall not be changed without first securing approval of the department. [The facility's distinctive name shall be consistent with its licensed purpose and shall not imply that the facility is providing services for which it is not licensed.]

§ 1.15. Corporations sponsoring residential facilities shall maintain their corporate status in accordance with Virginia law. Corporations not organized and empowered solely to operate residential facilities shall provide for such operations in their charters.

§ 1.16. Corporate applicants shall provide the name and address of the registered agent and a copy of the articles of incorporation.

§ 1.17. Ownership interest shall be made fully known to the department and in the case of corporations, all individuals or entities holding 5.0% or more of total ownership shall be identified by name and address.

§ 1.18. Application for license renewal should be submitted to the department at least 60 days prior to the expiration date.

Article 8.

The License.

§ 1.19. The commissioner may issue a license to a residential facility making application for a license only after he is satisfied that: (i) the program outlined will contribute to the appropriate care, rehabilitation or treatment of clients; (ii) the applicant meets all applicable health, safety, sanitation, building and zoning requirements, either local or state; (iii) the applicant substantially complies with all provisions of these regulations; and (iv) the applicant has submitted a plan of corrective action acceptable to the commissioner for remedying with a specified time any noncompliance with these regulations.

§ 1.20. The commissioner may issue to a facility or institution that has fulfilled the conditions listed in § 1.19 of this regulation a full license that is effective for any period not to exceed two years from its date of issuance, unless it is revoked or surrendered sooner.

§ 1.21. The commissioner at his discretion may issue a conditional license to operate a new facility or institution in order to permit the applicant to demonstrate compliance with all applicable requirements. Such a

conditional license may be renewed, but such conditional license and any renewals thereof shall not exceed a period of six successive months, unless it is revoked or surrendered sooner.

§ 1.22. The commissioner may issue a provisional license to a facility or institution which has previously been fully licensed when such facility or institution is temporarily unable to comply with all licensing regulations. Such provisional license may be issued for any period not to exceed ninety days and shall not be renewed.

§ 1.23. The terms of any license issued shall include: (i) the operating name of the facility; (ii) the name of the individual, partnership, association or corporation or public agency to whom the license is issued; (iii) the physical location of the facility; (iv) the nature of the population served; (v) the maximum number of persons to be accepted for care; (vi) the effective dates of the license; and (vii) other specifications prescribed within the context of the regulations.

§ 1.24. The license is not assignable or transferable and automatically expires when there is a change of ownership, sponsorship, or [location; or] when there is a substantial change in services or clientele which would alter the evaluation findings and terms under which the facility was licensed. [When there is a change of location of the facility, the license certificate shall be modified pursuant to the procedure required by § 1.35 of these regulations to reflect the new location.]

§ 1.25. The current license shall be posted at all times at the facility in a place conspicuous to the public.

§ 1.26. Each residential facility license issued by the commissioner shall specify the facility's bed capacity, i.e. the maximum number of persons that the facility is permitted to house. The number of beds allowed shall be subject to approval by the department and shall so appear on the license issued by the commissioner.

§ 1.27. No facility shall operate more beds than the number for which it is licensed except in a catastrophic emergency when temporary permission may be granted by the commissioner.

§ 1.28. At no time shall clients be housed in areas which have not been approved by the department.

§ 1.29. A request for an increase in bed capacity shall be made in writing to the department.

[§ 1.30. No increase in beds will be granted without written approval of the department subject to Certificate of Public Need review.

Article 9.
Certificate of Public Need.

§ 1.31. Prior to the commencement of any proposed

facility or project as defined in Title 32.1, §§ 32.1-102.1 to 32.1-102.11 of the Code of Virginia, application shall be made to the State Health Commissioner for certification that there exists a public need for such a project in accordance with Chapter 4 Title 32.1 of the Code of Virginia. A copy of such certificate or exemption therefrom shall be submitted with the application.]

Article [10. 9.]
Inspection.

[§ 1.32. § 1.30.] Each applicant or licensee agrees as a condition of application or license to permit properly designated representatives of the department to enter upon and inspect any and all premises for which a license has either been applied or issued, including [client records and] any books and records relating to the operation of the facility to verify information contained in the application, or to assure compliance with all laws, rules and regulations relating thereto, during all hours of operation of such facility and at any other reasonable hour.

Article [11. 10.]
Early Compliance.

[§ 1.33. § 1.31.] A provisional or conditional license may be replaced with a full license when all of the following conditions exist:

1. The facility has complied with all regulations cited in noncompliance at the time of issuance of the provisional or conditional license well in advance of its expiration date and the facility is in substantial compliance with all other regulations;
2. Compliance has been verified by an on-site observation by a representative(s) of the department or by written evidence provided by the licensee; and
3. All other terms of the license remain the same.

[§ 1.34. § 1.32.] A request to replace a provisional or conditional license and to issue a full license shall be made in writing to the department by the licensee.

[§ 1.35. § 1.33.] If the request is approved, the effective date of the new license will be the same as the beginning date of the provisional or conditional license.

Article [12. 11.]
Situation Requiring a New Application.

[§ 1.36. § 1.34.] A new application shall be filed in the following circumstances:

1. Change in ownership or sponsorship; [or]
[2. Change of location; or]
[3. 2.] Substantial change in services provided or

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target population.

Article [~~13~~. 12.] Modification of License.

[§ ~~1-37~~. § 1.35.] The terms of a license may [(see §§ 1.23 and 1.24)] be modified during the term of the license with respect to the number of beds or other conditions which do not constitute substantial changes in the services or target population.

The licensee shall submit a written report to the department [~~of at least 60 days prior to~~] any [~~proposed change in location or any other~~] contemplated changes in operation which would affect either the terms of the license or the continuing eligibility for a license. [In the case of a proposed change in location the written report shall include for the proposed new site the following information and attachments: (i) present physical location of the facility as provided on the current license, (ii) the physical location of the proposed new site, (iii) a diagram providing the measured dimensions of the rooms and their proposed functions, (iv) the number of beds to be located in each bedroom, (v) written zoning approval or a use permit where required by the local jurisdiction, and (vi) a description of any proposed change in services provided or target population at the new site. Prior to final approval by the department of a proposed change in location and the issuance of a modified license, the licensee shall submit to the department for the proposed location: (i) a certificate of use and occupancy or approval from the authorized inspection agency for building code compliance, when applicable, and (ii) a copy of a report indicating approval by the local fire authority.]

A determination will be made as to whether changes may be approved and the license modified accordingly or whether an application for a new license must be filed. The licensee will be notified in writing within 30 days as to whether the modification is approved or a new license is required.

Article [~~14~~. 13.] Allowable Variance.

[§ ~~1-38~~. § 1.36.] The department has the sole authority to waive a regulation either temporarily or permanently when in its opinion:

1. Enforcement will create an undue hardship;
2. The regulation is not specifically required by statute or by the regulations of another government agency; and
3. Resident care would not be adversely affected.

[§ ~~1-39~~. § 1.37.] Any request for an allowable variance shall be submitted in writing to the department.

[§ ~~1-40~~. § 1.38.] The denial of request for a variance is

appealable through the normal appeals process when it leads to the denial or revocation of a license.

Article [~~15~~. 14.] Investigation of Complaints and Allegations.

[§ ~~1-41~~. § 1.39.] The department is responsible for complete and prompt investigation of all complaints and allegations. Suspected criminal violations shall be reported to the appropriate law-enforcement authority.

Article [~~16~~. 15.] Revocation, Suspension or Refusal of License.

[§ ~~1-42~~. § 1.40.] The commissioner may revoke or suspend any license issued, or refuse issuance of a license, on any of the following grounds:

1. Violation of any provisions of Chapter 8 of Title 37.1 (§ 37.1-179, et seq.) of the Code of Virginia, or any applicable and valid rule or regulation made pursuant to such provisions;
2. Permitting, aiding or abetting the commission of an illegal act in a facility or institution licensed under these regulations.
3. Conduct or practices detrimental to the welfare of any resident of a facility or institution licensed under these regulations.

[§ ~~1-43~~. § 1.41.] Whenever the commissioner revokes, suspends or denies a license, the provisions of the Administrative Process Act (§ 9-6.14.1 et seq. of the Code of Virginia) shall apply.

[§ ~~1-44~~. § 1.42.] If a license is revoked or refused as herein provided, a new application for license may be considered by the commissioner when the conditions upon which such action was based have been corrected and satisfactory evidence of this fact has been furnished. In no event, however, may an applicant reapply for a license after the commissioner has refused or revoked a license until a period of six months from the effective date of such action has elapsed unless the commissioner in his sole discretion believes that there has been such a change in the conditions causing refusal of the prior application or revocation of the license as to justify the new application.

[§ ~~1-45~~. § 1.43.] When an appeal of the final decision of the commissioner to refuse to issue a license or to revoke or suspend a license is taken by the applicant pursuant to § 37.1-186 of the Code of Virginia, the six month period shall be extended until a final decision has been rendered on appeal. A new license may then be granted after proper inspection has been made and all provisions of § 37.1-179 et seq. of the Code of Virginia, and applicable rules and regulations made thereunder have been complied with and recommendations to such effect have been made to the commissioner upon the basis of an inspection by any authorized representative or agent of the

department.

[~~§ 1.46.~~ § 1.44.] Suspension of a license shall in all cases be for an indefinite time and the suspension may be lifted and rights under the license fully or partially restored at such time as the commissioner determines, upon basis of such an inspection, that the rights of the licensee appear to so require and the interests of the public will not be jeopardized by resumption of operation.

Article [~~17.~~ 16.] Suppression of Unlawful Operations.

[~~§ 1.47.~~ § 1.45.] If any facility or institution is being operated in violation of the provisions of § 37.1-179 et seq., of the Code of Virginia, or of any applicable rules and regulations made under such provisions, the commissioner, in addition to other remedies, may institute any appropriate action or proceedings to prevent such unlawful operation and to restrain, correct or abate such violation or violations. Such action or proceeding shall be instituted in the circuit court of the county or city where such institution, hospital or home is located, and such court shall have jurisdiction to enjoin such unlawful operation or such violation or violations.

Article [~~18.~~ 17.] Penalty.

[~~§ 1.48.~~ § 1.46.] Any person violating any provision of § 37.1-179 et seq., of the Code of Virginia, or any applicable rule and regulation made under such provisions shall be guilty of a Class 3 misdemeanor, and each day, or part thereof, of continuation of any such violation shall constitute a separate offense.

Article [~~19.~~ 18.] Reports.

[~~§ 1.49.~~ § 1.47.] Each licensee shall file such reasonable reports and provide such reasonable information at such times as the department from time to time may require.

PART II. ORGANIZATION AND ADMINISTRATION.

Article 1. Governing Body.

§ 2.1. The residential facility shall clearly identify the corporation, association, partnership, individual, or public agency that is the licensee.

§ 2.2. The licensee shall clearly identify any subordinate board, body, entity or person to whom it delegates the legal responsibilities and duties of the licensee for the operation of the facility.

Article 2. Responsibilities of the Licensee.

§ 2.3. The licensee shall appoint a qualified chief administrative officer to whom it delegates in writing the authority and responsibility for the administrative direction of the facility.

§ 2.4. The licensee shall develop and implement written policies governing the licensee's relationship to the chief administrative officer that shall include, but shall not be limited to:

1. Annual evaluation of the performance of the chief administrative officer; and

2. Provision for the chief administrative officer to meet with the governing body or with the immediate supervisor to periodically review the services being provided, the personnel needs and fiscal management of the facility.

§ 2.5. The licensee shall review, develop and implement programs and administrative changes in accord with the defined purpose of the facility.

Article 3. Fiscal Responsibility.

§ 2.6. The facility shall have a documented plan of financing which gives evidence that there are sufficient funds to operate.

§ 2.7. A new facility shall with the initial application document funds or a line of credit sufficient to cover at least 90 days of operating expenses unless the facility is operated by a state or local government agency, board or commission.

§ 2.8. A new facility operated by a corporation, unincorporated organization or association, an individual or partnership shall submit with the initial application evidence of financial responsibility. This shall include:

1. A working budget showing projected revenue and expenses for the first year of operation; and

2. A balance sheet showing assets and liabilities.

[~~§ 2.9.~~ Facilities operated by state or local government agencies, boards and commissions shall submit with the initial application and with each renewal application evidence of financial responsibility. This shall include a working budget showing appropriated revenue and projected expenses for the coming year.]

[~~§ 2.10.~~ § 2.9.] Facilities operated by corporations, unincorporated organizations or associations, individuals or partnerships shall submit with each renewal application evidence of financial responsibility. This shall include:

1. A operating statement showing revenue and expenses for the past operating year;

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2. A working budget showing projected revenue and expenses for the coming year;

3. A balance sheet showing assets and liabilities; and

4. A written assurance from the licensee that the documentation provided for in paragraphs one, two and three above presents a complete and accurate financial report reflecting the current fiscal condition of the facility.

[§ 2-11. § 2.10.] The facility shall provide additional evidence of financial responsibility as the licensing authority, at its discretion, may require.

Article 4. Internal Operating Procedures.

[§ 2-12. § 2.11.] There shall be evidence of a system of financial record keeping that is consistent with generally accepted accounting principles unless the facility is a state or local government operated program operating as required by the State Auditor of Public Accounts.

[§ 2-13. § 2.12.] There shall be a written policy, consistent with generally accepted accounting principles, for the collection and disbursement of funds unless the facility is a state or government operated program operating as required by the State Auditor of Public Accounts.

[§ 2-14. § 2.13.] There shall be a system of financial record keeping that shows a separation of the [facility's] accounts [for the operations permitted by the license] from all other records [unless the facility is a state or government operated program operating as required by the State Auditor of Public Accounts].

Article 5. Insurance.

[§ 2-15. § 2.14.] A facility shall maintain liability insurance covering the premises and the facility's operations, including professional liability [unless the facility is operated by a state or local government agency which provides a program of self insurance].

[§ 2-16. § 2.15.] There shall be liability insurance on vehicles operated by the facility.

Article 6. Bonding.

[§ 2-17. § 2.16.] Those members of the governing body and staff who have been authorized responsibility for handling the funds of the facility shall be bonded [unless the facility is operated by a state or local government agency, board or commission].

Article 7. Relationship to the Licensing Authority.

[§ 2-18. § 2.17.] The facility shall submit or make available to the licensing authority such reports and information as the licensing authority may require to establish compliance with these regulations and with applicable statutes and appropriate statutes.

[§ 2-19. § 2.18.] The governing body or its official representative shall notify the licensing authority within ten working days of:

1. Any [significant] changes in administrative structure or newly hired chief administrative officer; and

2. Any pending changes in the program which will affect the types of services offered or the types of clients to be served.

[§ 2-20. § 2.19.] In the event of a disaster, fire, emergency or any other condition at the facility that may jeopardize the health, safety and well-being of the clients in care, the facility shall notify the licensing authority of the conditions at the facility and the status of the clients in care as soon as possible.

Article 8. Participation of Clients in Research.

[§ 2-21. § 2.20.] The facility shall establish and implement written policies and procedures regarding the participation of clients as subjects in research that are consistent with Chapter 13 of Title 37.1 of the Code of Virginia unless the facility has established and implemented a written policy explicitly prohibiting the participation of clients as subjects of human research as defined by the above statute.

PART III. PERSONNEL.

Article 1. Health Information.

§ 3.1. Health information required by these regulations shall be maintained for all staff members.

Article 2. Initial Tuberculosis Examination and Report.

§ 3.2. Within 30 days of employment each staff member shall obtain an evaluation indicating the absence of tuberculosis in a communicable form except that an evaluation shall not be required for an individual who (i) has separated from employment with a facility licensed by the Commonwealth of Virginia that requires such screening, (ii) has a break in service of six months or less, and (iii) submits the original statement of tuberculosis screening.

§ 3.3. Each individual shall submit a statement that he is free of tuberculosis in a communicable form including the

type(s) of test(s) used and the test result(s).

§ 3.4. The statement shall be signed by a licensed physician, the physician's designee, or an official of a local health department.

§ 3.5. The statement shall be filed in the individual's personnel record.

Article 3.

Subsequent Evaluations for Tuberculosis.

§ 3.6. Any individual who comes in contact with a known case of tuberculosis or who develops chronic respiratory symptoms of four weeks duration or longer shall, within 30 days of exposure/development, receive an evaluation in accord with Part III, Article 2.

Article 4.

Physical or Mental Health of Personnel.

§ 3.7. At the request of the licensee/administrator of the facility or the licensing authority a report of examination by a licensed physician [or other appropriate licensed professional] shall be obtained when there are indications that the care of clients may be jeopardized by the physical, mental, or emotional health of a specific individual.

§ 3.8. Any individual who, upon examination [by a licensed physician] or as a result of tests, shows indication of a physical or mental condition which may jeopardize the safety of clients in care or which would prevent the performance of duties:

1. Shall immediately be removed from contact with clients and food service to clients; and
2. Shall not be allowed contact with clients or food served to clients until the condition is cleared to the satisfaction of the examining physician [or other appropriate licensed professional] as evidenced by a signed statement by the physician [or other appropriate licensed professional].

Article 5.

Job Responsibilities.

§ 3.9. The chief administrative officer shall be responsible to the governing body for:

1. The overall administration of the program;
2. Implementation of all policies;
3. Maintenance of the physical plant; and
4. Fiscal management of the residential facility.

§ 3.10. The program director shall be responsible for the development and implementation of the programs and

services offered by the residential facility.

§ 3.11. When a facility is licensed to care for 13 or more clients, a full time, qualified staff member shall fulfill the duties of the program director.

§ 3.12. If not provided by external resources, counseling and social services shall be provided by a staff member(s) qualified to provide such services.

§ 3.13. The residential care worker shall have direct responsibility for guidance and supervision of the residents to whom he is assigned. This shall include:

1. Overseeing the general welfare and safety of residents; and
2. Helping to meet the goals and objectives of any required service or treatment plan.

§ 3.14. Sufficient qualified relief staff shall be employed to maintain required [~~staff/client ratios~~ staffing levels] during:

1. Regularly scheduled time off of permanent staff; and
2. Unscheduled absences of permanent staff.

§ 3.15. Services of a licensed physician shall be available for treatment of clients as needed.

[~~§ 3.16. Any nurse employed shall hold a current nursing license issued by the Commonwealth of Virginia.]~~

Article 6.

Staff Qualifications.

[~~§ 3.17. § 3.16.]~~ Any person who assumes or is designated to assume the responsibilities of a staff position or any combination of staff positions employed at the facility shall meet the qualifications of that position(s) and shall fully comply with all applicable regulations for that position.

[~~§ 3.17. Any person who is employed to function as a nurse, as a practitioner of the healing arts, or as a practitioner of the behavioral science professions shall be duly licensed pursuant to the requirements of Title 54 of the Code of Virginia unless such person is exempt from such licensure requirements.]~~

§ 3.18. When services or consultation are obtained on a contract basis they shall [when required by law] be provided by professionally [~~qualified licensed~~] personnel.

Article 7.

Personnel Records.

§ 3.19. A separate up-to-date personnel record shall be maintained for each staff member. The record shall include:

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1. A complete employment application form or other written material providing:

a. Identifying information (name, address, phone number, social security number, and any names previously utilized);

b. Educational history; and

c. Employment history.

2. Written reference or notations of oral references;

3. Reports of required health examinations; and

4. Annual performance evaluations.

§ 3.20. Each personnel record shall be retained in its entirety for two years after employment ceases.

Article 8. Personnel Policies.

§ 3.21. The licensee shall have [organizationally] approved written personnel policies.

§ 3.22. Written personnel policies shall be readily accessible to each staff member.

§ 3.23. Each staff member shall demonstrate a working knowledge of those policies and procedures that are applicable to his specific staff position.

Article 9. Job Descriptions.

§ 3.24. For each staff position there shall be a written job description which shall as a minimum include:

1. The job title;

2. The duties and responsibilities of the incumbent;

3. The job title of the immediate supervisor; and

4. The minimum knowledge, skills and abilities required for entry level performance of the job.

§ 3.25. A copy of the job description shall be given to each person assigned to that position at the time of employment or assignment.

Article 10. Volunteers and Students Receiving Professional Training.

§ 3.26. If a facility uses volunteers or students receiving professional training it shall develop written policies governing their selection and use. [A facility that does not use volunteers shall have a written policy stating that volunteers shall not be utilized.]

§ 3.27. The facility shall not be dependent upon the use of volunteers/students to ensure provision of basic services.

§ 3.28. The selection of volunteers/students and their orientation, training, scheduling, supervision and evaluation shall be the [sole] responsibility of designated staff members.

§ 3.29. Responsibilities of volunteers/students shall be clearly defined.

§ 3.30. All volunteers/students shall have qualifications appropriate to the services they render based on experience or orientation.

§ 3.31. Volunteers/students shall be subject to all regulations governing confidential treatment of personal information.

§ 3.32. Volunteers/students shall be informed regarding [~~liability~~ their potential legal liabilities] and [their responsibilities for the] protection of clients [~~issues~~].

Article 11. Staff Supervision and Evaluation.

§ 3.33. The facility shall implement written policies and procedures to provide staff supervision and evaluation that include provisions for:

1. Regularly scheduled supervision;

2. Evaluations which are based on job descriptions and performance criteria;

3. Annual written performance evaluations;

4. Discussions of staff evaluations with staff being evaluated;

5. Delineating strengths as well as weaknesses of the staff, and recommendations for improved performance;

6. Evaluation reports which are signed by both the employee and the supervisor who did the evaluation; and

7. Access by employees to their personnel files.

Article 12. Staff Development.

§ 3.34. New employees, relief staff, volunteers and students shall within [~~one calendar month~~ 10 working days] of employment be given orientation [and training] regarding the objectives and philosophy of the facility, practices of confidentiality, [critical personnel policies,] other policies and procedures that are applicable to their specific positions, and their specific duties and responsibilities.

[§ 3.35. New employees, relief staff, volunteers and

students shall within one calendar month of employment successfully complete an orientation to general personnel policies and on-the-job training, including performance observation by a supervisor, regarding all critical job tasks related to their specific positions. Critical job tasks shall be established in the form of a written checklist for each position.]

[~~§ 3.35.~~ § 3.36.] Each new staff member shall receive the orientation [~~and training~~] required by § 3.34 [and shall receive the performance observation required by § 3.35] prior to assuming [~~sole~~] responsibility for supervision of one or more clients.

[~~§ 3.36.~~ § 3.37.] Provision shall be made for staff development activities, designed to update staff on items in § [§] 3.34 [and 3.35] and to enable them to perform their job responsibilities adequately. Such staff development activities include, but shall not necessarily be limited to, supervision [~~and~~ ,] formal training [, and academic education. Individualized staff development needs assessments and action plans shall be performed and updated annually].

[~~§ 3.37.~~ § 3.38.] Participation of staff, volunteers and students in orientation, training and staff development activities shall be documented [for each employee and shall include, as appropriate:

1. Course title or topic area;
2. Instructor or source;
3. Pretest and post-test scores or grades, if applicable;
4. Classroom hours or academic credit hours;
5. Dates attended].

Article 13. Staffing Patterns.

[~~§ 3.38.~~ § 3.39.] No person shall be scheduled to work more than six consecutive days between rest days.

[~~§ 3.39.~~ § 3.40.] Direct care staff who have at least one 24-consecutive-hour period on duty during a week shall have an average of not less than two days off per week in any four-week period. This shall be in addition to vacation time and holidays.

[~~§ 3.40.~~ § 3.41.] Direct care staff who do not have at least one 24-consecutive-hour period on duty during a week shall have an average of not less than two days off per week in any four-week period. This shall be in addition to vacation time and holidays.

[~~§ 3.41.~~ § 3.42.] Direct care staff who do not have at least one 24-consecutive-hour period on duty during a week shall not be on duty more than 16 consecutive hours except in emergencies when relief staff are not available.

[~~§ 3.42.~~ § 3.43.] In buildings where 30 or more clients are sleeping there shall be no less than one direct care staff member awake and on duty during night hours.

[~~§ 3.43.~~ There shall be at least one direct care staff member awake on each floor and on each major wing of each floor where 30 or more clients are sleeping.]

§ 3.44. When clients are away from the facility they shall be furnished with a telephone number(s) where appropriate person(s) may be reached.

§ 3.45. Facilities [other than those serving mentally retarded persons] shall have clinical staffing patterns that are adequate and appropriate in relationship to:

1. The needs of the resident population being served.
2. The hours and days the facility operates;
3. Assessment, therapeutic, and follow-up functions;
4. Intensity and kinds of treatment;
5. Nature of resident disabilities; and
6. Carrying out appropriate patient care evaluations, peer review, and utilization review procedures.

§ 3.46. Social detoxification facilities shall be staffed by no less than two trained staff members on all working shifts.

[~~§ 3.47.~~ For those facilities serving mentally retarded adults, the following staff ratios shall be maintained:

1. For programs serving profoundly retarded adults there shall be one staff member for each four clients present during each shift. Regardless of the number of clients present, at least one staff member shall be present at all times.

2. For programs serving severely, moderately and mildly retarded adults there shall be at least one staff member for each twelve clients. If no clients are at home, a staff member shall be on call. If at least one resident is home during the day shift, at least one staff member shall be present unless planned for and indicated in the client's individualized service plan.]

[§ 3.47. Staff supervision levels for individual residents admitted to a residential facility shall be established in terms of staff/client ratios and documented as a part of the individualized treatment plan required by § 5.28 of these regulations. Such staff supervision levels shall define the minimum supervisory requirement for each shift and indicate whether the client may be unsupervised for a specific purpose and for a specified period of time.]

PART IV. RESIDENTIAL ENVIRONMENT.

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Article 1.

Buildings, Inspections and Building Plans.

§ 4.1. All buildings and installed equipment shall be inspected and approved by the local building official when required. This approval shall be documented by a Certificate of Use and Occupancy [or other acceptable documentation] indicating that the building is classified for its proposed licensed purpose.

§ 4.2. At the time of the original application and at least annually thereafter the buildings shall be inspected and approved by:

1. Local fire authorities with respect to fire safety and fire hazards, except in state operated facilities;
2. State fire officials, where applicable; and
3. State or local health authorities, whose inspection and approval shall include:
 - a. General sanitation;
 - b. The sewage disposal system;
 - c. The water supply;
 - d. Food service operation; and
 - e. Swimming pools.

Article 2.

Plans and Specifications for New Buildings and Additions, Conversions, and Structural Modifications to Existing Buildings.

§ 4.3. Building plans and specifications for new construction, conversion of existing buildings, and any structural modifications or additions to existing licensed buildings shall be submitted to and approved by the licensing authority and the following authorities, where applicable, before construction begins:

1. Local building officials;
2. Local fire departments;
3. Local or state health departments; and
4. Office of the State Fire Marshal.

§ 4.4. Documentation of the approvals required by § 4.3 shall be submitted to the licensing authority.

§ 4.5. All electrical, carpentry and plumbing work at the facility shall be performed under a proper permit from the building official if such a permit is required by the Uniform Statewide Building Code. Such work shall be inspected and approved by the building official, if required [; and such work shall be performed by a licensed

contractor].

Article 3.

Heating Systems, Ventilation and Cooling Systems.

§ 4.6. Heat shall be evenly distributed in all rooms occupied by clients such that a temperature no less than 65°F is maintained, unless otherwise mandated by state or federal authorities.

§ 4.7. Natural or mechanical ventilation to the outside shall be provided in all rooms used by clients.

§ 4.8. All doors and windows [capable of] being used for ventilation shall be [fully] screened [unless screening particular doors and windows is explicitly prohibited in writing by state or local fire authorities and those doors and windows are not used for ventilation].

§ 4.9. Air conditioning or mechanical ventilating systems, such as electric fans, shall be provided in all rooms occupied by clients when the temperature in those rooms exceeds 85°F.

§ 4.10. Heating systems annually, prior to the heating season, shall be inspected, cleaned and have their filters changed [by a contractor].

Article 4.

Lighting.

§ 4.11. Artificial lighting shall be by electricity.

§ 4.12. All areas within buildings shall be lighted for safety.

§ 4.13. Lighting shall be sufficient for the activities being performed in a specific area.

§ 4.14. Operable flashlights or battery lanterns shall be available for each staff member on the premises between dusk and dawn for use in emergencies.

§ 4.15. [Outside Provision shall be made for outside] entrances and parking areas [shall to] be lighted for protection against injuries and intruders.

Article 5.

Sleeping Areas.

§ 4.16. Male residents shall have separate bedrooms from female residents [, unless such residents are married to each other, in which case only one married couple may be assigned to a single bedroom].

§ 4.17. No more than four residents may share a bedroom or sleeping area except in detoxification facilities.

§ 4.18. No required path of travel to the bathroom shall be through another bedroom [not under immediate control of the occupant of the first bedroom].

§ 4.19. When a facility is not subject to the Virginia Public Building Safety Regulations or the Uniform Statewide Building Code, residents who are dependent upon wheelchairs, crutches, canes or other mechanical devices for assistance in walking shall be assigned sleeping quarters on ground level and provided with a planned means of effective egress for use in emergencies.

§ 4.20. In facilities licensed, established, constructed or reconstructed after the effective date of these regulations, sleeping quarters shall meet the following space requirements:

1. There shall not be less than 450 cubic feet of air space per person;
2. There shall not be less than 80 square feet of floor area in a bedroom accommodating only one person;
3. There shall not be less than 60 square feet of floor area per person in rooms accommodating two or more persons; and
4. All ceilings shall be at least 7-1/2 feet in height.

§ 4.21. Each resident shall have a separate, clean, comfortable bed equipped with mattress, pillow, blanket(s), bed linens, and, if needed a waterproof mattress cover.

§ 4.22. Bed linens shall be changed at least every seven days or more often, if needed.

§ 4.23. Each resident shall be assigned drawer space and closet space, or their equivalent, accessible to the sleeping area for storage of clothing and personal belongings.

§ 4.24. Smoking by any person shall be prohibited in sleeping areas.

§ 4.25. [~~The facility shall provide for designated smoking areas~~ If smoking is permitted the facility shall designate specific areas for smoking].

Article 6. Plumbing and Toilet Facilities.

§ 4.26. All plumbing shall be maintained in good operating condition.

§ 4.27. There shall be an adequate supply of hot and cold running water available at all times.

§ 4.28. Precautions shall be taken to prevent scalding from running water. In all newly constructed facilities mixing faucets shall be installed.

§ 4.29. [~~There~~ For all residential facilities established after the effective date of these regulations there] shall be at least one toilet, one hand basin and shower/bath for every four [~~clients~~ residents] in care.

Article 7. Privacy for Residents.

§ 4.30. Where bathrooms are not designated for individual use, each toilet shall be enclosed for privacy.

§ 4.31. Where bathrooms are not designated for individual use, bathtubs and showers shall provide for visual privacy for bathing by use of enclosures, curtains or other appropriate means.

§ 4.32. Every sleeping area shall have a door that may be closed for privacy or quiet and this door shall readily open in case of fire or other emergency.

§ 4.33. Windows in sleeping and dressing areas shall provide for privacy.

Article 8. Living Rooms/Indoor Recreation Space.

§ 4.34. Each living unit shall contain a living room or an area for informal use for relaxation and entertainment. The furnishings shall provide a comfortable and home-like environment that is age-appropriate.

Article 9. Buildings and Grounds.

§ 4.35. Buildings and grounds, including roads, pavements, parking lots, stairways, railings and other potentially hazardous areas shall be safe and properly maintained.

Article 10. Equipment and Furnishings.

§ 4.36. All furnishings and equipment shall be safe and suitable to the characteristics of the clients and the services provided.

§ 4.37. There shall be at least one continuously operable, nonpay telephone accessible to staff in each building in which clients participate in programs.

§ 4.38. Meals shall be served in areas equipped with sturdy tables and benches or chairs.

§ 4.39. [~~Dead bolt locks shall not be used on doors~~ All doors at the facility shall be equipped to permit egress without the use of a key in case of fire or other emergency].

§ 4.40. The use of portable space heaters is prohibited unless specifically approved in writing by the local fire authority.

Article 11. Staff Quarters.

§ 4.41. A separate (private) [~~bathroom and~~] bedroom shall be provided for staff and their families when staff

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are required to be in the living unit for 24 hours or more [except, that when there are no more than four persons, including staff and family of staff, residing in or on duty in the living unit, a private bathroom is not required for staff].

Article 12. Housekeeping and Maintenance.

§ 4.42. The interior and exterior of all buildings, including required locks and mechanical devices, shall be maintained in good repair.

§ 4.43. The interior and exterior of all buildings and grounds shall be kept clean and free of rubbish.

§ 4.44. All buildings shall be well-ventilated and free of stale, musty and foul odors.

§ 4.45. Buildings shall be kept free of flies, roaches, rats and other vermin.

§ 4.46. Walk-in refrigerators, freezers, and other enclosures shall be equipped to permit emergency exits.

§ 4.47. All furnishings, linens and indoor and outdoor equipment shall be kept in good repair.

§ 4.48. Space shall be provided for safe storage of items such as first aid equipment, household supplies, recreational equipment, luggage, out-of-season clothing, and other materials.

§ 4.49. Lead based paint shall not be used on any surfaces and items with which clients and staff come in contact.

Article 13. Support Functions.

§ 4.50. Facilities shall provide [and are responsible] for support functions including, but not limited to, food service, maintenance of buildings and grounds, and housekeeping.

§ 4.51. [~~Clients~~ Residents] shall not be [solely responsible for support functions and shall not be] assigned duties beyond their physical or mental capacity to perform.

Article 14. Firearms and Weapons.

§ 4.52. [No firearms, pellet guns, air rifles or other weapons shall be permitted on the premises of the facility. Each facility shall develop and implement a written policy governing the possession and use of firearms, pellet guns, air rifles, and other weapons on the premises of the facility that shall provide that: No firearms, pellet guns, air rifles, and other weapons shall be permitted on the premises of the facility unless they are:

1. In the possession of law-enforcement officers or of licensed security personnel; or
2. Kept under lock and key; or
3. Used under the supervision of a responsible adult in accord with policies and procedures developed by the facility for their lawful and safe use].

PART V. PROGRAMS AND SERVICES.

Article 1. Residential Services.

§ 5.1. There shall be evidence of a structured program of care that is designed to:

1. Meet the residents' physical needs;
2. Provide protection, guidance and supervision;
3. Promote a sense of security and self-worth; and
4. Meet the objectives of any required service plan.

§ 5.2. There shall be evidence of a structured daily routine that is designed to assure the delivery of program services.

§ 5.3. A daily activity log shall be maintained as a means of informing staff of significant happenings or problems experienced by residents including health and dental complaints or injuries.

§ 5.4. Entries in the daily activity log shall be signed or initialed by the person making the entry.

Article 2. Program Description and Annual Program Review.

§ 5.5. Each licensee shall develop a written comprehensive program description for the facility that includes the following elements:

1. A mission statement identifying the philosophy and global intentions of the facility;
2. A clear description of the characteristics and the needs of the population to be served [, including the minimum levels of staff supervision required for the population to be served] ; and
3. A clear identification of the program components and services to be provided.

[§ 5.6. Each licensee shall develop and implement a written evaluation system that is designed to provide specific utilization data and information regarding the extent to which program goals and objectives have been achieved.]

[~~§ 5-7.~~ § 5.6.] Each licensee shall review, at least annually, the program of the facility in the light of the population served and the objectives of the facility.

[~~§ 5-8.~~ § 5.7.] Based on the written results of the annual program review, the licensee shall review, develop and implement indicated program and administrative changes in accord with the defined mission of the facility.

Article 3. Admission Criteria.

[~~§ 5-9.~~ § 5.8.] Each facility shall have written [~~criteria for admission information~~] that shall be made available to all parties when admission is being considered [~~such criteria which~~] shall include:

1. A description of the population to be served;
2. A description of the types of services offered;
3. Criteria for acceptance into the program; and
4. Intake [~~and admission~~] procedures [~~including necessary referral documentation~~].

[~~§ 5-10.~~ § 5.9.] The facility shall accept and serve only those clients whose needs are compatible with those services provided through the facility.

[~~§ 5-11.~~ § 5.10.] A facility shall not knowingly accept into care a resident whose health or behavior shall present a clear and present danger to the resident or others served by the facility.

Article 4. Documented Diagnostic Study of the Client.

[~~§ 5-12.~~ § 5.11.] Acceptance for care shall be based on an evaluation of a documented diagnostic study of the client, except that this and the other regulations in this article shall not apply to detoxification facilities.

[~~§ 5-13.~~ § 5.12.] At the time of admission to the program each client's record shall contain all of the elements of the documented diagnostic study of the client.

[~~§ 5-14.~~ § 5.13.] The documented diagnostic study of the client shall include all of the following elements:

[~~1. A formal request or written application for admission;~~]

[~~2. 1.] Identifying information documented on a face sheet (see [~~§ 5-15~~ § 5.14]);~~

[~~3. 2.] Physical examination as specified in [~~§ 5-59~~ § 5.55];~~

[~~4. 3.] Medical history (see [~~§ 5-16~~ § 5.15]);~~

[~~5. 4.] A statement concerning the client's recent vocational and educational history and skills;~~

[~~6. 5.] Results of any psychiatric or psychological evaluations of the client, if applicable;~~

[~~7. 6.] Social and developmental summary (see [~~§ 5-17~~ § 5.16]);~~

[~~8. 7.] Reason for referral; and~~

[~~9. 8.] Rationale for acceptance.~~

[~~§ 5-15.~~ § 5.14.] Identifying information on a face sheet shall include:

[~~1. Unique client identifier;~~]

[~~1. 2.] Full name of client;~~

[~~2. 3.] Last known residence;~~

[~~3. 4.] Date of birth;~~

[~~4. Birthplace;~~]

5. Sex of client;

6. [~~Racial and national background~~ Race of client];

[~~7. Social security number;~~

8. Religious preference;]

[~~9. 7.] Custody status indicating name and address of legal guardian, if any;~~

[~~10. 8.] Names, addresses and telephone numbers for emergency contacts, parents, guardians or representatives of the referring agency, as applicable;~~

[~~11. 9.] Criminal justice status, if any; and~~

[~~12. 10.] Date of admission.~~

[~~§ 5-16.~~ § 5.15.] A medical history shall include:

1. Serious illnesses and chronic conditions of the client's parents and siblings, if known;

[~~2. Recent physical complaints;~~]

[~~2. 3.] Past serious illnesses, infectious diseases, serious injuries and hospitalizations;~~

[~~3. 4.] Psychological, psychiatric and neurological examinations, if applicable;~~

[~~5. Drug use profile as required by § 5.58;]~~

[~~4. 6.] Substance abuse history including onset of use,~~

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types of substances, frequency of use, quantity of use, method of administration, if applicable.

[~~5-7~~ § 5.7.] Name, address and telephone number of client's physician(s), when information is available; and

[~~6-8~~ § 5.8.] Name, address and telephone number of client's dentist(s), when information is available.

[~~5-17~~ § 5.16.] A social and developmental summary shall include:

1. Description of family structure and relationships;
2. Previous service history;
3. Current behavioral functioning including strengths [; talents;] and problems; [and]
4. Documentation of need for services [; and .]

[~~5~~ Names, ages and sex of siblings.]

Article 5.

Admission Procedures for Detoxification Facilities.

[~~5-18~~ § 5.17.] Each detoxification facility shall in consultation with a licensed physician develop and implement written policies and procedures for intake screening including but not limited to:

1. Requirements for documenting identifying information on clients;
2. Requirements for assessing and documenting the medical history and initial physical condition of clients including as a minimum: (i) measurement of blood alcohol content; (ii) respiration rate; (iii) pulse rate; (iv) blood pressure; and (v) body temperature; and
3. Operational criteria for admission to the detoxification facility and for referral to other resources including operational criteria embodied in a written agreement with a local hospital(s) emergency room for referral and transportation of clients for emergency medical services when needed.

Article 6.

Community Relations.

[~~5-19~~ § 5.18.] Opportunities shall be provided for [the] residents [in a group living situation individually or in small groups] to participate in activities and to utilize resources in the community.

Article 7.

Work and Employment.

[~~5-20~~ § 5.19.] Any assignment of chores, which are paid or unpaid work assignments, shall be in accordance

with the age, health, ability, and service plan of the resident.

[~~5-21~~ § 5.20.] The facility shall ensure that any resident employed inside [or outside] the facility is paid at least at the minimum wage required by the applicable law concerning wages and hours and that such employment complies with all applicable laws governing labor and employment.

[~~5-22~~ § 5.21.] Any money earned through employment of a resident [by the facility] shall accrue to the sole benefit of that resident.

Article 8.

Grievance Procedures.

[~~5-23~~ § 5.22.] The facility shall have written grievance procedures which shall be made known to clients upon admission.

Article 9.

Human Rights.

[~~5-24~~ § 5.23.] The facility shall comply with the applicable human rights regulations promulgated pursuant to § 37.1-84.1 of the Code of Virginia.

Article 10.

Treatment Planning Policies and Procedures.

[~~5-25~~ § 5.24.] Each licensee shall develop and implement written policies and procedures to be followed by staff in treatment planning, implementation and review.

Article 11.

Treatment Plan.

[~~5-26~~ § 5.25.] A written individualized treatment plan [covering the services to be provided by the residential facility] , based on information derived from the documented diagnostic study of the resident and other assessments made by the facility, shall be developed and implemented for each resident, within 30 days of admission and placed in the client's master file, except that the requirements of this and other regulations in Part V, Articles 11 through 13 shall not apply to detoxification facilities.

[~~5-27~~ The following parties shall participate, unless clearly inappropriate, in developing the initial individualized treatment plan:

1. The resident;
2. The client's family or legally authorized representative;
3. The referring agency; and
4. Facility staff.

§ 5.26. The client and his family as appropriate and the facility staff shall participate in developing the initial individualized services plan.]

[~~§ 5.28.~~ § 5.27.] The [~~degree of~~] participation [; ~~or lack thereof,~~] of [~~each of~~] the parties [~~listed referred to~~] in [~~§ 5.27~~ § 5.26] in developing the treatment plan shall be documented in the client's record.

[~~§ 5.29.~~ § 5.28.] The individualized treatment plan [, based on information derived from the documented diagnostic study of the client required by PART V, Article 4, and other assessments made by the facility,] shall include, but not necessarily be limited to, the following:

1. A statement of the client's problems [~~and current level of functioning including strengths and weaknesses,~~] and corresponding treatment/training needs;
2. A statement of goals and a sequence of measurable objectives to meet the above identified needs;
3. A statement of services to be rendered and frequency of services to accomplish the above goals and objectives;
4. A statement identifying the individual(s) or organization(s) that will provide the services specified in the statement of services;
5. A statement of the timetable for the accomplishment of the client's goals and objectives; [~~and~~]
6. The estimated length of the client's need for services [; ;]
- [7. A statement defining the resident's need for staff supervision in terms of staff/resident ratios. Such staff supervision levels shall define the minimum supervisory requirement for each shift and indicate whether the resident may be unsupervised for a specific purpose and for a specified period of time; and
8. A statement identifying the individual(s) responsible for the overall coordination and integration of the services specified in the plan.]

Article 12.
Quarterly Progress Reports.

[~~§ 5.30.~~ § 5.29.] There shall be a review and update of the client's individualized treatment plan by the staff and the assigned case coordinator. Such reviews and updates shall occur at a frequency appropriate to the rate and intensity of services provided, but no less than quarterly.

[~~§ 5.31.~~ § 5.30.] Written progress [~~summary~~] reports completed [~~at least~~] quarterly shall be included in each

client's record and shall include, but not be limited to:

1. Reports of significant incidents, both positive and negative;
2. Changes in client's social [, emotional] and family situation;

[~~3.~~ Summary of the client's social, emotional and physical development during the previous three months including a listing of any specialized services and any ongoing medications prescribed;]

[~~4.~~ 3.] [Documentation of the appropriateness of the client's involvement in the program Review and revision of the services plan as appropriate];

[~~5.~~ 4.] Update of the appropriateness of the treatment goals;

[~~6.~~ Update of the client's involvement in all necessary services;]

[~~7.~~ 5.] Update of [any] contract with parent(s) or guardian (if applicable and legally permissible);

[~~8.~~ 6.] The evaluation of resident progress [~~and resident outcomes~~] ; and

[~~9.~~ 7.] Tentative discharge plans [, if appropriate].

Article 13.
Annual Treatment Plan Review.

[~~§ 5.32.~~ At least annually the following parties shall participate, unless clearly inappropriate, in formally reviewing and rewriting the treatment plan based on the client's current level of functioning and needs:

1. The resident;
2. The client's family or legally authorized representative;
3. The referring agency; and
4. Facility staff.]

[~~§ 5.31.~~ At least annually the client and his family as appropriate and the facility or program staff shall participate in formally reviewing and rewriting the services plan based on the client's current level of functioning and needs.]

[~~§ 5.32.~~ § 5.32.] The [~~degrees of~~] participation [; ~~or lack thereof,~~] of [~~each of~~] the parties [~~listed referred to~~] in [~~§ 5.32~~ § 5.31] in reviewing and rewriting the treatment plan shall be documented in the client's record.

Article 14.
Detoxification Services.

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[~~§ 5.34.~~ § 5.33.] Each detoxification facility shall in consultation with a licensed physician develop and implement written policies and procedures for detoxification services including but not limited to:

1. Continual monitoring of the physical and mental condition of the clients including monitoring and recording of the client's vital signs (respiration rate, pulse rate, blood pressure and body temperature) every four hours during the first 24 hours after admission and, if the vital signs are stable, monitoring and recording of the client vital signs every eight hours during the next 48 hours;

2. Therapeutic services directly related to and necessary for the detoxification process including but not limited to:

a. On going medical services if provided as an integral part of the detoxification program;

b. Referral to emergency medical services when appropriate;

c. Activities designed to motivate clients to continue treatment after detoxification;

d. Opportunities to participate in or be introduced to [self-help groups such as] Alcoholics Anonymous and Narcotics Anonymous;

e. Individual and group counseling/support if provided as a part of the detoxification program; and

f. Case management including referral and follow-up for further residential or outpatient treatment.

Article 15. Client Records.

[~~§ 5.35.~~ § 5.34.] A separate case record on each client shall be maintained and shall include all correspondence relating to the care of that client.

[~~§ 5.36.~~ § 5.35.] Each case record shall be kept up to date and in a uniform manner [through an ongoing case review. This case review shall include a determination of whether client records contain all the service documentation required by the program and applicable regulations and standards].

[~~§ 5.37.~~ § 5.36.] Case records shall be maintained in such manner as to be accessible to staff for use in working with the client.

Article 16. Confidentiality of Client Records.

[~~§ 5.38.~~ § 5.37.] The facility shall make information available only to those legally authorized to have access to

that information under federal and state laws.

[~~§ 5.39.~~ § 5.38.] There shall be written policy and procedures to protect the confidentiality of records which govern acquiring information, access, duplication, and dissemination of any portion of the records. [~~The policy shall specify what information is available to the client.~~]

Article 17. Suspected Abuse or Neglect.

[~~§ 5.40.~~ § 5.39.] Written policies and procedures related to abuse and neglect shall be distributed to all staff members. These shall include:

1. Acceptable methods for behavior management of clients;

2. Procedures for handling accusations against staff; and

3. Procedures for promptly referring suspected cases of abuse and neglect to the local protective service unit and for cooperating with the unit during any investigation.

[~~§ 5.41.~~ § 5.40.] The resident's record [or the administrative record] shall include;

1. Date and time the suspected abuse or neglect occurred;

2. Description of the incident;

3. Action taken as a result of the incident; and

4. Name of the person to whom the report was made at the local department.

Article 18. Storage of Confidential Records.

[~~§ 5.42.~~ § 5.41.] Records shall be kept in areas which are accessible only to authorized staff.

[~~§ 5.43.~~ § 5.42.] When not in use, active [and closed] records shall be stored in a locked metal file cabinet or other locked metal compartment [or in a locked room].

[~~§ 5.44.~~ When not in use, closed records shall be kept in a locked compartment or in a locked room.]

Article 19. Disposition of Client Records.

[~~§ 5.45.~~ § 5.43.] Client records shall be kept in their entirety for a minimum of three years after the date of the discharge unless otherwise specified by state or federal requirements.

[~~§ 5.46.~~ § 5.44.] Permanent information shall be kept on

each client even after the disposition of the client's record unless otherwise specified by state or federal requirements. Such information shall include:

1. Client's name;
2. Date [and place] of client's birth
3. Dates of admission and discharge; and
4. Name and address of legal guardian, if any.

[§ 5-47. § 5.45.] Each facility shall have a written policy to provide for the disposition of records in the event the facility ceases operation.

[Article 20.
Service Coordination.

§ 5-48. Each facility shall develop and implement written policies and procedures for case coordination that shall provide for the assignment of a case coordinator to each client.

§ 5-49. The duties of the case coordinator shall include:

1. Serving as the liaison between the program and the client's family or legally authorized representative;

2. Providing ongoing assessment of the client's general needs through the use of program reports and evaluation information provided by each service;

3. Ensuring systematic and inclusive individualized treatment plans, when required, through monitoring the continuity and range of services delivered;

4. Developing and reviewing the specific individualized treatment plans with additions and deletions in service delivery on a quarterly basis;

5. Providing coordination, linkage, and referral to all direct and generic services within the program and in the community;

6. Providing coordination and referral at the time of discharge;

7. Identifying the individual or agency responsible for follow-up and aftercare; and

8. Documenting follow-up when appropriate.]

Article [21. 20.]
Discharge and Case Closure.

[§ 5-50. § 5.46.] Each facility shall develop and implement written policies and procedures regarding discharge and case closure including:

1. Written criteria for a client's completion of the

program; and

2. Conditions under which a client may be discharged before completion of the program.

[§ 5-51. § 5.47.] No later than 30 days after discharge a [comprehensive] discharge summary shall be placed in the client's record and it shall contain:

1. Client's admission date;
2. Client's discharge date;
3. Name of client's case coordinator, if assigned;
4. Information concerning currently prescribed medication including when and why it was prescribed, the dosage, and whether it is to be continued;
5. Summary of [services provided and] the client's progress [toward treatment goals] since admission;

[6. Agency or person to whom discharged, if applicable;

7. Next planned address, if known;]

[6. 8.] Reasons for discharge; and

[7. 9.] Follow-up and referral plans and requirements.

Article [22. 21.]
Health Care Procedures.

[§ 5-52. § 5.48.] Facilities shall have written policies and procedures for [the prompt provision of promptly obtaining] emergency medical [or dental] services.

[§ 5-53. § 5.49.] A well stocked first aid kit [; approved by the local Rescue Squad or Red Cross;] shall be maintained and readily accessible for minor injuries and medical emergencies.

[§ 5-54. § 5.50.] At all times that staff are required to be present there shall be at least one staff member on the premises who has received within the past three years a basic certificate in standard first aid (Multimedia, Personal Safety, or Standard First Aid Modular) issued by the American Red Cross or other recognized authority except that this requirement [does shall] not apply during those hours when a licensed [physician,] nurse or certified emergency medical technician (EMT) is present at the facility.

[§ 5-55. § 5.51.] [At all times that staff are required to be present there shall be at least one staff member on the premises who has received a current certificate Within 90 days after employment each direct care staff member of a residential facility shall successfully complete a training course] in cardiopulmonary resuscitation [appropriate to

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the clients served by the facility and receive a certificate of completion] issued by the American Red Cross or other recognized authority. [This requirement shall not apply to licensed physicians, nurses or certified emergency medical technicians (EMT's) employed by the facility.]

[~~§ 5-56.~~ § 5.52.] Within 90 days after employment each direct care staff member of a [social] detoxification facility shall successfully complete a training course for social setting detoxification workers approved by the department.

[~~§ 5-57.~~ § 5.53.] Except in detoxification facilities the following written information concerning each client shall be readily accessible to staff who may have to respond to a medical [~~or dental~~] emergency:

1. Name, address, and telephone number of the physician [~~or dentist~~] to be notified;
2. Name, address, and telephone number of relative or other person to be notified;
3. Medical insurance company name and policy or Medicaid number;
4. Information concerning:
 - a. Use of medication;
 - b. Medication allergies;
 - c. Any history of substance abuse; and
 - d. Significant medical problems.
5. Written consent authorizing the facility to transport the client to receive emergency medical [~~or dental~~] services; and
6. Written permission for emergency medical [~~or dental~~] care.

Article [~~22.~~ 22.]
Physical Examinations for Clients.

[~~§ 5-58.~~ § 5.54.] Each client accepted for services in residential facilities other than detoxification facilities shall have a physical examination by or under the direction of a licensed physician no earlier than 90 days prior to admission to the program, except that the report of an examination within the preceding 12 months shall be acceptable if a client transfers from one residential facility licensed, certified or accredited by a state or federal agency to another, or a physical examination shall be conducted within 30 days after admission if the client is admitted on an emergency basis and a report of a physical examination is not available.

[~~§ 5-59.~~ § 5.55.] Each physical examination report shall include:

1. General physical condition, including documentation of apparent freedom from communicable diseases including tuberculosis;
2. Allergies, chronic conditions, and handicaps, if any;
3. Restriction of physical activities, if any;
4. Recommendations for further treatment, immunizations, and other examinations indicated;
5. The date of the physical examination; and
6. The signature of a licensed physician, the physician's designee, or an official of a local health department.

Article [~~24.~~ 23.]
Use of Tobacco Products and Other Substances.

[~~§ 5-60.~~ § 5.56.] No client under age 16 shall be permitted to purchase, possess or use tobacco products [on the premises].

[~~§ 5-61.~~ § 5.57.] Each facility shall have a written policy addressing the use of alcoholic beverages.

[~~§ 5-62.~~ Each facility shall have a written policy addressing the possession or use of illegal drugs.]

Article [~~25.~~ 24.]
Medication.

[~~§ 5-63.~~ § 5.58.] As part of the data collected at admission to the program a drug use profile shall be developed for each client which includes:

1. History of prescription and nonprescription drugs being taken at the time of admission and for the previous six months.
2. Drug allergies, idiosyncratic [~~and~~ or] adverse drug reactions.
3. Ineffective medication therapy.

[~~§ 5-64.~~ § 5.59.] There shall be written policies and procedures regarding the storage, delivery and administration of prescription and nonprescription medications used by clients. The policies and procedures shall include, require and provide for:

1. All medications shall be stored in a securely locked storage area and properly labeled.
2. In accordance with Virginia Code § 54-524.65, Drug Control Act, prescription medications shall only be administered by a physician, dentist, pharmacist, nurse or medication technician.
3. In accordance with Virginia Code § 54-524.65, Drug

Control Act, prescription medications [, which are normally self-administered by a resident of the facility,] may be [~~delivered~~ administered] by [any designated an] employee [~~for self-administration by the client under the supervision of the program director and only by the order of a physician. The designated employee must have of the facility who has~~] successfully completed a medication assistance training program [~~endorsed~~ approved] by the Virginia Board of Nursing [, when authorized in writing by the physician and administered in accordance with the physician's instructions pertaining to dosage, frequency and manner of administration] .

4. Only those clients judged by the program staff to have an adequate level of functioning shall be allowed to self-administer nonprescription medication and this shall be documented in the client's record.

5. Controlled substances brought into the program by clients shall not be administered (including self-administration) unless they are identified and accompanied by a physician's or dentist's written order.

6. Procedures for documenting the administration of medication, medication errors, and drug reactions, obtaining emergency medical assistance, and disposal of medications.

7. Documentation of drugs prescribed following admission shall include:

- a. The date prescribed;
- b. Drug product name;
- c. Dosage;
- d. Strength;
- e. Route;
- f. Schedule;
- g. Dates medication discontinued or changed;
- h. Total supply of medication prescribed; and
- i. Signature of physician ordering medication.

8. Each program shall [~~have written policies and procedures regarding the review of medication therapy which shall insure and~~] provide for a quarterly review [by a physician (in conjunction with program staff when needed)] of the individual [~~client's~~ resident's medication] therapy plan [by a physician (in conjunction with program staff when needed) which] shall include:

- a. Documentation of the need for continued use of

medication therapy including multiple drug usage [; with evidence that treatment strategies other than medication therapy are under consideration] .

b. Documentation of all contraindications and unusual effects for specific clients (where appropriate).

9. The attending physician shall be notified immediately of drug reactions or medication errors.

10. Procedures for documenting that clients or a legally authorized representative are informed of the potential side effects of prescribed medication.

11. All staff who [~~supervise~~ have planned involvement with] clients shall be informed of any known side effects of medication clients use and the symptoms of the effect.

Article [~~26.~~ 25.] Nutrition.

[~~§ 5-65.~~ § 5.60.] Provision shall be made for each client to have three nutritionally balanced meals daily.

[~~§ 5-66.~~ § 5.61.] Menus shall be planned at least one week in advance.

[~~§ 5-67.~~ § 5.62.] The menus, including any deviations, shall be kept on file for at least two months.

[~~§ 5-68.~~ § 5.63.] The daily diet for residents shall be based on the generally accepted "Four Food Groups" system of nutrition planning. (The Virginia Polytechnic Institute and State University Extension Services is available for consultation.)

Article [~~27.~~ 26.] Clothing.

[~~§ 5-69.~~ § 5.64.] Provision shall be made for each resident to have [~~his own adequate supply of~~] clean, comfortable, well fitting clothes and shoes for indoor and outdoor wear.

[~~§ 5-70.~~ § 5.65.] The resident shall be allowed to take personal clothing when the resident leaves the facility.

Article [~~28.~~ 27.] Behavior Management.

[~~§ 5-71.~~ § 5.66.] Each facility shall implement written policies and procedures concerning behavior management that are directed toward maximizing the growth and development of the individual. These policies and procedures shall:

1. Emphasize positive approaches;
2. Define and list techniques that are used and

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available for use in the order of their relative degree of intrusiveness or restrictiveness;

3. Specify the staff members who may authorize the use of each technique;

4. Specify the processes for implementing such policies and procedures;

5. Specify the mechanism for monitoring and controlling the use of behavior management techniques; and

6. Specify the methods for documenting their use.

[~~§ 5-72.~~ § 5.67.] In the list required by [~~§ 5-71-1~~ subdivision 2 of § 5.66] of techniques that are used and available for use, intrusive aversive therapy if allowed shall be designated as the most intrusive technique.

[~~§ 5-73.~~ § 5.68.] A written behavior management plan utilizing intrusive aversive therapy shall not be implemented with any resident until the Local Human Rights Committee has determined:

1. That the resident or his authorized representative has made an informed decision to undertake the proposed intrusive aversive therapy, and in the case of a minor who is capable of making an informed decision, that the concurrent consent of the parent has been obtained;

2. That the proposed intrusive aversive therapy has been recommended by a licensed [or license eligible] clinical psychologist;

3. That the facility has satisfactorily demonstrated that the proposed intrusive aversive therapy plan does not involve a greater risk of physical or psychological injury or discomfort to the resident than the behaviors that the plan is designed to modify;

4. That there is documentation that a representative sample of less intrusive behavior management procedures have been tried without success;

5. That more appropriate behaviors are being positively reinforced;

6. That a licensed physician has certified that in his opinion, the intrusive aversive procedure will not endanger the health of the resident;

7. That the aversive treatment technique is measurable and can be uniformly applied;

8. That the aversive treatment program specifies the behavioral objective, the frequency of application of the aversive technique, the time limit for both application of the technique and the overall length of the program, and the collection of behavioral data to

determine the program's effectiveness; [and]

9. That the program is developed, implemented and monitored by staff professionally trained in behavior modification programming, and is witnessed by an approved professionally trained staff person [; .]

[~~§ 5-74.~~ § 5.69.] The Local Human Rights Committee having made the determinations required by [~~§ 5-73~~ § 5.68] shall then approve the proposed intrusive aversive therapy plan for a period not to exceed 90 days. The plan shall be monitored through unannounced visits by a designated human rights advocate. In order for the plan to be continued, the Local Human Rights Committee shall again make the determinations required in [~~§ 5-73~~ § 5.68].

[~~§ 5-75.~~ § 5.70.] The advocate or regional advocate shall be informed daily of all applications of a noxious stimulus in an approved intrusive aversive therapy program.

[~~§ 5-76.~~ § 5.71.] The resident subjected to intrusive aversive therapy procedures and the advocate or regional advocate shall be given an opportunity to obtain an independent clinical and Local Human Rights Committee review of the necessity and propriety of their use at any time.

Article [~~29.~~ 28.]

Prohibited Means of Punishment.

[~~§ 5-77.~~ § 5.72.] The following methods of punishment, whether spontaneous or a deliberate technique for effecting behavioral change or part of a behavior management program, shall be prohibited:

1. Deprivation of drinking water or nutritionally balanced snacks, or meals;

2. Prohibition of contacts and visits with attorney, probation officer, or placing agency representative;

3. Prohibition of contacts and visits with family or legal guardian [~~except where specifically permitted by other applicable regulations~~];

4. Delay or withholding of incoming or outgoing mail [~~except where specifically permitted by other applicable regulations~~];

5. Any action which is humiliating, degrading, harsh, or abusive;

6. Corporal punishment as defined in these regulations;

7. Subjection to unclean and unsanitary living conditions;

8. Deprivation of opportunities for bathing and access to toilet facilities;

9. Deprivation of health care including counseling; and

10. Administration of laxatives, enemas, or emetics.

Article [~~20~~. 29.]
Chemical or Mechanical Restraints.

[~~§ 5.70~~. § 5.73.] The use of mechanical or chemical restraints is prohibited unless [~~such use is specifically permitted by other applicable regulations carried out in compliance with applicable human rights regulations promulgated pursuant to § 37.1-84.1 of the Code of Virginia~~]

Article [~~31~~. 30.]

Physical Restraint.

[~~§ 5.70~~. § 5.74.] A resident may be physically restrained only when the resident's uncontrolled behavior would result in harm to the resident or others [or destruction of property] and when less restrictive interventions have failed.

[~~§ 5.80~~. § 5.75.] The use of physical restraint shall be only that which is minimally necessary to protect the resident or others [or to prevent the destruction of property].

[~~§ 5.81~~. § 5.76.] If the use of physical restraint is unsuccessful in calming and moderating the resident's behavior the resident's physician, the rescue squad, the police or other emergency resource shall be contacted for assistance.

[~~§ 5.82~~. § 5.77.] Any application of physical restraint shall be fully documented in the resident's record as to date, time, staff involved, circumstances, reasons for use of physical restraint, [duration of physical restraint,] extent of physical restraint used, the results of physical restraint and the disposition of the incident requiring physical restraint.

Article [~~32~~. 31.]
Seclusion.

[~~§ 5.82~~. § 5.78.] Seclusion of a resident is a room with the door secured in any manner that will prohibit the resident from opening it shall be prohibited unless carried out in compliance with applicable human rights regulations promulgated pursuant to § 37.1-84.1 of the Code of Virginia.

Article [~~33~~. 32.]
Time-out Procedures.

[~~§ 5.84~~. § 5.79.] Time-out procedures may only be used at times and under conditions specified in the facility's disciplinary or behavior management policies.

[~~§ 5.85~~. § 5.80.] When a resident is placed in a time-out

room, the room shall not be locked nor the door secured in any manner that will prohibit the resident from opening it.

[~~§ 5.86~~. § 5.81.] Any resident in a time-out room shall be able to communicate with staff.

[~~§ 5.87~~. § 5.82.] The use of time-out procedures shall not be used for periods longer than 15 consecutive minutes.

[~~§ 5.88~~. § 5.83.] Written documentation shall be maintained verifying that each resident placed in a time-out room has been checked by staff at least every 15 minutes.

[~~§ 5.90~~. § 5.84.] A resident placed in a time-out room shall have bathroom privileges according to need.

[~~§ 5.90~~. § 5.85.] If a meal is scheduled while a resident is in time-out, the meal shall be provided to the resident at the end of the time-out procedure.

PART VI.
DISASTER OR EMERGENCY PLANS.

Article 1.
Disaster or Emergency Procedures.

§ 6.1. Established written procedures shall be made known to all staff and clients, as appropriate for health and safety, for use in meeting specific emergencies including:

1. Severe weather;
2. Loss of utilities;
3. Missing persons;
4. Severe injury; and
5. Emergency evacuations [including alternate housing]

Article 2.
Written Fire Plan.

§ 6.2. Each facility with the consultation and approval of the appropriate local fire authority shall develop a written plan to be implemented in case of a fire at the facility.

§ 6.3. Each fire plan shall address the responsibilities of staff and clients with respect to:

1. Sounding of fire alarms;
2. Evacuation procedures including assembly points, head counts, primary and secondary means of egress, evacuation of clients with special needs (i.e. deaf, blind, multi-handicapped) and checking to ensure complete evacuation of the building(s);

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3. A system for alerting fire fighting authorities;
4. Use, maintenance and operation of fire fighting and fire warning equipment;
5. Fire containment procedures including closing of fire doors, fire windows or other fire barriers;
6. Posting of floor plans showing primary and secondary means of egress; and
7. Other special procedures developed with the local fire authority.

§ 6.4. Floor plans showing primary and secondary means of egress shall be posted on each floor in locations determined by the appropriate local fire authority.

§ 6.5. The written fire plan shall be reviewed with the local fire authority at least annually and updated, if necessary.

§ 6.6. The procedures and responsibilities reflected in the written fire plan shall be made known to all staff and residents.

Article 3.

Posting of Fire Emergency Phone Number.

§ 6.7. The telephone number of the fire department to be called in case of fire shall be prominently posted on or next to each telephone in each building in which clients participate in programs.

Article 4.

Portable Fire Extinguishers.

§ 6.8. Portable fire extinguishers shall be installed and maintained in the facility in accordance with state and local fire/building code requirements. In those buildings where no such code requirements apply, on each floor there shall be installed and maintained at least one approved type ABC portable fire extinguisher having at least a 2A rating.

§ 6.9. Fire extinguishers shall be mounted on a wall or post where they are clearly visible and so that the top is not more than five feet from the floor except that if a fire extinguisher weighs more than 140 pounds it shall be installed so that the top is not more than 2-1/2 feet from the floor. They shall be easy to reach and remove and they shall not be tiled down, locked in a cabinet, or placed in a closet or on the floor except that where extinguishers are subject to malicious use, locked cabinets may be used provided they include a means of emergency access.

§ 6.10. All required fire extinguishers shall be maintained in operable condition at all times.

§ 6.11. Each fire extinguisher shall be checked by

properly oriented facility staff at least once each month to ensure that the extinguisher is available and appears to be in operable condition. A record of these checks shall be maintained for at least two years and shall include the date and initials of the person making the inspection.

§ 6.12. Each fire extinguisher shall be professionally maintained at least once each year. Each fire extinguisher shall have a tag or label securely attached which indicates the month and year the maintenance check was last performed and which identifies the company performing the service.

Article 5. Smoke Alarms.

§ 6.13. Smoke detectors or smoke detection systems shall be installed and maintained in the facility in accordance with state and local fire/building code requirements. In those buildings where no such code requirements apply, the facility shall provide at least one approved and properly installed smoke detector:

1. In each hallway;
2. At the top of each interior stairway;
3. In each area designated for smoking;
4. In or immediately adjacent to each room with a furnace or other heat source; [and]
5. In each additional location directed by the local building official, the local fire authority, or the state fire authority [; or both].

§ 6.14. Each smoke detector shall be maintained in operable condition at all times.

§ 6.15. If the facility is provided with single station smoke detectors, each smoke detector shall be tested by properly oriented staff at least once a month and if it is not functioning, it shall be restored to proper working order. A record of these tests shall be maintained for at least two years and shall include the date and initials of the person making the test.

§ 6.16. If the facility is provided with an automatic fire alarm system, the system shall be inspected by a qualified professional firm at least annually. A record of these inspections shall be maintained for at least two years and shall include the date and the name of the firm making the inspections.

Article 6. Fire Drills.

§ 6.17. At least one fire drill (the simulation of fire safety procedures included in the written fire plan) shall be conducted each month in each building at the facility [normally] occupied by clients.

§ 6.18. Fire drills shall include, at a minimum:

1. Sounding of fire alarms;
2. Practice in building evacuation procedures;
3. Practice in alerting fire fighting authorities;
4. Simulated use of fire fighting equipment;
5. Practice in fire containment procedures; and
6. Practice of other simulated fire safety procedures as may be required by the facility's written fire plan.

§ 6.19. During any three consecutive calendar months, at least one fire drill shall be conducted during each shift.

§ 6.20. False alarms shall not be counted as fire drills.

§ 6.21. The facility shall designate at least one staff member to be responsible for conducting and documenting fire drills.

§ 6.22. A record shall be maintained on each fire drill conducted and shall include the following information:

1. Building in which the drill was conducted;
2. Date of drill;
3. Time of drill;
4. Amount of time to evacuate building;
5. Specific problems encountered;
6. Specific tasks completed:
 - a. Doors and windows closed,
 - b. Head count,
 - c. Practice in notifying fire authority, and
 - d. Other.
7. Summary; and
8. Signature of staff member responsible for conducting and documenting the drill.

§ 6.23. The record for each fire drill shall be retained for two years subsequent to the drill.

§ 6.24. The facility shall designate a staff member to be responsible for the fire drill program at the facility who shall:

1. Ensure that fire drills are conducted at the times and intervals required by these regulations and the

facility's written fire plan;

2. Review fire drill reports to identify problems in the conduct of fire drills and in the implementation of the requirements of the fire plan;

3. Consult with local fire authorities, as needed, and plan, implement and document training or other actions taken to remedy any problems found in the implementation of the procedures required by the written fire plan; and

4. Consult and cooperate with the local fire authority to plan and implement an educational program for facility staff and residents on topics in fire prevention and fire safety.

Article 7.

Training in Fire Procedures.

§ 6.25. Each new staff member shall be trained in fire procedures and fire drill procedures within seven days after employment.

§ 6.26. Each new staff member shall be trained in fire procedures and fire drill procedures prior to assuming sole responsibility for the supervision of one or more clients.

§ 6.27. Residents shall be oriented as to fire procedures at time of admission.

Article 8.

Poison Control.

§ 6.28. The telephone number of a Regional Poison Control Center shall be posted on or next to at least one nonpay telephone in each building in which clients participate in programs.

§ 6.29. At least one 30cc bottle of Syrup of Ipecac shall be available on the premises of the facility for use at the direction of the Poison Control Center or physician.

Article 9.

Use of Vehicles and Power Equipment.

§ 6.30. Any transportation provided [by the program or facility directly or through contract] for [~~or used by~~] clients shall be in compliance with state and federal laws relating to:

1. Vehicle safety and maintenance;
2. Licensure of vehicles; and
3. Licensure of drivers.

§ 6.31. There shall be written safety rules for transportation of clients, including handicapped clients appropriate to the population served.

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§ 6.32. There shall be written safety rules for the use and maintenance of vehicles and power equipment.

Article 10.

Control of Deviant or Criminal Behavior.

§ 6.33. The person in charge of the facility shall take all reasonable precautions to assure that no resident is exposed to, or instigates such behavior as might be physically [; or] emotionally [~~or morally~~] injurious to himself or to another person.

§ 6.34. Any incident relating to the operation of the facility which results in serious injury or death shall be investigated by the person in charge of the facility, appropriately reported to local authorities, and immediately reported to the department. A written report of the incident shall be made and kept on file by the facility and made available for review by authorized personnel.

PART VII. RESIDENTIAL METHADONE TREATMENT FACILITIES.

Article 1. Applicability.

§ 7.1. Compliance with the regulations in Part VII is required for the licensure of residential methadone treatment facilities. These requirements are in addition to those requirements in Parts II through VI when treatment facilities utilize the narcotic drug methadone as part of a residential substance abuse treatment and rehabilitation program because such a program requires more stringent admission procedures and criteria, drug administration procedures, record content and procedures, and services provided.

Article 2. Definitions.

§ 7.2. The following words and terms when used in this part, shall have the following meaning unless the context clearly indicates otherwise:

"Detoxification treatment using methadone" means the administering or dispensing of methadone as a substitute narcotic drug in decreasing doses to reach a drug free state in a period not to exceed 21 days [, or such other period as may be permitted by applicable federal regulations,] in order to withdraw an individual who is dependent on heroin or other morphine-like drug from the use of these drugs. A repeat episode of detoxification may not be initiated until one week after the completion of the previous detoxification.

"Licensed methadone treatment facility" means a person, partnership, governmental agency, corporation or association, licensed by the commissioner to operate a methadone treatment program.

"Maintenance treatment using methadone" means the continued administering or dispensing of methadone, in conjunction with provision of appropriate social and medical services, at relatively stable dosage levels for a period in excess of 21 days as an oral substitute for heroin or other morphine-like drugs, for an individual dependent on heroin.

"Methadone treatment program" means a person or organization furnishing a comprehensive range of services using methadone for the detoxification or maintenance treatment of narcotic addicts, conducting initial evaluation of patients and providing ongoing treatment at a specified location or locations.

"State Methadone Authority" means the Commissioner of the Department or his designee.

Article 3. Program Objectives.

§ 7.3. The objectives of a methadone treatment facility shall be:

1. To enable drug dependent patients to become productive citizens;
2. To promote the eventual withdrawal of patients from drug dependency;
3. To protect patients and society from any harmful effects of drug misuse;
4. To evaluate the effects of methadone in the treatment and rehabilitation of drug dependent patients; and
5. To promote the safe and controlled use of methadone according to sound medical practice and to prevent abuse or misuse of methadone.

Article 4. Program and Services.

§ 7.4. A licensed methadone treatment facility shall include facilities, resources and staff adequate to provide and shall provide or make appropriate arrangements for providing the following services:

1. Medical care; a written agreement with a hospital for the purpose of providing necessary emergency, inpatient, or ambulatory care for facility patients must be provided;
2. Individual or group therapy and family therapy;
3. Vocational rehabilitation services;
4. Educational services;
5. Counseling;

6. Other services should include social services and recreational therapy; and

7. Urinalysis. Random urine samples shall be collected from each prospective methadone resident for analysis as part of the admission procedure to the program. Upon active methadone residents, at least eight additional random urinalysis shall be performed during the first year in maintenance treatment and at least quarterly random urinalysis shall be performed on each resident in maintenance treatment for more than one year, except that a random urinalysis shall be performed monthly on each resident who receives a six-day supply of take-home medication. Specimens shall be collected from each resident in a manner that minimizes falsification. Urine collected shall be qualitatively analyzed for the morphine radical, other opiates, cocaine, methadone, barbiturates, amphetamines, and quinine, as well as other drugs as indicated. The results of this urinalysis is necessary for the overall treatment planning for individual residents receiving services and shall not be used in a punitive manner except to reduce or discontinue take home privileges.

Article 5. Admissions.

§ 7.5. A patient may be admitted to a licensed facility only upon approval of the facility director following evaluation and examination.

§ 7.6. Each person selected as a patient for a maintenance program regardless of age, shall be determined by a facility physician to be currently physiologically dependent upon a narcotic drug and must have first become dependent at least one year prior to admission to a maintenance program except that:

1. A person who has resided in a penal or chronic care institution for one month or longer may be admitted to methadone maintenance treatment within 14 days prior to release or discharge or within three months after release from such an institution without evidence to support findings of physiological dependence, provided the person would have been eligible for admission prior to incarceration or institutionalization. Documented evidence of the prior residence in a penal or chronic care institution and evidence of all other findings and the criteria used to determine such findings shall be recorded in the patient's record by the admitting physician or by program personnel supervised by the admitting physician.

2. Pregnant patients, regardless of age or prior addiction history, who are otherwise eligible for methadone maintenance treatment, may be admitted to a maintenance regimen provided the medical director of the facility certifies in his judgment that such treatment is medically justified. Notification and

justification for this patient's admission to methadone treatment will be communicated to the State Methadone Authority. Within six weeks after termination of the pregnancy, the physician shall enter an evaluation of the patient's treatment into the patient's record indicating whether she should remain in a maintenance treatment or be detoxified. Pregnant patients shall be given the opportunity for prenatal care either by the methadone program or by referral to appropriate health care providers. This shall be documented in the patient's record.

3. A patient who has been treated and subsequently detoxified from methadone maintenance treatment may be readmitted to methadone maintenance treatment without evidence to support findings of current physiologic dependence up to six months after discharge provided that prior methadone maintenance treatment of six months or more is documented from the program attended and that the admitting program physician, in his reasonable clinical judgment, finds readmission to methadone maintenance treatment to be medically justified.

§ 7.7. The safety and effectiveness of methadone when used in the treatment of patients under 18 years of age has not been proved by adequate clinical study. Special procedures are, therefore, necessary to assure that patients under age 16 years will not be admitted to maintenance treatment and that patients between 16 and 18 years of age be admitted to maintenance treatment only under limited conditions.

§ 7.8. Patients between 16 and 18 years of age who are admitted and under treatment in approved programs on the effective date of these regulations may continue in maintenance treatment. No new patients between 16 and 18 years of age may be admitted to a methadone treatment program unless a parent, legal guardian, or legally authorized representative signs form FD-2635, "Consent to Methadone Treatment". Methadone maintenance treatment of new patients between the age of 16 and 18 years will be permitted only with (i) a documented history of two or more unsuccessful attempts at detoxification, (ii) a documented history of dependence on heroin or other morphine-like drugs beginning one year or more prior to application for treatment, and (iii) approval of such action by the State Methadone Authority. No patient under age 16 may be continued or started on maintenance treatment, but these patients may be detoxified and retained in the program in a drug-free state for follow-up and aftercare. Persons under 16 years of age may be admitted to methadone maintenance treatment in certain rare cases if prior approval is obtained from both the Food and Drug Administration and State Methadone Authority.

§ 7.9. Patients under age 18 who are not admitted to maintenance treatment may be detoxified. Detoxification may not exceed three weeks. A repeat episode of detoxification may not be initiated until four weeks after

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the completion of the previous detoxification.

§ 7.10 The following patients shall not be admitted to a licensed methadone program without prior approval of the State Methadone Authority:

1. Patients with serious concomitant physical illness may be included in methadone maintenance treatment only when comprehensive medical care is available. Such patients require careful observation for any adverse effects of methadone and interactions with other medications. The physician should promptly report adverse effects and evidence of interactions to the Food and Drug Administration.

2. Psychotic patients may be included in methadone maintenance treatment when adequate psychiatric consultation and care is available. Administration of concomitant psychotropic agents requires careful observation for possible drug interaction. Such occurrences should be promptly reported to the Food and Drug Administration.

Medical directors who intend to include in their program patients in categories one and two should so state in their protocols and give assurances of appropriate precautions.

§ 7.11. In exercising his professional judgment, the medical director, clinical director, or supervising clinician may refuse a particular person admission to treatment even if that person meets the admission requirements. The exclusion of the patient from treatment and the justification for such action shall be documented in the person's intake record by the medical director, clinical supervisor, or supervising clinician. However, it is the responsibility of the facility to recommend alternative treatment referrals for persons who have been denied admission.

§ 7.12. On admission to a licensed methadone facility, and periodically thereafter, each patient must provide information and data or submit to evaluations including, but not limited to the following:

1. Social history, including:
 - a. Age;
 - b. Sex;
 - c. Educational history;
 - d. Employment history;
 - e. History of substance abuse of all types;
 - f. Prior substance abuse treatment history;
 - g. Current legal problems, if any;

h. Criminal history, if any; and

i. Contact person to notify in case of emergency;

2. Medical history and history of psychiatric illness;

3. Formal psychiatric examination of patients with a prior history of psychiatric treatment and in those whom there is a question of psychosis or competence to give informed consent;

4. Assessment of the degree of physical dependence on, and psychic craving for, narcotics and other drugs;

5. Evaluation of attitudes and motivations for participation in the program;

6. Physical examination and any laboratory or other special examinations indicated in the judgment of the medical director;

7. Tuberculin test;

8. Serologic test for syphilis;

9. Bacteriological culture for gonorrhea;

10. Recommended lab exam:

a. Complete blood count;

b. Routine and microscopic urinalysis;

c. Liver functions profile;

d. When tuberculin test is positive, chest x-ray;

e. Australian antigen Hb ag. Testing (Haa testing);

f. When clinically indicated, an EKG; and

g. Pregnancy test for females and a pap smear when appropriate.

§ 7.13. Each person shall be informed concerning the possible risks associated with the use of methadone. Participation in the program shall be voluntary. The facility director shall insure that all the relevant facts concerning the use of methadone are clearly and adequately explained to the patient and that all patients (including those under 18) shall sign, with knowledge and understanding of its contents, the first part of Form FD 2635 "Consent to Methadone Treatment". Parents or guardians of patients under age 18 shall also sign the second part of this form. Form 2635 shall be signed again for each readmission if a two-week lapse in treatment has preceded the readmission.

§ 7.14. Each patient shall be provided with a written statement describing the program. The patient shall sign a statement to the effect that he accepts and understands

the program and will:

1. Present himself daily for medication. Such medication shall be taken orally in front of a licensed practitioner (registered nurse, licensed practical nurse, physician, or pharmacist);
2. Behave according to designated treatment requirements;
3. Attend such classes, group session or interviews to which he is assigned;
4. Not use illicit substances; and
5. Give a urine sample in front of an attendant regularly, when requested.

Article 6. Dismissal From Program.

§ 7.15. Patients may be dismissed from the program at the discretion of the director when he determines that the program or the patient's treatment will be adversely affected by the conduct of the patient, such as:

1. Continued illegal use of narcotics or other drugs;
2. Conviction of a misdemeanor or felony;
3. Failure to cooperate with the program;
4. Repeated failure to keep appointments in the treatment program;
5. Repeated failure to take medication as directed; or
6. Conduct which adversely affects the patient, other patients or the program.

§ 7.16. Patients who are dismissed from the program for misconduct may appeal the dismissal decision through a formal appeals procedure that has been developed by the program. Decisions of these appeal proceedings shall be recorded in the patient's records.

§ 7.17. Before leaving the program, a patient shall be given the opportunity for detoxification from methadone according to a plan approved by the medical director of the program.

§ 7.18. A patient from one methadone facility shall be properly identified before starting treatment at any other methadone facility. A letter of transfer from the medical director, including a description and photograph of the patient, summary of pertinent clinical information, shall be received by the receiving methadone facility within two weeks of the patient receiving methadone. A confirming telephone conversation with a licensed practitioner concerning the current dosage, particular medical problems and reason for transfer shall be documented in

the patient's chart prior to his receiving methadone.

§ 7.19. Consideration may be given to discontinuing methadone for participants who have maintained satisfactory adjustment over an extended period of time. In such cases, follow-up evaluation is to be obtained periodically.

Article 7. Dosage and Dosage Administration.

§ 7.20. All take-home doses of methadone or oral administration in liquid form shall be prepared under the immediate supervision of a licensed pharmacist or physician and shall be in a suitable vehicle formulated to minimize misuse by parenteral and accidental ingestion.

§ 7.21. Take-home medication shall be labeled under the direct supervision of the pharmacist or physician.

§ 7.22. All methadone for outpatient use shall be dispensed in containers whose composition is chemically and physically compatible with methadone and its vehicle so as to maintain the integrity and effectiveness of the container and its contents. These containers shall be glass, light resistant and tightly closed with child-resistant effectiveness of not less than 85% without a demonstration and not less than 80% after a demonstration of the proper means of opening such special packaging.

§ 7.23. Methadone shall be administered by a physician licensed and registered under state and federal law to prescribe narcotic drugs for patients or by an agent of the physician supervised by and pursuant to the order of the physician. Such agent shall be limited to a pharmacist, a registered nurse, or a practical nurse, all licensed by the Commonwealth of Virginia. The licensed physician assumes responsibility for the amounts of methadone administered or dispensed. All changes in dosage schedule shall be recorded and signed by the physician.

Article 8. Maintenance Treatment.

§ 7.24. The usual initial dose is 20-40 milligrams. Subsequently, the dosage may be adjusted individually as tolerated and required to a maintenance level of approximately 40-120 milligrams daily.

§ 7.25. For daily dosages above 100 milligrams patients shall ingest medication under observation six days per week. These patients may be allowed to take-home medication for one day per week only.

§ 7.26. A daily dose of 100 milligrams or more shall be justified in the medical record. For daily dosages above 100 milligrams or, for take-home doses above 100 milligrams per day, prior approval shall be obtained from the State Methadone Authority.

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Frequency of Attendance.

§ 7.27. For detoxification, the drug will be administered daily under close observation.

§ 7.28. For maintenance initially, the patient shall receive the medication under observation daily for at least six days a week.

§ 7.29. In maintenance treatment, after demonstrating satisfactory adherence to the program requirements for at least three months by participating actively in the program activities or by participating in educational, vocational and homemaking activities, those patients whose employment, education or homemaking responsibilities would be hindered by daily attendance may be permitted to reduce to three times weekly the time when they must ingest the drug under observation. Such patients shall receive no more than a two day take-home supply.

Article 10.

Take-home Medications.

§ 7.30. With continuing adherence to the program's requirements and progressive rehabilitation for at least two years after entrance into the program, such patients may be permitted twice weekly visits to the facility for methadone ingestion under observation with a three day take-home supply.

§ 7.31. Prior to reducing the frequency of visits, documentation of the patient's progress and the need for reducing the frequency of visits shall be recorded in the patient's record.

§ 7.32. Additional take-home medication may be provided at the discretion of the medical director in exceptional circumstances such as illness, family crisis or necessary travel where hardship would result from requiring the customary daily observed medication intake for the specific period in question. However, under no circumstances shall take-home dosage exceed a two-week supply.

Article 11.

Security Measures.

§ 7.33. Security measures shall be taken to prevent diversion of methadone into illicit channels. Stocks of methadone shall be kept at the minimum quantity consistent with the needs of the patient population. Security measures shall be outlined by the program director in the license application form.

Article 12.

Patient Records.

§ 7.34. Director of accredited methadone programs are required to maintain detailed patient records which shall include but not be limited to:

1. Preliminary intake interview;
2. Social history;
3. Physical and psychological evaluation;
4. Patient consent form;
5. Current treatment plan accompanied by progress recordings. Initial treatment plan shall be documented in each patient's record within four weeks after admission;
6. Laboratory report;
7. Amount of methadone administered or dispensed;
8. Results of urinalysis;
9. Patient attendance record;
10. Detailed account of any adverse reaction, deaths, premature births, or adverse reactions displayed by a newborn which, in the opinion of the attending physician, are due to methadone shall be reported within one month to the Food and Drug Administration and State Methadone Authority on Form FD-1639, "Drug Experience Report";
11. An evaluation of the patient's treatment and progress shall be carried out at least quarterly by the primary counselor. A review of resident progress by clinical staff supervisors or consultants will be undertaken at least semi-annually. These evaluations shall be documented in the patient's records.

Article 13.

Program Records.

§ 7.35. Each licensed methadone facility shall be registered with the Drug Enforcement Administration under the category which applies to its business activity.

§ 7.36. Methadone shall be obtained only by use of DEA Form 222 from a Drug Enforcement Administration registered manufacturer or wholesaler and delivered directly to the facility or procured by the program pharmacist from the wholesaler.

§ 7.37. The facility shall keep accurate records of receipt and disbursement as required by the Drug Enforcement Administration and the Virginia State Board of Pharmacy.

Article 14.

Confidentiality of Patient Records.

§ 7.38. Disclosure of patient records maintained by any facility shall be governed by 42 CFR Part 2 of the Code of Federal Regulations [~~471-75~~ (6/9/87)] and every program shall comply with the provisions contained therein. Records relating to the receipt, storage, and

distribution of narcotic medication shall also be subject to inspection as provided by federal and state controlled substances laws; but use or disclosure of records identifying patients shall be limited to actions involving the facility or its personnel.

§ 7.39. Every licensed facility may protect the privacy of patients therein by withholding from all persons not employed by such facility or otherwise connected with the conduct of the facility operations, the names or other identifying characteristics of such patients where the facility director has reasonable grounds to believe that such information may be used to conduct any criminal investigation or prosecution of the patient. Facilities may not be compelled in any federal, state or local, civil, criminal, administrative or other proceedings to furnish such information. This does not require the withholding of information authorized to be furnished pursuant to 42 CFR Part 2, nor does it invalidate any legal process to compel the furnishing of information in accordance with 42 CFR Part 2. Furthermore, a licensed facility shall permit a duly authorized employee of the Food and Drug Administration of the State Methadone Authority to have access to and copy all records relating to the use of methadone in accordance with the provisions of 42 CFR Part 2 and shall reveal them only when necessary in a related administrative or court proceeding.

§ 7.40. The following records are to be maintained on file at a licensed methadone treatment facility:

1. FD-2632 Application for approval of use of methadone in a treatment program;
2. FD-2633 Medical responsibility statement for use of methadone in a treatment program;
3. FD-2634 Annual report for treatment program using methadone NDATUS;
4. FD-2636 (if hospital) Hospital request for methadone for detoxification treatment;
5. FD-1639 Drug Experience Report.

Article 15. Evaluation.

§ 7.41. Evaluation of the safety of methadone administered over prolonged periods of time is to be based on results of physical examinations, laboratory examinations, adverse reactions, and results of special procedures when such have been carried out.

§ 7.42. Evaluation of effectiveness of rehabilitation is to be based upon, but not limited to, such criteria as:

1. Social adjustment verified whenever possible by family members or other reliable persons;
2. Withdrawal from methadone and achievement of an

enduring drug-free status;

3. Assessment of progress in meeting current treatment plan;
4. Occupational adjustment verified by employers or record of earnings;
5. Extent of drug abuse;
6. Extent of alcohol abuse; and
7. Arrest records.

Article 16.

Special Conditions for Use of Methadone in Hospitals for Detoxification and Treatment.

§ 7.43. The following words and terms, when used in this article, shall have the following meaning, unless the content clearly indicated otherwise:

"Detoxification treatment using methadone" means the administering of methadone as a substitute narcotic drug in decreasing doses to reach a drug-free state in a period not to exceed 21 days in order to withdraw an individual who is dependent on heroin or other morphine-like drugs from the use of such drugs.

"Temporary maintenance treatment" means (i) treatment of an opiate-addicted patient hospitalized for medical or surgical problems other than opiate addiction; and (ii) emergency treatment of an opiate-addicted person on an inpatient or outpatient basis for not more than 72 hours for such addiction.

§ 7.44. Methadone may be administered or dispensed in a hospital in either oral or parenteral form.

§ 7.45. Temporary maintenance treatment may be instituted in a hospital for an opiate-addicted patient for a medical or surgical problem (other than the addiction) which would be complicated by the patient's not receiving maintenance doses of an opiate. In such instances, the patient may be treated with methadone during the critical period of his hospital confinement. Such patient need not be currently enrolled in a licensed methadone treatment program.

§ 7.46. An opiate-addicted patient may be treated on an emergency inpatient or outpatient basis for not more than 72 hours until he can be admitted to a licensed methadone treatment facility. This 72 hour emergency treatment may be given to a patient who has no medical or surgical problem other than opiate addiction. This treatment shall not be renewed or extended for any given patient. Methadone shall be dispensed and administered daily by the hospital. No take-home doses shall be allowed for this treatment regimen.

§ 7.47. If the hospital is located in the same locality as a

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licensed methadone treatment facility, the facility may provide the methadone for a patient who is hospitalized for treatment for a condition other than narcotic addiction and who is presently enrolled in the methadone treatment program, provided:

1. A licensed practitioner from the facility (registered nurse, pharmacist, physician or licensed practical nurse) shall administer the methadone directly to the patient on a daily basis.
2. No hospital personnel shall administer the methadone to the patient if the methadone facility's drug supply is used.
3. The facility shall not leave a stock of doses for the patient within the hospital. The hospital may use its own stock of methadone in any available formulation if it so elects. Medical personnel within the hospital may then administer the drug to the patient.
4. Hospitals which wish to provide detoxification or maintenance of an opiate addicted person who has been admitted solely for his addiction problem shall submit FDA Form 2636, "Hospital Request for Methadone for Analgesia in Severe Pain, and Detoxification and Temporary Maintenance Treatment" as well as registering with the Drug Enforcement Administration of Form DEA 363 "New Application for Registration Under Narcotic Addict Treatment Act of 1974."

DEPARTMENT OF SOCIAL SERVICES (BOARD OF)

REGISTRAR'S NOTICE: This regulation is exempted from the provisions of the Administrative Process Act (§ 9-6.14:1 et seq. of the Code of Virginia) in accordance with § 9-6.14:4.1 B 4 of the Code of Virginia, which exempts from this Act agency actions relating to grants of state or federal funds or property.

Title of Regulation: VR 615-32-01. Administrative Procedures for the Child Development Associate Scholarship Program.

Statutory Authority: § 63.1-25 of the Code of Virginia.

Effective Date: February 17, 1988

Summary:

Virginia received \$23,628 in federal funds for the Child Development Associate Credential Scholarship Program. The availability of these funds will be advertised widely through the child care provider community. Selection of candidates will be done in two phases.

During Phase I, the start of the scholarship grant period, scholarship applications will be reviewed by an

advisory board of interested agencies/associations. Each social services region will have a number of scholarship slots available on the basis of population; consideration will also be given to rural/urban and profit/nonprofit based candidates.

Phase II will begin 14 months before the expiration of each grant period; at that time, scholarships will be evaluated and awarded on the basis of date of arrival of completed application and financial need only. The two phase approach allows flexibility to award all scholarships in ample time for candidates to complete the CDA credentialing process prior to expiration of the grant funds. It should be carefully noted that application for the scholarship and application to become a CDA candidate are separate processes; the applicant has full responsibility for applying to the Council for Early Childhood Professional Recognition for entry into the CDA program.

VR 615-32-01. Administrative Procedures for the Child Development Associate Scholarship Program.

PART I. INTRODUCTION.

Article 1. Definitions.

§ 1.1. The following words and terms, when used in these procedures, shall have the following meaning, unless the context clearly indicates otherwise:

"Advance account" means an account established with the Council for Early Childhood Professional Recognition whereby the state deposits a sum of money with the council and then authorizes payment of application and assessment fees for specific applicants for the CDA credential.

"Advisory group" means a group of interested professionals invited by the Virginia Department of Social Services, Division of Licensing Programs to assist with the application selection process.

"Applicant" means any individual who is applying for a CDA scholarship.

"Application and assessment fees" means the fees charged for enrollment and assessment in the CDA program. These fees are payable to the Council for Early Childhood Professional Recognition. The CDA Scholarship covers only these fees.

"Candidate application form" means part of the Virginia CDA Scholarship Program's application process. The form may be obtained from the Division of Licensing Programs.

"CDA" means the abbreviation for Child Development Associate.

"Certificate of income verification" means the form to be completed by the applicant which, with supporting documentation, provides information which can establish income eligibility. The form may be obtained from the Division of Licensing Programs.

"Child development associate (CDA) credential" means the competency-based national credential awarded to individuals who work with children ages five and under. A CDA credential can be earned in three settings (Center-based, Family Day Care, and Home Visitor,) and with two age groups (0-36 months and 3-5 years old.) In addition, a bilingual specialization may be earned. The credential is valid for three years and can be renewed for five-year periods.

"Competency areas" means the areas of child care in which the CDA candidate must demonstrate competency. They are as follows:

1. Establishing and maintaining a safe, healthy learning environment;
2. Advancing physical and intellectual competence;
3. Supporting social and emotional development and providing positive guidance and discipline;
4. Establishing positive and productive relationships with families;
5. Ensuring a well-run purposeful program responsive to participant needs;
6. Maintaining a commitment to professionalism.

"Council for Early Childhood Professional Recognition" means the subsidiary of the National Association for the Education of Young Children which is responsible for the issuance of the CDA credential.

"Evaluation process" means the CDA requirement that the candidate document and demonstrate skill in six competency areas while working with young children.

"Family unit" means persons residing within the same household.

"Income eligibility" means that applicants are eligible for the scholarship if their family unit income is less than 50% above poverty level as defined by the federal Office of Management and Budget.

"Phase One" means the first 10 months of the federal fiscal year in which grant funds are available.

"Phase Two" means the 14 months inclusive of the last two months of the fiscal year in which the grant funds are awarded plus the following fiscal year during which those grant funds may be carried over.

"State-approved program" means licensed child care centers, family day care homes and family day care systems, child placing agencies, religiously-exempt child care facilities, and family day care homes approved by local social services agencies.

Article 2. Legal Base.

§ 1.2. This federal scholarship grant is awarded under the Human Services Reauthorization Act of 1986, Title VI, Grants for Child Development Associate Scholarship Assistance (P.L. 99-425). The Department of Social Services, Division of Licensing Programs was appointed administering agency by Governor Baliles.

Section 9-6.14:4.1 B 4 of the Code of Virginia exempts federal grants of this type from the full provisions of the Administrative Process Act. Section 63.1-25 of the Code of Virginia provides the statutory base for approval of these procedures by the State Board of Social Services.

PART II. ADMINISTRATIVE PROCEDURES.

Article 1. The Application.

§ 2.1. Scholarship applicants must submit the following documentation to the Division of Licensing Programs:

1. Candidate Application Form, available from the Division of Licensing Programs;
2. Certificate of Income Verification, available from the Division of Licensing Programs;
3. A letter of recommendation from the applicant's CDA Trainer Advisor which assures that the applicant will be eligible for assessment prior to the end of Phase Two.

§ 2.2. Applicants will be notified by telephone of incomplete applications with a follow-up letter if the application is not complete within two weeks of the original telephone notification.

Article 2. Selection.

§ 2.3. All completed applications will be reviewed to establish income eligibility. Applicants who do not meet the income eligibility requirements will be notified within two weeks of receipt of the complete application by the Division of Licensing Programs.

§ 2.4. Through Phase One of the grant period, completed applications will be reviewed by an advisory group, selected by the Division of Licensing Programs, consisting of representatives of:

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1. Interested agencies;
2. Provider groups;
3. Educators.

3. Two years later.

§ 2.5. Scholarships will be awarded to eligible applicants based on:

1. Proportion of state population within the social services' regions of applicants;
2. Assurance of a balance between scholarships awarded to rural and urban candidates as well as applicants from profit and nonprofit child care centers and candidates representing various specializations in caregiving settings and populations.

§ 2.6. Successful applicants will be notified within two weeks after their selection and asked to forward their application for enrollment in the CDA program to the Council for Early Childhood Professional Recognition.

NOTE: In the event that the applicant is already enrolled in the CDA program and has already paid the registration fee, the council will be instructed to reimburse the successful applicant for the registration fee.

2.7. Applicants who do not meet the geographic or other considerations listed above will be notified that they have been placed on a waiting list and that their applications will be reconsidered during Phase Two of the grant period if scholarship funds remain.

§ 2.8. During Phase Two, all unfunded but eligible applications will be reviewed and funded in the order in which each completed application was received by the Division of Licensing Programs.

Article 4. Disbursement of Funds.

§ 2.9. An advance account will be established with the Council for Early Childhood Professional Recognition. As scholarships are awarded, the council will be notified in writing of the names and Social Security numbers of successful applicants, thereby authorizing the council to withdraw funds from the advance account to pay fees for those applicants.

Article 5. Maintenance of Statistical Information.

§ 2.10. Current salary information will be requested in writing from those individuals successfully obtaining the CDA credential:

1. At the time they complete the credentialing process;
2. One year later;

VIRGINIA CDA SCHOLARSHIP PROGRAM

Candidate Application Form

1. Name _____ Daytime Telephone _____

2. Mailing Address _____

3. Name, Address, and phone of program candidate expects to be assessed in: _____

4. Name of Director of Program: _____

5. Is program licensed by the Virginia Department of Social Services? _____ Yes _____ No If no, explain exemption or exclusion from licensing rule: _____

6. Check the type of CDA setting the candidate expects to be assessed in:

_____ Family Day Care _____ Center based: Infant Toddler
_____ Home Visitor _____ Center based: Preschool

7. Is the candidate bilingual, working in a bilingual setting and interested in obtaining the CDA with a bilingual specialization _____ Yes _____ No

8. The CDA Scholarship Program requires that a Certificate of Income Verification be on file with the Provider Training Program/Division of Licensing Programs.. Is the verification on file or enclosed with the application? _____ Yes _____ No

(The application can be processed after both forms have been received. Documentation must accompany the Verification form.) If the Certificate of Income verification is not on file or enclosed, please explain: _____

9. Each CDA candidate works with a qualified field advisor who assists with preparation and participates in the CDA assessment. Name, mailing address, and day time phone of field advisor: _____

10. Scholarship funds must be spent by September 30, 1989. Estimated assessment date: _____

The above information is correct and documents my intention to prepare for and complete the CDA assessment process.

Candidate's Signature _____ Date _____

The Candidate has my permission to participate in the CDA program.

Program Director (if other than candidate) _____ Date _____

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VIRGINIA CDA SCHOLARSHIP PROGRAM

Certificate of Income Verification

1. Name: _____ Social Security Number _____

2. Address: _____

3. Number of persons in family unit: _____

4. If filed, a copy of the income tax form 1040 or 1040A for 1987 must accompany this application.

____ Tax form completed and a copy is enclosed

____ Tax form not completed for 1987

5. If financial assistance such as AFDC, Unemployment Compensation, Workman's Compensation, or General Assistance was received, documentation from the appropriate government agency must accompany this application.

____ Financial assistance was received and documentation is provided

Types of assistance received: _____

____ Financial assistance was not received during 1987

I certify that the information included in this application, to the best of my knowledge, is true and correct. If I am awarded a scholarship I agree to furnish income information to the Virginia Department of Social Services for a period of two years after receipt of the CDA Credential.

Applicant for CDA Scholarship Assistance (Signature)

Date

For Completion by Scholarship Office

1. Current OMB guidelines for this size family unit: _____

2. Total annual income before taxes for 1987: _____

3. Candidate meets income guidelines for participation in program: _____

4. Candidate does not meet income guidelines. Reason: _____

5. Copy of this form with letter of notification sent to applicant: _____ Date

6. Notes: _____

EMERGENCY REGULATION

STATE EDUCATION ASSISTANCE AUTHORITY

Title of Regulation: VR 275-02-1. Regulations Governing the Edvantage Loan Program.

Statutory Authority: §§ 23-38.33:1(1)(2) and 23-38.64(2) of the Code of Virginia.

Effective Date: February 26, 1988 through December 31, 1988

Summary:

Edvantage is a long-term loan program for educational expenses of undergraduate, graduate and professional students.

The State Education Assistance Authority administers and guarantees the Edvantage program, insuring these loans against the death, bankruptcy, permanent and total disability or default of the borrower in exchange for a guarantee fee. These regulations establish policies governing the administration of the Edvantage program on the part of participating lenders and institutions of higher education.

VR 275-02-1. Regulations Governing the Edvantage Loan Program.

PART I. DEFINITIONS.

§ 1.1. Definitions.

The following words and terms, when used in these regulations, shall have the following meaning, unless the context clearly indicates otherwise.

"Bankruptcy" means the judicial action to declare a person insolvent and take his assets, if any, under court administration.

"Borrower" means all co-makers on a loan, collectively.

"Cost of attendance" means the cost of tuition and fees related to the loan period reported on the loan application. Costs may also include reasonable education-related expenses for books, supplies, room and board, transportation and personal expenses. Costs may not include the purchase of a motor vehicle. Costs may not include expenses associated with correspondence study.

"Default" means, for the purposes of these regulations, a condition of delinquency that persists for 90 days, or the death, total and permanent disability, or bankruptcy of the borrower.

"Delinquency" means the failure to make an installment payment when due, failure to comply with other terms of the note, or failure to make an interest payment when due.

"Disbursement" means the issuance of proceeds of a loan under the Edvantage program.

"Due diligence" means reasonable care and diligence in processing, making, servicing, and collecting loans.

"Enrollment" means the period during which the student is attending or plans to attend school, as defined by Title IV regulations.

"Forbearance" means a delay of repayment of principal for a short period of time on terms agreed upon in writing by the lender and the borrower.

"Guarantee" means the legal obligation of the SEAA to repay the holder the outstanding principal balance plus accrued interest in case of a duly filed claim for default, bankruptcy, total and permanent disability, or death of the borrower.

"Guarantee fee" means the fee paid to the SEAA in consideration of its guarantee.

"Guaranteed Student Loan (GSL) Program" means the program established under Title IV, Part B, of the Higher Education Act, as amended, to make low-interest loans available to students to pay for their costs of attending eligible post-secondary schools by providing loan insurance. For purposes of these regulations, references applicable to GSL shall incorporate the PLUS and Supplemental Loans for Students (SLS) programs administered by the SEAA.

"Interest" means the charge made to the borrower for the use of a lender's money.

"Lender" means any bank, savings and loan association or credit union having a participation agreement with the SEAA, or the Virginia Education Loan Authority.

"Loan" means any loan made under the Edvantage program.

"Loan period" means the period of time during which the student expects to be enrolled, not to exceed 12 months.

"Participation agreement" means the contract setting forth the rights and responsibilities of the lender and the SEAA for the Edvantage program.

"Pell Grant" means the program established under Title IV, Part A of the Higher Education Act, as amended, to provide grants to students attending eligible post-secondary schools.

"Permanent and total disability" means the inability to engage in any substantial gainful activity because of a medically determinable impairment that is expected to continue for a long and indefinite period of time or to result in death.

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"Primary borrower" means the borrower on whose income or net worth the lender is making its determination of credit-worthiness.

"Program" means the Edvantage program.

"Promissory note" or "note" means the legally binding contract between the lender and the borrower which contains the terms and conditions of the loan.

"Repayment period" means the period of time from the day the first payment of principal is due to the time a loan is paid in full or a claim is filed due to the borrower's death, total and permanent disability, or discharge in bankruptcy. For the Edvantage program, the repayment period normally begins within 60 days of disbursement, or within 60 days of departure from school for those borrowers electing the in-school interest-only option.

"School" means any post-secondary institution which is eligible to participate in the Edvantage program as specified in these regulations.

"State Education Assistance Authority (SEAA)" means the designated guarantor for the GSL Program in the Commonwealth of Virginia, and the administrator and guarantor of the Edvantage program.

"Title IV" means Title IV of the Higher Education Act of 1965, as amended.

PART II. PARTICIPATION.

§ 2.1. Borrower eligibility.

A. Requirements.

1. Eligible borrowers are students, parents, legal guardians or other responsible individuals who elect to borrow on behalf of the student. In the event that a parent, legal guardian or other responsible individual is the borrower, the student is required to sign the note as a co-maker.

2. Every borrower must be

a) a U.S. citizen or national, or

b) an eligible non-citizen as defined by Title IV regulations.

3. The primary borrower on the loan must be a U.S. citizen, national or permanent resident.

4. At least one borrower must be a Virginia resident if the student is attending a non-Virginia school.

5. The student must be pursuing an undergraduate, graduate or professional program toward a degree or

certificate, or a program designed to lead to teacher certification.

6. At least one borrower or a combination of borrowers on the loan must pass a credit test administered by the lender as defined in these regulations.

7. All borrowers must be free from default on any previous Guaranteed Student Loan, PLUS Loan, Supplemental Loan for Students, Federal Insured Student Loan, Consolidation or Edvantage loan.

8. Incarcerated students are not eligible for the Edvantage program.

B. Rights.

Discrimination on the basis of race, creed, color, sex, age, national origin, marital status, or physically handicapped condition is prohibited in the Edvantage program.

§ 2.2. Lender participation.

A. Eligibility.

An eligible lender is any lender participating in the Virginia Guaranteed Student Loan Program administered by the SEAA. An eligible lender may participate in the Edvantage program by executing an Edvantage participation agreement with the SEAA.

B. Program review.

The SEAA reserves the right to conduct periodic program reviews of the lender to determine the lender's adherence to these regulations.

C. Limitation/suspension/termination.

1. The SEAA reserves the right to limit, suspend or terminate the participation of any lender in the Edvantage program under terms consistent with regulations of the SEAA.

2. Any lender under limitation, suspension or termination in the Virginia GSL program will be placed automatically under the same status in the Edvantage program.

D. Default rate.

Should the lender's default rate exceed 3%, the SEAA reserves the right to limit, suspend or terminate the lender's participation in the program under terms consistent with regulations of the SEAA. The default rate shall be calculated based on the following formula:

Total cumulative amount of default claims paid by the SEAA on loans disbursed by the lender, divided by

total outstanding principal of all loans disbursed by the lender.

§ 2.3. School participation.

A. Eligible Virginia schools.

An eligible school is any post-secondary institution located within Virginia which is eligible to participate in the federal Guaranteed Student Loan and Pell Grant Programs and which is participating in the SEAA GSL program.

B. Eligible non-Virginia schools.

An eligible non-Virginia school must be an accredited degree-granting post-secondary institution located within the United States and eligible to participate in the federal Guaranteed Student Loan and Pell Grant Programs. Non-Virginia school participation is limited to non-profit two- and four-year public and private institutions, graduate and professional schools, and non-graduate health schools.

C. Program review.

The SEAA reserves the right to conduct periodic program reviews of the school to determine the school's adherence to these regulations.

D. Limitation/suspension/termination.

1. The SEAA reserves the right to limit, suspend or terminate the participation of any school in the Edvantage program under terms consistent with regulations of the SEAA.
2. Any school under limitation, suspension or termination in the Virginia GSL program will be placed automatically under the same status in the Edvantage program.

PART III. LOAN TERMS.

§ 3.1.

A. Loan amounts.

1. The minimum loan amount is \$1,000. The maximum amount for any one student is \$15,000 per eight month (240 day) period. The aggregate maximum for any one student is \$60,000.
2. Subject to the credit test administered by the lender and defined in these regulations, the borrower may obtain a loan under the program in an amount up to the student's cost of attendance, less other financial aid received by the student.
3. The borrower may apply for a loan in an amount up to the aggregate maximum, within his maximum

credit-worthiness, if the school certifies a prepaid tuition amount consistent with the school's prepaid tuition policy. Such prepaid tuition shall represent a discount from payment of tuition annually, and the SEAA shall approve such loan application in advance.

B. Interest rate.

1. The interest rate may be fixed, or variable no more than once monthly and tied to the stated Prime Rate of the lender. The Prime Rate of the Virginia Education Loan Authority shall be that quoted in The Wall Street Journal.

2. The maximum interest rate charged shall be the Prime Rate of the lender plus two percentage points.

C. Fees.

1. The borrower shall be charged a guarantee fee in an amount specified by the SEAA which shall be deducted from the loan proceeds and remitted to the SEAA.
2. The borrower may, at his option, elect to purchase credit life insurance on the loan.

D. Repayment terms.

1. The borrower shall repay the loan in monthly installments of principal and interest of at least \$50 over a maximum repayment period of 15 years from the date the first payment of principal and interest is due, under the terms described in § 4.3 A.1.
2. While the student is enrolled, the borrower has the option to make monthly payments of interest-only, under the terms described in § 4.3 A.2.
3. New loans will automatically be consolidated with prior loans of the same borrowers. In such cases, the repayment period shall be a maximum of 15 years from the date the first payment of principal and interest is due on the consolidated loan.
4. Repayment may not be deferred. In the event of hardship, the borrower may request and the lender may grant a forbearance of principal, and interest-only payments may be accepted for a reasonable and limited period of time.
5. Interest may not be capitalized.
6. There is no penalty for prepayment under this program.

PART IV. LOAN PROCESS.

§ 4.1. School procedures.

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A. School requirements.

1. The school shall complete the school section of the Edvantage program application after the borrower sections are completed.

2. The school shall document that it has made maximum effort to utilize all other sources of Title IV aid available to the student that would be less costly to the student (e.g., grant aid, lower cost loans) before certifying the loan application. Documentation indicating the student's ineligibility for other sources of aid, based either on need or other criteria for making the award, shall suffice as demonstration of this effort. Actual application for a specific program is not required; however, such application and a resultant award or denial would also serve as documentation of the school's effort. The school shall report any Pell Grant amount the student is eligible to receive as financial aid, whether or not the student applies for a Pell award.

3. The school shall not collect from applicants any additional fees or charges to cover the cost of originating loans under the program.

4. The school shall report to the lender within 30 days of the date the school becomes aware of the student's withdrawal from school.

a) Any refund amount shall be determined by the school's stated policy. The refund shall be forwarded, along with notification, to the lender, within 30 days from the date the school became aware of the change in status warranting a refund.

b) Such early termination or withdrawal shall signify the beginning of principal repayment for those borrowers having an in-school deferment of principal.

B. School options.

1. The school has the option, subject to the approval of the SEAA, to serve as co-borrower on any or all loans made for attendance at that school. If the school elects to exercise this option, the school shall file in advance with the SEAA, and receive approval upon, its most recent audited financial statement; and thereafter file its annual audited financial statements with the SEAA showing such loans as a contingent liability.

2. The school has the option to pay all or part of any borrower's payments on the loan.

3. The school has the option to pay the guarantee fee on behalf of any borrower.

C. Certification.

1. The school shall certify the application no later than the last day of the loan period.

2. The signature of the financial aid officer in the school section of the Edvantage program application certifies that the Virginia regulations governing the school's procedures have been met.

3. The certification of the financial aid officer's own loan application, the application of a spouse or dependent of a financial aid officer, or an application where conflict of interest exists, is not sufficient. In any of these cases, the application shall be accompanied by certification of the immediate supervisor of the financial aid officer.

D. Disbursement.

1. Any loan proceeds remaining after the school has subtracted the amount owed to it for the loan period may be disbursed to the borrower or retained on account at the written request of the borrower.

2. The school shall return undisbursed loan proceeds to the lender within 30 days of receipt of such proceeds.

§ 4.2. Lender procedures - origination.

A. Lender responsibilities.

In making and collecting loans under the program, the lender shall treat the loan as if there were no guarantee.

B. Credit criteria.

The lender shall obtain credit information from each applicant on the lender's credit application(s) and evaluate the credit of the primary borrower and any co-borrowers on whose income or net worth the lender is making the credit-worthiness determination, by performing:

1. Employment and income verification.

2. Verification of a minimum of two years' credit history.

3. Assessment of satisfactory credit bureau reports.

4. Verification of home mortgage debt.

5. Verification of absence of outstanding derogatory items of public record, or lender documentation to support exceptions.

6. Assessment of the most recent federal income tax return or most recent financial statement of self-employed applicants.

7. a. Assessment of monthly debt obligation as a percentage of monthly gross income no greater than

45%, including the obligation on the loan applied for under this program; or

b. Assessment of net worth no less than 10 times the amount of the loan applied for under this program.

Documented exceptions to the debt or net worth test may be made only with the prior written approval of the SEAA.

In addition, for all applicants, the lender shall satisfy the absence of default on any Guaranteed Student Loan, PLUS Loan, Supplemental Loan for Students, Federal Insured Student Loan, Consolidation or Edvantage loan.

C. Disbursement.

1. a. Loan proceeds for a student borrower shall be disbursed in a check or checks made co-payable to the borrower and the school and mailed to the financial aid office of the school named on the application.

b. Loan proceeds for a parent or other non-student borrower shall be disbursed in a check or checks payable to the non-student borrower and mailed to the borrower's address as listed on the application.

2. Disbursement may be made in single or multiple installments at the option of the lender.

3. Loan proceeds may be disbursed by other funds transfer method approved by the SEAA.

4. Loan proceeds shall not be disbursed more than 15 days before the start of the loan period.

D. Guarantee fee.

1. The guarantee insures the lender against loss due to death, bankruptcy, total and permanent disability, or default of the borrower. At present the guarantee fee is 4% of the loan amount, but may be raised or lowered from time to time with 90 days written notice by the SEAA to the lender.

2. The lender shall deduct the guarantee fee from the loan proceeds at disbursement.

3. The lender shall remit to the SEAA the amount of guarantee fees charged on all disbursements.

4. The guarantee fee will be rebated if the loan check is returned uncashed to the lender, or if the loan is repaid in full within 120 days of disbursement by a check or funds transfer drawn on the institution in cases where the loan check was originally made co-payable.

E. The lender may offer and charge a reasonable fee, if

the borrower agrees, for death or disability insurance on the loan.

F. Credit bureau reporting.

The lender shall report loan repayment information on the primary borrower to one or more credit bureau organization.

§ 4.3. Lender procedures - active loan.

A. Repayment.

1. Immediate repayment option.

Repayment of the loan shall begin within 60 days of disbursement. Repayment shall be over a maximum period of 15 years, in monthly installments of at least \$50. The repayment period shall be extended to a maximum of 20 years only if necessary to amortize total interest, as determined by upward adjustments in the interest rate. If 20 years becomes insufficient to amortize the loan fully at the original monthly payment amount, the monthly payment shall increase. There will be no penalty for prepayment.

2. In-school principal deferment option.

While the student is enrolled, the borrower has the option to make monthly payments of interest-only for a maximum of 48 months. When this option is selected, the lender shall collect interest monthly from the borrower from the date of disbursement, beginning within 60 days of disbursement. Interest shall not be capitalized. Repayment of principal and interest shall begin within 60 days of the lender's receipt of notice of the student's withdrawal or graduation from school, or at the expiration of the maximum 48 months' interest-only option. The repayment period shall be a maximum of 15 years from the date the first payment of principal and interest is due, and shall be consistent with the minimum payment and maximum term described in § 4.3 A.1 above. If, after conversion to repayment of principal because of the student's withdrawal or graduation from school, the student re-enrolls at an eligible school, repayment of principal may again be deferred, provided that the cumulative deferment does not exceed 48 months.

3. The lender shall notify the borrower of any interest rate changes.

B. Forbearance.

1. Forbearance may be considered, at the lender's option, for circumstances such as family illness, financial hardship, unemployment or temporary disability. If during such a period the borrower is unable to make regular principal and interest payments, the lender may forbear principal payments; interest payments may be neither forborne nor

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capitalized.

2. Payment of the regular monthly installment must be sought from all borrowers on the loan before forbearance is granted.

3. All borrowers on the loan must be eligible for forbearance before a forbearance may be granted.

4. Forbearance may be granted for a maximum of six months at a time, but only when necessary to prevent default. If the borrower requests it, forbearance may be extended, but may not exceed a total of 12 months during the repayment period.

5. The SEAA reserves the right to require approval in advance of all forbearances.

6. The SEAA reserves the right to disallow any forbearance.

C. Reporting and forms.

1. The lender shall provide the SEAA on at least a monthly basis, in a format mutually agreeable to both parties, loan application data and the guarantee fees relating to its disbursements.

2. The lender shall provide the SEAA, on at least a monthly basis, reports of the outstanding balances on all loans.

3. The lender shall provide the SEAA, on at least a monthly basis, a report of any forbearances granted during the period, unless the SEAA has given approval in advance for such forbearances.

4. The lender shall use the standard promissory note, applications and brochures for the program unless otherwise agreed in writing by the SEAA.

5. The SEAA shall provide the lender, on at least a monthly basis, a report of all loans guaranteed during the period.

6. The SEAA shall perform student status verification.

7. The SEAA shall provide the lender with periodic listings of schools approved for the program. The SEAA shall advise the lender, in writing, of any school for which approval has been revoked. Such revocation shall not affect the guarantee fee on loans previously committed.

PART V. CLAIMS.

§ 5.1. General.

Claims may be filed only after the lender has determined that all borrowers meet the conditions for a

claim.

§ 5.2. Default claims.

A. Due diligence.

The SEAA guarantee is contingent on the lender's due diligence. The lender shall attempt to collect delinquent loans using every effort short of litigation that it would use on a conventional loan in the ordinary course of business. If the lender so desires, it may take legal action, but this is not required. Due diligence for default claims requires the following actions:

1. Sending written notice to the primary borrower when the loan is 5 to 10 days delinquent.

2. Sending written notice to the borrower and any co-makers when the loan becomes 20 to 30 days delinquent. Such letters should warn the borrower that, if the delinquency is not cured, the lender will assign the loan to the SEAA, which in turn will report the default to a credit bureau, thereby damaging the borrower's credit rating, and may bring suit against the borrower to compel repayment of the loan. In addition, telephone calls shall be made to the borrower, parents, references, or employers, as necessary to collect on the loan or locate the borrower. All information available to the lender shall be pursued.

3. Requesting preclaims assistance from the SEAA when the loan becomes 30 to 40 days delinquent.

4. Continuing all written correspondence and telephone calls to appropriate persons when the loan is 30 to 60 days delinquent.

5. Sending final demand letter to borrower when the loan is 60 days delinquent.

6. Preparing and submitting a claim to SEAA when the loan is 90 days delinquent; however, the lender may attempt collection on the loan for up to 120 days if the lender can document in writing its reasonable expectation that an additional 30 days of collection will prevent a default.

Minimum due diligence shall be five letters. In addition to these requirements, within 10 days of its receipt of information indicating it does not know the borrower's current address, the lender must diligently attempt to locate the borrower through the use of standard skip-tracing techniques. These efforts shall include, but not be limited to, contacting the co-maker(s), relatives, references, and any other individuals and entities identified in the borrower's loan file. In order to file a default claim at the conclusion of the 90 to 120 day period, the lender must complete and send to the SEAA the appropriate SEAA form(s), the Promissory Note(s) marked

"Without Recourse Pay to the Order of the State Education Assistance Authority" and endorsed by a proper official of the lender, a schedule of payments, where applicable, and proof of due diligence by the lender.

B. Credit bureau notification.

In the event of default, the SEAA shall report the default of all borrowers on the loan to one or more credit bureau organizations.

§ 5.3. Death or Disability Insurance.

If the borrower has purchased death or disability insurance, the lender may not file a death or disability claim with the SEAA without first exhausting the opportunity for reimbursement from the insurer. If the borrower has not purchased such insurance, in the event of death or disability, the SEAA, after reimbursing the lender, may file a claim against the borrower or the borrower's estate.

§ 5.4. Death claims.

To receive payment in the event of the death of the borrower, the lender shall complete and send to the SEAA the appropriate SEAA form(s), a certified copy of the death certificate, the Promissory Note(s) marked "Without Recourse Pay to the Order of the State Education Assistance Authority" and endorsed by a proper official of the lender, a schedule of payments made, when applicable, and any supporting documents the lender may be able to furnish.

§ 5.5. Total and permanent disability claims.

To file a claim arising from the total and permanent disability of the borrower, the lender shall complete and send to the SEAA the appropriate SEAA form(s), the Promissory Note(s) marked "Without Recourse Pay to the Order of the State Education Assistance Authority" and endorsed by a proper official of the lender, a schedule of payments made, when applicable, and any supporting documents the lender may be able to furnish. In addition, the lender shall submit an affidavit from a qualified physician (either an M.D. or D.O.) certifying that the borrower is unable to engage in any gainful activity or employment due to a medical impairment that is expected to continue indefinitely or result in death; the date the borrower became unable to be employed or otherwise qualified for a total and permanent disability claim; and providing a description of the diagnosis.

§ 5.6. Bankruptcy claims.

A. Chapter 7 bankruptcy.

The lender determines that a borrower has filed bankruptcy petition on the basis of a notice received from the bankruptcy court of the first meeting of creditors.

Upon receiving such notice, the lender shall:

1. Notify the SEAA by telephone of the impending bankruptcy.
2. Immediately cease collection efforts on the loan.
3. If the loan has not been in repayment for a least five years (exclusive of any applicable suspension of the repayment period) on the date the lender receives notice of the first meeting of creditors, and the lender has no knowledge that the borrower has filed a hardship petition, the lender must hold the loan and not attempt collection until the bankruptcy action has concluded. The lender shall treat the loan as if it is in forbearance from the date of the borrower's filing of the bankruptcy petition until the date the lender is notified that the bankruptcy action is concluded. For Chapter 7 bankruptcies in which the loan has been in repayment for more than five years, or when the borrower has filed a hardship petition, the lender shall follow the procedures listed in § 5.6 B, below.
4. Once the bankruptcy action has concluded, if the loan has not been discharged, the lender must resume collection efforts. The borrower is responsible for the interest that has accrued during the automatic stay period. The lender should proceed through a standard 90-day due diligence period as with any other loan. The automatic stay period is not included in the 90-day due diligence period.

B. All other bankruptcies.

When the lender receives notice from bankruptcy court of any other bankruptcy, the lender shall immediately file a bankruptcy claim with the SEAA if:

1. The borrower has filed a petition for relief under Chapter 13 of the Bankruptcy Code;
2. The borrower has filed a petition for relief under Chapter 7 of the Bankruptcy Code and the loan has been in repayment for more than five years (exclusive of any applicable suspension of the repayment period); or
3. The borrower has filed a hardship petition.

The bankruptcy claim shall include the appropriate completed SEAA form, the notice of bankruptcy, the Promissory Note(s) marked "Without Recourse Pay to the Order of the State Education Assistance Authority" and endorsed by a proper official of the lender, a schedule of payments made, when applicable, and any support documents the lender may be able to furnish, as well as any other information that may help the SEAA form the basis for an objection or an exception to the bankruptcy discharge.

§ 5.7. Interest.

Emergency Regulation

The SEAA will pay interest for no more than 15 days from the date that the lender is officially notified of the death, total and permanent disability or bankruptcy, or no more than 15 days from the 90th day of delinquency in the event of default, or from the 120th day in the event that the lender has elected to pursue an additional 30 days of collection as outlined in § 5.2 A (6) above. No interest is paid for the period of time during which an incomplete claim has been returned to the lender. In addition, the SEAA pays interest on the claim for the number of days required for review by the SEAA claims staff plus 10 days for check processing.

PART VI. ASSIGNMENT TO SERVICER OR SECONDARY MARKET.

§ 6.1. Servicing.

The lender may negotiate the servicing of loans under this program with a servicing agency. The SEAA must approve the use of any servicer. The servicer will be regarded as the lender's agent, and the lender will continue to be bound by the terms of these regulations.

§ 6.2. Secondary market.

The lender may negotiate the sale of these loans to a secondary market. The lender must obtain SEAA approval of the use of any secondary market, and no loan may be sold to any entity that is not party to a guarantee agreement with the SEAA except with the written permission of the SEAA. The lender shall notify the SEAA promptly of the assignment of any loans to a secondary market.

Submitted by:

Muriel Johnson Murray, Executive Director
State Education Assistance Authority
Date: February 16, 1988

Donald J. Finley, Secretary of Education
Date: February 16, 1988

Approved by:

Gerald L. Baliles
Governor of Virginia
Date: February 24, 1988

Filed with:

Joan W. Smith
Registrar of Regulations
Date: February 26, 1988 - 11:35 a.m.

GOVERNOR

GOVERNOR'S COMMENTS ON PROPOSED REGULATIONS

(Required by § 9-6.12:9.1 of the Code of Virginia)

STATE BOARD OF ARCHITECTS, PROFESSIONAL ENGINEERS, LAND SURVEYORS AND CERTIFIED LANDSCAPE ARCHITECTS

Title of Regulation: VR 130-01-2. Rules and Regulations of the State Board of Architects, Professional Engineers, Land Surveyors and Certified Landscape Architects.

Governor's Comment:

No objection to the proposed regulation as presented.

/s/ Gerald L. Baliles
February 24, 1988

VIRGINIA BOARD OF EXAMINERS FOR AUDIOLOGY AND SPEECH PATHOLOGY

Title of Regulation: VR 155-01-2. Virginia Board of Examiners for Audiology and Speech Pathology.

Governor's Comment:

No objection to the proposed regulation as presented.

/s/ Gerald L. Baliles
March 1, 1988

STATE BOARD OF EDUCATION

Title of Regulation: VR 270-01-0006. Regulations Governing Pupil Transportation Including Minimum Standards for School Buses in Virginia.

Governor's Comment:

No objections to the proposed regulation as presented.

/s/ Gerald L. Baliles
February 26, 1988

* * * * *

Title of Regulation: VR 270-01-0014. Management of the Student's Scholastic Record.

Governor's Comment:

No objections to the proposed regulation as presented.

/s/ Gerald L. Baliles
February 26, 1988

* * * * *

Title of Regulation: VR 270-04-0015. Secondary School

Transcript.

Governor's Comment:

The proposed regulations regarding standardized secondary school transcripts should help assure all our students that they have an equal competitive opportunity in college admission and in employment. I would suggest that the Board of Education consider providing greater design flexibility in the format, especially for those divisions which supply the needed information but would incur considerable expense in redesigning their computer software.

/s/ Gerald L. Baliles
February 26, 1988

BOARD OF HOUSING AND COMMUNITY DEVELOPMENT

Title of Regulation: VR 394-01-4. Virginia Amusement Device Regulations/1987.

Governor's Comment:

No objection to the proposed regulation as presented.

/s/ Gerald L. Baliles
February 24, 1988

DEPARTMENT OF LABOR AND INDUSTRY

Title of Regulation: VR 425-02-13. Virginia Occupational Safety and Health Standards, Field Sanitation Standard (1928.10).

Governor's Comment:

The proposed modification to the regulations will bring Virginia's Field Sanitation regulations into compliance with the Federal guidelines. Promulgation of these regulations will protect workers against heat related illnesses, communicable and infectious diseases, and pesticide illnesses. I recommend promulgation of these regulations.

/s/ Gerald L. Baliles
February 28, 1988

STATE BOARD OF EXAMINERS FOR NURSING HOME ADMINISTRATORS

Title of Regulation: VR 500-01-2. Rules and Regulations of the State Board of Examiners for Nursing Home Administrators.

Governor's Comment:

No objection to the proposed regulation as presented.

/s/ Gerald L. Baliles
February 26, 1988

GENERAL NOTICES/ERRATA

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

DEPARTMENT FOR THE AGING

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Department for the Aging intends to consider promulgating regulations entitled: **Area Agencies on Aging**. The purpose of the proposed regulation is to set forth the methods for (i) designating a planning and service area and an area agency on aging and (ii) suspending or terminating the designation of an area agency on aging.

Statutory Authority: § 2.1-373 A.7 of the Code of Virginia.

Written comments may be submitted until July 20, 1988.

Contact: J. James Cotter, Director, Division of Program Development and Management, Virginia Department for the Aging, 101 N. 14th St., 18th Fl., Richmond, Va. 23219-2797, telephone (804) 225-2271 or SCATS 225-2271

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Department of Aging intends to consider promulgating regulations entitled: **Area Plans for Aging Services**. The purpose of the proposed regulation is to regulate the process by which an Area Agency on Aging develops and implements its Area Plan for Aging Services.

Statutory Authority: § 2.1-373 A.7 of the Code of Virginia.

Written comments may be submitted until July 20, 1988.

Contact: J. James Cotter, Director, Division of Program Development and Management, Virginia Department for the Aging, 101 N. 14th St., 18th Fl., Richmond, Va. 23219-2797, telephone (804) 225-2271 or SCATS 225-2271

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Department for the Aging intends to consider promulgating regulations entitled: **Financial Management Policies Applicable to Area Agencies on Aging**. The purpose of the proposed regulation is to provide policies and standards for an Area Agency on Aging in the administration of federal and state grants to provide supportive and nutrition services to older persons.

Statutory Authority: § 2.1-373 A.7 of the Code of Virginia.

Written comments may be submitted until July 20, 1988.

Contact: J. James Cotter, Director, Division of Program Development and Management, Virginia Department for the Aging, 101 N. 14th St., 18th Fl., Richmond, Va. 23219-2797, telephone (804) 225-2271 or SCATS 225-2271

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Department for the Aging intends to consider promulgating regulations entitled: **Hearings**. The purpose of the proposed regulation is to describe the hearing procedures of the Department for the Aging.

Statutory Authority: § 2.1-373 A.7 of the Code of Virginia.

Written comments may be submitted until July 20, 1988.

Contact: J. James Cotter, Director, Division of Program Development and Management, Virginia Department for the Aging, 101 N. 14th St., 18th Fl., Richmond, Va. 23219-2797, telephone (804) 225-2271 or SCATS 225-2271

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Department of Aging intends to consider promulgating regulations entitled: **Long-Term Care Ombudsman Program**. The purpose of the proposed regulations is to describe the policies by which the Department for the Aging establishes and operates the Office of the State Long-Term Care Ombudsman and designates and supervises an area or local ombudsman entity.

Statutory Authority: § 2.1-373 A.7 of the Code of Virginia.

Written comments may be submitted until July 20, 1988.

Contact: J. James Cotter, Director, Division of Program Development and Management, Virginia Department for the Aging, 101 N. 14th St., 18th Fl., Richmond, Va. 23219-2797, telephone (804) 225-2271 or SCATS 225-2271

DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Department of Agriculture and Consumer Services intends to consider amending regulations entitled: **Standards for Classification of Real Estate as Devoted to Agricultural Use and to Horticultural Use under the Virginia Land Use Assessment Law**. The purpose of the proposed regulation is to amend the Standards for Classification of Real Estate as Devoted to Agricultural Use and to Horticultural Use under the Virginia Land Use Assessment Law to clarify the standards and strengthen eligibility requirement for participation.

Statutory Authority: § 58.1-3230 of the Code of Virginia.

Written comments may be submitted until April 28, 1988, to S. Mason Carbaugh, Commissioner of Agriculture and Consumer Services, P. O. Box 1163, Richmond, Va. 23209.

Contact: T. Graham Copeland, Jr., Director, Policy Analysis and Development, P. O. Box 1163, Richmond, Va. 23209, telephone (804) 786-3539 or SCATS 786-3539

ALCOHOLIC BEVERAGE CONTROL BOARD

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Alcoholic Beverage Control Board intends to consider promulgating, amending or repealing regulations entitled: **VR 125-01-1. Procedural Rules for the Conduct of Hearings Before the Board and Its Hearing Officers and the Adoption or Amendment of Regulations**. The purpose of the proposed action is to receive information from industry, the general public and licensees of the board concerning adopting, amending and repealing the board's regulations.

NOTICE TO THE PUBLIC

A. Pursuant to the Virginia Alcoholic Beverage Control Board's "Public Participation Guidelines for Adoption or Amendment of Regulations" (VR 125-01-1, Part V of the Regulations of the Virginia Alcoholic Beverage Control Board), the board will conduct a public meeting on June 2, 1988 at 10 a.m. in its Hearing Room, First Floor, Alcoholic Beverage Control Board, Main Offices, 2901 Hermitage Road, City of Richmond, Virginia, to receive comments and suggestions concerning the adoption, amendment or repeal of board regulations. Any group or individual may file with the board a written petition for the adoption, amendment or repeal of any regulation. Any such petition shall contain the following information, if available.

1. Name of petitioner.
2. Petitioner's mailing address and telephone number.
3. Recommended adoption, amendment or repeal of specific regulation(s).
4. Why is change needed? What problem is it meant to address?
5. What is the anticipated effect of not making the change?
6. Estimated costs and/or savings to regulate entities, the public, or other incurred by this change as compared to current regulations.
7. Who is affected by recommended change? How affected?
8. Supporting documents.

The board may also consider any other request for regulatory change at its discretion. All petitions or requests for regulatory change should be submitted to the board no later than March 31, 1988.

B. The board will also be appointing an Ad Hoc Advisory Panel consisting of persons on its general mailing list who will be affected by or interested in the adoption, amendment or repeal of board regulations. This panel will study requests for regulatory changes, make recommendations, and suggest actual draft language for a regulation, if it concludes a regulation is necessary. Anyone interested in serving on such panel should notify the undersigned by March 31, 1988 requesting that their name be placed on the general mailing list.

C. Applicable laws or regulation (authority to adopt regulations): Sections 4-11, 4-69, 4-69.2, 4-72.1, 4-98.14, 4-103 and 9-6.14:1 et seq., Virginia Code; VR 125-01-1, Part V, Board Regulations.

D. Entities affected: (i) all licensees (manufacturers, wholesalers, importers, retailers) and (ii) the general public.

Statutory Authority: § 4-11 of the Code of Virginia.

Written comments may be submitted until March 31, 1988.

Contact: Robert N. Swinson, Secretary to the Board, Alcoholic Beverage Control Board, P. O. Box 27491, Richmond, Va. 23261, telephone (804) 367-0616 or SCATS 367-0616

General Notices/Errata

CHILD DAY-CARE COUNCIL

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Child Day-Care Council intends to consider promulgating regulations entitled: **Minimum Standards for Licensed Child Care Centers, Regulation for Criminal Record Checks for Licensed Child Care Centers, and General Procedures for Child Care Centers.**

Statutory Authority: § 63.1-202 of the Code of Virginia.

Written comments may be submitted until April 13, 1988.

Contact: Arlene Kasper, Program Development Supervisor, Department of Social Services, Division of Licensing Programs, 8007 Discovery Dr., Richmond, Va. 23229, telephone (804) 662-9025 or SCATS 662-9025

DEPARTMENT OF CORRECTIONS (STATE BOARD OF) Division of Youth Services

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Department of Corrections, Division of Youth Services intends to consider amending regulations entitled: **Rules and Regulations Governing Applications for Virginia Delinquency Prevention and Youth Development Act Grants.** The purpose of the proposed regulation is to provide regulations governing applications for Virginia Delinquency Prevention and Youth Development Act grants with respect to eligibility, developmental process, criteria for application review and funding, and the review process.

Statutory Authority: §§ 53.1-5 and 53.1-253 of the Code of Virginia.

Written comments may be submitted until June 1, 1988.

Contact: Thomas J. Northern, III, Delinquency Prevention Specialist, Department of Corrections, P. O. Box 26963, Richmond, Va. 23261, telephone (804) 367-1633 or SCATS 367-1633

VIRGINIA BOARD OF DENTISTRY

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Virginia Board of Dentistry intends to consider promulgating new regulations and repeal existing regulations entitled: **Virginia Board of Dentistry Regulations.** The purpose of the proposed regulations is to (i) set standards for the administration of general anesthesia, conscious sedation and nitrous oxide

oxygen inhalation analgesia; (ii) consider setting standards for restraint techniques; (iii) consider fee adjustments; (iv) consider setting standards for infectious disease control; (v) consider dental assistants posting radiation certification certificates; and (vi) review any new and existing regulations believed to be necessary by the public.

Statutory Authority: § 54-163 of the Code of Virginia.

Written comments may be submitted until April 10, 1988.

Contact: N. Taylor Feldman, Executive Director, 1601 Rolling Hills Dr., Richmond, Va. 23229, telephone (804) 662-9906

DEPARTMENT OF FORESTRY

† Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Department of Forestry intends to consider amending regulations entitled: **Standards for Classification of Real Estate as Devoted to Forest Use under the Virginia Land Use Assessment Law Entitled: Special Assessments for Agricultural, Horticultural Forest Open Space or Newly Annexed Real Estate.** The purpose of the proposed regulation is to amend the standards for classification of real estate as devoted to forest use under the Virginia Land Use Assessment Law to clarify the standards and strengthen eligibility requirements for participation.

Statutory Authority: § 58.1-3230 of the Code of Virginia.

Written comments may be submitted until April 28, 1988, to James W. Garner, State Forester, Department of Forestry, P. O. Box 3758, Charlottesville, Virginia 22903.

Contact: W. C. Stanley, Chief, Forest Management, Department of Forestry, P. O. Box 3758, Charlottesville, Va. 22903, telephone (804) 997-6555 or SCATS 487-1230

STATE BOARD OF HEALTH

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the State Board of Health intends to consider amending regulations entitled: **Regulations Prohibiting the Taking of Finfish in Designated Portions of the James River and Its Tributaries.** The purpose of the proposed regulation is to continue regulations which prohibit the taking of specific finfish in designated portions of the James River and its tributaries. Continuation of the regulations is recommended for a one-year period (July 1, 1988 through June 30, 1989).

Statutory Authority: §§ 28.1-176, 28.1-177 and 32.1-248 of the Code of Virginia.

Written comments may be submitted until 5 p.m., May 2, 1988.

Contact: Robert B. Stroube, M.D., M.P.H., Deputy Commissioner for Community Health Services, Department of Health, Room 400, Richmond, Va. 23219, telephone (804) 786-3575 or SCATS 786-3575

DEPARTMENT OF SOCIAL SERVICES (STATE BOARD OF)

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Department of Social Services intends to consider promulgating regulations entitled: **General Relief (GR) Program - Relocation Assistance**. The purpose of the proposed regulation is to add a component to general relief that will allow local departments to provide assistance for relocation when employment has been secured outside the locality.

Statutory Authority: § 63.1-25 of the Code of Virginia.

Written comments may be submitted until April 13, 1988.

Contact: Carolyn Sturgill, Program Specialist, Division of Benefit Programs, 8007 Discovery Dr., Richmond, Va. 23229-8699, telephone (804) 662-9046 or SCATS 662-9046

Division of Benefit Programs

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Department of Social Services intends to consider amending regulations entitled: **Job Training Partnership Act (JTPA), Title IV, Part A, Income Disregards in the Aid to Dependent Children (ADC) Program**. The purpose of the proposed amendments is to disregard children's earnings derived through participation in JTPA, Title IV, Part A, for six calendar months per year and children's unearned income derived through participation in JTPA, Title IV, Part A, indefinitely.

Statutory Authority: § 63.1-25 of the Code of Virginia.

Written comments may be submitted until April 13, 1988.

Contact: Carol I. Holmes, Program Specialist, Division of Benefit Programs, 8007 Discovery Dr., Richmond, Va. 23229-8699, telephone (804) 662-9046 or SCATS 662-9046

DEPARTMENT OF TRANSPORTATION (COMMONWEALTH TRANSPORTATION BOARD)

Notice of Intended Regulatory Action

Notice is hereby given in accordance with this agency's public participation guidelines that the Department of Transportation intends to consider promulgating regulations entitled: **State Noise Abatement Policy**. The purpose of the proposed regulation is to implement a statewide noise abatement program for all new federal and nonfederal highway projects.

Statutory Authority: § 33.1-12 of the Code of Virginia.

Written comments may be submitted until May 27, 1988, to J.S. Hodge, Chief Engineer, Department of Transportation, 1401 E. Broad St., Richmond, Va. 23219.

Contact: A.C. Anday, Coordinator, Air, Noise & Energy, Department of Transportation, 1401 E. Broad St., Room 1111, Richmond, Va. 23219, telephone (804) 786-6556 or SCATS 786-6556

GENERAL NOTICES

STATE BOARD OF HEALTH

† Legal Notice of Opportunity to Comment on Proposed Changes to the State Plan, Vendor Contract

Public Notice is given this 20th day of March, 1988 for the acceptance of public comments on changes to the Virginia WIC Program Vendor Contract and related documents. Copies of this contract can be seen weekdays beginning March 21, 1988, between the hours of 8:30 a.m. and 4:30 p.m. at any Local Health Department in Virginia.

All comments must be submitted in writing to the Virginia Department of Health, Division of Public Health Nutrition - WIC, 109 Governor Street, 6th Floor, Richmond, Va. 23219, and received no later than 5 p.m. on April 4, 1988.

NOTICES TO STATE AGENCIES

RE: Forms for filing material on dates for publication in the Virginia Register of Regulations.

All agencies are required to use the appropriate forms when furnishing material and dates for publication in the Virginia Register of Regulations. The forms are supplied by the office of the Registrar of Regulations. If you do not have any forms or you need additional forms, please contact: Jane Chaffin, Virginia Code Commission, P.O. Box 3-AG, Richmond, Va. 23208, telephone (804) 786-3591.

FORMS:

General Notices/Errata

NOTICE OF INTENDED REGULATORY ACTION - RR01
NOTICE OF COMMENT PERIOD - RR02
PROPOSED (Transmittal Sheet) - RR03
FINAL (Transmittal Sheet) - RR04
EMERGENCY (Transmittal Sheet) - RR05
NOTICE OF MEETING - RR06
AGENCY RESPONSE TO LEGISLATIVE
OR GUBERNATORIAL OBJECTIONS - RR08
DEPARTMENT OF PLANNING AND BUDGET
(Transmittal Sheet) - DPBRR09

Copies of the 1987 Virginia Register Form, Style and Procedure Manual may also be obtained from Jane Chaffin at the above address.

CALENDAR OF EVENTS

Symbols Key

- † Indicates entries since last publication of the Virginia Register
Ⓜ Location accessible to handicapped
☎ Telecommunications Device for Deaf (TDD)/Voice Designation

NOTICE

Only those meetings which are filed with the Registrar of Regulations by the filing deadline noted at the beginning of this publication are listed. Since some meetings are called on short notice, please be aware that this listing of meetings may be incomplete. Also, all meetings are subject to cancellation and the Virginia Register deadline may preclude a notice of such cancellation.

For additional information on open meetings and public hearings held by the Standing Committees of the Legislature during the interim, please call Legislative Information at (804) 786-6530.

VIRGINIA CODE COMMISSION

EXECUTIVE

VIRGINIA AGRICULTURAL COUNCIL

May 16, 1988 - 9 a.m. – Open Meeting
Holiday Inn - Airport, 5203 Williamsburg Road, Sandston, Virginia

A meeting to (i) review progress reports on approved funded research projects; (ii) hear any new project proposals which are properly supported by the Board of Directors of a commodity group; and (iii) any other business that may come before the members of the council.

Contact: Henry H. Budd, Assistant Secretary, Washington Bldg., 1100 Bank St., Room 203, Richmond, Va. 23219, telephone (804) 786-2373

STATE AIR POLLUTION CONTROL BOARD

† **April 11, 1988 - 9 a.m. – Open Meeting**
General Assembly Building, Capitol Square, Senate Room A, Richmond, Virginia. Ⓜ

A general meeting.

Contact: Richard Stone, Public Information Office, State Air Pollution Control Board, P. O. Box 10089, Richmond, Va. 23240, telephone (804) 786-5478

ALCOHOLIC BEVERAGE CONTROL BOARD

April 5, 1988 - 9:30 a.m. – Open Meeting
April 19, 1988 - 9:30 a.m. – Open Meeting
2901 Hermitage Road, Richmond, Virginia. Ⓜ

A meeting to receive and discuss reports on activities from staff members. Other matters not yet determined.

Contact: Robert N. Swinson, 2901 Hermitage Rd., Richmond, Va., telephone (804) 367-0617

STATE BOARD OF ARCHITECTS, PROFESSIONAL ENGINEERS, LAND SURVEYORS AND CERTIFIED LANDSCAPE ARCHITECTS

Virginia State Board of Land Surveyors

April 14, 1988 - 9 a.m. – Open Meeting
Travelers Building, 3600 West Broad Street, 5th Floor, Richmond, Virginia. Ⓜ

A meeting to (i) approve minutes of February 5, 1988; (ii) review applications; and (iii) consider enforcement cases.

Contact: Bonnie S. Salzman, Assistant Director, 3600 W. Broad St., Richmond, Va. 23230, telephone (804) 367-8506, toll-free 1-800-552-3016 or SCATS 367-8506

AUCTIONEERS BOARD

† **March 29, 1988 - 9 a.m. – Open Meeting**
Travelers Building, 3600 West Broad Street, Conference Room 3, Richmond, Virginia. Ⓜ

A called business meeting of the board. The agenda will consist of reviewing investigative files.

Contact: Geralde W. Morgan, Administrator, Department of Commerce, 3600 W. Broad St., Richmond, Va. 23230-4917, telephone (804) 367-8534, toll-free 1-800-552-3016 or SCATS 367-8534

May 3, 1988 - 10 a.m. – Open Meeting
Roanoke City Circuit Court, 315 W. Church Avenue, Roanoke, Virginia

The board will meet to conduct a formal administrative hearing: Virginia Auctioneers Board v.

Calendar of Events

Earl Frith.

Contact: Sylvia Bryant, Hearings Coordinator, Department of Commerce, 3600 W. Broad St., Richmond, Va. 23230, telephone (804) 367-8524

VIRGINIA AVIATION BOARD

† April 4, 1988 - 10 a.m. - Open Meeting
Donaldson Brown Center for Continuing Education,
Conference Room B, Blacksburg, Virginia. ☒

A meeting to discuss aviation matters affecting the Commonwealth of Virginia.

Contact: Kenneth A. Rowe, 4808 S. Laburnum Ave., P. O. Box 7716, Richmond, Va. 23231, telephone (804) 786-6284

BEDFORD COUNTY LOCAL EMERGENCY PLANNING COMMITTEE

† April 13, 1988 - 7:30 p.m. - Open Meeting
Courthouse, Room B-105 (Board of Supervisors), Bedford, Virginia. ☒

An organizational meeting for the (i) elections of officers; (ii) appointments of subcommittees chairpersons; and (iii) statement of objectives.

† April 27, 1988 - 7:30 p.m. - Open Meeting
Courthouse, Room B-105 (Board of Supervisors), Bedford, Virginia. ☒

A meeting to consider (i) adoption of constitution and by-laws; (ii) staff report; (iii) reports of committees; and (iv) establishment of goals.

Contact: John P. Tansey, Chairman, Pro-tem, Courthouse, Room B-105, Bedford, Va., telephone (703) 586-0179

VIRGINIA BOATING ADVISORY BOARD

April 7, 1988 - 10 a.m. - Open Meeting
State Capitol, Capitol Square, House Room 1, Richmond, Virginia. ☒

Review of and action on issues, legislation and regulations affecting Virginia's recreational boating public.

Contact: Wayland W. Rennie, Chairman, 8411 Patterson Ave., Richmond, Va. 23229, telephone (804) 740-7206

CHILD DAY-CARE COUNCIL

May 16, 1988 - Written comments may be submitted until this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Child Day-Care Council intends to adopt regulations entitled: **VR 175-01-01. Public Participation Guidelines.** The purpose of the proposed regulation is to set guidelines for obtaining public participation prior to and during the drafting, promulgation and final adoption process of regulations applicable to child care centers.

Statutory Authority: § 63.1-202 of the Code of Virginia.

Written comments may be submitted until May 16, 1988.

Contact: Arlene Kasper, Program Development Supervisor, Department of Social Services, Division of Licensing, 8007 Discovery Dr., Richmond, Va. 23229-8699, telephone (804) 662-9025 or SCATS 662-9025

INTERDEPARTMENTAL LICENSURE AND CERTIFICATION OF CHILDREN'S RESIDENTIAL FACILITIES

Coordinating Committee

† April 8, 1988 - 8 a.m. - Open Meeting
Tyler Building, 1603 Santa Rosa Road, Suite 221, Richmond, Virginia. ☒

† May 13, 1988 - 8 a.m. - Open Meeting
Department of Corrections, 4615 West Broad Street, Room 105, Richmond, Virginia. ☒

† June 10, 1988 - 8 a.m. - Open Meeting
Tyler Building, 1603 Santa Rosa Road, Suite 221, Richmond, Virginia. ☒

A regularly scheduled monthly meeting to discuss administrative and policy areas related to the Interdepartmental Licensure and Certification of Residential Facilities for Children.

Contact: John J. Allen, Jr., Coordinator, Office of the Coordinator, Interdepartmental Licensure and Certification, 8007 Discovery Dr., Richmond, Va. 23229-8699, telephone (804) 662-9025 or SCATS 662-9025

BOARD FOR COMMERCIAL DRIVER TRAINING SCHOOLS

April 8, 1988 - 10 a.m. - Open Meeting
Travelers Building, 3600 West Broad Street, Conference Room 3, Richmond, Virginia. ☒

An open board meeting to (i) conduct affairs of the

board; (ii) discuss revenue and expenditures; (iii) conduct regulatory review; and (iv) conduct review of complaints.

Contact: Geralde W. Morgan, Assistant Director, Department of Commerce, 3600 W. Broad St., Richmond, Va. 23230-4917, telephone (804) 367-8534, toll-free 1-800-552-3016 or SCATS 367-8534

DEPARTMENT OF CONSERVATION AND HISTORIC RESOURCES

Falls of the James Advisory Committee

April 15, 1988 - noon – Open Meeting

May 20, 1988 - noon – Open Meeting

Richmond City Hall, 3rd Floor Conference Room, Richmond, Virginia. ☐

A regular meeting to discuss general business and issues affecting the portion of the James River that runs through the City of Richmond.

Contact: Richard G. Gibbons, Division of Parks and Recreation, 1201 Washington Bldg., Capitol Sq., Richmond, Va. 23219, telephone (804) 786-4132

Division of Historic Landmarks

† April 19, 1988 - 10 a.m. – Open Meeting

State Capitol, Capitol Square, House Room 1, Richmond, Virginia. ☐

A meeting to consider general business and the nomination of the following properties to the Virginia Landmarks Register and the National Register of Historic Places:

Bon Air Historic District, Chesterfield County
Mount Columbia, Hanover County
Beaverdam Depot, Hanover County
John Vowles House, Charlottesville
Bloomsburg, Orange County
DeWitt Cottage, Virginia Beach
Leesburg Methodist Church Site, Loudoun County
Solitude, Montgomery County
Pine Knot, Albemarle County.

Virginia Historic Landmarks Board

† April 19, 1988 - 2 p.m. – Open Meeting

State Capitol, Capitol Square, House Room 1, Richmond, Virginia. ☐

A general business meeting.

Contact: Margaret Peters, 221 Governor St., Richmond, Va. 23219, telephone (804) 786-3143

STATE BOARD OF CORRECTIONS

† April 13, 1988 - 10 a.m. – Open Meeting

Department of Corrections, 4615 West Broad Street, Richmond, Virginia. ☐

A regular monthly meeting to consider such matters as may be presented.

Contact: Vivian Toler, Secretary to the Board, 4615 W. Broad St., P.O. Box 26963, Richmond, Va. 23261, telephone (804) 367-6274

CRIMINAL JUSTICE SERVICES BOARD

† April 6, 1988 - 11 a.m. – Open Meeting

General Assembly Building, Capitol Square, House Room C, Richmond, Virginia. ☐

A meeting to discuss issues related to the criminal justice system.

Committee on Training

† April 6, 1988 - 9 a.m. – Open Meeting

General Assembly Building, Capitol Square, House Room C, Richmond, Virginia. ☐

A meeting to discuss matters related to the training of criminal justice personnel.

Contact: Charles F. Turner, Staff Executive, 805 E. Broad St., 10th Fl., Richmond, Va. 23219, telephone (804) 786-4000

VIRGINIA BOARD OF DENTISTRY

April 15, 1988 - 8:30 a.m. – Open Meeting

April 16, 1988 - 8:30 a.m. – Open Meeting

April 17, 1988 - 8:30 a.m. – Open Meeting

Cascades Conference Center, Williamsburg, Virginia

The Virginia Board of Dentistry meeting will cover (i) general board business; (ii) officer's reports; (iii) disciplinary hearings; and (iv) proposed regulations.

Contact: N. Taylor Feldman, Executive Director, 1601 Rolling Hills Dr., Richmond, Va. 23229, telephone (804) 662-9906

VIRGINIA EDUCATION LOAN AUTHORITY

Board of Directors

† March 29, 1988 - 10 a.m. – Open Meeting

Virginia Education Loan Authority, 737 North 5th Street, Richmond, Virginia. ☐

Calendar of Events

A normal business meeting with the following as the major topics:

1. Financial report through February 1988.
2. New program Edvantage update.
3. Salary and Benefit Committee Report.
4. Reserve issue with the State Education Assistance Authority and how it affects VELA's financings.
5. Data processing system update.
6. State legislation update.
7. Program update and statistics.

Contact: Debbie Carter, Executive Secretary, 737 N. 5th St., Richmond, Va. 23219, telephone (804) 786-6448

STATE BOARD OF ELECTIONS

March 28, 1988 - 10 a.m. - Open Meeting
State Capitol, Capitol Square, House Room 1, Richmond, Virginia. ☐

The State Board of Elections will meet on Monday, March 28, 1988, at 10 a.m. to certify the results of the March 8, 1988, Democratic and Republican Presidential Preference Primaries.

Contact: Susan H. Fitz-Hugh, 101 Ninth Street Office Bldg., Richmond, Va. 23219, telephone (804) 786-6651

LOCAL EMERGENCY PLANNING COMMITTEE

April 6, 1988 - 10 a.m. - Open Meeting
Mount Rogers Planning District Commission, Conference Room, 1021 Terrace Drive, Marion, Virginia. ☐

A meeting to update committee and review the plan to date.

Contact: Dink Shackelford, Community Information Coordinator, Mt. Rogers Planning District Commission, 1021 Terrace Dr., Marion, Va. 24354, telephone (703) 783-5103 or SCATS 676-4014

LOCAL EMERGENCY PLANNING COMMITTEE FOR THE CITY OF COLONIAL HEIGHTS

March 29, 1988 - 7:30 p.m. - Open Meeting
Colonial Heights Municipal Building, 1507 Boulevard, Colonial Heights, Virginia. ☐ (Interpreter for deaf provided if requested)

Organizational meeting - Orientation and discussion of the responsibilities of the Local Emergency Planning Committee (LEPC).

Contact: John H. Mitchell, Assistant City Manager, 1507 Boulevard, Colonial Heights, Va. 23834, telephone (804) 520-9265

LOCAL EMERGENCY PLANNING COMMITTEE FOR THE CITY OF MARTINSVILLE AND HENRY COUNTY

April 14, 1988 - 9:30 a.m. - Open Meeting
Martinsville Municipal Building, Martinsville, Virginia. ☐

May 12, 1988 - 9:30 a.m. - Open Meeting
Henry County Administration Building, Collinsville, Virginia. ☐

An open meeting to discuss general business relating to SARA Title III and development of the emergency response plan.

Contact: Benny Summerlin, Public Safety Director, Henry County Administration Building, P. O. Box 7, Collinsville, Va. 24078, telephone (703) 638-5311, ext. 256

GOVERNOR'S MIGRANT AND SEASONAL FARMWORKERS BOARD

† April 12, 1988 - 10 a.m. - Open Meeting
State Capitol, Capitol Square, House Room 1, Richmond, Virginia. ☐

A regular meeting of the board.

Contact: Marilyn Mandel, Staff Director, Department of Labor and Industry, P. O. Box 12064, Richmond, Va. 23241, telephone (804) 786-2385

FLOYD COUNTY EMERGENCY PLANNING COMMISSION COMMITTEE

† April 6, 1988 - 7 p.m. - Open Meeting
Circuit Courtroom, Courthouse, Floyd, Virginia. ☐

A meeting to approve guidelines for public participation and to develop a workplan for the committee.

Contact: Alan W. Thompson, Chairman, Route 4, Box 146, Floyd, Va. 24091, telephone (703) 745-3522

FORENSIC ISSUES ADVISORY COMMITTEE

† April 7, 1988 - 1:30 p.m. - Open Meeting
Institute of Law, Psychiatry and Public Policy - Blue Ridge Hospital, Box 100, Charlottesville, Virginia

A regular meeting to discuss issues related to the provision of forensic mental health, mental retardation and substance abuse services.

Contact: Russell C. Petrella, Director of Forensic Services, Department of Mental Health, Mental Retardation and Substance Abuse Services, P. O. Box 1797, Richmond, Va. 23214, telephone (804) 786-4837

VIRGINIA BOARD OF FUNERAL DIRECTORS AND EMBALMERS

April 7, 1988 - 9:30 a.m. - Open Meeting
Department of Health Regulatory Boards, 1601 Rolling Hills Drive, Koger Center-West, Conference Room 1, Richmond, Virginia

Informal fact-finding conferences.

† April 11, 1988 - 9:30 a.m. - Open Meeting
Department of Health Regulatory Boards, 1601 Rolling Hills Drive, Koger Center-West, Conference Room 1, Richmond, Virginia

A general board meeting to include (i) certifying candidates for the May examination; (ii) formal administrative hearing and (iii) possible discussion of proposed regulations. The administering of the state board exam of the Virginia Board of Funeral Directors and Embalmers will also be given.

April 22, 1988 - 9 a.m. - CANCELLED
Department of Health Regulatory Boards, 1601 Rolling Hills Drive, Koger Center-West, Conference Room 1, Richmond, Virginia

The general board meeting has been cancelled.

May 17, 1988 - 9 a.m. - Open Meeting
Department of Health Regulatory Boards, 1601 Rolling Hills Drive, Koger Center-West, Conference Room 1, Richmond, Virginia

Administering examinations and a general board meeting. Proposed regulations may be discussed.

Contact: Mark L. Forberg, Executive Secretary, 1601 Rolling Hills Dr., Richmond, Va. 23229-5005, telephone (804) 662-9907

DEPARTMENT OF GENERAL SERVICES

Art and Architectural Review Board

† April 1, 1988 - 10 a.m. - Open Meeting
Virginia Museum of Fine Arts, Boulevard and Grove Avenue, Main Conference Room, Richmond, Virginia. ☒

The board will advise the Director of the Department of General Services and the Governor on architecture of state facilities to be constructed and works of art to be accepted or acquired by the Commonwealth.

Contact: M. Stanley Krause, AIA, AICP, Architect, Rancorn, Wildman & Krause, Architects, P. O. Box 1817, Newport News, Va. 23601, telephone (804) 867-8030

STATE BOARD OF HEALTH

May 2, 1988 - 10 a.m. - Public Hearing
James Madison Building, 109 Governor Street, Main Floor Conference Room, Richmond, Virginia. ☒

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the State Board of Health intends to amend regulations entitled: VR 355-22-1.1. **Regulations Prohibiting the Taking of Finfish in Designated Portions of the James River and Its Tributaries.** These regulations prohibit the removal, for the purpose of sale, of specific finfish from designated areas of the James River and its tributaries.

Statutory Authority: §§ 28.1-176, 28.1-177 and 32.1-248 of the Code of Virginia.

Written comments may be submitted until May 2, 1988.

Contact: Robert B. Stroube, M.D., M.P.H., Deputy Health Commissioner, Department of Health, 109 Governor St., Richmond, Va. 23219, telephone (804) 786-3575

COUNCIL ON HEALTH REGULATORY BOARDS

April 18, 1988 - 11 a.m. - Open Meeting
General Assembly Building, Capitol Square, House Room D, Richmond, Virginia. ☒

Informational Hearing on the Regulation of Allied Health Professions. The council solicits comments on the recommendations of a study of the regulations of allied health professions. Specifically:

1. Should the council endorse the formation of a new congregate Board of Allied Health Regulation?
2. Should the council revise the criteria and process used to evaluate the need to regulate additional health occupations and professions?

A copy of the report and recommendations is available on request.

April 19, 1988 - 11 a.m. - Open Meeting
Department of Health Regulatory Boards, 1601 Rolling Hills Drive, Conference Room 1, Richmond, Virginia. ☒

A regular quarterly meeting of the council. Agenda items include the review of reports of standing and special committees with special attention to the plan for evaluation by the council of the health professional regulatory enforcement system.

Calendar of Events

Compliance and Disciplinary Committee

† April 14, 1988 - 11 a.m. - Open Meeting
Department of Social Services, Blair Building, 8007
Discovery Drive, Koger Center-West, Conference Room B,
2nd Floor, Richmond, Virginia. ☒

A regular monthly meeting of the committee to consider progress reports on evaluation of the health professional regulatory enforcement system.

Contact: Richard D. Morrison, Executive Director, 1601 Rolling Hills Dr., Richmond, Va. 23229-5005, telephone (804) 662-9904

STATE COUNCIL OF HIGHER EDUCATION FOR VIRGINIA

† April 6, 1988 - 9 a.m. - Open Meeting
Christopher Newport College, Newport News, Virginia

A monthly council meeting. The agenda will be available on request.

Contact: Marla Richardson, 101 N. 14th St., 9th Floor, Richmond, Va. 23219, telephone (804) 225-2638

HOPEWELL INDUSTRIAL SAFETY COUNCIL

April 5, 1988 - 9 a.m. - Open Meeting
May 3, 1988 - 9 a.m. - Open Meeting
Hopewell Community Center, Second and City Point Road, Hopewell, Virginia. ☒ (Interpreter for deaf provided if requested)

Local Emergency Preparedness Committee meeting on emergency preparedness as required by SARA Title III.

Contact: Robert Brown, Emergency Service Coordinator, City of Hopewell, 300 N. Main St., Hopewell, Va. 23860, telephone (804) 541-2298

VIRGINIA HOUSING DEVELOPMENT AUTHORITY

† April 18, 1988 - Written comments may be submitted until this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Virginia Housing Development Authority intends to amend regulations entitled: **VR 400-02-0001. Procedures, Instructions and Guidelines for Multi-Family Housing Developments.** The proposed amendment will authorize the executive director to require that the owner of a multi-family development on which the regulatory controls are to be modified pursuant to § 14 grant to the authority an option to purchase and right of first refusal which

may be exercised upon a prepayment of the authority's mortgage loan or upon sale of the development.

STATEMENT

Purpose: To amend the authority's procedures, instructions and guidelines for multi-family housing developments to authorize the executive director of the authority to require an owner to grant to the authority an option to purchase and right of first refusal on a development on which the regulatory controls are to be modified.

Basis: To be adopted pursuant to regulations which were issued under § 36-55.30:3 of the Code of Virginia.

Subject, substance and issues: Under the current procedures, instructions and guidelines, the authority may modify its regulatory controls to permit prepayment of the mortgage loan on a multi-family development 20 years after substantial completion. By authorizing the authority to require an owner to grant an option to purchase and right of first refusal for such a development, the authority would be able to preserve the development as low and moderate income if an owner desires to pay off the authority's mortgage loan by sale or refinancing of the development or otherwise.

Impact: Because of the number of variables relating to the subject matter of the proposed amendment, it is not possible to estimate the number of units or persons affected by this proposed amendment. The authority does not expect that any significant costs will be incurred for the implementation of and compliance with the proposed regulation.

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

Written comments may be submitted until April 18, 1988.

Contact: J. Judson McKellar, Jr., General Counsel, 13 S. 13th St., Richmond, Va. 23219, telephone (804) 782-1986

JAMES CITY COUNTY EMERGENCY PLANNING AND COMMUNITY RIGHT TO KNOW COMMITTEE

† April 6, 1988 - 3:30 p.m. - Open Meeting
James City County Human Services Building, 5249 Olde Towne Road, Auditorium, Williamsburg, Virginia. ☒

The committee is meeting in accordance to SARA Title III in order to carry out the provisions required within. Progress report on the Hazard Analysis of the County; subcommittee progress reports; status of the budget request; final planning for the public comment/information meeting.

Contact: Valerie Jordan, Committee Chair, James City County Health Department, P. O. Box JC, Williamsburg, Va. 23187, telephone (804) 565-6870

DEPARTMENT OF LABOR AND INDUSTRY

April 18, 1988 - 10 a.m. - Public Hearing
General Assembly Building, Capitol Square, House Room C,
Richmond, Virginia. ☐

Notice is hereby given in accordance with § 9-6.14:7.1
of the Code of Virginia that the Department of Labor
and Industry intends to amend regulations entitled: VR
425-01-27. Regulations Governing the Administration
of Apprenticeship Programs in the Commonwealth of
Virginia, XI. Program Sponsor Evaluation Procedure.
The program sponsor evaluation procedure will be
used when program sponsors are evaluated once every
two years to determine their compliance with the
intent of the Voluntary Apprenticeship Act.

Statutory Authority: § 40.1-118 of the Code of Virginia.

Written comments may be submitted until April 15, 1988.

Contact: Robert S. Baumgardner, Director of
Apprenticeship, Department of Labor and Industry, P. O.
Box 12064, Richmond, Va. 23241, telephone (804) 786-2381
or SCATS 786-2381

LIBRARY BOARD

† April 26, 1988 - 9:30 a.m. - Open Meeting
Virginia State Library and Archives, 11th Street and
Capitol Square, Supreme Court Room, Richmond, Virginia.
☐

A regular meeting to discuss administrative matters.

Contact: Jean K. Reynolds, Virginia State Library and
Archives, 11th St. and Capitol Sq., Richmond, Va. 23219,
telephone (804) 786-2332

COMMISSION ON LOCAL GOVERNMENT

† May 17, 1988 - 9 a.m. - Open Meeting
Ninth Street Office Building, Ninth and Grace Streets,
Room 901, Richmond, Virginia. ☐

A regular meeting of the Commission on Local
Government to consider such matters as may be
presented.

Contact: Barbara W. Bingham, Executive Secretary Senior,
Ninth Street Office Bldg., Room 901, Richmond, Va. 23219,
telephone (804) 786-6508

LONGWOOD COLLEGE

Board of Visitors

April 7, 1988 - 11 a.m. - Open Meeting

April 8, 1988 - 3 p.m. - Open Meeting
Longwood College, Virginia/Prince Edward Rooms,
Farmville, Virginia. ☐

A quarterly spring meeting to consider actions
necessary to the governance of Longwood College.

Contact: Dr. George R. Healy, President, Longwood
College, Farmville, Va. 23901, telephone (804) 392-9211 or
SCATS 265-4211

MARINE RESOURCES COMMISSION

April 5, 1988 - 9:30 a.m. - Open Meeting
† May 3, 1988 - 9:30 a.m. - Open Meeting
Newport News City Council Chambers, 2400 Washington
Avenue, Newport News, Virginia. ☐

The Virginia Marine Resources Commission will meet
on the first Tuesday of each month, at 9:30 a.m. in
Newport News City Council Chambers, located at 2400
Washington Avenue, Newport News, Virginia. The
commission will hear and decide cases on fishing
licensing; oyster ground leasing; environmental permits
in wetlands, bottomlands, coastal sand dunes and
beaches. It will also hear and decide appeals made on
local wetlands board decisions.

Fishery management and conservation measures will
be discussed by the commission. The commission is
empowered to exercise general regulatory power
within 15 days, and is empowered to take specialized
marine life harvesting and conservation measures
within five days.

Contact: Sandra S. Schmidt, Secretary to the Commission,
2401 West Ave., P. O. Box 756, Newport News, Va.
23607-0756, telephone (804) 247-2206

Habitat Management Division

May 3, 1988 - 9:30 a.m. - Public Hearing
Newport News City Council Chambers, Newport News,
Virginia

Notice is hereby given in accordance with § 9-6.14:7.1
of the Code of Virginia that the Marine Resources
Commission intends to adopt guidelines entitled: VR
450-01-0047. Criteria for the Siting of Marinas or
Community Facilities for Boat Mooring. The purpose
of these guidelines is to set forth criteria which will
be used by the Virginia Marine Resources Commission
to evaluate the siting of marinas and community boat
mooring facilities pursuant to the permitting authority
provided in § 62.1-3 of the Code of Virginia.

Statutory Authority: § 62.1-3 of the Code of Virginia.

Written comments may be submitted until April 15, 1988.

Calendar of Events

Contact: Norman E. Larsen, Chief, Habitat Management, Marine Resources Commission, P. O. Box 756, Newport News, Va. 23607-0756, telephone (804) 247-2200

DEPARTMENT OF MEDICAL ASSISTANCE SERVICES (BOARD OF)

April 15, 1988 – Written comments may be submitted until this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Department of Medical Assistance Services intends to amend regulations entitled: **The State Plan for Medical Assistance Relating to Audit Requirements**. This proposed amendment replaces provision requiring audits every three years with proposed provision for periodic audits as determined from internal desk audits.

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

Written comments may be submitted until 4:30 p.m., April 15, 1988, to N. Stanley Fields, Director, Provider Reimbursement, Department of Medical Assistance Services, 600 E. Broad St., Richmond, Va. 23219.

Contact: Victoria P. Simmons, Regulatory Coordinator, Department of Medical Assistance Services, 600 E. Broad St., Suite 1300, Richmond, Va. 23219, telephone (804) 786-7933 or SCATS 786-7933

April 15, 1988 – Written comments may be submitted until this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Department of Medical Assistance Services intends to amend **The State Plan for Medical Assistance Relating to the Cost Report Filing Requirements**. The amendments standardize information to be supplied by institutional providers which is necessary for the process of finalizing cost reports.

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

Written comments may be submitted until 4:30 p.m., April 15, 1988, to N. Stanley Fields, Director, Provider Reimbursement, Department of Medical Assistance Services, 600 E. Broad St., Suite 1300, Richmond, Va. 23219.

Contact: Victoria P. Simmons, Regulatory Coordinator, Department of Medical Assistance Services, 600 E. Broad St., Suite 1300, Richmond, Va. 23219, telephone (804) 786-7933 or SCATS 786-7933

April 14, 1988 – Written comments may be submitted until this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Department of Medical Assistance Services intends to amend **The State Plan for Medical Assistance Relating to Rehabilitative Services**. These proposed amendments clarify requirements for inpatient and outpatient admission authorizations, add criteria for rehab nursing and make technical corrections to existing language.

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

Written comments may be submitted until 4:30 p.m., April 14, 1988, to Tinnie Conover, Manager of Institutional Services, Division of Medical Social Services, Department of Medical Assistance Services, 600 E. Broad St., Suite 1300, Richmond, Va. 23219.

Contact: Victoria P. Simmons, Regulatory Coordinator, Department of Medical Assistance Services, 600 E. Broad St., Suite 1300, Richmond, Va. 23219, telephone (804) 786-7933 or SCATS 786-7933

May 16, 1988 – Written comments may be submitted until this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Department of Medical Assistance Services intends to adopt regulations entitled: **State Plan for Medical Assistance Relating to Extended Repayment Schedule (VR 460-02-4.191, 460-02-4.192, 460-03-4.193)**. The proposed regulation authorizes the director to extend scheduled repayments of overpayments in certain circumstances.

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

Contact: Victoria P. Simmons, Regulatory Coordinator, Department of Medical Assistance Services, 600 E. Broad St., Suite 1300, Richmond, Va. 23219, telephone (804) 786-7933 or SCATS 786-7933

VIRGINIA STATE BOARD OF MEDICINE

April 20, 1988 - 9:30 a.m. – Public Hearing
Department of Health Regulatory Boards, 1601 Rolling Hills Drive, Surry Building, Board Room 1, Richmond, Virginia

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Virginia State Board of Medicine intends to adopt regulations entitled: **VR 465-02-1. Practice of Medicine, Osteopathic Medicine, Chiropractic, Podiatry, Clinical Psychology, and Acupuncture** and repeal existing regulations. The

purpose of this action is to establish the requirements governing the practice of medicine, osteopathic medicine, chiropractic, clinical psychology, podiatry, acupuncture and other healing arts.

Statutory Authority: § 54-291 of the Code of Virginia.

Written comments may be submitted until April 29, 1988, to Hilary H. Connor, M.D., Executive Director, Board of Medicine, 1601 Rolling Hills Dr., Surry Bldg., Richmond, Va. 23229-5005.

Contact: Eugenia K. Dorson, Board Administrator, Board of Medicine, 1601 Rolling Hills Dr., Surry Bldg., Richmond, Va. 23229-5005, telephone (804) 662-9925

April 20, 1988 - 10:30 a.m. - Public Hearing
Department of Health Regulatory Boards, 1601 Rolling Hills Drive, Surry Building, Board Room 1, Richmond, Virginia

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Virginia State Board of Medicine intends to adopt regulations entitled: VR 465-03-1. Physical Therapy and repeal existing regulations. The purpose of this action is to establish the requirements governing the practice of physical therapy.

Statutory Authority: § 54-291 of the Code of Virginia.

Written comments may be submitted until April 29, 1988, to Hilary H. Connor, M.D., Executive Director, 1601 Rolling Hills Drive, Surry Building, Richmond, Va. 23229-5005.

Contact: Eugenia K. Dorson, Board Administrator, Board of Medicine, 1601 Rolling Hills Dr., Surry Bldg., 2nd Fl., Richmond, Va. 23229-5005, telephone (804) 662-9925

April 20, 1988 - 1:30 p.m. - Public Hearing
Department of Health Regulatory Boards, 1601 Rolling Hills Drive, Surry Building, Board Room 1, Richmond, Virginia

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Virginia State Board of Medicine intends to adopt regulations entitled: VR 465-05-1. Physician Assistants, and repeal existing regulations. The purpose of this action is to establish the requirements governing the practice of physician's assistants in the Commonwealth.

Statutory Authority: § 54-291 of the Code of Virginia.

Written comments may be submitted until April 29, 1988, to Hilary H. Connor, M.D., Executive Director, Board of Medicine, 1601 Rolling Hills Drive, Surry Building,

Richmond, Va. 23229-5005.

Contact: Eugenia K. Dorson, Board Administrator, Board of Medicine, 1601 Rolling Hills Dr., Surry Building, 2nd Fl., Richmond, Va. 23229-5005, telephone (804) 662-9925

April 20, 1988 - 2:30 p.m. - Public Hearing
Department of Health Regulatory Boards, 1601 Rolling Hills Drive, Surry Building, 2nd Floor, Board Room 1, Richmond, Virginia

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Virginia State Board of Medicine intends to adopt regulations entitled: VR 465-06-1. Correctional Health Assistants and repeal existing regulations entitled Physicians Assistants - Category II. The purpose of this action is to establish requirements for the practice of Correctional Health Assistants employed in correctional institutions.

Statutory Authority: § 54-291 of the Code of Virginia.

Written comments may be submitted until April 29, 1988, to Hilary H. Connor, M.D., Executive Director, Board of Medicine, Surry Building, Richmond, Va. 23229-5005.

Contact: Eugenia K. Dorson, Board Administrator, Board of Medicine, 1601 Rolling Hills Dr., Surry Bldg., 2nd Fl., Richmond, Va. 23229-5005, telephone (804) 662-9925

Chiropractic Examination Committee

† April 5, 1988 - noon - Open Meeting
April 21, 1988 - 12:30 p.m. - Open Meeting
Department of Health Regulatory Boards, 1601 Rolling Hills Drive, Surry Building, Board Room 1, 2nd Floor, Richmond, Virginia. ☐

The committee will meet in open and executive session for the purpose of reviewing and developing chiropractic questions for the June, 1988 exam.

Credentials Committee

April 9, 1988 - 8:15 a.m. - Open Meeting
Department of Health Regulatory Boards, 1601 Rolling Hills Drive, Surry Building, Board Room 1, 2nd Floor, Richmond, Virginia. ☐

A meeting to conduct general business, interview, and review medical credentials of applicants applying for licensure in Virginia in open and closed sessions and to discuss any other items which may come before this committee.

Informal Conference Committee

April 6, 1988 - 9 a.m. - Open Meeting
April 12, 1988 - 10 a.m. - Open Meeting

Calendar of Events

Department of Health Regulatory Boards, 1601 Rolling Hills Drive, Surry Building, Board Room 1, 2nd Floor, Richmond, Virginia. ☒

April 8, 1988 - 1 p.m. - Open Meeting
Sheraton-Fredericksburg Resort and Conference Center, I-95 and Route 3, Fredericksburg, Virginia. ☒

April 22, 1988 - 9 a.m. - Open Meeting
Patrick Henry Inn and Conference Center, York and Page Streets, Route 60 East, Williamsburg, Virginia. ☒

April 27, 1988 - 9 a.m. - Open Meeting
Radisson Hotel Lynchburg, 601 Main Street, Lynchburg, Virginia. ☒

A meeting to inquire into allegations that certain practitioners may have violated laws and regulations governing the practice of medicine in Virginia. The committee will meet in open and closed sessions pursuant to § 2.1-344 of the Code of Virginia.

Contact: Eugenia K. Dorson, Board Administrator, 1601 Rolling Hills Dr., Surry Bldg., 2nd Floor, Richmond, Va. 23229-5005, telephone (804) 662-9925

DEPARTMENT OF MENTAL HEALTH, MENTAL RETARDATION AND SUBSTANCE ABUSE SERVICES

† **April 11, 1988 - 10 a.m. - Open Meeting**
James Monroe Building 101 North 14th Street, Conference Room C and D, Richmond, Virginia. ☒ (Interpreter for deaf provided if requested)

† **April 11, 1988 - 10 a.m. - Open Meeting**
Roanoke City Hall, Municipal Building, 215 Church Avenue, Room 450, Roanoke, Virginia. ☒ (Interpreter for deaf provided if requested)

† **April 11, 1988 - 10 a.m. - Open Meeting**
Norfolk Public School Building, 800 East City Hall Avenue, Room 202, 12th Floor Board Room, Norfolk, Virginia. ☒ (Interpreter for deaf provided if requested)

† **April 11, 1988 - 10 a.m. - Open Meeting**
Oakton Corporate Center, 10461 White Granite Drive, Mental Retardation Programs, Fairfax-Falls Church CSB, Suite 300, 3rd Floor Training Room, Oakton, Virginia. ☒ (Interpreter for deaf provided if requested)

Notice is hereby given in accordance with this agency's public participation guidelines that the Department of Mental Health, Mental Retardation and Substance Abuse Services acting as the lead agency administering Part H (EHA) early intervention services to infants and toddlers with handicaps (Public Law 99-457) intends to conduct public hearings for the purpose of presenting the State Early Intervention Grant Application. Interested parties are asked to give their comments and suggestions. Copies of the grant

may be obtained by contacting Michael Fehl, Ed.D., at the Department of Mental Health, Mental Retardation and Substance Abuse Services.

Written comments will be accepted until April 15, 1988.

Contact: Michael Fehl, Ed. D., Department of Mental Health, Mental Retardation and Substance Abuse Services, P. O. Box 1797, Richmond, Va. 23214, telephone (804) 786-3710

DEPARTMENT OF MENTAL HEALTH, MENTAL RETARDATION AND SUBSTANCE ABUSE SERVICES; UNIVERSITY OF VIRGINIA INSTITUTE OF LAW, PSYCHIATRY AND PUBLIC POLICY, DIVISION OF CONTINUING EDUCATION, OFFICE OF CONTINUING LEGAL EDUCATION AND OFFICE OF CONTINUING MEDICAL EDUCATION

† **May 19, 1988 - 8:30 a.m. - Open Meeting**

† **May 20, 1988 - 8:30 a.m. - Open Meeting**
Williamsburg Hilton, Colonial Williamsburg, Virginia. ☒

Eleventh Annual Symposium on Mental Health and the Law

An annual symposium addressing issues related to mental health and the law. Nine hours in Category 1 CME, .9 CEU and 9 CLE credits applied for.

Contact: Lynn Daidone, Administrator, Institute of Law, Psychiatry and Public Policy, Box 100, Blue Ridge Hospital, Charlottesville, Va. 22901, telephone (804) 924-5435

PROTECTION AND ADVOCACY FOR THE MENTALLY ILL ADVISORY BOARD

† **April 29, 1988 - 10 a.m. - Open Meeting**
James Monroe Building, 101 North 14th Street, 18th Floor Conference Room, Richmond, Virginia. ☒ (Interpreter for deaf provided if requested)

A regularly scheduled meeting.

Contact: Barbara Hoban, PA/MI Program Manager, Department for Rights of the Disabled, James Monroe Bldg., 101 N. 14th St., 17th Fl., Richmond, Va. 23219, telephone (804) 225-2042, toll-free 1-800-552-3962, SCATS 225-2042, 225-2042/TDD or 1-800-552-3962/TDD ☒

VIRGINIA STATE BOARD OF NURSING

March 28, 1988 - 9 a.m. - Open Meeting

March 29, 1988 - 9 a.m. - Open Meeting

March 30, 1988 - 9 a.m. - Open Meeting

Department of Health Regulatory Boards, 1601 Rolling

Hills Drive, Richmond, Virginia. ☒ (Interpreter for deaf provided if requested)

A meeting to consider matters related to nursing education programs, discipline of licensees, licensing by examination and endorsement and other matters under jurisdiction of the board.

Informal Conference Committee

April 12, 1988 - 8:30 a.m. – Open Meeting
April 28, 1988 - 8:30 a.m. – Open Meeting
Department of Health Regulatory Boards, 1601 Rolling Hills Drive, Conference Room 2, Richmond, Virginia. ☒ (Interpreter for deaf provided if requested)

A meeting to inquire into allegations that certain licensees may have violated laws and regulations governing the practice of nursing in Virginia.

Contact: Corinne F. Dorsey, R.N., Executive Director, 1601 Rolling Hills Dr., Richmond, Va. 23229, telephone (804) 662-9909, toll-free 1-800-533-1560 or SCATS 662-9909

COMMITTEE OF THE JOINT BOARDS OF NURSING AND MEDICINE

† **April 14, 1988 - 1:30 p.m. – Open Meeting**
Department of Social Services, Blair Building, 8007 Discovery Drive, Conference Room A, 2nd Floor, Richmond, Virginia. ☒ (Interpreter for deaf provided if requested)

A regular meeting to consider matters related to the regulation of nurse practitioners in the Commonwealth.

Contact: Corinne F. Dorsey, R.N., Executive Director, 1601 Rolling Hills Dr., Richmond, Va. 23229, telephone (804) 662-9909, toll-free 1-800-533-1560 or SCATS 662-9909

VIRGINIA BOARD OF OPTOMETRY

May 1, 1988 – Written comments may be submitted until this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Virginia Board of Optometry intends to amend regulations entitled: **VR 510-01-1. Regulations of the Virginia Board of Optometry.** The proposed amendments increase the fees charged to optometrists for licensure and examination.

Statutory Authority: § 54-376 of the Code of Virginia.

Written comments may be submitted until May 1, 1988.

Contact: Moira C. Lux, Executive Director, Board of Optometry, 1601 Rolling Hills Dr., Richmond, Va. 23229,

telephone (804) 662-9910

STATE BOARD OF PHARMACY

March 30, 1988 - 9:30 a.m. – Open Meeting
Department of Health Regulatory Boards, 1601 Rolling Hills Drive, Conference Room 2, Richmond, Virginia. ☒

Routine board business.

† **March 31, 1988 - 9 a.m. – Open Meeting**
Department of Health Regulatory Boards, 1601 Rolling Hills Drive, Conference Room 2, Richmond, Virginia. ☒

A committee meeting to develop the jurisprudence examination to be administered in June.

Contact: Jack B. Carson, Executive Director, 1601 Rolling Hills Dr., Richmond, Va. 23229, telephone (804) 662-9911

BOARD OF COMMISSIONERS TO EXAMINE PILOTS

April 13, 1988 - 10 a.m. – Open Meeting
Hasler and Company, 121 Tazwell Street, Norfolk, Virginia

A regular quarterly business meeting.

Contact: David E. Dick, 3600 W. Broad St., Richmond, Va. 23230, telephone (804) 367-8531 or William L. Taylor, 3329 Shore Drive, Virginia Beach, Va. 23451, telephone (804) 496-0995

VIRGINIA BOARD OF PROFESSIONAL COUNSELORS

March 30, 1988 – Written comments may be submitted until this date.

Notice is hereby given in accordance § 9-6.14:7.1 of the Code of Virginia that the Virginia Board of Professional Counselors intends to repeal existing and adopt new regulations entitled: **VR 560-01-02. Regulations Governing the Practice of Professional Counseling.** The proposed regulations were developed as a part of the comprehensive review of regulations initiated by Governor Charles S. Robb.

Statutory Authority: § 54-929(a) of the Code of Virginia.

Written comments may be submitted until March 30, 1988.

Contact: Stephanie A. Sivert, Executive Director, Board of Professional Counselors, 1601 Rolling Hills Dr., Richmond, Va. 23229, telephone (804) 662-9912

† **April 13, 1988 - 11 a.m. – Open Meeting**
Department of Health Regulatory Boards, 1601 Rolling Hills Drive, Richmond, Virginia. ☒

Calendar of Events

Informal conferences.

† **April 15, 1988 - 9 a.m.** – Open Meeting
Department of Health Regulatory Boards, 1601 Rolling Hills Drive, Richmond, Virginia. ☒

A meeting to (i) conduct general board business; (ii) make policies, (iii) respond to board correspondence, and (iv) conduct regulatory review.

Contact: Joyce D. Williams, Administrative Assistant, 1601 Rolling Hills Dr., Richmond, Va. 23229, telephone (804) 662-9912

VIRGINIA REAL ESTATE BOARD

† **April 12, 1988 - 10 a.m.** – Open Meeting
Travelers Building, 3600 West Broad Street, Conference Room 1, 5th Floor, Richmond, Virginia. ☒

The board will meet to conduct a formal administrative hearing: Virginia Real Estate Board v. Frank L. Compton.

Contact: Sylvia W. Bryant, Hearings Coordinator, Department of Commerce, 3600 W. Broad St., Richmond, Va. 23230, telephone (804) 367-8524

DEPARTMENT OF SOCIAL SERVICES

Division of Licensing Programs

March 31, 1988 – Written comments may be submitted until this date.

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Department of Social Services, Division of Licensing Programs intends to amend regulations entitled: **VR 615-22-02. Standards and Regulations for Licensed Homes for Adults**. The purpose of the proposed regulation is to regulate homes which provide maintenance and care to aged, infirm, and disabled adults.

Statutory Authority: §§ 63.1-174 and 63.1-182.1 of the Code of Virginia.

Written comments may be submitted until March 31, 1988.

Contact: Kathryn Thomas, Program Development Supervisor, Department of Social Services, Licensing Programs, 8007 Discovery Dr., Richmond, Va. 23229-8699, telephone (804) 662-9025, toll-free 1-800-552-7091 or SCATS 662-9025

DEPARTMENT OF TRANSPORTATION

March 28, 1988 - 10 a.m. – Public Hearing

Fredericksburg District Office, Route 607 (Deacon Road) 0.4 mile west of Route 218, Fredericksburg, Virginia. ☒ (Interpreter for deaf provided if requested)

March 30, 1988 - 10 a.m. – Public Hearing
Suffolk District Office, 1700 North Main Street (Route 460), Suffolk, Virginia. ☒ (Interpreter for deaf provided if requested)

April 1, 1988 - 10 a.m. – Public Hearing
Bristol District, Virginia Highway School Auditorium, Long Crescent Drive, Bristol, Virginia. ☒

April 4, 1988 - 10 a.m. – Public Hearing
Lynchburg District Office, Route 501, 0.26 mile south of intersection Routes 460 and 501 south of Lynchburg, Virginia. ☒ (Interpreter for deaf provided if requested)

April 6, 1988 - 10 a.m. – Public Hearing
Richmond District Office, Pine Forest Drive off Route 1, one mile north of Colonial Heights, Virginia. ☒ (Interpreter for deaf provided if requested)

April 8, 1988 - 2 p.m. – Public Hearing
Staunton District Office, Commerce Road (Route 11 Bypass) just north of Staunton, Virginia. ☒ (Interpreter for deaf provided if requested)

April 11, 1988 - 10 a.m. – Public Hearing
Culpeper District Office, Route 15, 0.5 mile south of Route 3, Culpeper, Virginia. ☒ (Interpreter for deaf provided if requested)

April 12, 1988 - 10 a.m. – Public Hearing
Salem District Office, Harrison Avenue north of Main Street and east of Route 311 in Salem, Virginia. ☒ (Interpreter for deaf provided if requested)

April 22, 1988 - 1:30 p.m. – Public Hearing
Fairfax City Hall, 10455 Armstrong Street, Room 305, Council Chambers, Fairfax, Virginia. ☒ (Interpreter for deaf provided if requested)

Public hearings to receive comments on highway allocations for the coming year and on updating the six-year improvement program for the interstate, primary, and urban systems.

Contact: Albert W. Coates, Jr., Assistant Commissioner, Department of Transportation, 1401 E. Broad St., Richmond, Va., telephone (804) 786-9950

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April 1, 1988 - 2 p.m. – Public Hearing
Department of Transportation, Central Office, 1401 East Broad Street, Richmond, Virginia

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Virginia Department of Transportation intends to adopt regulations entitled:

VR 385-01-06. Minimum Standards of Entrances to State Highways. These regulations establish guidelines for controlling the use of highway right-of-way where it is necessary to provide access to commercial, private and industrial properties abutting state roads.

Statutory Authority: §§ 33.1-12(3), 33.1-197 and 33.1-198 of the Code of Virginia.

Written comments may be submitted until April 1, 1988.

Contact: John L. Butner, Assistant State Traffic Engineer, 1401 E. Broad St., Richmond, Va. 23219, telephone (804) 786-2878 or SCATS 786-2878

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† **May 3, 1988 - 7 p.m. – Public Hearing**
Virginia Department of Transportation Auditorium, 1401 East Broad Street, Richmond, Virginia

† **May 4, 1988 - 7 p.m. – Public Hearing**
Lake Ridge High School (Suffolk District), Virginia

† **May 5, 1988 - 7 p.m. – Public Hearing**
Salem Virginia Department of Transportation District Office, Salem, Virginia

† **May 10, 1988 - 4 p.m. – Public Hearing**
Garfield High School, Northern Virginia

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the Department of Transportation intends to adopt regulations entitled: **VR 385-01-07. Virginia Department of Transportation Noise Abatement Policy.** The proposed regulation establishes consistent criteria for providing noise abatement on all proposed highway projects in the Commonwealth.

Statutory Authority: § 33.1-12 of the Code of Virginia

Written comments may be submitted until May 10, 1988.

Contact: A. C. Anday, Coordinator, Air, Noise and Energy Section, Department of Transportation, 1401 E. Broad St., 11th Fl., Richmond, Va. 23219, telephone (804) 786-6556 or SCATS 786-6556

VIRGINIA BOARD OF VETERINARY MEDICINE

March 31, 1988 - 9 a.m. – Open Meeting
Department of Health Regulatory Boards, 1601 Rolling Hills Drive, Richmond, Virginia. ☒

Informal conferences and general business.

Contact: Moira C. Lux, Executive Director, 1601 Rolling Hills Drive, Richmond, Va. 23229, telephone (804) 662-9915

DEPARTMENT FOR THE VISUALLY HANDICAPPED

Advisory Committee on Services

April 23, 1988 - 10:30 a.m. – Open Meeting
Administrative Headquarters, 397 Azalea Avenue, Richmond, Virginia. ☒ (Interpreter for deaf provided if requested)

A quarterly meeting to advise the department on matters related to services for blind and visually handicapped citizens of the Commonwealth.

Contact: Diane E. Allen, Executive Secretary Senior, 397 Azalea Ave., Richmond, Va. 23227, telephone (804) 371-3145, toll-free 1-800-622-2155, SCATS 371-3145 or 371-3140/TDD ☒

STATE WATER CONTROL BOARD

† **March 28, 1988 - 9 a.m. – Open Meeting**
† **March 29, 1988 - 9 a.m. – Open Meeting**
General Assembly Building, Capitol Square, Senate Room B, Richmond, Virginia. ☒

A regular quarterly meeting.

Contact: Doneva A. Dalton, State Water Control Board, P. O. Box 11143, Richmond, Va. 23230, telephone (804) 367-6829

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April 4, 1988 - 7 p.m. – Public Hearing
Spotsylvania County Board of Supervisors Room, Route 208 at Spotsylvania Courthouse, Spotsylvania, Virginia

Notice is hereby given in accordance with § 9-6.14:7.1 of the Code of Virginia that the State Water Control Board intends to adopt regulations entitled: **VR 680-16-17. Rappahannock River Basin Water Quality Management Plan.** The Plan sets forth measures to be implemented by the State Water Control Board to reach and maintain applicable water quality goals.

Statutory Authority: § 62.1-44.15(3) of the Code of Virginia.

Written comments may be submitted until April 18, 1988, to Doneva Dalton, Hearing Reporter, State Water Control Board, P. O. Box 11143, Richmond, Va. 23230.

Contact: Dale J. Jones, Director, Office of Water Resources Planning, State Water Control Board, P. O. Box 11143, Richmond, Va. 23230, telephone (804) 367-6422

† **April 26, 1988 - 7 p.m. – Public Hearing**
Isle of Wight Courthouse, Highway 258, Board of Supervisors Room, Isle of Wight, Virginia

A public hearing to receive comments on the proposed

Calendar of Events

NPDES Permit to the Catholic Community of Smithfield, the issuance or denial of the permit, the effect of the discharges on water quality or beneficial uses of state waters, and the socio-economic effect of the proposal including its relationship to shellfish.

† June 27, 1988 - 9 a.m. - Open Meeting

† June 28, 1988 - 9 a.m. - Open Meeting

General Assembly Building, Capitol Square, Senate Room B, Richmond, Virginia. ☒

A regular quarterly meeting.

Contact: Doneva A. Dalton, State Water Control Board, P. O. Box 11143, Richmond, Va. 23230, telephone (804) 367-6829

THE COLLEGE OF WILLIAM AND MARY

Board of Visitors

April 21, 1988 - 3 p.m. - Open Meeting

April 22, 1988 - 8 a.m. - Open Meeting

Campus Center, Jamestown Road, Williamsburg, Virginia

A regularly scheduled meeting to (i) approve the budgets and fees of the college and Richard Bland College; (ii) receive reports from several committees of the board, and (iii) act on those resolutions that are presented by the administrations of William and Mary and Richard Bland College.

An informational release will be available four days prior to the board meeting for those individuals or organizations who request it.

Contact: Office of University Relations, James Blair Hall, Room 308, College of William and Mary, Williamsburg, Va. 23185, telephone (804) 253-4226

CHRONOLOGICAL LIST

OPEN MEETINGS

March 28

Elections, State Board of
Nursing, Virginia State Board of
† Water Control Board, State

March 29

† Auctioneers Board, Virginia
† Education Loan Authority, Virginia
- Board of Directors
Emergency Planning Committee for the City of
Colonial Heights, Local
Nursing, Virginia State Board of
† Water Control Board, State

March 30

Nursing, Virginia State Board of
Pharmacy, State Board of

March 31

† Pharmacy, State Board of
Veterinary Medicine, Virginia Board of

April 1

† General Services, Department of
- Art and Architectural Review Board

April 4

† Aviation Board, Virginia

April 5

Alcoholic Beverage Control Board
Hopewell Industrial Safety Council
Marine Resources Commission
† Medicine, Virginia State Board of
- Chiropractic Examination Committee
Real Estate Board, Virginia

April 6

† Criminal Justice Services Board
- Committee on Training
Emergency Planning Committee, Local
† Floyd County Emergency Planning Commission
Committee
† Higher Education for Virginia, State Council of
† James City County Emergency Planning and
Community Right to Know Committee
Medicine, Virginia State Board of
- Informal Conference Committee
Real Estate Board, Virginia

April 7

Boating Advisory Board, Virginia
† Forensic Issues Advisory Committee
Funeral Directors and Embalmers, Virginia Board of
Longwood College
- Board of Visitors
Real Estate Board, Virginia

April 8

† Children's Residential Facilities, Interdepartmental
Licensure and Certification of
- Coordinating Committee
Commercial Driver Training Schools, Board for
Longwood College
- Board of Visitors
Medicine, Virginia State Board of
- Informal Conference Committee

April 9

Medicine, Virginia State Board of
- Credentials Committee

April 11

† Air Pollution Control Board, State
† Funeral Directors and Embalmers, Virginia Board of

Calendar of Events

- † Mental Health, Mental Retardation and Substance Abuse Services, Department of
- April 12**
† Farmworkers Board, Governor's Migrant and Seasonal Medicine, Virginia State Board of
- Informal Conference Committee
Nursing, Virginia State Board of
- Informal Conference Committee
† Real Estate Board, Virginia
- April 13**
† Bedford County Local Emergency Planning Committee
† Corrections, State Board of
Pilots, Board of Commissioners to Examine
† Professional Counselors, Virginia Board of
- April 14**
Architects, Professional Engineers, Land Surveyors and Certified Landscape Architects, State Board of
- Virginia State Board of Land Surveyors
Emergency Planning Committee for the City of Martinsville and Henry County, Local
† Health Regulatory Boards, Council on
- Compliance and Disciplinary Committee
† Nursing and Medicine, Committee of the Joint Boards of
- April 15**
Conservation and Historic Resources, Department of
- Falls of the James Advisory Committee
Dentistry, Virginia Board of
† Professional Counselors, Virginia Board of
- April 16**
Dentistry, Virginia Board of
- April 17**
Dentistry, Virginia Board of
- April 18**
Health Regulatory Boards, Council on
- April 19**
Alcoholic Beverage Control Board
† Conservation and Historic Resources, Department of
- Virginia Historic Landmarks Board
Health Regulatory Boards, Council on
- April 21**
Medicine, Virginia State Board of
- Chiropractic Examination Committee
William and Mary, The College of
- Board of Visitors
- April 22**
Medicine, Virginia State Board of
- Informal Conference Committee
William and Mary, The College of
- Board of Visitors
- April 23**
Visually Handicapped, Department for the
- Advisory Committee on Services
- April 26**
† Library Board
- April 27**
† Bedford County Local Emergency Planning Committee
Medicine, Virginia State Board of
- Informal Conference Committee
- April 28**
Nursing, Virginia State Board of
- Informal Conference Committee
- April 29**
† Mentally Ill Advisory Board, Protection and Advocacy for the
- May 3**
Auctioneers Board
Hopewell Industrial Safety Council
† Marine Resources Commission
- May 12**
Emergency Planning for the City of Martinsville and Henry County, Local
- May 13**
† Children's Residential Facilities, Interdepartmental Licensure and Certification of
- Coordinating Committee
- May 16**
Agricultural Council, Virginia
- May 17**
Funeral Directors and Embalmers, Virginia Board of
† Local Government, Commission on
- May 19**
† Mental Health, Mental Retardation and Substance Abuse Services, Department of; University of Virginia Institute of Law, Psychiatry and Public Policy, Division of Continuing Education, Office of Continuing Legal Education and Office of Continuing Medical Education
- May 20**
Conservation and Historic Resources, Department of
- Falls of the James Advisory Committee
† Mental Health, Mental Retardation and Substance Abuse Services, Department of; University of Virginia Institute of Law, Psychiatry and Public Policy, Division of Continuing Education, Office of Continuing Legal Education and Office of Continuing Medical Education

Calendar of Events

June 10

† Children's Residential Facilities, Interdepartmental
Licensure and Certification of
- Coordinating Committee

May 5

† Transportation, Department of

June 27

† Water Control Board, State

May 10

† Transportation, Department of

June 28

† Water Control Board, State

PUBLIC HEARINGS

March 28

Transportation, Department of

March 30

Transportation, Department of

April 1

Transportation, Department of

April 4

Water Control Board, State
Transportation, Department of

April 6

Transportation, Department of

April 8

Transportation, Department of

April 11

Transportation, Department of

April 12

Transportation, Department of

April 18

Labor and Industry, Department of

April 20

Medicine, Virginia State Board of

April 22

Transportation, Department of

April 26

† Water Control Board, State

May 2

Health, State Board of

May 3

Marine Resources Commission
- Habitat Management Division
† Transportation, Department of

May 4

† Transportation, Department of