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Virginia Register of Regulations

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THE VIRGINIA REGISTER OF REGULATIONS (USPS-001831) is published biweekly, with quarterly cumulative indices published in January, April, July and October, for $179.00 per year by LexisNexis Matthew Bender, 1275 Broadway, Albany, NY 12204. Periodical postage is paid at Albany, NY and at additional mailing offices. POSTMASTER: Send address changes to LexisNexis Matthew Bender, 1275 Broadway, Albany, NY 12204.

THE VIRGINIA REGISTER INFORMATION PAGE

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

ADOPTION, AMENDMENT, AND REPEAL OF REGULATIONS

An agency wishing to adopt, amend, or repeal regulations must first publish in the *Virginia Register* a notice of intended regulatory action; a basis, purpose, substance and issues statement; an economic impact analysis prepared by the Department of Planning and Budget; the agency's response to the economic impact analysis; a summary; a notice giving the public an opportunity to comment on the proposal; and the text of the proposed regulation.

Following publication of the proposal in the Virginia Register, the promulgating agency receives public comments for a minimum of 60 days. The Governor reviews the proposed regulation to determine if it is necessary to protect the public health, safety and welfare, and if it is clearly written and easily understandable. If the Governor chooses to comment on the proposed regulation, his comments must be transmitted to the agency and the Registrar no later than 15 days following the completion of the 60-day public comment period. The Governor's comments, if any, will be published in the *Virginia Register*. Not less than 15 days following the completion of the 60-day public comment period, the agency may adopt the proposed regulation.

The Joint Commission on Administrative Rules (JCAR) or the appropriate standing committee of each house of the General Assembly may meet during the promulgation or final adoption process and file an objection with the Registrar and the promulgating agency. The objection will be published in the *Virginia Register*. Within 21 days after receipt by the agency of a legislative objection, the agency shall file a response with the Registrar, the objecting legislative body, and the Governor.

When final action is taken, the agency again publishes the text of the regulation as adopted, highlighting all changes made to the proposed regulation and explaining any substantial changes made since publication of the proposal. A 30-day final adoption period begins upon final publication in the *Virginia Register*.

The Governor may review the final regulation during this time and, if he objects, forward his objection to the Registrar and the agency. In addition to or in lieu of filing a formal objection, the Governor may suspend the effective date of a portion or all of a regulation until the end of the next regular General Assembly session by issuing a directive signed by a majority of the members of the appropriate legislative body and the Governor. The Governor's objection or suspension of the regulation, or both, will be published in the *Virginia Register*. If the Governor finds that changes made to the proposed regulation have substantial impact, he may require the agency to provide an additional 30-day public comment period on the changes. Notice of the additional public comment period required by the Governor will be published in the *Virginia Register*.

The agency shall suspend the regulatory process for 30 days when it receives requests from 25 or more individuals to solicit additional public comment, unless the agency determines that the changes have minor or inconsequential impact.

A regulation becomes effective at the conclusion of the 30-day final adoption period, or at any other later date specified by the promulgating agency, unless (i) a legislative objection has been filed, in which event the regulation, unless withdrawn, becomes effective on the date specified, which shall be after the expiration of the 21-day objection period; (ii) the Governor exercises his authority to require the agency to provide for additional public comment, in which event the regulation, unless withdrawn, becomes effective on the date specified, which shall be after the expiration of the period for which the Governor has provided for additional public comment; (iii) the Governor and the General Assembly exercise their authority to suspend the effective date of a regulation until the end of the next regular legislative session; or (iv) the agency suspends the regulatory process, in which event the regulation, unless withdrawn, becomes effective on the date specified, which shall be after the expiration of the 30-day public comment period and no earlier than 15 days from publication of the readopted action.

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

FAST-TRACK RULEMAKING PROCESS

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

EMERGENCY REGULATIONS

Pursuant to § 2.2-4011 of the Code of Virginia, an agency, upon consultation with the Attorney General, and at the discretion of the Governor, may adopt emergency regulations that are necessitated by an emergency situation. An agency may also adopt an emergency regulation when Virginia statutory law or the appropriation act or federal law or federal regulation requires that a regulation be effective in 280 days or less from its enactment. The emergency regulation becomes operative upon its adoption and filing with the Registrar of Regulations, unless a later date is specified. Emergency regulations are limited to no more than 12 months in duration; however, may be extended for six months under certain circumstances as provided for in § 2.2-4011 D. Emergency regulations are published as soon as possible in the *Register*.

During the time the emergency status is in effect, the agency may proceed with the adoption of permanent regulations through the usual procedures. To begin promulgating the replacement regulation, the agency must (i) file the Notice of Intended Regulatory Action with the Registrar within 60 days of the effective date of the emergency regulation and (ii) file the proposed regulation with the Registrar within 180 days of the effective date of the emergency regulation. If the agency chooses not to adopt the regulations, the emergency status ends when the prescribed time limit expires.

STATEMENT

The foregoing constitutes a generalized statement of the procedures to be followed. For specific statutory language, it is suggested that Article 2 (§ 2.2-4006 et seq.) of Chapter 40 of Title 2.2 of the Code of Virginia be examined carefully.

CITATION TO THE *VIRGINIA REGISTER*

The *Virginia Register* is cited by volume, issue, page number, and date. **23:7 VA.R. 1023-1140 December 11, 2006,** refers to Volume 23, Issue 7, pages 1023 through 1140 of the *Virginia Register* issued on December 11, 2006.

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

PUBLICATION SCHEDULE AND DEADLINES

This schedule is available on the *Register*'s Internet home page (http://register.state.va.us).

July 2009 through April 2010

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25:23	July 1, 2009	July 20, 2009
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25:25	July 29, 2009	August 17, 2009
25:26	August 12, 2009	August 31, 2009
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26:8	December 2, 2009	December 21, 2009
26:9	December 15, 2009 **(Tuesday)**	January 4, 2010
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26:12	January 27, 2010	February 15, 2010
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26:15	March 10, 2010	March 29, 2010
26:16	March 24, 2010	April 12, 2010
26:17	April 7, 2010	April 26, 2010

*Filing deadlines are Wednesdays unless otherwise specified.

CUMULATIVE TABLE OF VIRGINIA ADMINISTRATIVE CODE SECTIONS ADOPTED, AMENDED, OR REPEALED

The table printed below lists regulation sections, by Virginia Administrative Code (VAC) title, that have been amended, added or repealed in the *Virginia Register* since the regulations were originally published or last supplemented in VAC (the Spring 2009 VAC Supplement includes final regulations published through *Virginia Register* Volume 25, Issue 12, dated February 16, 2009, and fast-track regulations published through Virginia Register Volume 25, Issue 11, dated February 2, 2009). Emergency regulations, if any, are listed, followed by the designation "emer," and errata pertaining to final regulations are listed. Proposed regulations are not listed here. The table lists the sections in numerical order and shows action taken, the volume, issue and page number where the section appeared, and the effective date of the section.

SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
Title 2. Agriculture			
2 VAC 5-100-10 through 2VAC5-100-40	Repealed	25:16 VA.R. 2831	5/13/09
2 VAC 5-320-10	Erratum	25:13 VA.R. 2565	--
2 VAC 5-325-10	Erratum	25:13 VA.R. 2565	--
2 VAC 5-330-30	Erratum	25:13 VA.R. 2565	--
2 VAC 5-330-30	Amended	25:15 VA.R. 2710	3/9/09
2 VAC 5-340-140	Erratum	25:13 VA.R. 2565	--
2 VAC 5-340-170	Erratum	25:13 VA.R. 2565	--
2 VAC 5-350-20	Erratum	25:13 VA.R. 2565	--
2 VAC 5-370-10	Erratum	25:13 VA.R. 2566	--
2 VAC 5-380-10	Erratum	25:13 VA.R. 2566	--
2 VAC 5-390-20	Erratum	25:13 VA.R. 2566	--
2 VAC 5-390-80	Erratum	25:13 VA.R. 2566	--
2 VAC 5-400-10	Erratum	25:13 VA.R. 2566	--
2 VAC 5-440-20	Erratum	25:13 VA.R. 2566	--
Title 3. Alcoholic Beverages			
3 VAC 5-50-230 emer	Added	25:11 VA.R. 1929	1/13/09-1/12/10
Title 4. Conservation and Natural Resources			
4 VAC 20-260-30 emer	Amended	25:21 VA.R. 3783	6/1/09-6/30/09
4 VAC 20-260-30	Amended	25:23 VA.R. 4189	7/1/09
4 VAC 20-270-10 emer	Amended	25:14 VA.R. 2591	2/26/09-3/28/09
4 VAC 20-270-30 emer	Amended	25:14 VA.R. 2591	2/26/09-3/28/09
4 VAC 20-270-30	Amended	25:16 VA.R. 2831	3/26/09
4 VAC 20-270-40 emer	Amended	25:14 VA.R. 2592	2/26/09-3/28/09
4 VAC 20-270-40	Amended	25:16 VA.R. 2832	3/26/09
4 VAC 20-270-40	Amended	25:21 VA.R. 3783	6/1/09
4 VAC 20-270-50	Amended	25:21 VA.R. 3784	6/1/09
4 VAC 20-270-55 emer	Amended	25:14 VA.R. 2592	2/26/09-3/28/09
4 VAC 20-270-55	Amended	25:16 VA.R. 2832	3/26/09
4 VAC 20-270-58	Amended	25:21 VA.R. 3784	6/1/09
4 VAC 20-270-60 emer	Amended	25:14 VA.R. 2592	2/26/09-3/28/09
4 VAC 20-320-70	Amended	25:21 VA.R. 3784	6/1/09
4 VAC 20-395-10	Amended	25:19 VA.R. 3289	6/30/09
4 VAC 20-395-20	Amended	25:19 VA.R. 3289	6/30/09
4 VAC 20-395-30	Amended	25:19 VA.R. 3290	6/30/09
4 VAC 20-395-40	Amended	25:19 VA.R. 3290	6/30/09
4 VAC 20-450-30	Amended	25:21 VA.R. 3785	6/1/09
4 VAC 20-490-20	Amended	25:14 VA.R. 2593	3/1/09
4 VAC 20-490-30	Amended	25:14 VA.R. 2595	3/1/09

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4 VAC 20-490-40	Amended	25:14 VA.R. 2595	3/1/09
4 VAC 20-490-41	Amended	25:14 VA.R. 2595	3/1/09
4 VAC 20-530-10 emer	Amended	25:14 VA.R. 2596	2/26/09-3/28/09
4 VAC 20-530-20 emer	Amended	25:14 VA.R. 2596	2/26/09-3/28/09
4 VAC 20-530-31 emer	Amended	25:14 VA.R. 2597	2/26/09-3/28/09
4 VAC 20-530-31	Amended	25:16 VA.R. 2833	3/26/09
4 VAC 20-530-40 emer	Amended	25:14 VA.R. 2597	2/26/09-3/28/09
4 VAC 20-560-40 emer	Amended	25:19 VA.R. 3292	5/1/09-5/30/09
4 VAC 20-620-70	Amended	25:14 VA.R. 2597	3/1/09
4 VAC 20-650-10	Amended	25:21 VA.R. 3785	6/1/09
4 VAC 20-650-20	Amended	25:21 VA.R. 3786	6/1/09
4 VAC 20-650-30	Amended	25:21 VA.R. 3787	6/1/09
4 VAC 20-670-20	Amended	25:21 VA.R. 3788	6/1/09
4 VAC 20-670-25	Amended	25:21 VA.R. 3788	6/1/09
4 VAC 20-670-30	Amended	25:21 VA.R. 3788	6/1/09
4 VAC 20-670-40	Amended	25:21 VA.R. 3789	6/1/09
4 VAC 20-700-20	Amended	25:14 VA.R. 2598	3/1/09
4 VAC 20-880-30	Amended	25:21 VA.R. 3789	6/1/09
4 VAC 20-950-30	Amended	25:16 VA.R. 2833	4/1/09
4 VAC 20-1040-25	Amended	25:21 VA.R. 3789	6/1/09
4 VAC 20-1090-30	Amended	25:21 VA.R. 3790	6/1/09
4 VAC 20-1120-31	Added	25:21 VA.R. 3792	7/1/09
4 VAC 20-1120-32	Added	25:21 VA.R. 3792	7/1/09
4 VAC 20-1140-20	Amended	25:21 VA.R. 3793	6/1/09
4 VAC 20-1200-10	Added	25:16 VA.R. 2834	4/1/09
4 VAC 20-1200-20	Added	25:16 VA.R. 2834	4/1/09
4 VAC 20-1200-30	Added	25:16 VA.R. 2834	4/1/09
4 VAC 20-1210-10 emer	Added	25:16 VA.R. 2835	3/26/09-4/24/09
4 VAC 20-1210-10	Added	25:19 VA.R. 3293	4/30/09
4 VAC 20-1210-20 emer	Added	25:16 VA.R. 2835	3/26/09-4/24/09
4 VAC 20-1210-20	Added	25:19 VA.R. 3293	4/30/09
4 VAC 20-1210-30 emer	Added	25:16 VA.R. 2835	3/26/09-4/24/09
4 VAC 20-1210-30	Added	25:19 VA.R. 3293	4/30/09
4 VAC 25-31 (Forms)	Amended	25:16 VA.R. 2835	--
4 VAC 25-40-25	Amended	25:20 VA.R. 3478	7/8/09
4 VAC 25-40-90	Amended	25:20 VA.R. 3478	7/8/09
4 VAC 25-40-120	Amended	25:20 VA.R. 3478	7/8/09
4 VAC 25-40-130	Amended	25:20 VA.R. 3479	7/8/09
4 VAC 25-40-190	Amended	25:20 VA.R. 3479	7/8/09
4 VAC 25-40-260	Amended	25:20 VA.R. 3479	7/8/09
4 VAC 25-40-350	Amended	25:20 VA.R. 3479	7/8/09
4 VAC 25-40-365	Added	25:20 VA.R. 3479	7/8/09
4 VAC 25-40-410	Amended	25:20 VA.R. 3479	7/8/09
4 VAC 25-40-720	Amended	25:20 VA.R. 3479	7/8/09
4 VAC 25-40-780	Amended	25:20 VA.R. 3479	7/8/09
4 VAC 25-40-800	Amended	25:20 VA.R. 3480	7/8/09
4 VAC 25-40-810	Amended	25:20 VA.R. 3481	7/8/09
4 VAC 25-40-880	Amended	25:20 VA.R. 3481	7/8/09
4 VAC 25-40-890	Amended	25:20 VA.R. 3482	7/8/09
4 VAC 25-40-893	Added	25:20 VA.R. 3482	7/8/09
4 VAC 25-40-925	Added	25:20 VA.R. 3482	7/8/09

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4 VAC 25-40-1095	Added	25:20 VA.R. 3482	7/8/09
4 VAC 25-40-1600	Amended	25:20 VA.R. 3482	7/8/09
4 VAC 25-40-2790	Amended	25:20 VA.R. 3482	7/8/09
4 VAC 25-40-2800	Amended	25:20 VA.R. 3482	7/8/09
4 VAC 25-40-2980	Amended	25:20 VA.R. 3482	7/8/09
4 VAC 25-40-3050	Repealed	25:20 VA.R. 3482	7/8/09
4 VAC 25-40-3060	Repealed	25:20 VA.R. 3483	7/8/09
4 VAC 25-40-3070	Repealed	25:20 VA.R. 3483	7/8/09
4 VAC 25-40-3080	Repealed	25:20 VA.R. 3483	7/8/09
4 VAC 25-40-3090	Repealed	25:20 VA.R. 3483	7/8/09
4 VAC 25-40-3110	Repealed	25:20 VA.R. 3483	7/8/09
4 VAC 25-40-3120	Repealed	25:20 VA.R. 3483	7/8/09
4 VAC 25-40-3800	Amended	25:20 VA.R. 3483	7/8/09
4 VAC 25-40-3830	Amended	25:20 VA.R. 3483	7/8/09
4 VAC 25-40-3840	Amended	25:20 VA.R. 3483	7/8/09
4 VAC 25-40-3990	Amended	25:20 VA.R. 3484	7/8/09
4 VAC 25-40-4060	Amended	25:20 VA.R. 3484	7/8/09
4 VAC 25-40-4061	Added	25:20 VA.R. 3484	7/8/09
4 VAC 25-40-4062	Added	25:20 VA.R. 3484	7/8/09
4 VAC 25-40-4063	Added	25:20 VA.R. 3484	7/8/09
4 VAC 25-40-4064	Added	25:20 VA.R. 3484	7/8/09
4 VAC 25-40-4065	Added	25:20 VA.R. 3484	7/8/09
4 VAC 25-40-4066	Added	25:20 VA.R. 3484	7/8/09
4 VAC 25-40-4240	Amended	25:20 VA.R. 3485	7/8/09
4 VAC 25-40-4260	Amended	25:20 VA.R. 3485	7/8/09
4 VAC 25-40-4400	Amended	25:20 VA.R. 3485	7/8/09
4 VAC 25-130 (Forms)	Amended	25:16 VA.R. 2836	--
4 VAC 50-60-10	Amended	25:16 VA.R. 2838	7/1/09
4 VAC 50-60-1100 through 4VAC50-60-1140	Amended	25:16 VA.R. 2849-2851	7/1/09
4 VAC 50-60-1150	Amended	25:16 VA.R. 2851	5/13/09
4 VAC 50-60-1160 through 4 VAC 50-60-1180	Amended	25:16 VA.R. 2853-2868	7/1/09
4 VAC 50-60-1182	Added	25:16 VA.R. 2869	7/1/09
4 VAC 50-60-1184	Added	25:16 VA.R. 2869	7/1/09
4 VAC 50-60-1186	Added	25:16 VA.R. 2870	7/1/09
4 VAC 50-60-1188	Added	25:16 VA.R. 2871	7/1/09
4 VAC 50-60-1190	Amended	25:16 VA.R. 2871	7/1/09
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5 VAC 5-20-10	Amended	25:14 VA.R. 2601	3/11/09
5 VAC 5-20-20	Amended	25:14 VA.R. 2601	3/11/09
5 VAC 5-20-80	Amended	25:14 VA.R. 2602	3/11/09
5 VAC 5-20-90	Amended	25:14 VA.R. 2602	3/11/09
5 VAC 5-20-100	Amended	25:14 VA.R. 2602	3/11/09
5 VAC 5-20-120 through 5 VAC 5-20-150	Amended	25:14 VA.R. 2603-2604	3/11/09
5 VAC 5-20-170	Amended	25:14 VA.R. 2604	3/11/09
5 VAC 5-20-180	Amended	25:14 VA.R. 2605	3/11/09
5 VAC 5-20-240 through 5 VAC 5-20-280	Amended	25:14 VA.R. 2605-2608	3/11/09
Title 6. Criminal Justice and Corrections			
6 VAC 20-20-25	Amended	25:22 VA.R. 4027	1/1/10
6 VAC 20-50-21	Amended	25:22 VA.R. 4029	1/1/10
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8 VAC 20-80-10 through 8 VAC 20-80-190	Repealed	25:21 VA.R. 3849	7/7/09

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8 VAC 20-81-10 through 8 VAC 20-81-340	Added	25:21 VA.R. 3849	7/7/09
8 VAC 20-81-210	Errata	25:23 VA.R. 4262	--
8 VAC 20-131-5	Amended	25:21 VA.R. 3850	7/31/09
8 VAC 20-131-30	Amended	25:21 VA.R. 3851	7/31/09
8 VAC 20-131-50	Amended	25:21 VA.R. 3852	7/31/09
8 VAC 20-131-60	Amended	25:21 VA.R. 3857	7/31/09
8 VAC 20-131-80	Amended	25:21 VA.R. 3859	7/31/09
8 VAC 20-131-100	Amended	25:21 VA.R. 3859	7/31/09
8 VAC 20-131-140	Amended	25:21 VA.R. 3860	7/31/09
8 VAC 20-131-210	Amended	25:21 VA.R. 3860	7/31/09
8 VAC 20-131-270	Amended	25:21 VA.R. 3861	7/31/09
8 VAC 20-131-280	Amended	25:21 VA.R. 3862	7/31/09
8 VAC 20-131-290	Amended	25:21 VA.R. 3863	7/31/09
8 VAC 20-131-300	Amended	25:21 VA.R. 3864	7/31/09
8 VAC 20-131-310	Amended	25:21 VA.R. 3866	7/31/09
8 VAC 20-131-325	Amended	25:21 VA.R. 3867	7/31/09
8 VAC 20-131-360	Amended	25:21 VA.R. 3867	7/31/09
8 VAC 20-521-60	Amended	25:19 VA.R. 3295	7/15/09
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9 VAC 5-10-20	Amended	25:12 VA.R. 2059	4/2/09
9 VAC 5-20-21	Amended	25:19 VA.R. 3298	6/24/09
9 VAC 5-30-15	Amended	25:19 VA.R. 3302	6/24/09
9 VAC 5-30-80	Amended	25:19 VA.R. 3302	6/24/09
9 VAC 5-80-1170	Amended	25:19 VA.R. 3302	6/24/09
9 VAC 5-80-1615	Amended	25:20 VA.R. 3492	7/23/09
9 VAC 5-80-1625	Amended	25:20 VA.R. 3503	7/23/09
9 VAC 5-80-1695	Amended	25:20 VA.R. 3504	7/23/09
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9 VAC 5-80-2220	Amended	25:20 VA.R. 3521	7/23/09
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9 VAC 5-80-2240	Amended	25:20 VA.R. 3522	7/23/09
9 VAC 20-80 (Forms)	Amended	25:18 VA.R. 3149	--
9 VAC 25-32-480	Erratum	25:15 VA.R. 2804	--
9 VAC 25-151-10	Amended	25:19 VA.R. 3306	6/24/09
9 VAC 25-151-40 through 9 VAC 25-151-290	Amended	25:19 VA.R. 3308-3379	6/24/09
9 VAC 25-151-310 through 9 VAC 25-151-370	Amended	25:19 VA.R. 3379-3385	6/24/09
9 VAC 25-190-10	Amended	25:19 VA.R. 3385	6/24/09
9 VAC 25-190-20	Amended	25:19 VA.R. 3386	6/24/09
9 VAC 25-190-50	Amended	25:19 VA.R. 3386	6/24/09

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9 VAC 25-190-60	Amended	25:19 VA.R. 3387	6/24/09
9 VAC 25-190-65	Added	25:19 VA.R. 3388	6/24/09
9 VAC 25-190-70	Amended	25:19 VA.R. 3389	6/24/09
9 VAC 25-260-275	Added	25:23 VA.R. 4190	8/20/09
9 VAC 25-580 (Forms)	Amended	25:18 VA.R. 3154	--
9 VAC 25-720-50	Amended	25:20 VA.R. 3523	7/8/09
9 VAC 25-720-60	Erratum	25:19 VA.R. 3464	--
9 VAC 25-720-60	Amended	25:20 VA.R. 3531	7/8/09
9 VAC 25-720-90	Amended	25:20 VA.R. 3544	7/8/09
9 VAC 25-720-110	Amended	25:20 VA.R. 3546	7/8/09
9 VAC 25-720-120	Amended	25:12 VA.R. 2247	4/2/09
Title 10. Finance and Financial Institutions			
10 VAC 5-160-10	Amended	25:23 VA.R. 4191	7/1/09
10 VAC 5-160-70	Repealed	25:23 VA.R. 4193	7/1/09
10 VAC 5-160-80	Repealed	25:23 VA.R. 4193	7/1/09
10 VAC 5-200-60	Amended	25:14 VA.R. 2609	3/1/09
10 VAC 5-200-110	Amended	25:14 VA.R. 2609	3/1/09
10 VAC 5-200-130	Added	25:14 VA.R. 2613	3/1/09
Title 11. Gaming			
11 VAC 10-20-330	Amended	25:18 VA.R. 3162	6/1/09
11 VAC 10-50-30	Amended	25:17 VA.R. 3005	5/27/09
11 VAC 10-70-20	Amended	25:15 VA.R. 2712	4/15/09
11 VAC 10-70-90	Amended	25:15 VA.R. 2712	4/15/09
11 VAC 10-110-90	Amended	25:19 VA.R. 3407	6/1/09
11 VAC 10-120-80	Amended	25:17 VA.R. 3006	5/27/09
11 VAC 10-180-10	Amended	25:17 VA.R. 3007	5/27/09
11 VAC 10-180-35	Amended	25:17 VA.R. 3007	5/27/09
11 VAC 10-180-70	Amended	25:17 VA.R. 3008	5/27/09
11 VAC 10-180-80	Amended	25:17 VA.R. 3009	5/27/09
11 VAC 10-180-110	Amended	25:17 VA.R. 3010	5/27/09
11 VAC 15-22-10	Amended	25:23 VA.R. 4194	8/19/09
11 VAC 15-22-20	Amended	25:23 VA.R. 4196	8/19/09
11 VAC 15-22-30	Amended	25:23 VA.R. 4196	8/19/09
11 VAC 15-22-110	Amended	25:23 VA.R. 4198	8/19/09
11 VAC 15-31-10	Amended	25:23 VA.R. 4200	8/19/09
11 VAC 15-31-20	Amended	25:23 VA.R. 4201	8/19/09
11 VAC 15-31-50	Amended	25:23 VA.R. 4203	8/19/09
Title 12. Health			
12 VAC 5-67-10 emer	Added	25:4 VA.R. 658	11/1/08-10/31/09
12 VAC 5-67-20 emer	Added	25:4 VA.R. 658	11/1/08-10/31/09
12 VAC 5-67-30 emer	Added	25:4 VA.R. 658	11/1/08-10/31/09
12 VAC 5-195-20	Amended	25:22 VA.R. 4063	7/6/09
12 VAC 5-195-30	Amended	25:22 VA.R. 4063	7/6/09
12 VAC 5-195-70	Amended	25:22 VA.R. 4064	7/6/09
12 VAC 5-195-140	Amended	25:22 VA.R. 4065	7/6/09
12 VAC 5-195-180	Amended	25:22 VA.R. 4065	7/6/09
12 VAC 5-195-190	Amended	25:22 VA.R. 4066	7/6/09
12 VAC 5-195-280 through 12 VAC 5-195-340	Amended	25:22 VA.R. 4067-4071	7/6/09
12 VAC 5-195-360	Amended	25:22 VA.R. 4071	7/6/09
12 VAC 5-195-370	Amended	25:22 VA.R. 4072	7/6/09
12 VAC 5-195-380	Repealed	25:22 VA.R. 4072	7/6/09

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12 VAC 5-195-390	Amended	25:22 VA.R. 4072	7/6/09
12 VAC 5-195-400	Amended	25:22 VA.R. 4073	7/6/09
12 VAC 5-195-410	Amended	25:22 VA.R. 4073	7/6/09
12 VAC 5-195-420	Amended	25:22 VA.R. 4073	7/6/09
12 VAC 5-195-450	Amended	25:22 VA.R. 4073	7/6/09
12 VAC 5-195-460	Amended	25:22 VA.R. 4073	7/6/09
12 VAC 5-195-480 through 12 VAC 5-195-550	Amended	25:22 VA.R. 4074-4076	7/6/09
12 VAC 5-195-580	Amended	25:22 VA.R. 4076	7/6/09
12 VAC 5-195-590	Amended	25:22 VA.R. 4077	7/6/09
12 VAC 5-195-600	Amended	25:22 VA.R. 4079	7/6/09
12 VAC 5-195-610	Amended	25:22 VA.R. 4081	7/6/09
12 VAC 5-195-630	Amended	25:22 VA.R. 4081	7/6/09
12 VAC 5-195-640	Amended	25:22 VA.R. 4081	7/6/09
12 VAC 5-195-660	Amended	25:22 VA.R. 4082	7/6/09
12 VAC 5-195-670	Amended	25:22 VA.R. 4083	7/6/09
12 VAC 5-230-540	Amended	25:13 VA.R. 2316	4/1/09
12 VAC 5-230-550	Amended	25:13 VA.R. 2317	4/1/09
12 VAC 5-230-560	Amended	25:13 VA.R. 2317	4/1/09
12 VAC 5-481-451	Amended	25:21 VA.R. 3888	8/6/09
12 VAC 30-10-150	Amended	25:14 VA.R. 2614	4/15/09
12 VAC 30-10-560	Amended	25:21 VA.R. 3898	7/23/09
12 VAC 30-10-930	Amended	25:14 VA.R. 2615	4/15/09
12 VAC 30-20-90	Amended	25:14 VA.R. 2615	4/15/09
12 VAC 30-20-140	Repealed	25:21 VA.R. 3899	7/23/09
12 VAC 30-20-141	Added	25:21 VA.R. 3900	7/23/09
12 VAC 30-20-210	Amended	25:20 VA.R. 3571	7/23/09
12 VAC 30-20-500	Amended	25:14 VA.R. 2618	4/15/09
12 VAC 30-20-520	Amended	25:14 VA.R. 2618	4/15/09
12 VAC 30-30-10	Amended	25:20 VA.R. 3577	7/9/09
12 VAC 30-30-20	Amended	25:21 VA.R. 3902	7/23/09
12 VAC 30-40-10	Erratum	25:19 VA.R. 3464	--
12 VAC 30-40-10	Amended	25:20 VA.R. 3574	7/23/09
12 VAC 30-40-105	Added	25:21 VA.R. 3904	7/23/09
12 VAC 30-40-280	Amended	25:21 VA.R. 3904	7/23/09
12 VAC 30-40-290 emer	Amended	25:1 VA.R. 35	8/27/08-8/26/09
12 VAC 30-40-290	Amended	25:21 VA.R. 3905	7/23/09
12 VAC 30-50-10	Amended	25:14 VA.R. 2618	4/15/09
12 VAC 30-50-226 emer	Amended	25:22 VA.R. 4085	7/1/09-6/30/10
12 VAC 30-50-420 emer	Amended	25:22 VA.R. 4089	7/1/09-6/30/10
12 VAC 30-50-430 emer	Amended	25:22 VA.R. 4091	7/1/09-6/30/10
12 VAC 30-60-200	Added	25:21 VA.R. 3907	7/23/09
12 VAC 30-60-500	Added	25:20 VA.R. 3586	7/9/09
12 VAC 30-70-50 emer	Amended	25:23 VA.R. 4205	7/2/09-7/1/10
12 VAC 30-80-20 emer	Amended	25:23 VA.R. 4208	7/2/09-7/1/10
12 VAC 30-80-30	Amended	25:21 VA.R. 3909	7/23/09
12 VAC 30-80-40 emer	Amended	24:25 VA.R. 3617	8/4/08-8/3/09
12 VAC 30-80-40	Amended	25:19 VA.R. 3408	7/1/09
12 VAC 30-80-95	Amended	25:12 VA.R. 2251	4/2/09
12 VAC 30-80-190 emer	Amended	25:1 VA.R. 41	8/27/08-8/26/09
12 VAC 30-80-200 emer	Amended	25:23 VA.R. 4209	7/2/09-7/1/10
12 VAC 30-110-40	Amended	25:14 VA.R. 2619	4/15/09

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12 VAC 30-110-370	Amended	25:14 VA.R. 2619	4/15/09
12 VAC 30-110-380	Repealed	25:14 VA.R. 2619	4/15/09
12 VAC 30-110-670	Amended	25:14 VA.R. 2620	4/15/09
12 VAC 30-110-680	Amended	25:14 VA.R. 2620	4/15/09
12 VAC 30-110-700	Amended	25:14 VA.R. 2620	4/15/09
12 VAC 30-110-720	Amended	25:14 VA.R. 2620	4/15/09
12 VAC 30-110-741	Amended	25:14 VA.R. 2623	4/15/09
12 VAC 30-110-980	Amended	25:14 VA.R. 2623	4/15/09
12 VAC 30-110-990	Repealed	25:14 VA.R. 2623	4/15/09
12 VAC 30-110-1000	Repealed	25:14 VA.R. 2623	4/15/09
12 VAC 30-110-1040	Amended	25:14 VA.R. 2623	4/15/09
12 VAC 30-110-1500	Added	25:21 VA.R. 3912	7/23/09
12 VAC 30-120-70	Amended	25:20 VA.R. 3599	7/9/09
12 VAC 30-120-90	Amended	25:20 VA.R. 3600	7/9/09
12 VAC 30-120-140	Amended	25:14 VA.R. 2624	4/15/09
12 VAC 30-120-140	Amended	25:20 VA.R. 3602	7/9/09
12 VAC 30-120-140	Errata	25:23 VA.R. 4262	--
12 VAC 30-120-211	Amended	25:20 VA.R. 3605	7/9/09
12 VAC 30-120-213	Amended	25:20 VA.R. 3608	7/9/09
12 VAC 30-120-225	Amended	25:20 VA.R. 3609	7/9/09
12 VAC 30-120-229	Amended	25:20 VA.R. 3612	7/9/09
12 VAC 30-120-237	Amended	25:20 VA.R. 3613	7/9/09
12 VAC 30-120-247	Amended	25:20 VA.R. 3614	7/9/09
12 VAC 30-120-700	Amended	25:20 VA.R. 3616	7/9/09
12 VAC 30-120-710	Amended	25:20 VA.R. 3619	7/9/09
12 VAC 30-120-754	Amended	25:20 VA.R. 3620	7/9/09
12 VAC 30-120-758	Amended	25:20 VA.R. 3621	7/9/09
12 VAC 30-120-762	Amended	25:20 VA.R. 3622	7/9/09
12 VAC 30-120-770	Amended	25:20 VA.R. 3623	7/9/09
12 VAC 30-120-900	Amended	25:20 VA.R. 3625	7/9/09
12 VAC 30-120-910	Amended	25:19 VA.R. 3410	7/1/09
12 VAC 30-120-910	Amended	25:20 VA.R. 3627	7/9/09
12 VAC 30-120-920	Amended	25:20 VA.R. 3628	7/9/09
12 VAC 30-120-970	Amended	25:20 VA.R. 3630	7/9/09
12 VAC 30-120-1500	Amended	25:20 VA.R. 3632	7/9/09
12 VAC 30-120-1550	Amended	25:20 VA.R. 3634	7/9/09
12 VAC 30-120-2000	Added	25:20 VA.R. 3636	7/9/09
12 VAC 30-120-2010	Added	25:20 VA.R. 3637	7/9/09
12 VAC 30-130-260	Amended	25:14 VA.R. 2626	4/15/09
12 VAC 30-130-270	Amended	25:14 VA.R. 2626	4/15/09
12 VAC 30-130-290	Amended	25:14 VA.R. 2627	4/15/09
12 VAC 30-130-370	Repealed	25:14 VA.R. 2628	4/15/09
12 VAC 30-130-380	Amended	25:14 VA.R. 2628	4/15/09
12 VAC 30-130-410	Repealed	25:14 VA.R. 2628	4/15/09
12 VAC 30-130-540	Amended	25:14 VA.R. 2629	4/15/09
12 VAC 30-130-750	Amended	25:20 VA.R. 3576	7/23/09
12 VAC 30-130-780	Repealed	25:20 VA.R. 3576	7/23/09
12 VAC 30-130-790	Amended	25:20 VA.R. 3576	7/23/09
12 VAC 30-130-800	Amended	25:14 VA.R. 2630	4/15/09
12 VAC 30-130-820	Amended	25:14 VA.R. 2632	4/15/09
12 VAC 30-130-890	Amended	25:14 VA.R. 2633	4/15/09

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12 VAC 30-130-910	Amended	25:14 VA.R. 2634	4/15/09
12 VAC 30-141-60	Amended	25:14 VA.R. 2635	4/15/09
12 VAC 30-141-120	Amended	25:14 VA.R. 2635	4/15/09
12 VAC 30-141-660 emer	Amended	25:10 VA.R. 1854	12/22/08-12/21/09
12 VAC 30-141-660	Amended	25:16 VA.R. 2969	5/13/09
12 VAC 30-141-720	Amended	25:14 VA.R. 2635	4/15/09
12 VAC 30-141-740	Amended	25:19 VA.R. 3411	7/1/09
12 VAC 30-141-760	Amended	25:14 VA.R. 2635	4/15/09
12 VAC 30-150-40	Amended	25:14 VA.R. 2636	4/15/09
12 VAC 35-45-10 through 12 VAC 35-45-210	Repealed	25:21 VA.R. 3912	8/6/09
12 VAC 35-46-10 through 12 VAC 35-46-1140	Added	25:21 VA.R. 3914-3950	8/6/09
12 VAC 35-190-10	Amended	25:23 VA.R. 4211	8/19/09
12 VAC 35-190-21	Amended	25:23 VA.R. 4212	8/19/09
12 VAC 35-190-30	Amended	25:23 VA.R. 4212	8/19/09
12 VAC 35-190-41	Amended	25:23 VA.R. 4212	8/19/09
12 VAC 35-190-51	Amended	25:23 VA.R. 4213	8/19/09
Title 13. Housing			
13 VAC 5-63-220	Amended	25:17 VA.R. 3013	6/1/09
13 VAC 5-100-10	Amended	25:13 VA.R. 2363	2/12/09
13 VAC 5-100-20	Amended	25:13 VA.R. 2364	2/12/09
13 VAC 10-40-20	Amended	25:21 VA.R. 3951	6/5/09
13 VAC 10-40-40	Amended	25:21 VA.R. 3954	6/5/09
13 VAC 10-40-50	Amended	25:21 VA.R. 3954	6/5/09
13 VAC 10-40-120	Amended	25:21 VA.R. 3956	6/5/09
13 VAC 10-40-130	Amended	25:21 VA.R. 3957	6/5/09
13 VAC 10-40-140	Amended	25:21 VA.R. 3960	6/5/09
13 VAC 10-40-160	Amended	25:21 VA.R. 3961	6/5/09
13 VAC 10-40-170	Amended	25:21 VA.R. 3961	6/5/09
13 VAC 10-40-220	Amended	25:21 VA.R. 3961	6/5/09
13 VAC 10-180-120	Added	25:23 VA.R. 4213	7/1/09
Title 14. Insurance			
14 VAC 5-43-10	Added	25:19 VA.R. 3413	5/15/09
14 VAC 5-43-20	Added	25:19 VA.R. 3413	5/15/09
14 VAC 5-43-30	Added	25:19 VA.R. 3414	5/15/09
14 VAC 5-170-20	Amended	25:18 VA.R. 3186	5/21/09
14 VAC 5-170-30	Amended	25:18 VA.R. 3186	5/21/09
14 VAC 5-170-50	Amended	25:18 VA.R. 3188	5/21/09
14 VAC 5-170-60	Amended	25:18 VA.R. 3188	5/21/09
14 VAC 5-170-70	Amended	25:18 VA.R. 3190	5/21/09
14 VAC 5-170-75	Added	25:18 VA.R. 3194	5/21/09
14 VAC 5-170-80	Amended	25:18 VA.R. 3196	5/21/09
14 VAC 5-170-85	Added	25:18 VA.R. 3197	5/21/09
14 VAC 5-170-150	Amended	25:18 VA.R. 3199	5/21/09
14 VAC 5-170-215	Added	25:18 VA.R. 3237	5/21/09
Title 16. Labor and Employment			
16 VAC 15-21-30	Amended	25:20 VA.R. 3639	7/24/09
16 VAC 25-80-10	Repealed	25:23 VA.R. 4230-4231	8/20/09
16 VAC 25-90-1910.9	Added	25:20 VA.R. 3639-3640	7/15/09
16 VAC 25-90-1910.95	Amended	25:20 VA.R. 3639-3640	7/15/09
16 VAC 25-90-1910.134	Amended	25:20 VA.R. 3639-3640	7/15/09
16 VAC 25-90-1910.156	Amended	25:20 VA.R. 3639-3640	7/15/09

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16 VAC 25-90-1910.303	Amended	25:20 VA.R. 3640	7/15/09
16 VAC 25-90-1910.304	Amended	25:20 VA.R. 3640	7/15/09
16 VAC 25-90-1910.1001	Amended	25:20 VA.R. 3639-3640	7/15/09
16 VAC 25-90-1910.1003	Amended	25:20 VA.R. 3639-3640	7/15/09
16 VAC 25-90-1910.1017	Amended	25:20 VA.R. 3639-3640	7/15/09
16 VAC 25-90-1910.1018	Amended	25:20 VA.R. 3639-3640	7/15/09
16 VAC 25-90-1910.1020	Added	25:23 VA.R. 4230-4231	8/20/09
16 VAC 25-90-1910.1025	Amended	25:20 VA.R. 3639-3640	7/15/09
16 VAC 25-90-1910.1026	Amended	25:20 VA.R. 3639-3640	7/15/09
16 VAC 25-90-1910.1027	Amended	25:20 VA.R. 3639-3640	7/15/09
16 VAC 25-90-1910.1028	Amended	25:20 VA.R. 3639-3640	7/15/09
16 VAC 25-90-1910.1029	Amended	25:20 VA.R. 3639-3640	7/15/09
16 VAC 25-90-1910.1030	Amended	25:20 VA.R. 3639-3640	7/15/09
16 VAC 25-90-1910.1043	Amended	25:20 VA.R. 3639-3640	7/15/09
16 VAC 25-90-1910.1044	Amended	25:20 VA.R. 3639-3640	7/15/09
16 VAC 25-90-1910.1045	Amended	25:20 VA.R. 3639-3640	7/15/09
16 VAC 25-90-1910.1047	Amended	25:20 VA.R. 3639-3640	7/15/09
16 VAC 25-90-1910.1048	Amended	25:20 VA.R. 3639-3640	7/15/09
16 VAC 25-90-1910.1050	Amended	25:20 VA.R. 3639-3640	7/15/09
16 VAC 25-90-1910.1051	Amended	25:20 VA.R. 3639-3640	7/15/09
16 VAC 25-90-1910.1052	Amended	25:20 VA.R. 3639-3640	7/15/09
16 VAC 25-90-1915.1001	Amended	25:20 VA.R. 3639-3640	7/15/09
16 VAC 25-90-1915.1026	Amended	25:20 VA.R. 3639-3640	7/15/09
16 VAC 25-100-1915.9	Added	25:20 VA.R. 3639-3640	7/15/09
16 VAC 25-120-1917.5	Added	25:20 VA.R. 3639-3640	7/15/09
16 VAC 25-120-1917.71	Amended	25:20 VA.R. 3641	7/15/09
16 VAC 25-130-1918.5	Added	25:20 VA.R. 3639-3640	7/15/09
16 VAC 25-130-1918.85	Amended	25:20 VA.R. 3641	7/15/09
16 VAC 25-175	Errata	25:22 VA.R. 4172	--
16 VAC 25-175-1926.60	Amended	25:20 VA.R. 3639-3640	7/15/09
16 VAC 25-175-1926.62	Amended	25:20 VA.R. 3639-3640	7/15/09
16 VAC 25-175-1926.761	Amended	25:20 VA.R. 3639-3640	7/15/09
16 VAC 25-175-1926.1101	Amended	25:20 VA.R. 3639-3640	7/15/09
16 VAC 25-175-1926.1126	Amended	25:20 VA.R. 3639-3640	7/15/09
16 VAC 25-175-1926.1127	Amended	25:20 VA.R. 3639-3640	7/15/09
16 VAC 25-175-1926.20	Added	25:20 VA.R. 3639-3640	7/15/09
Title 18. Professional and Occupational Licensing			
18 VAC 5-21-30 emer	Amended	25:20 VA.R. 3643	5/14/09-5/13/10
18 VAC 10-20-683	Erratum	25:15 VA.R. 2804	--
18 VAC 30-20-160	Amended	25:20 VA.R. 3656	7/8/09
18 VAC 30-20-185	Added	25:20 VA.R. 3656	7/8/09
18 VAC 48-20-10 through 18 VAC 48-20-800	Added	25:20 VA.R. 3657-3678	7/9/09
18 VAC 48-20-10 through 18 VAC 48-20-730 emer	Added	25:5 VA.R. 1074-1093	*
18 VAC 48-50-10 through 18 VAC 48-50-200 emer	Added	25:5 VA.R. 1095-1100	11/13/08-11/12/09
18 VAC 48-60-13	Added	25:15 VA.R. 2769	5/15/09
18 VAC 48-60-17	Added	25:15 VA.R. 2769	5/15/09
18 VAC 48-60-20	Amended	25:15 VA.R. 2770	5/15/09
18 VAC 48-60-60	Amended	25:15 VA.R. 2770	5/15/09
18 VAC 60-20-16	Amended	25:17 VA.R. 3015	7/1/09

* Notice of Repeal of Emergency Regulation (25:23 VA.R. 4231)

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18 VAC 60-20-190	Amended	25:16 VA.R. 2970	5/13/09
18 VAC 65-20-10	Amended	25:20 VA.R. 3679	7/8/09
18 VAC 65-20-60	Amended	25:17 VA.R. 3016	7/1/09
18 VAC 65-20-60	Amended	25:20 VA.R. 3679	7/8/09
18 VAC 65-20-435	Amended	25:20 VA.R. 3679	7/8/09
18 VAC 65-20-436	Added	25:20 VA.R. 3680	7/8/09
18 VAC 65-30-180	Amended	25:17 VA.R. 3016	7/1/09
18 VAC 76-10-10 through 18 VAC 76-10-70	Amended	25:23 VA.R. 4232-4234	7/1/09
18 VAC 76-10-90	Repealed	25:23 VA.R. 4234	7/1/09
18 VAC 76-20-60	Amended	25:16 VA.R. 2971	5/13/09
18 VAC 76-20-70	Amended	25:16 VA.R. 2971	5/13/09
18 VAC 76-40-20	Amended	25:18 VA.R. 3239	7/1/09
18 VAC 85-20-21	Amended	25:23 VA.R. 4234	8/19/09
18 VAC 85-40-25	Amended	25:23 VA.R. 4235	8/19/09
18 VAC 85-50-21	Added	25:23 VA.R. 4235	8/19/09
18 VAC 85-80-10 emer	Amended	25:5 VA.R. 1104	11/1/08-10/31/09
18 VAC 85-80-25	Amended	25:23 VA.R. 4235	8/19/09
18 VAC 85-80-26 emer	Amended	25:5 VA.R. 1104	11/1/08-10/31/09
18 VAC 85-80-40 emer	Amended	25:5 VA.R. 1104	11/1/08-10/31/09
18 VAC 85-80-45 emer	Amended	25:5 VA.R. 1105	11/1/08-10/31/09
18 VAC 85-80-50 emer	Amended	25:5 VA.R. 1105	11/1/08-10/31/09
18 VAC 85-80-61 emer	Repealed	25:5 VA.R. 1105	11/1/08-10/31/09
18 VAC 85-80-65 emer	Amended	25:5 VA.R. 1105	11/1/08-10/31/09
18 VAC 85-80-70 emer	Amended	25:5 VA.R. 1105	11/1/08-10/31/09
18 VAC 85-80-72 emer	Amended	25:5 VA.R. 1105	11/1/08-10/31/09
18 VAC 85-80-73 emer	Amended	25:5 VA.R. 1106	11/1/08-10/31/09
18 VAC 85-80-80 emer	Amended	25:5 VA.R. 1106	11/1/08-10/31/09
18 VAC 85-80-90 emer	Amended	25:5 VA.R. 1106	11/1/08-10/31/09
18 VAC 85-80-100 emer	Amended	25:5 VA.R. 1107	11/1/08-10/31/09
18 VAC 85-80-110 emer	Amended	25:5 VA.R. 1107	11/1/08-10/31/09
18 VAC 85-80-111 emer	Added	25:5 VA.R. 1108	11/1/08-10/31/09
18 VAC 85-101-26	Added	25:23 VA.R. 4235	8/19/09
18 VAC 85-110-36	Added	25:23 VA.R. 4235	8/19/09
18 VAC 85-120-30	Amended	25:23 VA.R. 4235	8/19/09
18 VAC 85-130-31	Added	25:23 VA.R. 4235	8/19/09
18 VAC 90-20-35	Amended	25:17 VA.R. 3017	7/1/09
18 VAC 90-20-36	Amended	25:21 VA.R. 3973	7/22/09
18 VAC 90-20-200	Amended	25:22 VA.R. 4101	12/31/09
18 VAC 90-25-15	Amended	25:17 VA.R. 3017	7/1/09
18 VAC 90-30-100	Amended	25:17 VA.R. 3017	7/1/09
18 VAC 90-50-20	Amended	25:17 VA.R. 3017	7/1/09
18 VAC 90-60-20	Amended	25:17 VA.R. 3018	7/1/09
18 VAC 90-60-90	Amended	25:16 VA.R. 2972	5/13/09
18 VAC 90-60-91	Added	25:16 VA.R. 2972	5/13/09
18 VAC 90-60-92	Added	25:16 VA.R. 2973	5/13/09
18 VAC 95-20-10	Amended	25:19 VA.R. 3418	6/24/09
18 VAC 95-20-70	Amended	25:19 VA.R. 3420	7/1/09
18 VAC 95-20-70	Errata	25:22 VA.R. 4172	--
18 VAC 95-20-175	Amended	25:19 VA.R. 3419	6/24/09
18 VAC 95-20-390	Amended	25:19 VA.R. 3419	6/24/09
18 VAC 95-30-10	Amended	25:19 VA.R. 3420	6/24/09

Cumulative Table of VAC Sections Adopted, Amended, or Repealed

SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
18 VAC 95-30-30	Amended	25:19 VA.R. 3420	7/1/09
18 VAC 95-30-30	Errata	25:22 VA.R. 4172	--
18 VAC 105-20-60	Amended	25:18 VA.R. 3240	7/1/09
18 VAC 110-20-10 emer	Amended	25:17 VA.R. 3018	4/10/09-4/9/10
18 VAC 110-20-20 emer	Amended	25:3 VA.R. 464	9/23/08-9/22/09
18 VAC 110-20-21	Added	25:17 VA.R. 3025	7/1/09
18 VAC 110-20-400 emer	Amended	25:17 VA.R. 3021	4/10/09-4/9/10
18 VAC 110-20-740 emer	Added	25:17 VA.R. 3021	4/10/09-4/9/10
18 VAC 110-20-750 emer	Added	25:17 VA.R. 3021	4/10/09-4/9/10
18 VAC 110-20-760 emer	Added	25:17 VA.R. 3021	4/10/09-4/9/10
18 VAC 110-20-770 emer	Added	25:17 VA.R. 3022	4/10/09-4/9/10
18 VAC 110-20-780 emer	Added	25:17 VA.R. 3022	4/10/09-4/9/10
18 VAC 110-20-790 emer	Added	25:17 VA.R. 3022	4/10/09-4/9/10
18 VAC 110-20-800 emer	Added	25:17 VA.R. 3022	4/10/09-4/9/10
18 VAC 110-50-20 emer	Amended	25:3 VA.R. 466	9/23/08-9/22/09
18 VAC 112-20-25	Amended	25:17 VA.R. 3025	7/1/09
18 VAC 112-20-81	Added	25:18 VA.R. 3240	6/10/09
18 VAC 112-20-90	Amended	25:18 VA.R. 3241	6/10/09
18 VAC 112-20-130	Amended	25:18 VA.R. 3241	6/10/09
18 VAC 112-20-131	Amended	25:18 VA.R. 3241	6/10/09
18 VAC 112-20-150	Amended	25:18 VA.R. 3242	6/10/09
18 VAC 115-20-45	Amended	25:20 VA.R. 3704	7/23/09
18 VAC 115-20-100	Amended	25:22 VA.R. 4103	8/5/09
18 VAC 115-20-130	Amended	25:20 VA.R. 3704	7/23/09
18 VAC 115-30-110	Amended	25:22 VA.R. 4103	8/5/09
18 VAC 115-40-38	Amended	25:22 VA.R. 4103	8/5/09
18 VAC 115-50-40	Amended	25:20 VA.R. 3706	7/23/09
18 VAC 115-50-90	Amended	25:22 VA.R. 4103	8/5/09
18 VAC 115-50-110	Amended	25:20 VA.R. 3706	7/23/09
18 VAC 115-60-50	Amended	25:20 VA.R. 3708	7/23/09
18 VAC 115-60-110	Amended	25:22 VA.R. 4104	8/5/09
18 VAC 115-60-130	Amended	25:20 VA.R. 3709	7/23/09
18 VAC 120-40-15	Amended	25:15 VA.R. 2774	5/14/09
18 VAC 120-40-85	Added	25:15 VA.R. 2774	5/14/09
18 VAC 120-40-240	Amended	25:15 VA.R. 2774	5/14/09
18 VAC 120-40-411.1	Amended	25:15 VA.R. 2775	5/14/09
18 VAC 125-20-120	Amended	25:17 VA.R. 3026	7/1/09
18 VAC 125-30-50	Amended	25:20 VA.R. 3711	7/8/09
18 VAC 125-30-80	Amended	25:17 VA.R. 3026	7/1/09
18 VAC 125-30-80	Amended	25:20 VA.R. 3712	7/8/09
18 VAC 130-20-30	Erratum	25:15 VA.R. 2804	--
18 VAC 140-20-100	Amended	25:18 VA.R. 3247	7/1/09
18 VAC 160-20-10	Amended	25:19 VA.R. 3421	7/1/09
18 VAC 160-20-74	Amended	25:19 VA.R. 3424	7/1/09
18 VAC 160-20-76	Amended	25:19 VA.R. 3424	7/1/09
18 VAC 160-20-80	Amended	25:19 VA.R. 3425	7/1/09
18 VAC 160-20-82	Added	25:19 VA.R. 3425	7/1/09
18 VAC 160-20-84	Added	25:19 VA.R. 3426	7/1/09
18 VAC 160-20-90	Amended	25:19 VA.R. 3427	7/1/09
18 VAC 160-20-94	Added	25:19 VA.R. 3429	7/1/09
18 VAC 160-20-96	Added	25:19 VA.R. 3430	7/1/09

Cumulative Table of VAC Sections Adopted, Amended, or Repealed

SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
18 VAC 160-20-97	Added	25:19 VA.R. 3431	7/1/09
18 VAC 160-20-98	Added	25:19 VA.R. 3432	7/1/09
18 VAC 160-20-102	Amended	25:19 VA.R. 3433	7/1/09
18 VAC 160-20-104	Amended	25:19 VA.R. 3433	7/1/09
18 VAC 160-20-106	Amended	25:19 VA.R. 3433	7/1/09
18 VAC 160-20-109	Amended	25:19 VA.R. 3434	7/1/09
18 VAC 160-20-140	Amended	25:19 VA.R. 3435	7/1/09
18 VAC 160-20-145	Added	25:19 VA.R. 3435	7/1/09
18 VAC 160-20-150	Amended	25:19 VA.R. 3436	7/1/09
Title 19. Public Safety			
19 VAC 30-200-10	Added	25:12 VA.R. 2272	4/2/09
Title 20. Public Utilities and Telecommunications			
20 VAC 5-314-10 through 20 VAC 5-314-170	Added	25:20 VA.R. 3716-3758	5/21/09
Title 21. Securities and Retail Franchising			
21 VAC 5-10-40	Amended	25:22 VA.R. 4106	7/1/09
21 VAC 5-20-60	Amended	25:22 VA.R. 4106	7/1/09
21 VAC 5-20-70	Amended	25:22 VA.R. 4107	7/1/09
21 VAC 5-20-90	Amended	25:22 VA.R. 4108	7/1/09
21 VAC 5-20-130	Amended	25:22 VA.R. 4108	7/1/09
21 VAC 5-20-135	Added	25:22 VA.R. 4108	7/1/09
21 VAC 5-20-150	Amended	25:22 VA.R. 4109	7/1/09
21 VAC 5-20-160	Amended	25:22 VA.R. 4109	7/1/09
21 VAC 5-30-80	Amended	25:22 VA.R. 4109	7/1/09
21 VAC 5-40-30	Amended	25:22 VA.R. 4110	7/1/09
21 VAC 5-45-20	Amended	25:22 VA.R. 4111	7/1/09
21 VAC 5-80-10	Amended	25:22 VA.R. 4112	7/1/09
21 VAC 5-80-70	Amended	25:22 VA.R. 4112	7/1/09
21 VAC 5-80-110	Amended	25:22 VA.R. 4113	7/1/09
21 VAC 5-80-130	Amended	25:22 VA.R. 4113	7/1/09
21 VAC 5-80-140	Repealed	25:22 VA.R. 4114	7/1/09
21 VAC 5-80-145	Added	25:22 VA.R. 4115	7/1/09
21 VAC 5-80-160	Amended	25:22 VA.R. 4119	7/1/09
21 VAC 5-110-10	Amended	25:22 VA.R. 4124	7/1/09
21 VAC 5-110-40	Amended	25:22 VA.R. 4125	7/1/09
21 VAC 5-110-50	Amended	25:22 VA.R. 4125	7/1/09
21 VAC 5-110-55	Amended	25:22 VA.R. 4126	7/1/09
21 VAC 5-110-65	Amended	25:22 VA.R. 4127	7/1/09
21 VAC 5-110-75	Amended	25:22 VA.R. 4128	7/1/09
21 VAC 5-110-80	Amended	25:22 VA.R. 4129	7/1/09
21 VAC 5-110-95	Amended	25:22 VA.R. 4130	7/1/09
Title 22. Social Services			
22 VAC 30-40-10 through 22 VAC 30-40-150	Amended	25:21 VA.R. 3973-3984	7/22/09
22 VAC 30-40-160	Added	25:21 VA.R. 3984	7/22/09
22 VAC 40-35-5	Repealed	25:19 VA.R. 3438	7/1/09
22 VAC 40-35-10	Amended	25:19 VA.R. 3438	7/1/09
22 VAC 40-35-20	Amended	25:19 VA.R. 3440	7/1/09
22 VAC 40-35-40	Amended	25:23 VA.R. 4236	8/19/09
22 VAC 40-35-40 through 22 VAC 40-35-120	Amended	25:19 VA.R. 3441-3446	7/1/09
22 VAC 40-35-125	Repealed	25:19 VA.R. 3446	7/1/09
22 VAC 40-35-126	Repealed	25:19 VA.R. 3446	7/1/09
22 VAC 40-35-127	Repealed	25:19 VA.R. 3447	7/1/09

SECTION NUMBER	ACTION	CITE	EFFECTIVE DATE
22 VAC 40-35-128	Repealed	25:19 VA.R. 3447	7/1/09
22 VAC 40-35-130	Amended	25:19 VA.R. 3447	7/1/09
22 VAC 40-41-10	Amended	25:23 VA.R. 4236	9/1/09
22 VAC 40-41-20	Amended	25:23 VA.R. 4237	9/1/09
22 VAC 40-41-40	Amended	25:23 VA.R. 4238	9/1/09
22 VAC 40-41-50	Amended	25:23 VA.R. 4238	9/1/09
22 VAC 40-41-55	Amended	25:23 VA.R. 4239	9/1/09
22 VAC 40-41-60	Amended	25:23 VA.R. 4239	9/1/09
22 VAC 40-72-10	Amended	25:19 VA.R. 3448	8/1/09
22 VAC 40-72-160	Amended	25:19 VA.R. 3453	8/1/09
22 VAC 40-72-210	Amended	25:19 VA.R. 3453	8/1/09
22 VAC 40-72-660	Amended	25:19 VA.R. 3454	8/1/09
22 VAC 40-72-670	Amended	25:19 VA.R. 3455	8/1/09
22 VAC 40-170-10 through 22 VAC 40-170-230	Repealed	25:19 VA.R. 3456	7/1/09
22 VAC 40-410-10	Repealed	25:23 VA.R. 4239	9/1/09
22 VAC 40-410-20	Repealed	25:23 VA.R. 4239	9/1/09
22 VAC 40-411-10 through 22 VAC 40-411-220	Added	25:23 VA.R. 4239-4245	9/1/09
22 VAC 40-570-10 through 22 VAC 40-570-100	Repealed	25:23 VA.R. 4239	9/1/09
22 VAC 40-640-10 through 22 VAC 40-640-80	Repealed	25:23 VA.R. 4239	9/1/09
22 VAC 40-670-10	Amended	25:21 VA.R. 3988	8/6/09
22 VAC 40-670-20	Amended	25:21 VA.R. 3988	8/6/09
22 VAC 40-675-10	Amended	25:21 VA.R. 3990	8/6/09
22 VAC 40-675-60 through 22 VAC 40-675-100	Amended	25:21 VA.R. 3990-3991	8/6/09
22 VAC 40-740-10	Amended	25:23 VA.R. 4248	9/1/09
22 VAC 40-740-15	Amended	25:23 VA.R. 4250	9/1/09
22 VAC 40-740-50	Amended	25:23 VA.R. 4250	9/1/09
Title 23. Taxation			
23 VAC 10-210-310	Amended	25:22 VA.R. 4155	9/19/09
Title 24. Transportation and Motor Vehicles			
24 VAC 30-92-10 through 24 VAC 30-92-150	Added	25:15 VA.R. 2777-2801	3/9/09
24 VAC 30-280-20 through 24 VAC 30-280-70	Repealed	25:19 VA.R. 3456	7/1/09
24 VAC 30-281-10	Added	25:19 VA.R. 3457	7/1/09
24 VAC 30-300-10	Repealed	25:19 VA.R. 3457	4/29/09
24 VAC 30-301-10	Added	25:19 VA.R. 3458	4/29/09
24 VAC 30-301-20	Added	25:19 VA.R. 3458	4/29/09

TITLE 9. ENVIRONMENT

STATE WATER CONTROL BOARD

Initial Agency Notice

Title of Regulation: **9VAC25-720. Water Quality Management Planning Regulation.**

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

Name of Petitioner: Christopher D. Hively, PE, Environmental Services Director.

Nature of Petitioner's Request: Amend the Water Quality Management Planning Regulation (9VAC25-720-70 C, Rappahannock River Basin), to increase total nitrogen (TN) and total phosphorus (TP) waste load allocations (WLAs) for the Town of Culpeper wastewater plant (VPDES Permit No. 0061590). Current nutrient WLAs are TN = 54,820 lb/yr; TP = 4,112 lb/yr, based on a design flow of 4.5 million gallons per day (MGD). The town is expanding the plant to 6 MGD and installing state-of-the-art nutrient reduction technology. Construction is underway, with work expected to be completed and the facility certified for operation by 12/31/10. Culpeper requests the WLAs be amended to TN = 73,058 lbs/yr (an 18,238 lb/yr increase) and TP = 5,479 lbs/yr (a 1,367 lb/yr increase), to reflect the 6 MGD design flow.

Agency's Plan for Disposition of the Request: Public-notice receipt of the petition and provide for a 21-day public comment period. Upon close of the public comment period, review any comments received and then make a decision to either initiate a rulemaking or place the petition on the board's next meeting agenda for their consideration.

Public comments may be submitted until August 24, 2009.

Agency Contact: John M. Kennedy, Department of Environmental Quality, Chesapeake Bay Program Manager, P.O. Box 1105, Richmond, VA 23218, telephone (804) 698-4312, TTY (800) 592-5482, or email jmkennedy@deq.virginia.gov.

VA.R. Doc. No. R09-30; Filed July 15, 2009, 9:52 a.m.

TITLE 9. ENVIRONMENT

STATE WATER CONTROL BOARD

Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 2.2-4007.01 of the Code of Virginia that the State Water Control Board intends to consider amending the following regulations: **9VAC25-110, Virginia Pollutant Discharge Elimination System (VPDES) General Permit for Domestic Sewage Discharges of Less Than or Equal to 1,000 Gallons Per Day.** The purpose of the proposed action is to amend and reissue the existing general permit that expires on August 1, 2011. The general permit will establish limitations and monitoring requirements for point source discharge of treated domestic sewage to surface waters from treatment works with a design discharge flow of less than or equal to 1,000 gallons per day.

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

Statutory Authority: § 62.1-44.15 of the Code of Virginia; § 402 of the Clean Water Act; 40 CFR Parts 122, 123 and 124.

Public Comments: Public comments may be submitted until 5 p.m. on September 2, 2009.

Agency Contact: George Cosby, Department of Environmental Quality, 629 East Main Street, P.O. Box 1105, Richmond, VA 23218, telephone (804) 698-4067, FAX (804) 698-4032, or email george.cosby@deq.virginia.gov.

VA.R. Doc. No. R09-2062; Filed July 15, 2009, 9:40 a.m.

TITLE 3. ALCOHOLIC BEVERAGES

ALCOHOLIC BEVERAGE CONTROL BOARD

Proposed Regulation

Title of Regulation: **3VAC5-50. Retail Operations (adding 3VAC5-50-230).**

Statutory Authority: § 4.1-210 of the Code of Virginia.

Public Hearing Information: No public hearings are scheduled.

Public Comments: Public comments may be submitted until 5 p.m. on October 2, 2009.

Agency Contact: W. Curtis Coleburn III, Chief Operating Officer, Department of Alcoholic Beverage Control, 2901 Hermitage Rd., Richmond, VA 23220, telephone (804) 213-4409, FAX (804) 213-4411, TTY (804) 213-4687, or email curtis.coleburn@abc.virginia.gov.

Basis: Section 4.1-210 of the Code of Virginia requires the Alcoholic Beverage Control Board to define "dessert wines" for the purposes of that section. The authority to promulgate a regulation is mandatory, but the content of the regulation is discretionary.

Purpose: The new section to be promulgated provides a definition of "dessert wines" that holders of limited mixed beverage restaurant licenses will be authorized to sell and serve. The board is required to define the term by statute. The goal of the new section is to provide a broad definition and to enable licensees to sell and serve most wine products consumers desire to drink with dessert, while at the same time allowing easy compliance with and enforcement of the regulation. Limited mixed beverage restaurants are not subject to the full food sale requirements of other mixed beverage restaurants. The General Assembly has determined that such restaurants should sell a limited number of liqueurs mixed with coffee or other drinks, as well as dessert wines. The proposed regulatory action is necessary to protect the health, safety, or welfare of citizens by insuring that the alcoholic beverage products offered for sale fall within the limits prescribed by the legislature.

Substance: "Dessert wines" shall mean any wine having an alcohol content of more than 14% by volume, any wine whose label indicates that it contains more than 2.0% residual sugar, or any wine described on its label as a "dessert," "late harvest," or "ice" wine.

Issues: The regulatory action poses no disadvantages to the public or the Commonwealth. The primary advantages to the affected businesses and the Commonwealth include enabling licensees to sell and serve most wine products consumers desire to drink with dessert, while at the same time allowing easy compliance with and enforcement of the regulation.

The Department of Planning and Budget's Economic Impact Analysis:

Summary of the Proposed Amendments to Regulation. Pursuant to Chapter 172 of the 2008 Acts of the Assembly, the Alcoholic Beverage Control Board (ABC) proposes to add a definition for dessert wine to its regulations that govern retail operations.

Result of Analysis. The benefits likely exceed the costs for this proposed change.

Estimated Economic Impact. Current regulations do not contain a definition for dessert wine. In 2008, the legislature expanded the scope of ABC issued limited mixed beverage restaurant licenses so that they will cover sales of dessert wines as defined by ABC. To accommodate this code change, ABC now proposes to define dessert wine as "any wine having an alcohol content of more than 14% by volume, any wine whose label contains a statement that it contains more than 2% residual sugar or any wine described on its label as a "dessert," "late harvest" or "ice" wine.

Holders of limited mixed beverage restaurant licenses are unlikely to incur any additional costs on account of this regulatory change. They will, however, benefit from being able to expand the variety of wines and liqueurs that they offer for sale.

Businesses and Entities Affected. ABC reports that currently only one business in the state holds a limited mixed beverage restaurant license.

Localities Particularly Affected. No locality will be particularly affected by this proposed regulatory action.

Projected Impact on Employment. This regulatory action will likely have no impact on employment in the Commonwealth.

Effects on the Use and Value of Private Property. This regulatory action will likely have no significant effect on the use or value of private property in the Commonwealth.

Small Businesses: Costs and Other Effects. Small businesses in the Commonwealth are unlikely to incur any costs on account of this regulatory action.

Small Businesses: Alternative Method that Minimizes Adverse Impact. Small businesses in the Commonwealth are unlikely to incur any costs on account of this regulatory action.

Real Estate Development Costs. This regulatory action will likely have no effect on real estate development costs in the Commonwealth.

Legal Mandate. The Department of Planning and Budget (DPB) has analyzed the economic impact of this proposed regulation in accordance with § 2.2-4007.04 of the Administrative Process Act and Executive Order Number 36 (06). Section 2.2-4007.04 requires that such economic impact analyses include, but need not be limited to, the projected number of businesses or other entities to whom the regulation would apply, the identity of any localities and types of businesses or other entities particularly affected, the projected number of persons and employment positions to be affected, the projected costs to affected businesses or entities to implement or comply with the regulation, and the impact on the use and value of private property. Further, if the proposed regulation has adverse effect on small businesses, § 2.2-4007.04 requires that such economic impact analyses include (i) an identification and estimate of the number of small businesses subject to the regulation; (ii) the projected reporting, recordkeeping, and other administrative costs required for small businesses to comply with the regulation, including the type of professional skills necessary for preparing required reports and other documents; (iii) a statement of the probable effect of the regulation on affected small businesses; and (iv) a description of any less intrusive or less costly alternative methods of achieving the purpose of the regulation. The analysis presented above represents DPB's best estimate of these economic impacts.

Agency's Response to the Department of Planning and Budget's Economic Impact Analysis: The Alcoholic Beverage Control Board concurs with the economic impact analysis prepared by the Department of Planning and Budget.

Summary:

Chapter 172 of the 2008 Acts of Assembly amended the provisions of subdivision A 12 of § 4.1-210 of the Code of Virginia, adding "dessert wines as defined by Board regulation" to the types of alcoholic beverages that may be sold and sold and served by holders of limited mixed beverage restaurant licenses. This action creates a new section, defining "dessert wines" for the purposes of the act.

3VAC5-50-230. Dessert wines.

For the purposes of § 4.1-210 A 12 of the Code of Virginia, "dessert wines" shall mean any wine having an alcohol content of more than 14% by volume, any wine whose label contains a statement that it contains more than 2.0% residual sugar, or any wine described on its label as a "dessert," "late harvest," or "ice" wine.

VA.R. Doc. No. R09-1605; Filed July 15, 2009, 11:05 a.m.

Proposed Regulation

Title of Regulation: **3VAC5-70. Other Provisions (amending 3VAC5-70-210).**

Statutory Authority: §§ 4.1-103 and 4.1-227 of the Code of Virginia.

Public Hearing Information: No public hearings are scheduled.

Public Comments: Public comments may be submitted until 5 p.m. on October 2, 2009.

Agency Contact: Jeffrey L. Painter, Chief Administrative Officer, Department of Alcoholic Beverage Control, P.O. Box 27491, Richmond, VA 23261, telephone (804) 213-4621, FAX (804) 213-4411, TTY (804) 213-4687, or email jeffrey.painter@abc.virginia.gov.

Basis: Section 4.1-227 of the Code of Virginia provides that the Alcoholic Beverage Control Board shall by regulation (i) designate the violations for which a waiver of a hearing and payment of a civil charge in lieu of suspension may be accepted for a first offense occurring within three years immediately preceding the date of the violation and (ii) provide for a reduction in the length of any suspension and a reduction in the amount of any civil penalty for any retail licensee where the licensee can demonstrate that it provided to its employees alcohol server training certified in advance by the board.

Purpose: The board has determined that this action promotes public safety and welfare by insuring that licensees who do not comply with the regulations governing the sale of alcoholic beverages are appropriately punished, while saving the agency the cost of an administrative hearing.

Substance: The intended regulatory action would amend 3VAC5-70-210 to provide for a lesser suspension period and a lesser civil penalty in lieu of suspension for licensees charged with a first violation within three years of sale of alcoholic beverages to an underage or intoxicated person or allowing consumption of alcoholic beverages by an underage or intoxicated person, if the licensee can demonstrate that it has provided the employee responsible for the violation alcohol server training certified by the board within the 12 months immediately preceding the violation. A new provision added to the section will set out the process for certification of alcohol server training courses. Additional amendments will clarify that the ability to waive a hearing and accept a penalty under this section does not apply to licensees charged with multiple violations, and deletes certain violations currently included in this section that the board feels are inappropriately listed.

Issues: The primary advantage of the proposed action to the public is that it provides mitigation of punishment for businesses who provide alcohol seller/server training to their employees. It also provides the advantage to an agency of reducing costs by allowing certain violations to be handled without the expense of a hearing. The only disadvantage to the public is that five violations currently allowed to be handled without a hearing for first-time violators will now require a hearing. There are no disadvantages to the Commonwealth.

The Department of Planning and Budget's Economic Impact Analysis:

Summary of the Proposed Amendments to Regulation. The Alcoholic Beverage Control Board (ABC) proposes to amend its Other Provisions regulations to add alternate, reduced, penalties for certain violations of ABC regulations so long as the cited licensees have provided certified alcohol server training to their employees and so long as the licensee has no substantiated violations in the preceding three years or other pending citations. ABC proposes to remove several, more serious, violations from the list of violations for which licensees can choose to forego the disciplinary hearing process and accept immediate imposition of applicable fines or suspension periods. Additionally, ABC proposes to certify private alcohol server training courses that cover the same topics as ABC's own training course.

Result of Analysis. The benefits likely exceed the costs for these proposed changes.

Estimated Economic Impact. Current regulations allow licensees who have received citations for certain (first offense) violations from ABC, but who have not had any substantiated violations of rules in the preceding three years, to waive the normally required disciplinary hearing and either accept the prescribed suspension or pay a civil charge in lieu of suspension. Currently, amongst the violations for which licensees may choose this option are:

1. "Sale of beer, wine or mixed beverages to a person at least 18 but under 21 years of age";

2. "Allowing consumption of beer, wine or mixed beverages by a person at least 18 but under 21 years of age";

3. "Sale to an intoxicated person";

4. "Allow[ing][1] consumption by an intoxicated person";

5. "Keeping unauthorized alcoholic beverages on the premises, on which appropriate taxes have not been paid";

6. "Allowing gambling on the premises, if licensee, agent or employee is [a] participant, but is not conducting the gambling event or operation";

7. "Allowing gambling on the premises, if licensee, agent or employee is not [a] participant nor not conducting the gambling event or operation";

8. "Failure to keep records"; and

9. "Failure to maintain mixed beverage-food ratio required by statute (not applicable if ratio falls below 30%)."

Currently, ABC's schedule of penalties allows licensees who meet the criteria for hearing waiver to accept a suspension of 25 days or pay a fine of $2,000 for violations 1 through 4 in the list above. Violations 5 through 9 currently have suspension periods of either seven or ten days OR fines of either $500 or $1,000.

ABC proposes to amend the first offense qualification criteria by requiring that licensees not have any additional pending charges. This means that licensees with multiple pending charges will not be able to waive their disciplinary hearings and accept immediate suspensions or fines. ABC reports that licensees who have multiple pending violations (even if they have not had past substantiated violations) likely have larger issues that the Board needs to address. The Board believes these issues (and these licensees) will be more appropriately handled through the hearing process. Since licensees with pending violations can operate their businesses as they normally would pending the outcomes of their disciplinary hearings, they will likely not incur any extra costs on account of the time delay explicit in this proposed change. To the extent that having these licensees go before the ABC Board helps eliminate future violations, this change will provide a benefit for the public and possibly even the licensees.

For violations 1 through 4 on the list above, ABC proposes to offer a reduced penalty for licensees who have provided certified alcohol server training to their employees in the 12 months immediately preceding the violation. Licensees who have provided this training will only be subject to a five day suspension or a $1,000 fine. ABC reports that they are proposing these reduced penalties to encourage licensees to offer training that may reduce or eliminate violations of relevant statutes and regulations.

Licensees can set up training through ABC, where they would not have to pay a fee, or purchase training through a private entity that has received ABC certification. Licensees who set up training for their employees through ABC will not incur a fee for that training; they or their employees, however, will likely incur other costs. Licensees may have to pay their employees some sort of hourly wage during the time they are completing training. If employees have to complete training on their own time without compensation, they will incur opportunity costs for their time. Licensees who choose to use certified private training services, because there is a waiting list for ABC training or because ABC training is in some other way inconvenient, will incur explicit costs for fees in

addition to the other costs they would incur regardless of who provides the training. Since server training is voluntary, any licensee who chooses to provide it likely believes that the costs incurred will be outweighed by the benefits of being eligible for reduced penalties and a possible reduction in the occurrence of violations.

ABC proposes to eliminate violations 5 through 9 from the list of those for which licensees can waive disciplinary hearings and immediately serve a prescribed suspension (or choose to pay a fine, instead). ABC reports that these violations are serious enough… most of them are also criminal violations… that the disciplinary hearing process is a more appropriate way to handle them. Since licensees with pending violations can operate their businesses as they normally would pending the outcomes of their disciplinary hearings, they will likely not incur any extra costs on account of the time delay explicit in this proposed change. To the extent that having these licensees go before the ABC Board helps eliminate future violations, this change will provide a benefit for the public and possibly even the licensees.

Finally, ABC proposes to add criteria for approval of certified alcohol server/seller training courses. Applicants for approval of certification will have to complete a training data sheet, review ABC's training evaluation form (to make sure all topics are covered) and submit the training data sheet and a copy of all proposed training materials to ABC. Under these proposed regulations certified trainers will be required to maintain complete records for all training classes conducted. ABC licensees will likely benefit from this certification process as it will allow them more choices for offering training to their employees. Individuals who wish to offer this training will likely only apply for certification if they expect the benefits of doing so to outweigh any costs. ABC could likely further minimize costs for trainers by placing some sort of time limit on how long training programs must maintain records.

Businesses and Entities Affected. ABC reports that approximately 15,000 businesses in the Commonwealth are currently licensed to sell alcohol. Approximately 95% of those qualify as small businesses.

Localities Particularly Affected. No locality will be particularly affected by this proposed regulatory action.

Projected Impact on Employment. This regulatory action will likely have no impact on employment in the Commonwealth.

Effects on the Use and Value of Private Property. This regulatory action will likely have no significant effect on the use or value of private property in the Commonwealth.

Small Businesses: Costs and Other Effects. Small businesses in the Commonwealth are unlikely to incur any costs on account of this regulatory action.

Small Businesses: Alternative Method that Minimizes Adverse Impact. Small businesses in the Commonwealth are unlikely to incur any costs on account of this regulatory action.

Real Estate Development Costs. This regulatory action will likely have no effect on real estate development costs in the Commonwealth.

Legal Mandate. The Department of Planning and Budget (DPB) has analyzed the economic impact of this proposed regulation in accordance with § 2.2-4007.04 of the Administrative Process Act and Executive Order Number 36 (06). Section 2.2-4007.04 requires that such economic impact analyses include, but need not be limited to, the projected number of businesses or other entities to whom the regulation would apply, the identity of any localities and types of businesses or other entities particularly affected, the projected number of persons and employment positions to be affected, the projected costs to affected businesses or entities to implement or comply with the regulation, and the impact on the use and value of private property. Further, if the proposed regulation has adverse effect on small businesses, § 2.2-4007.04 requires that such economic impact analyses include (i) an identification and estimate of the number of small businesses subject to the regulation; (ii) the projected reporting, recordkeeping, and other administrative costs required for small businesses to comply with the regulation, including the type of professional skills necessary for preparing required reports and other documents; (iii) a statement of the probable effect of the regulation on affected small businesses; and (iv) a description of any less intrusive or less costly alternative methods of achieving the purpose of the regulation. The analysis presented above represents DPB's best estimate of these economic impacts.

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[1] Bracketed language is added to make violation chart language more readable in this narrative.

Agency's Response to the Department of Planning and Budget's Economic Impact Analysis: The Alcoholic Beverage Control Board concurs with the economic impact analysis prepared by the Department of Planning and Budget.

Summary:

The purpose of this action is to carry out the mandate of Chapter 513 of the 2008 Acts of Assembly, which amends § 4.1-227 of the Code of Virginia and requires the Alcoholic Beverage Control Board to promulgate a regulation providing for a reduction in penalty in certain disciplinary actions against licensees, where the licensee can demonstrate that it has provided certified alcohol server training to its employees. The amended regulation encourages alcoholic beverage seller-server training.

3VAC5-70-210. Schedule of penalties for first-offense violations.

A. Any licensee charged with any violation of board regulations or statutes listed below, if the licensee has no other pending charges and has not had any substantiated violations of regulation or statute within the three years immediately preceding the date of the violation, may enter a written waiver of hearing and (i) accept the period of license suspension set forth below for the violation, or (ii) pay the civil charge set forth below for the violation in lieu of suspension. In the case of a violation involving the sale of beer, wine, or mixed beverages to a person at least 18 but under 21 years of age, or to an intoxicated person, or allowing consumption of such beverages by such person, any retail licensee that can demonstrate that it provided alcohol seller/server training certified in advance by the board to the employee responsible for such violation within the 12 months immediately preceding the alleged violation may accept the lesser period of license suspension or pay the lesser civil charge listed below for the violation in lieu of suspension. Any notice of hearing served on a licensee for a violation covered by this section shall contain a notice of the licensee's options under this section. Any licensee who fails to notify the board of its intent to exercise one of the options provided for under this section within 20 days after the date of mailing of the notice of hearing shall be deemed to have waived the right to exercise such options and the case shall proceed to hearing. For good cause shown, the board may, in its discretion, allow a licensee to exercise the options provided for under this section beyond the 20-day period.

VIOLATION	SUSPENSION	CIVIL CHARGE	SUSPENSION WITH CERTIFIED TRAINING	CIVIL CHARGE WITH CERTIFIED TRAINING
Sale of beer, wine or mixed beverages to a person at least 18 but under 21 years of age.	25 days	$2,000	5 days	$1,000
Allowing consumption of beer, wine, or mixed beverages by a person at least 18 but under 21 years of age.	25 days	$2,000	5 days	$1,000
Aiding and abetting the purchase of alcoholic beverages by a person at least 18 but under 21 years of age.	10 days	$1,000		
~~Keeping unauthorized alcoholic beverages on the premises, upon which appropriate taxes have not been paid.~~	~~10 days~~	~~$1,000~~		
Keeping unauthorized alcoholic beverages on the premises, upon which appropriate taxes have been paid.	7 days	$500		
~~Allow gambling on the premises, if licensee, agent, or employee is participant, but is not conducting the gambling event or operation.~~	~~10 days~~	~~$1,000~~		
~~Allow gambling on the premises, if licensee, agent, or employee is not participant nor conducting the gambling event or operation.~~	~~7 days~~	~~$500~~		
Allow an intoxicated person to loiter on the premises.	7 days	$500		
Sale to an intoxicated person.	25 days	$2,000	5 days	$1,000
Allow consumption by an intoxicated person.	25 days	$2,000	5 days	$1,000
After hours sales or consumption of alcoholic beverages.	10 days	$1,000		

No designated manager on premises.	7 days	$500		
Invalid check to wholesaler or board.	7 days	$250		
~~Failure to keep records.~~	~~7 days~~	~~$500~~		
~~Failure to maintain mixed beverage food ratio required by statute (not applicable if ratio falls below 30%).~~	~~10 days~~	~~$1,000~~		
Inadequate illumination.	7 days	$500		
ABC license not posted.	7 days	$500		
Not timely submitting report required by statute or regulation.	7 days	$500		
Designated manager not posted.	7 days	$500		
Person less than 18 serving alcoholic beverages; less than 21 acting as bartender.	7 days	$500		
Sale of alcoholic beverages in unauthorized place or manner.	10 days	$1,000		
Consumption of alcoholic beverages in unauthorized area.	7 days	$500		
Removal of alcoholic beverages from authorized area.	7 days	$500		
Failure to obliterate mixed beverage stamps.	7 days	$500		
Employee on duty consuming alcoholic beverages.	7 days	$500		
Conducting illegal happy hour.	7 days	$500		
Illegally advertising happy hour.	7 days	$500		
Unauthorized advertising.	7 days	$500		
Failure to remit state beer/wine tax (if deficiency has been corrected).	10 days	$1,000		
Wholesaler sale of wine/beer in unauthorized manner.	10 days	$1,000		
Wholesaler sale of wine/beer to unauthorized person.	10 days	$1,000		

B. For purposes of this section, the Virginia Department of Alcoholic Beverage Control will certify alcohol seller/server training courses that provide instruction on all the topics listed on the Seller/Server Training Evaluation form. The following steps should be completed to submit a training program for approval:

1. Complete the Alcohol Seller/Server Training Data Sheet and review the Seller/Server Training Evaluation form to make sure the program will meet the listed criteria; and

2. Submit the Alcohol Seller/Server Training Data Sheet and a copy of the proposed training program materials for review. Materials submitted should include copies of any lesson plans and instructional materials used in the training program.

Requests for certification of training courses should be sent to:

Virginia Department of Alcoholic Beverage Control
Education Section
P. O. Box 27491
Richmond, VA 23261
Email correspondences: education@abc.virginia.gov

Persons in charge of any certified alcohol server training course shall maintain complete records of all training classes

conducted, including the date and location of each class, and the identity of all those successfully completing the course.

NOTICE: The forms used in administering the above regulation are listed below. Any amended or added forms are reflected in the listing and are published following the listing.

FORMS (3VAC5-70)

Order and Permit for Transportation of Alcohol, #703-69 (eff. 11/87).

Order and Permit for Transportation of Alcoholic Beverages, #703-73.

Mixed Beverage Annual Review-Instructions for Completion, #805-44 (rev. 11/06).

Application for Off Premises Keg Permit, #805-45 (eff. 1/93).

Application for Grain Alcohol Permit, #805-75.

Special Event License Application Addendum-Notice to Special Event Licenses Applicants, Form SE-1 (rev.08/02).

Statement of Income & Expenses for Special Event Licenses (with instructions), Form SE-2 (rev.08/02).

Alcohol Seller/Server Training Data (eff. 7/09).

Seller/Server Training Evaluation (eff. 7/09).

Virginia Department of Alcoholic Beverage Control
Alcohol Seller-Server Training Data

Business Owner's Name:

Business Trade Name:

Business Mailing Address:

Business Physical Address:

Business Telephone Number:

Business Website:

Type of Training

Public - provides training to ABC licensees and the general public.

Private - provides in-house training to its employees.

Contact Person's Name:

Contact Telephone:

Contact E-mail Address:

Contact Web site:

Failure to submit the appropriate documents will result in your program being denied. Please allow 45 days for the approval process to be completed.

Send your request to:
Virginia Department of Alcoholic Beverage Control, Education Section
P.O. Box 27491, Richmond, VA 23261
E-mail correspondences: education@abc.virginia.gov

Virginia Department of Alcoholic Beverage Control
Seller-Server Training Evaluation

Subject	Yes	No
1. Alcohol Related Laws, Regulations, and Consequences		
A. Underage sale of alcoholic beverages (§ 4.1-304).		
B. Underage sale of tobacco products (§ 18.2-371.2).		
C. Sale, consumption, and loitering by intoxicated persons (§ § 4.1-304, 4.1-305, 4.1-225).		
D. Second party sales - alcohol and tobacco (§ § 4.1-306, 18.2-371.2).		
E. Time of alcohol sales (3 VAC5-50-30).		
F. Age of employees (3 VAC5-50-50).		
G. Designated manager (3 VAC5-50-40).		
H. Sale and consumption in unauthorized places (3 VAC 5-50-110).		
I. Employee consumption of alcoholic beverages (§ § 4.1-325, 4.1-325.2).		
J. Happy hour and advertising (3 VAC 5-50-160).		
K. Penalties - criminal and administrative (§ 4.1-349, 3 VAC 5-70-210).		
2. Checking Identification.		
A. Types of identification (3 VAC 5-50-20).		
B. Elements of acceptable identification (3 VAC 5-50-20).		
C. Unacceptable forms of identification (3 VAC 5-50-20).		
D. Virginia driver's license and Virginia DMV identification card.		
E. Second forms of identification.		
F. Types of false identification.		
G. Identification resources.		
3. Preventing Intoxication.		
A. Licensee and employee responsibility.		
B. Intoxication influences.		
C. Signs of intoxication.		
D. Blood alcohol concentration.		
E. Server strategies.		
4. Managing Confrontational Situations		
A. How to refuse sales.		
B. Documenting confrontational situations.		
C. Post confrontational situation follow-up with ABC.		
5. VA ABC Programs and Resources		
A. Alcohol and tobacco compliance checks.		
6. Contacting Virginia ABC Department		
A. ABC regional office directory.		
B. ABC website.		
7. Review Quiz		

VA.R. Doc. No. R09-1678; Filed July 15, 2009, 11:06 a.m.

TITLE 6. CRIMINAL JUSTICE AND CORRECTIONS

STATE BOARD OF CORRECTIONS

Final Regulation

Title of Regulation: **6VAC15-80. Standards for Planning, Design, Construction and Reimbursement of Local Correctional Facilities (amending 6VAC15-80-10; adding 6VAC15-80-211).**

Statutory Authority: §§ 53.1-5 and 53.1-80 through 53.1-82 of the Code of Virginia.

Effective Date: September 3, 2009.

Agency Contact: Brooks Ballard, Architectural & Engineering Services, Department of Corrections, 6900 Atmore Drive, Richmond, VA 23225, telephone (804) 674-3102, FAX (804) 674-3529, or email brooks.ballard@vadoc.virginia.gov.

Summary:

The amendment allows local and regional correctional facilities to receive cost reimbursement and to define limits for required value management assessment studies that serve to keep construction costs lower while promoting quality and efficient designs. The value management assessment will analyze a project design including systems, products/materials used, quality, efficiency, functionality, long-term design, and operational needs beyond 10 years and cost.

Summary of Public Comments and Agency's Response: No public comments were received by the promulgating agency.

Part I
Introduction

Article 1
Definitions

6VAC15-80-10. Definitions.

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

"Acceptable" means those applicable standards or practices with which a registered professional architect, engineer or other duly licensed or recognized authority must comply.

"ADA" means Americans with Disabilities Act.

"Administrative area" means an area of the jail dedicated to maintaining the operation of the jail facility.

"Approved type" means an item approved by the reviewing authority.

"Artificial light" means light other than natural light.

"A.S.T.M." means the American Society for Testing and Materials.

"Board" means the State Board of Corrections.

"Board standards" means Standards for Planning, Design, Construction and Reimbursement of Local Correctional Facilities, and Minimum Standards for Local Jails and Lockups.

"Building code" means the current edition of the Virginia Uniform Statewide Building Code and the Virginia Statewide Fire Prevention Code.

"Capacity or design capacity" means the maximum number of general population and community custody beds for which the facility is designed and constructed based on the space requirements in these standards.

"CCTV" means closed circuit television.

"Cell" means a space the size of which is specified in these standards enclosed by secure construction containing plumbing fixtures and usually a bunk in which an inmate is detained or sleeps. Cells can be single or multiple occupancy depending upon custody level.

"Central intake unit (CIU)" means an area constructed to provide, at a minimum, space for intake, temporary holding, booking, court and juvenile (if approved for juveniles) holding, classification and release functions.

"Central control point" means the principal secure space of the entire facility in which is located the equipment and control for the safety and security of the jail through electronic equipment for surveillance, communication, fire and smoke detection, emergency functions, regulation of entrance to jail through the security perimeter and regulation of ingress and egress to cells, dayrooms, corridors and other spaces within the jail.

"Chief jailer or chief correctional officer" means that individual who is in charge of the day to day security operation of the jail within the secure perimeter.

"Chief of Operations" means the Chief of Operations for Support, Division of Community Corrections, Department of Corrections.

"Classification cell" means a cell for short term holding of inmates for purposes of classification after booking and prior to being assigned to general population or other housing.

"Climate control" means temperature appropriate to the summer and winter comfort zones.

"Community-based corrections plan" means an evaluation of trends and factors at the local or regional level affecting

current and future facility needs, and the assessment of resources available to meet such needs which is used as the basis for a request for reimbursement of local correctional facility construction costs.

"Community custody" means inmates incarcerated by the judicial system and classified for involvement in local work forces; participating in work, education, and rehabilitation release; and weekend and non-consecutive sentencing.

"Contact visiting" means a space where inmate and visitor at a minimum can pass papers to one another.

"Control room or station" means a space enclosed by interior security walls, roof and floor from which a jail officer may supervise inmates and control systems in a portion of the jail, such as locks, doors, etc. from that secure location.

"Dayroom" means a secure area contiguous to an inmate sleeping (cells, rooms) area, with controlled access from the inmate sleeping area, to which inmates may be admitted for daytime activities such as dining, bathing, and selected recreation or exercise.

"Department" means the Department of Corrections.

"Direct supervision" means a specific style of management where supervisory officers intermingle with inmates in housing units rather than observing inmate activity from within secure control points. Also, within this concept, services are generally brought to the inmate rather than taking the inmate to the service.

"Dormitory" means an area designed for accommodating five or more inmates and used to house minimum custody and community custody inmates.

"Enlargement or expansion" means to add an area of new construction to an existing local correctional facility by constructing additional area or areas.

"Facility" means a jail or lockup including all associated buildings and site.

"Federal population" means prisoners being held for any federal authority in a local facility.

"General population housing" means maximum, medium, minimum and community custody housing. General population excludes special purpose cells and central intake.

"Housing unit" means a group of cells with a common dayroom.

"IMC" means intermediate metal conduit.

"Inmate housing area" means a single person cell, multi-occupancy cell, room, or group of such cells with a common dayroom (housing unit) or dormitories which provide accommodations for sleeping, approved personal effects, and personal hygiene.

"Interior security walls" means walls within but not a part of a security perimeter which are utilized to restrict movement within the secure area, including but not limited to housing units, dormitories, corridors, inmate activity areas, intake areas, and program areas.

"Life safety operations" means the function of certain electrical, mechanical and other building equipment provided for the purpose of ensuring the safety of building occupants in the case of an emergency situation.

"Light" see artificial light.

"Local correctional facility" means any jail, jail farm, or other place used for the detention or incarceration of adult offenders, excluding a lockup, which is owned, maintained, or operated by any political subdivision or combination of political subdivisions of the Commonwealth.

"Local governing body" means a governing body as defined in § 53.1-95.3 of the Code of Virginia.

"Lockup" means a facility, separate from a jail facility, operated by or for a local government for detention of persons for a short period of time.

"Maximum custody inmates" means persons who cannot be allowed to mingle physically with other inmates without close supervision, normally because of assaultive and aggressive behavior or high escape risk.

"Medium custody inmates" means those persons who require a moderate level of staff supervision and secure accommodations against escape, but who can be allowed to participate in group activities.

"Minimum custody inmates" means those inmates classified as not dangerous or likely to escape, but are of sufficient concern to require a minimum level of supervision.

"Minor renovation project" means renovation project which does not increase beds and has an estimated cost less than $200,000.

"Natural light" means daylight which must be from a direct source within the living unit.

"New construction" means to build or replace a local correctional facility.

"Office of the deputy director" means the Deputy Director, Division of Community Corrections, Department of Corrections, or his designee.

"Operating capacity" means capacity of the facility as established by the Department of Corrections.

"Overcrowding" means a facility having operated at greater than 25% over the operational capacity for at least one year exclusive of the federal prisoner population.

"Owner" means the representative from the locality or jail authority responsible for making decisions about the project.

"Owner's agent" means the persons or firm designated by a locality or jail authority to make decisions about the project.

"Per inmate or per bed" means for each general population bed.

"Regional jail" means, for purposes of state reimbursement for construction costs, those jails which meet the criteria set forth in §§ 53.1-81, 53.1-82 and 53.1-95.2 of the Code of Virginia, and jail having at least three member localities that was created (created means localities having submitted resolutions of local governing bodies or cooperative agreements) before February 1, 1993, or any jail construction project recommended for approval by the Board of Corrections as a regional jail prior to February 1, 1993.

"Renovation" means the alteration or other modification of an existing local correctional facility or piece of equipment for the purpose of modernizing or changing the use or capability of such local correctional facility or equipment.

Renovation does not include work on, repair or replacement of any part of an existing local correctional facility or equipment, which may be generally associated with normal wear and tear and included in routine maintenance. Renovation renders the facility, item or area in compliance with current board standards and superior to the original.

"Repair" means the correction of deficiencies in a local correctional facility or equipment which have either been damaged or worn by use, but which can be economically returned to service without replacement.

"Replacement" means the construction of a local correctional facility in place of a like local correctional facility or the purchasing of like equipment to replace equipment which has been so damaged or outlived its useful life that it cannot be economically renovated or repaired.

"Reviewing authority" means ~~the department, division or agency to which the Governor has delegated authority to act in his behalf in reviewing local correctional facility construction cost estimates, plans, specifications and construction and recommends reimbursement approval. The current reviewing authority is the Department of Corrections Division of Planning and Engineering Services~~ a representative or representatives of the Department of Corrections or the Department of Criminal Justice Services responsible for reviewing required documents, attending required meetings, and interpreting and determining compliance with 6VAC15-80.

"Room" means a cell without plumbing fixtures. Rooms are utilized when inmates have control of the individual room doors and are free to circulate from rooms to dayrooms at will.

"Routine maintenance" means the normal and usual type of repair or replacement necessary as the result of periodic maintenance inspections or normal wear and tear of a local correctional facility or equipment.

"Sally port" means a safety vestibule as a defined space that promotes security by the use of two or more interlocking doors.

"Secure" (as relates to construction) means that the walls, floors, and ceilings or roofs are constructed in accordance with the secure construction portion of these standards.

"Secure area" means all spaces of the facility which are regularly occupied by inmates, including but not limited to cells, housing units, dormitories, corridors, inmate activity areas, intake areas, counseling or treatment areas, and program areas. (See security perimeter.)

"Secure custody" means maximum, medium and minimum security levels of housing located within the perimeter of a secure building or facility.

"Secure housing" means housing for all inmates (maximum, medium and minimum) which is not classified as community custody.

"Security perimeter" means the outer limits of a jail or lockup proper where walls, floor, roof and ceiling are used to prevent egress by inmates or ingress by unauthorized persons or contraband.

"Special purpose cells" means cells within the security perimeter which may include isolation, segregation, medical, protective custody or other special use cells.

"Standards" means the Board of Corrections' Standards for Planning, Design Construction and Reimbursement of Local Correctional Facilities.

"State responsible felon population" means those with greater than two-year felony sentences in accordance with § 53.1-20 of the Code of Virginia.

"Stationary equipment" means built-in equipment or fixtures normally included in a structure at the time of construction.

"Supervision" means the act or process of performing watchful responsible care over inmates. Supervision, which ensures the safety of jail officers, requires more than casual observation or surveillance. It is an active process.

"Temporary holding cell or area" means a cell or group of cells used to hold one or more persons not to exceed 72 hours, while awaiting processing, booking, court appearance, classification or discharge, or a cell used to temporarily hold one or more persons until they can be moved to another facility or the general housing areas after booking. Cells holding more than one person are frequently referred to as group holding.

"Value management analysis (VMA)" means an analysis of facility design and construction for the purpose of satisfying

required function, cost efficiency, while providing the greatest quality and efficiency for the project.

"Value management team" means a team of people, independent from the owner or the architect/engineer under contract to the owner, headed by a certified value specialist (CVS) or certified value engineer (CVE) with a combination of the following disciplines based on phase and nature of the project: architecture, engineering (civil/site/mechanical/electrical) security and cost estimating.

"Vehicular sally port" means a drive-in or drive-through made secure preferably by remotely controlled electrically operated interlocking doors for entrance and exit. It is normally located in close proximity to the facility intake area.

"Ventilation" means providing, at minimum, movement of air within the facility in accordance with requirements of the building code.

6VAC15-80-211. Value management analysis.

A. All jail projects for which reimbursement is being requested for new construction, expansion [,] or renovation shall have a value management analysis (VMA) performed during design. For renovation projects, a waiver may be requested from the board.

B. VMA shall be performed [~~a~~ at] the conclusion of the design development (35%-40% complete) phases of the project. For large projects (in excess of 250 beds), it is recommended that a second phase of VMA be performed at the construction documents phase (90%-95% complete).

C. The VMA shall involve a three- to four-day exercise at the design development phase, or four to five days each at the design development and construction document phases. The first day, or portion thereof, of each analysis consists of a presentation overview by the owner and the A/E design team to the value management team. The final day or portion thereof, consists of a presentation of findings and recommendations by the value management team to the owner and A/E design team and attended by the reviewing authority.

D. The VMA process shall analyze at a minimum the following aspects of the project's design: systems, products/materials, quality, efficiency, functionality, long-term design [,] and operational needs (beyond 10 years) and cost.

E. The owner shall engage the services of a qualified value management team, as defined in the definitions and headed by a certified value specialist (or engineer) pursuant to the definitions. The VMA team shall be independent of the A/E design team. Cost estimators are also recommended as beneficial to the analysis, particularly for projects performing VMA at the construction documents phase.

F. The owner shall advise the reviewing authority in writing at least 15 working days in advance of the meeting dates for the VMA. A representative of the reviewing authority shall meet with the value management team at the formal presentation of results to the owner and A/E design team.

G. Upon completion of the VMA process, a summary report detailing VMA recommendations and the owner's decision on implementation of the recommendations shall be provided in writing to the reviewing authority.

VA.R. Doc. No. R08-865; Filed July 15, 2009, 11:46 a.m.

STATE BOARD OF JUVENILE JUSTICE

Proposed Regulation

Title of Regulation: **6VAC35-60. Minimum Standards for Virginia Delinquency Prevention and Youth Development Act Grant Programs (amending 6VAC35-60-10, 6VAC35-60-40, 6VAC35-60-50, 6VAC35-60-71, 6VAC35-60-170, 6VAC35-60-190, 6VAC35-60-215, 6VAC35-60-225, 6VAC35-60-236, 6VAC35-60-290, 6VAC35-60-320, 6VAC35-60-330, 6VAC35-60-380, 6VAC35-60-415, 6VAC35-60-450, 6VAC35-60-500, 6VAC35-60-575, 6VAC35-60-580, 6VAC35-60-600; repealing 6VAC35-60-180, 6VAC35-60-237).**

Statutory Authority: §§ 66-10 and 66-28 of the Code of Virginia.

Public Hearing Information: No public hearings are scheduled.

Public Comments: Public comments may be submitted until 5 p.m. on October 2, 2009.

Agency Contact: Janet P. Van Cuyk, Regulatory Coordinator, Department of Juvenile Justice, 700 Centre, 700 East Franklin Street, 4th Floor, Richmond, VA 23219, telephone (804) 371-4097, FAX (804) 371-0773, or email janet.vancuyk@djj.virginia.gov.

Basis: The Board of Juvenile Justice is entrusted with general authority to promulgate regulations by § 66-10 of the Code of Virginia, which states the board may "promulgate such regulations as may be necessary to carry out the provisions of this title and other laws of the Commonwealth administered by the Director or the Department." Additionally, § 66-28 of the Code of Virginia requires the Board of Juvenile Justice to "prescribe policies governing applications for grants pursuant to this chapter and standards for the operation of programs developed and implemented under the grants."

Purpose: The Minimum Standards for Virginia Delinquency Prevention and Youth Development Act Grant Programs, 6VAC35-60, establishes the general requirements for recipients of grant funding under the Delinquency Prevention and Youth Development Act (Chapter 3 (§ 66-26 et seq.) of Title 66 of the Code of Virginia). The Delinquency Prevention and Youth Development Act requires the director

of the Department of Juvenile Justice to develop and supervise delinquency prevention and youth development programs and authorizes the director to make grants to counties and cities to support their delivery of youth services and their response to juvenile delinquency. The Board of Juvenile Justice is also required to develop regulations to govern the application for grants and the operation of programs funded under the Act. This regulation addresses the responsibilities and administration of Youth Services Citizen Boards and also sets minimum standards for the administration of Offices on Youth; addressing community needs assessments, planning, personnel and operations, fiscal management, and program monitoring and evaluation.

While the Delinquency Prevention and Youth Development Act has not been funded by the General Assembly in recent years, on several occasions localities have requested funding to be reinitiated. Should the Act be funded, any applicable grant recipient would be subject to the regulation. A number of administrative changes have occurred since 2002 when the regulation was most recently amended. Thus, during the periodic review period, the regulation was reviewed in light of current practices, in consultation with local offices on youth, and in consideration of future grant recipients. The proposed changes will incorporate current practice into the existing framework.

The proposed amendments to this regulation will protect the health, safety, and welfare of citizens by streamlining processes and promoting uniformity throughout the Commonwealth. The proposed amendments will reduce some bureaucratic and administrative requirements required under the current regulations with the goals of improving the quality of services provided under grant programs in the community and reducing juvenile delinquency rates in subject localities.

Substance: The following changes have been proposed for the Minimum Standards for Virginia Delinquency Prevention and Youth Development Act Grant Programs Regulation:

• Changed annual plan requirement to biennial comprehensive plan to coincide with other planning required by localities, including budgeting. The "Biennial Comprehensive Plan" is defined in 6VAC35-60-10 and references thereto are changed throughout the regulation.

• Defined and required "Annual Grant Programs Update" as provided in the Code of Virginia (6VAC35-60-10 and 6VAC35-60-500). This proposed change, combined with the requirement for a biennial comprehensive plan, will streamline the budget, review, and updating process; keep the lines of communication open between DJJ and the grant recipients; and reduce duplicative reporting.

• Removed requirement for a full-time director (6VAC35-60-180) given the staffing requirements already provided in 6VAC35-60-225.

• Amended the background check (6VAC35-60-236) to be required if the volunteer or staff will provide services directly to a juvenile on a regular basis and will be alone with the juvenile performing these duties. Deleted 6VAC35-60-237 (employee background checks) as it would be duplicative given the amendments to 6VAC35-60-236.

• Amended the needs assessment (6VAC35-60-450) to require two components to be evaluated every two years with all four updated over a four-year cycle. As currently drafted, one component must be evaluated annually, with all four evaluated over the four-year cycle. The proposed amendment allows some flexibility in the review with the end result (each component being evaluated over the four-year cycle) remaining intact.

• 6VAC35-60-575 is amended to reflect changes in the referenced regulatory provisions.

• Subdivision 3 in 6VAC35-60-600 is deleted as appropriate qualifications are required by 6VAC35-60-225, the applicable professional licensing authority, and the Standards for the Nonresidential Services Available to Juvenile and Domestic Relations District Courts (6VAC35-150).

Issues: The proposed amendments have been vetted through an advisory committee consisting of individuals who would be affected by the changes should funding be reinitiated. The proposed amendments would streamline the reporting requirements while not affecting the quality of services provided by grant recipients or the ability of the department to oversee such functioning. The proposed amendments do not pose any disadvantages to the public or the Commonwealth.

The Department of Planning and Budget's Economic Impact Analysis:

Summary of the Proposed Amendments to Regulation. The Board of Juvenile Justice (Board) proposes to amend its regulations governing delinquency prevention programs. Specifically, the Board proposes to update language in these regulations as well as revise a requirement that recipients of grant funds submit comprehensive program plans annually. The Board also proposes to allow greater flexibility for localities to complete needs assessments in the required four year cycle.

Result of Analysis. The benefits likely exceed the costs for all proposed changes.

Estimated Economic Impact. To account for legislative changes that have occurred since these regulations were last reviewed in 2002 and to clarify some regulatory provisions; the Board proposes to update definitions and regulatory language with this proposed action. For instance, the Board proposes to remove language that required the Office of Youth to have a paid, full-time director because this language might be incorrectly interpreted as requiring that this person

only supervise delinquency prevention programs. This deletion will clear up confusion on this point while still insuring proper staffing of programs under another provision of these regulations. Regulated entities are very unlikely to incur any additional costs on account of the amendments that the Board proposes to clarify/update provisions of these regulations. To the extent that regulatory language was unclear about Board expectations, regulated entities will benefit from these regulatory changes.

In addition to clarifying changes, the Board proposes two substantive changes that will allow regulated entities greater flexibility in meeting the requirements of these regulations.

Current regulations require recipients of grant funds to annually submit a comprehensive written plan that lists the goals and objectives of grant funded programs and also assesses the needs of the community in which these programs are implemented. The Board proposes to amend this requirement so that comprehensive written plans will only be submitted biennially; a status report that assesses youth and parenting programs available in localities and explains any changes that are planned for programs covered by grant funds will be submitted annually. This proposed change will likely decrease the resources that recipients of grant monies will have to expend on gathering and compiling information for the required comprehensive plan that will now only have to be submitted every other year. Since the newly required annual update requires less information to be submitted, grant recipients will likely save money, time and staff resources under the proposed regulations.

Current regulations also require localities to assess community youth needs with an assessment list with four component parts; current regulations require localities to assess at least one of these components each year so that a complete assessment is completed every four years. The Board proposes to allow localities greater flexibility in completing their task by requiring at least two of the required components be assessed every two years. Localities will still have to complete all portions of a youth needs assessment every four years but will likely benefit from the greater flexibility to complete this assessment in a more efficient manner.

Businesses and Entities Affected. The Department of Juvenile Justice (DJJ) reports that these proposed regulations will affect any localities that apply for, and receive, grant funds through these programs. Because these programs have not been funded since 2003, no localities are currently affected.

Localities Particularly Affected. No locality will be disproportionately affected by this proposed regulatory action.

Projected Impact on Employment. This regulatory action will likely have no impact on employment in the Commonwealth.

Effects on the Use and Value of Private Property. This regulatory action will likely have no effect on the use or value of private property in the Commonwealth.

Small Businesses: Costs and Other Effects. Small businesses in the Commonwealth are unlikely to incur any costs on account of this regulatory action.

Small Businesses: Alternative Method that Minimizes Adverse Impact. Small businesses in the Commonwealth are unlikely to incur any costs on account of this regulatory action.

Real Estate Development Costs. This regulatory action will likely have no effect on real estate development costs in the Commonwealth.

Legal Mandate. The Department of Planning and Budget (DPB) has analyzed the economic impact of this proposed regulation in accordance with § 2.2-4007.04 of the Administrative Process Act and Executive Order Number 36 (06). Section 2.2-4007.04 requires that such economic impact analyses include, but need not be limited to, the projected number of businesses or other entities to whom the regulation would apply, the identity of any localities and types of businesses or other entities particularly affected, the projected number of persons and employment positions to be affected, the projected costs to affected businesses or entities to implement or comply with the regulation, and the impact on the use and value of private property. Further, if the proposed regulation has adverse effect on small businesses, § 2.2-4007.04 requires that such economic impact analyses include (i) an identification and estimate of the number of small businesses subject to the regulation; (ii) the projected reporting, recordkeeping, and other administrative costs required for small businesses to comply with the regulation, including the type of professional skills necessary for preparing required reports and other documents; (iii) a statement of the probable effect of the regulation on affected small businesses; and (iv) a description of any less intrusive or less costly alternative methods of achieving the purpose of the regulation. The analysis presented above represents DPB's best estimate of these economic impacts.

Agency's Response to the Department of Planning and Budget's Economic Impact Analysis: The Department of Juvenile Justice concurs with the economic impact analysis prepared by the Department of Planning and Budget regarding 6VAC35-60.

Summary:

The proposed amendments (i) change annual plan requirement to biennial comprehensive plan to coincide with other planning required by localities; (ii) define and require "annual grant programs update" as provided in the Code of Virginia; (iii) remove the requirement for a full-time director; (iv) require a background check if the volunteer or staff will provide services directly to a

juvenile on a regular basis and will be alone with the juvenile performing these duties; and (v) amend the needs assessment to require two components to be evaluated every two years with all four updated over a four-year cycle.

Part I
General Provisions

6VAC35-60-10. Definitions.

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

"Alternative day treatment" or "structured day programs" means nonresidential programs that provide services, which may include counseling, supervision, recreation, and education to referred juveniles at a central facility.

"Annual ~~Plan~~ grant programs update" means a written plan~~, covering a single fiscal year, setting forth measurable goals and objectives for developing, coordinating, and evaluating youth services. The Annual Plan is to be based on an assessment of the community's needs~~ submitted annually to the director of the department by recipients of grant funding requesting renewal of the grant funding and detailing the status of youth services provided in accordance with the Biennial Comprehensive Plan. The annual grant programs update shall include an inventory of youth and parenting related services and programs available in the locality and shall incorporate revisions or modifications of the locality's comprehensive plan as deemed necessary by the youth needs assessment.

"Background check" means steps taken to ascertain whether various records on a person include criminal acts or other circumstances that would be detrimental to juveniles or their families or to the integrity of a program, in addition to a driving record check where applicable to job function.

"Biennial Comprehensive Plan" means a written plan covering two fiscal years and coinciding with the Commonwealth's biennial budget cycle and appropriations plan that sets forth measurable goals and objectives for developing, coordinating, and evaluating youth services. The biennial plan shall be based on an assessment of the community's needs and resources and updated annually, as needed.

"Counseling" means the planned use of interpersonal relationships to promote behavioral change or social adjustment.

"Department" means the Department of Juvenile Justice.

"Direct service programs or services" means programs or services in which Office on Youth staff, assigned Youth Services Citizen Board members, or Office on Youth volunteers, are the primary providers of a service involving ongoing person-to-person contact with youth or families.

"Individual service or contact plan" means a written plan of action developed, updated as needed, and modified at intervals to meet the needs of ~~each~~ a juvenile or adult. It specifies measurable short-term and long-term goals, the ~~methods~~ objectives, strategies, and time frames for reaching the goals, and the individuals responsible for carrying out the plan.

"Local governing body" means a city board, commission, or council or other body by whatever name it may be known, in which the general legislative powers of the city or town are vested or a county board of supervisors.

"Locality" means the city, county, town, or combination thereof served by an Office on Youth.

"Monitoring review" means the written report completed by designated department personnel based on an on-site review of the progress made toward goals and objectives identified in the Office on Youth's ~~Annual~~ Biennial Comprehensive Plan.

"Office on Youth" means the staff and the place of business of the staff of the local entity funded by the authority of the Delinquency Prevention and Youth Development Act (Chapter 3 (§ 66-26 et seq.) of Title 66 of the Code of Virginia).

"Sponsoring locality" means the locality that is the fiscal agent or administrator of the grant.

"Supervision" means visiting or making other contact with or about, or providing treatment, rehabilitation, or services to~~,~~ a juvenile as required by the court, ~~court service unit staff~~ by an intake officer, for parole purposes, or by a designated referral source.

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

"Volunteer" or "intern" means any individual or group who of their own free will and without any financial gain provides goods or services ~~to the program~~ without compensation.

"Youth needs assessment" means an objective assessment of the community's youth development and delinquency prevention needs and resources.

"Youth Services Citizen Board" means the board appointed by the ~~county or city~~ locality's governing body ~~or combination thereof~~ in accordance with § 66-34 of the Code of Virginia.

Part II
Youth Services Citizen Board

6VAC35-60-40. Terms.

Youth Services Citizen Board members shall be appointed by the local governing body, for a term of no less than three years and not more than five years and may be reappointed; appointments shall be staggered for continuity. At least one Youth Services Citizen Board member shall be below the age of 18 years at the time of appointment. ~~Youth~~ Any members who are below the age of 18 at the time of appointment shall serve one-year terms and may be reappointed as eligible.

6VAC35-60-50. Restrictions.

No title, position, or agency shall be appointed to the Youth Services Citizen Board.

6VAC35-60-71. Youth Services Citizen Board responsibilities.

The responsibilities of the Youth Services Citizen Board shall be delineated in writing in a form approved by the local governing body. These responsibilities shall include making recommendations, at least annually, to the local governing body regarding the contents of the Biennial Comprehensive Plan and its implementation.

Part III
Office on Youth Administration

Article 1
General Requirements ~~of Direct Service~~ for Programs and Services

6VAC35-60-170. Implementation of strategies.

The Office on Youth shall implement the strategies to accomplish the goals and objectives as established and authorized in the ~~Annual~~ Biennial Comprehensive Plan.

Article 2
Personnel and Operations

6VAC35-60-180. ~~Director.~~ (Repealed.)

~~The Office on Youth shall have one paid full-time director.~~

6VAC35-60-190. Support services.

The Office on Youth shall have access to clerical and other support services, as needed.

6VAC35-60-215. Staffing requirements.

The Youth Services Citizen Board, if a policy making board, or the city manager or county administrator, with the advice of the Youth Services Citizen Board if an advisory board, shall establish (i) the number of staff; (ii) a written job description for each position; and (iii) the minimum knowledge, skills, and abilities required for each position.

6VAC35-60-225. Staff and volunteer qualifications and training.

A. Staff and volunteers shall be qualified and trained for the positions and duties to which they are assigned.

B. Staff and volunteers who provide professional services shall be appropriately licensed, certified, or qualified, as required by law.

6VAC35-60-236. ~~Volunteer background check~~ Background checks.

Where available, Offices on Youth shall follow the sponsoring locality's policies and procedures to secure background checks for volunteers and staff. In the absence of such local policies, Offices on Youth shall develop a policy to ascertain, for all volunteers and staff who provide ~~one-on-one~~ services directly to ~~youth outside a group setting~~ a juvenile on a regular basis and will be alone with the juvenile in the performance of their duties, whether there are criminal acts or other circumstances that would be detrimental to the safety of the youth or families with whom they come in contact.

6VAC35-60-237. ~~Employee background check.~~ (Repealed.)

~~Offices on Youth shall follow the sponsoring locality's policies and procedures in securing background checks for full-time Office on Youth staff. In the absence of such sponsoring locality's policy covering background checks for employees, the Office on Youth shall develop a policy to ascertain whether there are any criminal acts or other circumstances that would be detrimental to the safety of the youth or families with whom they come in contact or that would compromise the integrity of the program.~~

Article 3
Staff Training and Development

6VAC35-60-290. Training program.

A program of training with defined objectives relating to the job description ~~and the Annual Plan~~ shall be written biennially with the Biennial Comprehensive Plan and shall be updated annually, as needed, for each full-time position established for the Office on Youth.

Article 4
Fiscal Management

6VAC35-60-320. Budget review.

The Youth Services Citizen Board shall review and comment on the proposed ~~annual~~ operating budget of the Office on Youth.

6VAC35-60-330. Budget submission.

The sponsoring locality shall submit ~~annually~~ every two years, in accordance with the state's biennial budget process, to the ~~Department of Juvenile Justice~~ department the

approved operating budget for the Office on Youth showing appropriated revenue and projected expenses for the coming year.

6VAC35-60-380. Purchasing procedures.

The sponsoring locality's purchasing policies and procedures shall govern purchasing of supplies, materials, equipment, and services.

6VAC35-60-415. Evaluation.

The Office on Youth shall provide for an evaluation of program effectiveness in the ~~Annual~~ Biennial Comprehensive Plan.

Part IV
Programs and Services

6VAC35-60-450. Needs assessment contents.

The ~~assessment of the community's youth development and delinquency prevention needs and resources~~ youth needs assessment shall include but not be limited to:

1. A detailed compilation of the problems, needs, opportunities, and conditions of youth in the community that is based on:

a. Youth-service agencies' opinions;

b. An analysis of public opinion;

c. An analysis of youth attitudes and behaviors; and

d. An analysis of available current archival data.

At least ~~one~~ two of the above components shall be updated ~~each year~~, at a minimum, every two years with the resulting updated information being incorporated into the ~~Annual~~ Biennial Comprehensive Plan. All four components shall be updated over a four-year cycle.

2. A comprehensive inventory of current programs and resources affecting youth, including:

a. Identifying information;

b. Program descriptions;

c. Clientele served; and

d. Fee requirements.

6VAC35-60-500. Annual reports.

Annually, the Youth Services Citizen Board shall submit ~~a written report~~ the annual grant programs update to the local governing body and send copies to the designated personnel at the ~~Virginia Department of Juvenile Justice~~ department regarding progress toward meeting the goals and objectives identified in the ~~Annual~~ Biennial Comprehensive Plan.

Part V
Standards for Direct Service Programs

~~Article 3~~
~~General Requirements of Direct Service Programs and Services~~

6VAC35-60-575. Applicability of nonresidential standards.

Direct service programs operated by Offices on Youth shall comply with the following Standards for Nonresidential Services Available to Juvenile and Domestic Relations District Courts, as applicable to the direct service program:

6VAC35-150-450 (limitation of contact with juveniles);

6VAC35-150-460 ~~(qualifications of program personnel)~~ (personnel qualifications);

6VAC35-150-470 (medical emergencies) ~~affecting youth in a program)~~;

6VAC35-150-490 (juveniles' rights);

6VAC35-150-500 (juvenile participation in research);

6VAC35-150-510 (case management requirements);

6VAC35-150-520 (confidentiality of records);

6VAC35-150-530 ~~(documentation and reporting of certain incidents)~~ (incident documentation and reporting);

6VAC35-150-540 ~~(reporting of suspected child abuse and neglect)~~ (child abuse and neglect);

6VAC35-150-550 (physical setting ~~in which the program is conducted)~~);

6VAC35-150-560 (individual service or contact plan);

6VAC35-150-580 (emergencies and safety in juveniles' homes);

6VAC35-150-620 (supervision of juveniles in alternative day treatment and structured day programs);

6VAC35-150-630 (meals in alternative day treatment ~~program)~~ and structured day programs);

6VAC35-150-640 (fire safety);

6VAC35-150-650 (first-aid kits in alternative day programs);

6VAC35-150-660 (delivery of medication);

6VAC35-150-680 (physical and mechanical restraint); and

6VAC35-150-690 ~~(uses of~~ (procedural requirements for time-out).

6VAC35-60-580. Documented need required.

The need for the Office on Youth to operate a direct service program shall be documented and ~~be~~ included in the ~~Annual~~

Biennial Comprehensive Plan. If there is a documented need for the Office on Youth to operate a direct service program, the ~~Annual~~ Biennial Comprehensive Plan shall specify the description of services to be provided including target populations and an evaluation plan.

The department shall be notified in writing of any plan to change a direct service program or service included in an Office on Youth's ~~Annual~~ Biennial Comprehensive Plan.

6VAC35-60-600. Records management.

If an Office on Youth provides direct services, written policy and procedure shall, at a minimum, ensure that:

1. Juveniles' records are kept confidential; and

2. Records are destroyed as prescribed in regulations issued by the Virginia ~~State~~ Library Board~~; and.~~

~~3. All services are provided by individuals who are appropriately licensed or certified (when appropriate to the level of service delivered), or are otherwise qualified to provide the service.~~

VA.R. Doc. No. R08-1228; Filed July 14, 2009, 2:58 p.m.

TITLE 10. FINANCE AND FINANCIAL INSTITUTIONS

STATE CORPORATION COMMISSION

Final Regulation

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

Title of Regulation: **10VAC5-10. Delegation of Certain Authority to the Commissioner of the Bureau of Financial Institutions (amending 10VAC5-10-10).**

Statutory Authority: §§ 12.1-13 and 12.1-16 of the Code of Virginia.

Effective Date: July 14, 2009.

Agency Contact: Nicholas C. Kyrus, Deputy Commissioner, Bureau of Financial Institutions, State Corporation Commission, P.O. Box 1197, Richmond, VA 23218, telephone (804) 371-9690, FAX (804) 371-9416, or email nick.kyrus@scc.virginia.gov.

Summary:

The regulation delegates additional authority to the Commissioner of Financial Institutions to grant or deny mortgage loan originator licenses and set the amount of surety bonds required for such licensure. The adopted regulation has been modified from the proposed regulation to delegate authority to the Commissioner of Financial Institutions, subject to commission review, to grant or deny applications (i) by credit counseling agency licensees to relocate offices and establish new offices, and (ii) by persons to acquire ownership interests in credit counseling agency licensees.

AT RICHMOND, JULY 13, 2009

COMMONWEALTH OF VIRGINIA, ex rel.

STATE CORPORATION COMMISSION

CASE NO. BFI-2009-00081

Ex Parte: In re: Powers delegated to the Commissioner of Financial Institutions

ORDER ADOPTING A REGULATION

By Order entered herein on April 8, 2009, the State Corporation Commission ("Commission") directed that notice be given of proposed amendments to its regulation entitled "Power Delegated to Commissioner of Financial Institutions," 10VAC5-10-10 of the Virginia Administrative Code. Notice of the proposed amendments was published in the Virginia Register of Regulations on May 11, 2009, and the proposed amended regulation was posted on the Commission's website. Interested parties were afforded the opportunity to file written comments in favor of or against the proposal on or before June 15, 2009. No written comments were filed, and the Staff has suggested a modification of the proposal.

THE COMMISSION, having considered the record, the proposed amendments, and the Staff's proposed modification, concludes that the additional delegations effected by the proposed amendments and modification will promote the efficient administration of Title 6.1 of the Code of Virginia and should be adopted.

THEREFORE IT IS ORDERED THAT:

(1) The proposed amended regulation, as modified, entitled "Powers Delegated to Commissioner of Financial Institutions," attached hereto, is adopted effective July 14, 2009.

(2) The Commission's Division of Information Resources shall send a copy of this Order, including a copy of the attached regulation, to the Virginia Registrar of Regulations for publication in the Virginia Register of Regulations.

(3) This case is dismissed from the Commission's docket of active cases.

AN ATTESTED COPY hereof shall be delivered by the Clerk of the Commission to the Commissioner of Financial Institutions.

10VAC5-10-10. Powers delegated to Commissioner of Financial Institutions.

A. The State Corporation Commission has delegated to the Commissioner of Financial Institutions the authority to exercise its powers and to act for it in the following matters:

1. To grant or deny petitions relating to service by an individual as a director of more than one financial institution. (§ 6.1-2.7 of the Code of Virginia.)

2. To grant a certificate of authority to a bank formed for the purpose of its being acquired under the provisions of Chapter 14 (§ 6.1-390 et seq.) of Title 6.1 of the Code of Virginia, or for the purpose of facilitating the consolidation of banks or the acquisition by merger of a bank pursuant to any provision of Title 6.1 of the Code of Virginia. (§§ 6.1-13 and 6.1-43 of the Code of Virginia.)

3. To grant or deny authority to a bank, or to a trust subsidiary, to engage in the trust business or exercise trust powers. (§§ 6.1-16 and 6.1-32.5 of the Code of Virginia.)

4. To approve an office of a trust subsidiary; to authorize a trust company to establish an additional office; to authorize a state bank or trust company to establish or acquire a trust office in another state; and to deny an application by a state bank to establish a branch or relocate an authorized office in Virginia. (§§ 6.1-32.6, 6.1-32.21, 6.1-32.33 and 6.1-39.3 of the Code of ~~Virginia)~~ Virginia.) To approve the establishment, acquisition, maintenance, and operation of branches of state banks in states other than Virginia. (§§ 6.1-44.3 and 6.1-44.17 of the Code of Virginia.)

5. To permit a state bank to operate or advertise a branch office under a name that is not identical to the bank's own name. (§ 6.1-41 of the Code of Virginia.)

6. To object to an application or notice by an out-of-state trust institution or an out-of-state bank to establish or acquire a trust office or branch in Virginia, upon finding that the filing requirements and the conditions for approval prescribed by law are not fulfilled. (§§ 6.1-32.38 and 6.1-32.39; 6.1-44.6 and 6.1-44.7; 6.1-44.19 and 6.1-44.20 of the Code of Virginia.)

7. To grant approval for directors' meetings of a bank or trust company to be held less frequently than monthly. (§ 6.1-52 of the Code of Virginia; 10VAC5-22-20.)

8. To grant approval for the investing of more than 50% of the aggregate amount of a bank's capital stock, surplus, and undivided profits in its bank building and premises; and to permit the payment of dividends while such investment exceeds 50% of capital, surplus, and undivided profits. (§ 6.1-57 of the Code of Virginia.)

9. To consent to a bank's investment in more than one service corporation. (§ 6.1-58 of the Code of Virginia.)

10. To give permission for the aggregate investment of more than 50% of a bank's capital stock and permanent surplus in the stock, securities, or obligations of controlled-subsidiary and bank service corporations. (§ 6.1-58.1 of the Code of Virginia.)

11. To give written consent and approval for a bank to hold the possession of certain real estate for a longer period than 10 years. (Subdivision 4 of § 6.1-59 of the Code of Virginia.)

12. To approve the issuance by a bank of capital notes and debentures, so that such notes and debentures may qualify as surplus for the purpose of calculating the legal lending limit of a bank. (§ 6.1-61 of the Code of Virginia.)

13. To give written approval in advance for a bank or trust company to pledge its assets as security for certain temporary purposes. (§ 6.1-80 of the Code of Virginia.)

14. To require any bank to prepare and submit such reports and material as he may deem necessary to protect and promote the public interest. (§ 6.1-93 of the Code of Virginia.)

15. To approve the issuance of stock in a savings institution in exchange for property or services valued at an amount not less than the aggregate value of the shares issued. (§§ 6.1-194.11 and 6.1-194.113 of the Code of Virginia.)

16. To reduce temporarily the reserve requirements for a savings institution upon a finding that such reduction is in the best interest of the institution and its members. (§ 6.1-194.23 of the Code of Virginia.)

17. To grant a certificate of authority to a savings institution formed solely for the purpose of facilitating the merger or acquisition of savings institutions pursuant to any provision of Title 6.1 of the Code of Virginia.

18. To grant or deny authority to a state association, a state savings bank or a foreign savings institution to establish a branch office, or other office or facility where deposits are accepted (§§ 6.1-194.26 and 6.1-194.119 of the Code of Virginia), or to change the location of a main or branch office. (§§ 6.1-194.28 and 6.1-194.121 of the Code of Virginia.)

19. To cause a special examination of a savings institution to be made. (§ 6.1-194.84:1 of the Code of Virginia.)

20. To grant or deny authority to a savings institution to exercise fiduciary powers. (§§ 6.1-195.77 et seq. and 6.1-194.138 of the Code of Virginia.)

21. To grant or deny approval to a credit union to maintain a service facility or office (other than a main office). (§ 6.1-225.20 of the Code of Virginia.)

22. To make such findings as are required by §§ 6.1-225.23 and 6.1-225.23:1 of the Code of Virginia relating to fields of membership of credit unions and the expansion of such fields of membership.

23. To approve the investment of credit union funds in certain stock, securities and other obligations. (Subdivision 8 of § ~~6.1-25.57~~ 6.1-225.57 of the Code of Virginia.)

24. To grant or deny authority to an industrial loan association to relocate its office. (§ 6.1-233 of the Code of Virginia.)

25. To grant or deny licenses pursuant to Chapter 6 (§ 6.1-244 et seq.) of Title 6.1 of the Code of Virginia. (§ 6.1-256.1 of the Code of Virginia.)

26. To grant or deny licenses to engage in the business of selling money orders or the business of money transmission, or both, and approve or disapprove acquisitions of ownership interests in licensees. (§§ 6.1-371 and 6.1-378.2 of the Code of Virginia.)

27. To grant or deny licenses to operate ~~non-profit debt~~ credit counseling agencies. ~~(§ 6.1-363.1~~ (§ 6.1-363.7 of the Code of Virginia.)

28. [To grant or deny permission to a credit counseling agency licensee to relocate an office or open an additional office and approve or disapprove acquisitions of ownership interests in licensees. (§§ 6.1-363.8 and 6.1-363.9 of the Code of Virginia.)

29.] To grant or deny licenses to engage in business as a mortgage lender and/or mortgage broker, and prescribe conditions under which exclusive agents of licensees may act as mortgage brokers without a license and approve or disapprove individuals as qualified exclusive agents of licensees. (§§ 6.1-410 and 6.1-415 of the Code of Virginia.)

[~~29.~~ 30.] To grant or deny permission to a mortgage lender or mortgage broker licensee to relocate an office or open an additional office and approve or disapprove acquisitions of ownership interests in licensees. (§§ 6.1-416 and 6.1-416.1 of the Code of Virginia.)

[~~30.~~ 31.] To grant or deny licenses to engage in business as a mortgage loan originator, and set the amount of surety bond required for such licensure. (§§ 6.1-431.4 and 6.1-431.7 of the Code of Virginia.)

[~~31.~~ 32.] To enter into cooperative agreements with appropriate regulatory authorities for the examination of out-of-state bank holding companies and their subsidiaries and out-of-state savings institution holding companies and their subsidiaries and for the accomplishment of other duties imposed on the commission by Article 11 (§ 6.1-194.96 et seq.) of Chapter 3.01 and by Chapter 15 (§ 6.1-398 et seq.) of Title 6.1 of the Code of Virginia.

[~~31.~~ ~~32.~~ 33.] To prescribe the form and content of all applications, documents, undertakings, papers, and information required to be submitted to the commission under Title 6.1 of the Code of Virginia.

[~~32.~~ ~~33.~~ 34.] To make all investigations and examinations, give all notices, and shorten, waive, or extend any time period within which any action of the commission must or may be taken or performed under Title 6.1 of the Code of Virginia.

B. In the performance of the duties hereby delegated to him, the commissioner shall have the power and authority to make all findings and determinations permitted or required by law.

C. The foregoing delegations of authority shall be effective until revoked by order of the commission. All actions taken by the Commissioner of Financial Institutions pursuant to the authority granted here are subject to review by the commission in accordance with the Rules of Practice and Procedure of the State Corporation Commission. Each delegation set forth in a numbered subdivision of subsection A of this section shall be severable from all others.

VA.R. Doc. No. R09-1875; Filed July 13, 2009, 4:53 p.m.

TITLE 18. PROFESSIONAL AND OCCUPATIONAL LICENSING

AUCTIONEERS BOARD

Fast-Track Regulation

Title of Regulation: **18VAC25-21. Regulations of the Virginia Auctioneers Board (amending 18VAC25-21-150).**

Statutory Authority: § 54.1-602 of the Code of Virginia.

Public Hearing Information: No public hearings are scheduled.

Public Comments: Public comments may be submitted until 5 p.m. on September 2, 2009.

Effective Date: October 1, 2009.

Agency Contact: Marian H. Brooks, Regulatory Board Administrator, Auctioneers Board, 9960 Mayland Drive, Suite 400, Richmond, VA 23233, telephone (804) 367-8514, FAX (804) 527-4294, or email auctioneers@dpor.virginia.gov.

Basis: Section 54.1-602 of the Code of Virginia authorizes the board to promulgate regulations for a regulatory system. While the board is mandated to establish regulations, the content of the regulations is up to the discretion of the board.

Purpose: The purpose of the regulation is to allow the necessary time for the transfer of credit card funds to avoid

possible violation of the regulations. The amendment would clarify the acceptance of payment by credit cards.

Rationale for Using Fast-Track Process: There will be no adverse impact on the public and no opposition is anticipated. In addition, the amended regulation negates a possible violation to the board's current requirements.

Substance: The amendment to 18VAC25-21-150 allows the necessary time for the transfer of funds and to avoid possible violation to the regulations. The amendment clarifies the acceptance of payment by credit cards.

Issues: The public and the Commonwealth are better served with the anticipated amendment to the regulations. There are no anticipated disadvantages to the public or the Commonwealth.

The Department of Planning and Budget's Economic Impact Analysis:

Summary of the Proposed Amendments to Regulation. The Auctioneers Board (Board) proposes to amend its regulations so that auctioneers are able to accept credit (debit) card payments.

Result of Analysis. The benefits likely exceed the costs for this proposed change.

Estimated Economic Impact. Current regulations require that the proceeds of all personal property auctions, not immediately dispersed to the owner of that personal property, be put into an auction escrow account not later than the next business day after the action. This requirement is, however, problematic for winning bids that would be paid with a credit card. Credit card payments typically take several days to process so the proceeds from these payments would likely not be available to deposit into an escrow account the next business day after they are made.

The board proposes to amend these regulations so that credit card payments may be deposited in the required escrow account as soon as the credit card issuer releases these funds. This proposed change will benefit auctioneers who will no longer have to either refuse credit card payments or be in violation of the law. Buyers at auctions will also benefit from the greater flexibility to pay for their purchases with credit cards. Because this amendment will facilitate credit card payments, but will not require that auctioneers accept these payments, no affected entities are likely to incur costs on account of these proposed regulations.

Businesses and Entities Affected. These proposed regulations will affect any auctioneers who would like to legally accept credit card payments. The Department of Professional and Occupational Regulation (DPOR) reports that the Board currently oversees 1,425 auctioneers and 223 auction houses.

Localities Particularly Affected. No locality will be particularly affected by this proposed regulatory action.

Projected Impact on Employment. This regulatory action will likely have no impact on employment in the Commonwealth.

Effects on the Use and Value of Private Property. This regulatory action will likely have no effect on the use or value of private property in the Commonwealth.

Small Businesses: Costs and Other Effects. Small businesses in the Commonwealth are unlikely to incur any costs on account of this regulatory action.

Small Businesses: Alternative Method that Minimizes Adverse Impact. Small businesses in the Commonwealth are unlikely to incur any costs on account of this regulatory action.

Real Estate Development Costs. This regulatory action will likely have no effect on real estate development costs in the Commonwealth.

Legal Mandate. The Department of Planning and Budget (DPB) has analyzed the economic impact of this proposed regulation in accordance with § 2.2-4007.04 of the Administrative Process Act and Executive Order Number 36 (06). Section 2.2-4007.04 requires that such economic impact analyses include, but need not be limited to, the projected number of businesses or other entities to whom the regulation would apply, the identity of any localities and types of businesses or other entities particularly affected, the projected number of persons and employment positions to be affected, the projected costs to affected businesses or entities to implement or comply with the regulation, and the impact on the use and value of private property. Further, if the proposed regulation has adverse effect on small businesses, § 2.2-4007.04 requires that such economic impact analyses include (i) an identification and estimate of the number of small businesses subject to the regulation; (ii) the projected reporting, recordkeeping, and other administrative costs required for small businesses to comply with the regulation, including the type of professional skills necessary for preparing required reports and other documents; (iii) a statement of the probable effect of the regulation on affected small businesses; and (iv) a description of any less intrusive or less costly alternative methods of achieving the purpose of the regulation. The analysis presented above represents DPB's best estimate of these economic impacts.

Agency's Response to the Department of Planning and Budget's Economic Impact Analysis: Concur with the approval.

Summary:

The existing regulations require proceeds of a personal property auction not disbursed to the owner on auction day to be deposited the next business day, which is unattainable if paying by credit card, therefore, causing possible violations for regulants. The amendment clarifies the existing regulation by providing that proceeds that are

paid via credit cards shall be deposited into an auction escrow account upon receipt from the credit card issuer.

18VAC25-21-150. Escrow funds.

A. Proceeds of a personal property auction not disbursed to the owner on auction day shall be deposited in an auction escrow account by the auctioneer/auction firm no later than the next banking day following the date of auction or sale of the goods, whichever occurs first.

B. Notwithstanding the provisions of subsection A of this section, for proceeds that are paid via credit card, the payment of such proceeds from the credit card issuer shall be deposited into an auction escrow account upon receipt from the credit card issuer.

~~B.~~ C. Auctioneers/auction firms shall use federally insured depositories in the Commonwealth of Virginia.

~~C.~~ D. Proceeds due from the sale of goods other than real property shall be disbursed to the owner no later than 30 days after the date of each auction.

~~D.~~ E. Funds from a real estate auction shall be held in escrow until settlement in accordance with the agreement of sale.

~~E.~~ F. If the owners' goods are not sold in a single auction, proceeds due shall be disbursed to the owner within 30 days after each auction for goods other than real property, or in accordance with the agreement of sale for the sale of real property. Notice must be given to the owner of tentative date of auction, or date of return to the owner, of the remaining goods.

~~F.~~ G. The auction escrow account shall be used solely for the preservation and guarantee of auction proceeds until disbursed at settlement. Funds for any other purpose shall not be commingled with the auction escrow account. Contingency accounts established to guarantee checks accepted on the owner's behalf shall not be considered commingling of funds. Moneys due to the licensee shall not be withdrawn from the auction escrow account until final settlement is made with the owner.

~~G.~~ H. The balance in the escrow accounts shall be sufficient at all times to account for all funds that are designated to be held by the licensee. A licensee shall not disburse or cause to be disbursed moneys from an escrow account unless sufficient money is on deposit in that account to the credit of the individual client or property involved.

~~H.~~ I. Funds to be deposited in the escrow account may include moneys that shall ultimately belong to the licensee for incidental expenses per the terms of the contract. Such moneys shall be separately identified in the escrow account records and shall be paid to the licensee by a check drawn on the escrow account when the funds become due to the licensee. The fact that an escrow account contains money that may ultimately belong to the licensee does not constitute "commingling of funds" provided that there are periodic withdrawals of said funds at intervals of not more than six months, and that the licensee can at all times accurately identify the total funds in that account that belong to the licensee.

~~I.~~ J. On funds placed in an account bearing interest, written disclosure in the contract of sale or lease at the time of contract or lease writing shall be made to the principals to the transaction regarding the disbursement of interest.

VA.R. Doc. No. R09-1762; Filed July 9, 2009, 3:10 p.m.

BOARD OF PHARMACY

Final Regulation

Title of Regulation: **18VAC110-20. Regulations Governing the Practice of Pharmacy (amending 18VAC110-20-10 through 18VAC110-20-70, 18VAC110-20-80 through 18VAC110-20-104, 18VAC110-20-106 through 18VAC110-20-120, 18VAC110-20-130, 18VAC110-20-140, 18VAC110-20-180 through 18VAC110-20-210, 18VAC110-20-240, 18VAC110-20-270, 18VAC110-20-275, 18VAC110-20-280, 18VAC110-20-320, 18VAC110-20-340, 18VAC110-20-350, 18VAC110-20-355, 18VAC110-20-395, 18VAC110-20-410, 18VAC110-20-425, 18VAC110-20-440, 18VAC110-20-450, 18VAC110-20-460, 18VAC110-20-490, 18VAC110-20-500, 18VAC110-20-520 through 18VAC110-20-555, 18VAC110-20-570, 18VAC110-20-580, 18VAC110-20-590, 18VAC110-20-610, 18VAC110-20-620, 18VAC110-20-621, 18VAC110-20-622, 18VAC110-20-680 through 18VAC110-20-710; adding 18VAC110-20-286, 18VAC110-20-391, 18VAC110-20-535, 18VAC110-20-536).**

Statutory Authority: § 54.1-2400 and Chapters 33 (§ 54.1-3300 et seq.) and 34 (§ 54.1-3400 et seq.) of Title 54.1 of the Code of Virginia.

Effective Date: September 2, 2009.

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

Summary:

The agency is amending regulations to address the numerous questions and recommendations that arose from the periodic review conducted by board members and advisors from all aspects of pharmacy practice. In some cases, there is a need for clarification of a rule; in others there is a need to amend the regulation to allow the practice of pharmacy to be more responsive to patient needs and changing times.

Some of the issues addressed include: (i) practical experience leading up to licensure by allowing interns to count hours within the school curriculum and by clearly delineating expiration dates for internships; (ii) oversight of continuing education approval by setting expiration dates for courses; (iii) guidance for free clinics to allow greater access to areas where drugs are kept; (iv) oversight of pharmacy technician training by setting a time limit on work by a person engaged in a program and an expiration for programs approved by the board; and (v) elimination of board approval of robotic systems by incorporating criteria for such systems in regulation.

In the adoption of final regulations, the board made the following changes to the proposed language: (i) removed the phrase "and drugs on hand" in the definition of "perpetual inventory" to clarify that pharmacies only have to record receipt and distribution of Schedule II drugs on an ongoing basis, with the physical count and reconciliation required at least monthly; (ii) eliminated the conflict in subsections D and E of 18VAC110-20-110 to clarify that the final inventory by a PIC who is leaving is optional; (iii) changed "immediately" to "within 14 days" in the requirement for upgrading the alarm system if there is a breaking; (iv) amended 18VAC110-20-240 A to require a perpetual inventory to be reconciled "monthly" rather than every 30 days; (v) added a descriptor after "by other means" to include "professional judgment" to clarify that the determination that a prescription is a forgery may include the judgment of the pharmacist; and (vi) specified that humane societies and shelters could maintain drugs consistent with § 54.1-3423 of the Code of Virginia, which was newly enacted in 2009.

Summary of Public Comments and Agency's Response: A summary of comments made by the public and the agency's response may be obtained from the promulgating agency or viewed at the office of the Registrar of Regulations.

Part I
General Provisions

18VAC110-20-10. Definitions.

In addition to words and terms defined in §§ 54.1-3300 and 54.1-3401 of the Code of Virginia, the following words and terms when used in this chapter shall have the following meanings, unless the context clearly indicates otherwise:

"ACPE" means the Accreditation Council for Pharmacy Education.

"Acquisition" of an existing entity permitted, registered or licensed by the board means (i) the purchase or transfer of all or substantially all of the assets of the entity or of any corporation that owns or controls the entity; (ii) the creation of a partnership by a sole proprietor or change in partnership composition; (iii) the acquiring of 50% or more of the outstanding shares of voting stock of a corporation owning the entity or of the parent corporation of a wholly owned subsidiary owning the entity, except that this shall not apply to any corporation the voting stock of which is actively traded on any securities exchange or in any over-the-counter market; or (iv) the merger of a corporation owning the entity, or of the parent corporation of a wholly owned subsidiary owning the entity, with another business or corporation.

"Alternate delivery site" means a location authorized in 18VAC110-20-275 to receive dispensed prescriptions on behalf of and for further delivery or administration to a patient.

"Beyond-use date" means the date beyond which the integrity of a compounded, repackaged, or dispensed drug can no longer be assured and as such is deemed to be adulterated or misbranded as defined in §§ 54.1-3461 and 54.1-3462 of the Code of Virginia.

"Board" means the Virginia Board of Pharmacy.

"CE" means continuing education as required for renewal of licensure by the Board of Pharmacy.

"CEU" means a continuing education unit awarded for credit as the equivalent of 10 contact hours.

"Chart order" means a lawful order for a drug or device entered on the chart or in a medical record of a patient by a prescriber or his designated agent.

"Compliance packaging" means packaging for dispensed drugs which is comprised of a series of containers for solid oral dosage forms and which is designed to assist the user in administering or self-administering the drugs in accordance with directions for use.

"Contact hour" means the amount of credit awarded for 60 minutes of participation in and successful completion of a continuing education program.

"Correctional facility" means any prison, penitentiary, penal facility, jail, detention unit, or other facility in which persons are incarcerated by government officials.

"DEA" means the United States Drug Enforcement Administration.

"Electronic transmission prescription" means any prescription, other than an oral or written prescription or a prescription transmitted by facsimile machine, that is electronically transmitted from a practitioner authorized to prescribe directly to a pharmacy without interception or intervention from a third party, or from one pharmacy to another pharmacy.

"Expiration date" means that date placed on a drug package by the manufacturer or repacker beyond which the product may not be dispensed or used.

"Facsimile (FAX) prescription" means a written prescription or order which is transmitted by an electronic device over

telephone lines which sends the exact image to the receiver (pharmacy) in a hard copy form.

"FDA" means the United States Food and Drug Administration.

"Floor stock" means a supply of drugs that have been distributed for the purpose of general administration by a prescriber or other authorized person pursuant to a valid order of a prescriber.

"Foreign school of pharmacy" means a school outside the United States and its territories offering a course of study in basic sciences, pharmacology, and pharmacy of at least four years in duration resulting in a degree that qualifies a person to practice pharmacy in that country.

"Forgery" means a prescription that was falsely created, falsely signed, or altered.

"FPGEC certificate" means the certificate given by the Foreign Pharmacy Equivalency Committee of NABP that certifies that the holder of such certificate has passed the Foreign Pharmacy Equivalency Examination and a credential review of foreign training to establish educational equivalency to board approved schools of pharmacy, and has passed approved examinations establishing proficiency in English.

"Generic drug name" means the nonproprietary name listed in the United States Pharmacopeia-National Formulary (USP-NF) or in the USAN and the USP Dictionary of Drug Names.

"Hospital" or "nursing home" means those facilities as defined in Title 32.1 of the Code of Virginia or as defined in regulations by the Virginia Department of Health.

"Inactive license" means a license which is registered with the Commonwealth but does not entitle the licensee to practice, the holder of which is not required to submit documentation of CE necessary to hold an active license.

"Long-term care facility" means a nursing home, retirement care, mental care or other facility or institution which provides extended health care to resident patients.

"NABP" means the National Association of Boards of Pharmacy.

"Nuclear pharmacy" means a pharmacy providing radiopharmaceutical services.

"On duty" means that a pharmacist is on the premises at the address of the permitted pharmacy and is available as needed.

"Permitted physician" means a physician who is licensed pursuant to § 54.1-3304 of the Code of Virginia to dispense drugs to persons to whom or for whom pharmacy services are not reasonably available.

"Perpetual inventory" means an ongoing system for recording quantities of drugs received, dispensed or otherwise distributed [~~, and drugs on hand~~] by a pharmacy.

"Personal supervision" means the pharmacist must be physically present and render direct, personal control over the entire service being rendered or act being performed. Neither prior nor future instructions shall be sufficient nor, shall supervision rendered by telephone, written instructions, or by any mechanical or electronic methods be sufficient.

"Pharmacy closing" means that the permitted pharmacy ceases pharmacy services or fails to provide for continuity of pharmacy services or lawful access to patient prescription records or other required patient records for the purpose of continued pharmacy services to patients.

"Pharmacy technician trainee" means a person who is currently enrolled in an approved pharmacy technician training program and is performing duties restricted to pharmacy technicians for the purpose of obtaining practical experience in accordance with § 54.1-3321 D of the Code of Virginia.

"PIC" means the pharmacist-in-charge of a permitted pharmacy.

"Practice location" means any location in which a prescriber evaluates or treats a patient.

"Prescription department" means any contiguous or noncontiguous areas used for the compounding, dispensing and storage of all Schedule II through VI drugs and devices and any Schedule I investigational drugs.

"PTCB" means the Pharmacy Technician Certification Board, co-founded by the American Pharmaceutical Association and the American Society of Health System Pharmacists, as the national organization for voluntary examination and certification of pharmacy technicians.

"Quality assurance plan" means a plan approved by the board for ~~continuous~~ ongoing monitoring, measuring, evaluating, and, if necessary, improving the performance of a pharmacy function or system.

"Radiopharmaceutical" means any drug that exhibits spontaneous disintegration of unstable nuclei with the emission of nuclear particles or photons and includes any nonradioactive reagent kit or radionuclide generator that is intended to be used in the preparation of any such substance, but does not include drugs such as carbon-containing compounds or potassium-containing salts that include trace quantities of naturally occurring radionuclides. The term also includes any biological product that is labeled with a radionuclide or intended solely to be labeled with a radionuclide.

"Repackaged drug" means any drug removed from the manufacturer's original package and placed in different packaging.

"Robotic pharmacy system" means a mechanical system controlled by a computer that performs operations or activities relative to the storage, packaging, labeling, dispensing, or distribution of medications, and collects, controls, and maintains all transaction information.

"Safety closure container" means a container which meets the requirements of the federal Poison Prevention Packaging Act of 1970 (15 USC §§ 1471-1476), i.e., in testing such containers, that 85% of a test group of 200 children of ages 41-52 months are unable to open the container in a five-minute period and that 80% fail in another five minutes after a demonstration of how to open it and that 90% of a test group of 100 adults must be able to open and close the container.

"Satellite pharmacy" means a pharmacy which is noncontiguous to the centrally permitted pharmacy of a hospital but at the location designated on the pharmacy permit.

"Special packaging" means packaging that is designed or constructed to be significantly difficult for children under five years of age to open to obtain a toxic or harmful amount of the drug contained therein within a reasonable time and not difficult for normal adults to use properly, but does not mean packaging which all such children cannot open or obtain a toxic or harmful amount within a reasonable time.

"Special use permit" means a permit issued to conduct a pharmacy of a special scope of service that varies in any way from the provisions of any board regulation.

"Storage temperature" means those specific directions stated in some monographs with respect to the temperatures at which pharmaceutical articles shall be stored, where it is considered that storage at a lower or higher temperature may produce undesirable results. The conditions are defined by the following terms:

1. "Cold" means any temperature not exceeding 8°C (46°F). A refrigerator is a cold place in which temperature is maintained thermostatically between 2° and 8°C (36° and 46°F). A freezer is a cold place in which the temperature is maintained thermostatically between -20° and -10°C (-4° and 14°F).

2. "Room temperature" means the temperature prevailing in a working area.

3. "Controlled room temperature" means a temperature maintained thermostatically that encompasses the usual and customary working environment of 20° to 25°C (68° to 77°F); that results in a mean kinetic temperature calculated to be not more than 25°C; and that allows for excursions between 15° and 30°C (59° and 86°F) that are experienced in pharmacies, hospitals, and warehouses.

4. "Warm" means any temperature between 30° and 40°C (86° and 104°F).

5. "Excessive heat" means any temperature above 40°C (104°F).

6. "Protection from freezing" means where, in addition to the risk of breakage of the container, freezing subjects a product to loss of strength or potency, or to the destructive alteration of its characteristics, the container label bears an appropriate instruction to protect the product from freezing.

7. "Cool" means any temperature between 8° and 15°C (46° and 59°F).

"Terminally ill" means a patient with a terminal condition as defined in § 54.1-2982 of the Code of Virginia.

"Unit dose container" means a container that is a single-unit container, as defined in United States Pharmacopeia-National Formulary, for articles intended for administration by other than the parenteral route as a single dose, direct from the container.

"Unit dose package" means a container that contains a particular dose ordered for a patient.

"Unit dose system" means a system in which multiple drugs in unit dose packaging are dispensed in a single container, such as a medication drawer or bin, labeled only with patient name and location. Directions for administration are not provided by the pharmacy on the drug packaging or container but are obtained by the person administering directly from a prescriber's order or medication administration record.

"USP-NF" means the United States Pharmacopeia-National Formulary.

"Well-closed container" means a container that protects the contents from extraneous solids and from loss of the drug under the ordinary or customary conditions of handling, shipment, storage, and distribution.

18VAC110-20-20. Fees.

A. Unless otherwise provided, fees listed in this section shall not be refundable.

B. Unless otherwise provided, any fees for taking required examinations shall be paid directly to the examination service as specified by the board.

C. Initial application fees.

1. Pharmacist license	$180
2. Pharmacy intern registration	$15
3. Pharmacy technician registration	$25
4. Pharmacy permit	$270
5. Permitted physician licensed to dispense drugs	$270
6. Medical equipment supplier permit	$180
7. Humane society permit	$20
8. Nonresident pharmacy	$270
9. Controlled substances registrations ~~(Between November 2, 2005, and December 31, 2006, the application fee for a controlled substance registration shall be $50)~~	$90
~~10. Robotic pharmacy system approval~~	~~$150~~
~~11.~~ 10. Innovative program approval. If the board determines that a technical consultant is required in order to make a decision on approval, any consultant fee, not to exceed the actual cost, shall also be paid by the applicant in addition to the application fee.	$250
~~12.~~ 11. Approval of a pharmacy technician training program	$150
~~13.~~ 12. Approval of a continuing education program	$100

D. Annual renewal fees.

1. Pharmacist active license	$90
2. Pharmacist inactive license	$45
3. Pharmacy technician registration	$25
4. Pharmacy permit	$270
5. Physician permit to practice pharmacy	$270
6. Medical equipment supplier permit	$180
7. Humane society permit	$20
8. Nonresident pharmacy	$270
9. Controlled substances registrations	$90
10. Innovative program continued approval based on board order not to exceed $200 per approval period.	
11. Approval of a pharmacy technician training program	$75 every two years

E. Late fees. The following late fees shall be paid in addition to the current renewal fee to renew an expired license within one year of the expiration date or within two years in the case of a pharmacy technician training program. In addition, engaging in activities requiring a license, permit, or registration after the expiration date of such license, permit, or registration shall be grounds for disciplinary action by the board.

1. Pharmacist license	$30
2. Pharmacist inactive license	$15
3. Pharmacy technician registration	$10
4. Pharmacy permit	$90
5. Physician permit to practice pharmacy	$90
6. Medical equipment supplier permit	$60
7. Humane society permit	$5
8. Nonresident pharmacy	$90
9. Controlled substances registrations	$30
10. Approval of a pharmacy technician training program	$15

F. Reinstatement fees. Any person or entity attempting to renew a license, permit, or registration more than one year after the expiration date, or more than two years after the expiration date in the case of a pharmacy technician training program, shall submit an application for reinstatement with any required fees. Reinstatement is at the discretion of the board and, except for reinstatement following license revocation or suspension, may be granted by the executive director of the board upon completion of an application and payment of any required fees.

1. Pharmacist license	$210
2. Pharmacist license after revocation or suspension	$500
3. Pharmacy technician registration	$35
4. Pharmacy technician registration after revocation or suspension	$125
5. Facilities or entities that cease operation and wish to resume shall not be eligible for reinstatement but shall apply for a new permit or registration. Facilities or entities that failed to renew and continued to operate for more than one renewal cycle shall pay the current and all back renewal fees for the years in which they were operating plus the following reinstatement fees:	

a. Pharmacy permit	$240
b. Physician permit to practice pharmacy	$240
c. Medical equipment supplier permit	$210
d. Humane society permit	$30
e. Nonresident pharmacy	$115
f. Controlled substances registration	$180
g. Approval of a pharmacy technician training program	$75

G. Application for change or inspection fees for facilities or other entities.

1. Change of pharmacist-in-charge	$50
2. Change of ownership for any facility	$50
3. Inspection for remodeling or change of location for any facility	150
4. Reinspection of any facility	$150
5. Board-required inspection for a robotic pharmacy system	$150
6. Board-required inspection of an innovative program location	$150
7. Change of pharmacist responsible for an approved innovative program	$25

H. Miscellaneous fees.

1. Duplicate wall certificate	$25
2. Returned check	$35

~~I. For the annual renewal due on or before December 31, 2006, the following fees shall be imposed for a license, permit or registration:~~

~~1. Pharmacist active license~~	~~$50~~
~~2. Pharmacist inactive license~~	~~$25~~
~~3. Pharmacy technician registration~~	~~$15~~
~~4. Pharmacy permit~~	~~$210~~
~~5. Physician permit to practice pharmacy~~	~~$210~~
~~6. Medical equipment supplier permit~~	~~$140~~
~~7. Humane society permit~~	~~$20~~
~~8. Nonresident pharmacy~~	~~$210~~
~~9. Controlled substances registrations~~	~~$50~~

Part II
Licensure Requirements for Pharmacists

18VAC110-20-30. Requirements for pharmacy practical experience.

A. Each applicant for licensure ~~by examination~~ as a pharmacist shall have gained practical experience in the practice of pharmacy~~, to include no less than 300 hours in the area of prescription compounding and dispensing within a pharmacy~~ as set forth in this section and 18VAC110-20-40.

B. An applicant ~~who graduated from an approved school of pharmacy after January 1, 2003 shall accumulate~~ for licensure as a pharmacist shall attain a minimum of 1,500 hours of practical experience~~, of which at least 300 hours shall be gained outside of a school of pharmacy practical experience program. For purposes of this chapter, credit will not be given for more than 50 hours in any one week. Applicants who graduated from an approved school of pharmacy prior to January 1, 2003 shall have gained at least 1,000 hours of practical experience~~.

C. Practical experience that is gained within an ACPE-accredited school of pharmacy, that conforms to the current ACPE standards, and that allows the student to gain at least 1,500 hours of practical experience, shall meet the board's practical experience requirements for licensure as a pharmacist.

~~C.~~ D. All practical experience credit ~~required~~ gained outside of an ACPE-accredited school of pharmacy program shall only be gained after successful completion of the ~~first professional year in an approved school of pharmacy~~ equivalent of at least two semesters in an ACPE-accredited school of pharmacy. Credit shall not be given for more than 50 hours in one week and not less than an average of 20 hours per week averaged over a month. The board may grant an exception to the minimum number of hours for good cause shown.

~~D. Practical experience gained in a school of pharmacy which has a program designed to provide the applicant with practical experience in all phases of pharmacy practice and which program is approved by the American Council on Pharmaceutical Education will be accepted by the board for the time period during which the student is actually enrolled. The applicant will be required to gain any additional experience outside the school program as needed to meet the requirements of subsections A and B of this section.~~

E. In accordance with § 54.1-3312 of the Code of Virginia, all practical experience required by this section shall be gained within the United States.

18VAC110-20-40. Procedure for gaining practical experience.

A. Each ~~pharmacy student or graduate of an approved school of pharmacy who desires to gain practical experience~~

~~in a pharmacy within the Commonwealth shall~~ person desiring to gain practical pharmacy experience in Virginia shall first register with the board as a pharmacy intern on a form provided by the board prior to becoming so engaged as a pharmacy intern. This requirement shall ~~also~~ apply to ~~students~~ any person gaining practical experience within the Commonwealth whether for licensure in Virginia or in another state.

B. In order to be eligible to register as a pharmacy intern, an applicant shall meet at least one of the following criteria:

1. The applicant shall be enrolled in and have started course work in a professional degree program of a board-approved school of pharmacy. Such registration is only valid while the student is enrolled in the school of pharmacy and is satisfactorily progressing toward meeting the requirements for licensure as a pharmacist. An expiration date shall be assigned to the registration to cover the estimated time period for the student to complete the school program and pass the required examinations. If the student is no longer enrolled in the school program, takes a voluntary break from the program, or is otherwise not actively participating in the school program, except for regularly scheduled school breaks, the registration is no longer valid and shall be returned to the board immediately;

2. The applicant is a graduate of a board-approved school of pharmacy or a graduate of a foreign school of pharmacy, has established educational equivalency and proficiency in English by obtaining the FPGEC certificate, and desires to gain required practical experience required for licensure as a pharmacist. Such applicant shall provide documentation on a board-approved form of current employment or an employment start date within 90 days in a pharmacy in Virginia with approval by the supervising pharmacist. An expiration date shall be assigned to cover the estimated time period needed to obtain the required practical experience hours and take the required examinations to become licensed as a pharmacist;

3. The applicant has already gained the required practical experience, but is an otherwise qualified applicant awaiting examination for licensure. A three-month expiration date shall be assigned to allow the applicant time to take required examinations; or

4. The applicant is an applicant for reactivation or reinstatement of a previously issued pharmacist license and is meeting board requirements for relicensure. An expiration date shall be assigned to reasonably cover the period of time necessary to meet the board requirements.

C. For documented, good cause shown, the executive director of the board may extend the expiration date of the intern registration upon submission of an application form approved by the board and payment of the initial application fee.

~~B. The applicant~~ D. A pharmacy intern shall be supervised by a pharmacist who holds ~~an~~ a current, unrestricted license and assumes full responsibility for the training, supervision and conduct of the intern. ~~The supervising pharmacist shall not supervise more than one pharmacy intern during the same time period.~~

~~C.~~ E. The intern registration of a pharmacy student shall be valid only while the student is enrolled in a school of pharmacy. The registration card issued by the board shall be returned to the board upon failure to be enrolled.

~~D.~~ F. Practical experience gained within any other state must be registered with and certified by the board of that state in order to be accepted or certified by this board. In the event that a state does not use internships to gain practical experience in pharmacy but relies on the pharmacy school to certify the hours of experience, an affidavit from the pharmacy school certifying the hours of experience gained in the United States may be accepted in lieu of board certification.

~~E.~~ G. All practical experience of the pharmacy intern shall be evidenced by an affidavit approved by the board, which shall be filed prior to or with the application for examination for licensure.

~~F.~~ H. An applicant for licensure by endorsement may provide verification acceptable to the board of practical experience hours worked as a pharmacist in another state within the United States in lieu of prelicensure intern hours in order to meet the practical experience requirement.

I. A pharmacy intern shall notify the board in writing of any change in address of record within 14 days of such change.

18VAC110-20-50. Curriculum and approved schools of pharmacy.

A. The following minimum educational requirements for the specified periods shall be recognized by the board for the purpose of licensure.

~~1. On and after June 1, 1928, but before June 1, 1936, the applicant for licensure shall have been graduated from a three-year course of study with a pharmacy graduate or pharmacy college degree in pharmacy awarded.~~

~~2.~~ 1. On and after June 1, 1936, but before June 1, 1964, the applicant for licensure shall have been graduated from a four-year course of study with a Bachelor of Science degree in pharmacy awarded.

~~3.~~ 2. On and after June 1, 1964, the applicant for licensure shall have been graduated from at least a five-year course of study with a Bachelor of Science degree in pharmacy or a Doctorate of Pharmacy degree awarded.

B. In order to be licensed as a pharmacist within this Commonwealth, the applicant shall have been granted the first professional degree from a program of a school of pharmacy which meets the requirements of § 54.1-3312 of the Code of Virginia.

18VAC110-20-60. Content of the examination and grades required; limitation on admittance to examination.

A. Prior to admission to any examination required for licensure, the applicant shall have met all other requirements to include education and practical experience requirements, but in no case shall the applicant be admitted if grounds exist to deny licensure under § 54.1-3316 of the Code of Virginia.

B. The applicant shall achieve a passing score as determined by the board on the licensure examination which is approved by the board and which shall consist of an integrated examination of pharmacy practice, pharmacology, pharmacy mathematics, and such other subjects as are necessary to assure that the candidate possesses the necessary knowledge and skills to practice pharmacy.

~~C. The applicant shall also achieve a passing score as determined by the board on an examination which tests the candidate's knowledge of federal and state laws related to pharmacy practice.~~

~~D.~~ C. When an applicant for licensure by examination fails to meet the passing requirements of the board-approved integrated pharmacy examination on three occasions, he shall not be readmitted to the examination until he has completed an additional 1,000 hours of practical experience as a pharmacy intern as set forth in 18VAC110-20-40.

D. The applicant shall also achieve a passing score as determined by the board on an examination that tests the candidate's knowledge of federal and state laws related to pharmacy practice.

E. When an applicant fails to pass the law examination, he shall not be allowed to retake it for a period of 30 days.

F. If an applicant requests a testing accommodation for either examination based on a physical or mental impairment that substantially limits one or more major life activities, subject to the Americans with Disabilities Act, the board may approve a reasonable accommodation that does not compromise the security or integrity of the examination.

1. Supporting documentation shall be provided by the applicant to include the following to be considered for review:

a. A letter of request from the candidate that specifies the testing accommodation requested;

b. A written report of an evaluation (educational, psychological, or physical) within the preceding two years from a qualified professional that states a diagnosis of the disability, describes the disability, recommends specific accommodations, and provides justification that the accommodation is appropriate and necessary for the diagnosed disability. If the comprehensive evaluation was done more than two years ago and the condition is one that is not subject to change, the original evaluation report may be submitted along with a current letter from the qualified professional stating that there has been no change in the condition since the time of the evaluation; and

c. A written statement from the appropriate person at the applicant's school of pharmacy that describes any testing accommodations made while the student was enrolled, if applicable.

2. The applicant will be notified in writing of the decision. If the request for accommodation is granted, the approval information will be forwarded to the examination contractor and the form of the accommodation will be coordinated with the contractor.

18VAC110-20-70. Requirements for foreign-trained applicants.

A. Applicants for licensure who were trained in foreign schools of pharmacy shall ~~meet the following additional requirements~~ obtain the FPGEC certificate prior to being allowed to ~~take the examinations required by 18VAC110-20-60:~~ register as a pharmacy intern and gain required practical experience in Virginia.

~~1. Obtain verification from the Foreign Pharmacy Graduate Examination Committee (FPGEC) of the National Association of Boards of Pharmacy (NABP) that the applicant is a graduate of a foreign school of pharmacy.~~

~~2. Complete and receive a score acceptable to the board on the Foreign Pharmacy Graduate Equivalency Examination (FPGEE).~~

~~3. Complete and receive a score acceptable to the board on the Test of English as a Foreign Language (TOEFL) or on the TOEFL iBT, the Internet-based tests of listening, reading, speaking and writing.~~

~~4. Complete the Test of Spoken English (TSE) or the TOEFL iBT as given by the Educational Testing Service with a score acceptable to the board.~~

~~5. Fulfill~~ B. After obtaining the FPGEC certificate, the applicant may apply for a pharmacy intern registration and shall fulfill the requirements for practical experience ~~as prescribed~~ set forth in 18VAC110-20-30 ~~A, B and E~~ and 18VAC110-20-40 ~~A, B, D, E and F~~ before being admitted to examinations required by 18VAC110-20-60.

~~B.~~ C. Applicants for licensure who were trained in foreign schools of pharmacy shall also complete and achieve passing scores on the examinations ~~as prescribed~~ set forth in 18VAC110-20-60 before being licensed as a pharmacist.

18VAC110-20-80. Renewal and reinstatement of license.

A. Pharmacist licenses expire on December 31 and shall be renewed annually prior to that date by the submission of a renewal fee, renewal form, and statement of compliance with continuing education requirements.

B. A pharmacist newly licensed on or after October 1 shall not be required to renew that license until December 31 of the following year.

C. A pharmacist who fails to renew his license by the expiration date may renew his license at any time within one year of its expiration by submission of the renewal fee and late fee, renewal form, and statement of compliance with continuing education requirements.

D. A pharmacist who fails to renew his license for more than one year following expiration and who wishes to reinstate such license shall submit an application for reinstatement, pay the current renewal fee and a reinstatement fee, and submit documentation showing compliance with continuing education requirements. Reinstatement is at the discretion of the board and may be granted by the executive director of the board provided no grounds exist to deny said reinstatement.

E. A pharmacist who has been registered as inactive for more than one year must apply for reinstatement, submit documentation showing compliance with continuing education requirements, and pay the current year active renewal fee in order to resume active licensure.

F. In order to reactivate or reinstate a license to active status, a pharmacist who holds an inactive license, who has allowed his license to lapse, or who has had his license suspended or revoked must submit evidence of completion of CEU's or hours equal to the requirements for the number of years in which his license has not been active, not to exceed a total of 60 hours of CE.

G. A pharmacist whose license has been lapsed, in inactive status, or suspended or revoked for more than five years shall, as a condition of reinstatement in addition to 60 hours CE, take and receive a passing score on the board-approved law examination and furnish acceptable documentation of one of the following:

1. Active pharmacy practice within the past five years as a properly licensed pharmacist in another state; or

2. Practical experience as a pharmacy intern registered with the board of at least 160 hours within six months immediately prior to being reinstated.

H. The practice of pharmacy without a current, active pharmacist license is unlawful and shall constitute grounds for disciplinary action by the board.

I. It shall be the duty and responsibility of each licensee to inform the board of his current address. A licensee shall ~~immediately~~ notify the board within 14 days in writing or electronically of any change of an address of record. Properly updating address of record directly through the board's web-based application or other approved means shall constitute lawful notification. All notices required by law or by these rules and regulations are deemed to be legally given when mailed to the address ~~given~~ of record and shall not relieve the licensee of the obligation to comply.

18VAC110-20-90. Requirements for continuing education.

A. ~~On and after December 31, 1993, a~~ A pharmacist shall be required to have completed a minimum of 1.5 CEUs or 15 contact hours of continuing pharmacy education in an approved program for each annual renewal of licensure. CEUs or hours in excess of the number required for renewal may not be transferred or credited to another year.

B. A pharmacy education program approved for continuing pharmacy education is:

1. One that is approved by the Accreditation Council for Pharmacy Education (ACPE);

2. One that is approved as a Category I Continuing Medical Education (CME) course, the primary focus of which is pharmacy, pharmacology or drug therapy; or

3. One that is approved by the board in accordance with the provisions of 18VAC110-20-100.

C. The board may grant an extension pursuant to ~~§ 54.1-3314~~ § 54.1-3314.1 E of the Code of Virginia. Any subsequent extension shall be granted only for good cause shown.

D. Pharmacists are required to attest to compliance with CE requirements in a manner approved by the board at the time of their annual license renewal. Following each renewal period, the board may conduct an audit of the immediate past two years' CE documents to verify compliance with requirements. Pharmacists are required to maintain, for ~~two~~ three years following renewal, the original certificates documenting successful completion of CE, showing date and title of the CE program or activity, the number of [~~CEU's~~ CEUs] or contact hours awarded, and a certifying signature or other certification of the approved provider. Pharmacists selected for audit must provide these original documents to the board by the deadline date specified by the board in the audit notice.

18VAC110-20-100. Approval of continuing education programs.

A. The board will approve without application or further review any program offered by an ACPE-approved provider and will accept for credit certificates bearing the official ACPE logo and program number.

B. The board may approve an individual CE program under the following provisions:

1. An approved individual program is a course, activity, or lecture which includes subject matter related to the competency of the practice of pharmacy and which has been approved for CE credit by the board.

2. In order to receive approval for an individual program, the sponsor or provider must ~~make application~~ apply prior to the program offering on a form provided by the board. The information which must be provided shall include but not be limited to: name of provider, location, date and time of program, charges to participants, description of program content and objectives, credentials of speaker or author, method of delivery, evaluation procedure, evidence of a ~~pre and~~ post ~~test~~ assessment, credits requested, mechanism for recordkeeping, and any such information as the board deems necessary to assure quality and compliance.

3. The sponsor ~~making application~~ applying for board approval of an individual program must pay a fee as required in 18VAC110-20-20 C 18.

4. The board shall notify the provider or sponsor within 60 days following the receipt of a completed application of approval or disapproval of a program and the number of credits which may be awarded. The board shall also assign an expiration date for approval of the program not to exceed two years from the date of approval.

5. The provider of an approved program shall provide to each participant who completes the required hours and passes the post test a certification with the name of the provider, name of the participant, description of course and method of delivery, number of hours credited, date of completion, and program identification number.

6. The provider of an approved program shall maintain all records on that program, its participants, and hours awarded for a period of ~~three~~ five years and shall make those records available to the board upon request.

7. The board shall periodically review and monitor programs. The provider of a CE program shall waive registration fees for a representative of the board for that purpose.

8. Any changes in the information previously provided about an approved program or provider must be submitted or the board may withdraw its approval. If a provider wants to give a live program more than once, all program dates must either be submitted on the original application or provided to the board in subsequent correspondence at least five days prior to giving the program.

Part III
Requirements for Pharmacy Technician Registration

18VAC110-20-101. Application for registration as a pharmacy technician.

A. Any person wishing to apply for registration as a pharmacy technician shall submit the application fee and an application on a form approved by the board.

B. In order to be registered as a pharmacy technician, an applicant shall provide evidence of the following:

1. Satisfactory completion of an approved training program, and

2. A passing score on a board-approved examination.

C. In lieu of the requirements of subsection B of this section, an applicant may provide evidence of current PTCB certification.

D. A pharmacy technician trainee may perform tasks restricted to pharmacy technicians for no more than nine months without becoming registered as a pharmacy technician.

18VAC110-20-102. Criteria for approval for training programs.

A. Any person wishing to apply for approval of a pharmacy technician training program shall submit the application fee and an application on a form approved by the board and meet the criteria established in this section.

B. The curriculum of a training program for pharmacy technicians shall include instruction in applicable, current laws and regulations and in the tasks that may be performed by a pharmacy technician to include the following or any other task restricted to pharmacy technicians in regulation:

1. The entry of prescription information and drug history into a data system or other recordkeeping system;

2. The preparation of prescription labels or patient information;

3. The removal of the drug to be dispensed from inventory;

4. The counting, measuring, or compounding of the drug to be dispensed;

5. The packaging and labeling of the drug to be dispensed and the repackaging thereof;

6. The stocking or loading of automated dispensing devices or other devices used in the dispensing process; and

7. The acceptance of refill authorization from a prescriber or his authorized agent provided there is no change to the original prescription.

C. ~~Instructors~~ Each program shall have a program director who shall be either (i) a pharmacist with a current ~~unrestricted~~

license in any jurisdiction and who is not currently suspended or revoked in any jurisdiction in the United States; (ii) a pharmacy technician with at least one year of experience performing technician tasks who holds a current ~~unrestricted~~ registration in Virginia or ~~a~~ current PTCB certification and who is not currently suspended or revoked as a pharmacy technician in any jurisdiction; or (iii) other person approved and deemed qualified by the board to be ~~an instructor~~ a program director.

D. Instructors for the core components listed in subsection B of this section shall meet the requirements for the program director listed in subsection C of this section. The program director may serve as an instructor.

~~D.~~ E. The length of the program shall be sufficient to prepare a program participant to sit for the board-approved examination and demonstrate entry-level competency.

~~E.~~ F. The program shall maintain records of program participants either on-site or at another location where the records are readily retrievable upon request for inspection. A program shall provide a certificate of completion to participants who successfully complete the program and provide verification of completion of the program for a participant upon request by the board. Records shall be maintained for two years from date of completion or termination of program.

G. The program shall report within 14 days any substantive change in the program to include a change in program name, program director, instructors, name of institution or business if applicable, address, program content, length of program, or location of records.

H. A pharmacy technician training program approval expires after two years, after which the program may apply for renewal. For continued approval, the program shall submit the renewal application, renewal fee, and a self-evaluation report on a form provided by the board at the time of renewal notification. Renewal of a program's approval is at the discretion of the board, and the decision to renew shall be based on documentation of continued compliance with the criteria set forth in this section.

18VAC110-20-103. Examination.

A. The board shall approve one or more examinations to test entry-level competency for pharmacy technicians. In order to be approved, a competency examination shall be developed in accordance with and meet the recognized acceptable test measurement standards of the Joint Technical Standards for Education and Psychological Testing (American Psychological Association, current edition), and shall be administered by an independent third party.

B. The board may contract with an examination service for the development and administration of a competency examination.

C. The board shall determine the minimum passing standard on the competency examination.

D. Any requests for testing accommodations under the Americans with Disabilities Act shall be in accordance with the provisions of 18VAC110-20-60 F.

18VAC110-20-104. Address of record; maintenance of certificate.

A. It shall be the duty and responsibility of each pharmacy technician to inform the board of his current address. A pharmacy technician shall notify the board in writing or electronically of any change of an address of record within ~~30~~ 14 days. Properly updating address of record directly through the board's web-based application or other approved means shall constitute lawful notification. All notices required by law or by these rules and regulations are deemed to be legally given when mailed to the address ~~given~~ of record and shall not relieve the registrant of the obligation to comply.

B. A pharmacy technician shall maintain his current registration certificate at his principal place of practice available for inspection upon request. A pharmacy technician who does not have a principal place of practice may maintain it at any pharmacy in which he practices or his address of record.

18VAC110-20-106. Requirements for continued competency.

A. A pharmacy technician shall be required to have completed a minimum of 0.5 CEUs or five contact hours of approved continuing education for each annual renewal of registration. Hours in excess of the number required for renewal may not be transferred or credited to another year.

B. An approved continuing education program shall meet the requirements as set forth in subsection B of ~~18VAC110-20-90~~ 18VAC110-20-100.

C. Upon written request of a pharmacy technician, the board may grant an extension of up to one year in order for the pharmacy technician to fulfill the continuing education requirements for the period of time in question. The granting of an extension shall not relieve the pharmacy technician from complying with current year requirements. Any subsequent extension shall be granted for good cause shown.

D. Original certificates showing successful completion of continuing education programs shall be maintained by the pharmacy technician for a period of ~~two~~ three years following the renewal of his registration. The pharmacy technician shall provide such original certificates to the board upon request in a manner to be determined by the board.

Part IV
Pharmacies

18VAC110-20-110. Pharmacy permits generally.

A. A pharmacy permit shall not be issued to a pharmacist to be simultaneously in charge of more than two pharmacies.

B. The pharmacist-in-charge (PIC) or the pharmacist on duty shall control all aspects of the practice of pharmacy. Any decision overriding such control of the PIC or other pharmacist on duty shall be deemed the practice of pharmacy and may be grounds for disciplinary action against the pharmacy permit.

C. When the PIC ceases practice at a pharmacy or no longer wishes to be designated as PIC, he ~~shall take a complete and accurate inventory of all Schedule II through V controlled substances on hand and~~ shall immediately return the pharmacy permit to the board indicating the effective date on which he ceased to be the PIC.

D. Although not required by law or regulation, an outgoing PIC shall have the opportunity to take a complete and accurate inventory of all Schedule II through V controlled substances on hand on the date he ceases to be the PIC, unless the owner submits written notice to the board showing good cause as to why this opportunity should not be allowed.

E. A PIC who is absent from practice for more than 30 consecutive days shall be deemed to no longer be the PIC. Pharmacists-in-charge having knowledge of upcoming absences for longer than 30 days shall be responsible for notifying the board [~~,~~ and] returning the permit [~~, and taking the required inventory~~]. For unanticipated absences by the PIC, which exceed 15 days with no known return date within the next 15 days, the owner shall immediately notify the board and shall obtain a new PIC.

~~D.~~ F. An application for a permit designating the new PIC shall be filed with the required fee within 14 days of the original date of resignation or termination of the PIC on a form provided by the board. It shall be unlawful for a pharmacy to operate without a new permit past the 14-day deadline unless the board receives a request for an extension prior to the deadline. The executive director for the board may grant an extension for up to an additional 14 days for good cause shown.

G. Only one pharmacy permit shall be issued to conduct a pharmacy occupying the same designated prescription department space. A pharmacy shall not engage in any other activity requiring a license or permit from the board, such as manufacturing or wholesale-distributing, out of the same designated prescription department space.

H. Before any permit is issued, the applicant shall attest to compliance with all federal, state and local laws and ordinances. A pharmacy permit shall not be issued to any person to operate from a private dwelling or residence [after ~~(effective date of this subsection)~~ September 2, 2009].

18VAC110-20-111. Pharmacy technicians.

A. Every pharmacy that employs or uses pharmacy technicians shall maintain a site-specific training program and manual for training pharmacy technicians to work at that pharmacy. The program shall include training consistent with that specific pharmacy practice to include, but not be limited to, training in proper use of site-specific computer programs and equipment, proper use of other equipment used at the pharmacy in performing technician duties, and pharmacy calculations consistent with the duties at that pharmacy.

B. Every pharmacy shall maintain documentation of successful completion of the site specific training program for each pharmacy technician for the duration of the employment and for a period of two years from date of termination of employment. Documentation for currently employed pharmacy technicians shall be maintained on site or at another location where the records are readily retrievable upon request for inspection. After employment is terminated, such documentation may be maintained at an off-site location where it is retrievable upon request.

C. Every pharmacy that employs or uses a person enrolled in an approved pharmacy technician training program pursuant to § 54.1-3321 D of the Code of Virginia shall allow such person to conduct tasks restricted to pharmacy technicians for no more than nine months without that person becoming registered as a pharmacy technician with the board as set forth in 18VAC110-20-101. Every pharmacy using such a person shall have documentation on site and available for inspection showing that the person is currently enrolled in an approved training program and the start date for each pharmacy technician in training.

18VAC110-20-120. Special or limited-use pharmacy permits.

A. For good cause shown, the board may issue a special or limited-use pharmacy permit, when the scope, degree or type of pharmacy practice or service to be provided is of a special, limited or unusual nature as compared to a regular pharmacy service. The permit to be issued shall be based on special conditions of use requested by the applicant and imposed by the board in cases where certain requirements of regulations may be waived. The following conditions shall apply:

1. The application shall list the regulatory requirements for which a waiver is requested and a brief explanation as to why each requirement should not apply to that practice.

2. A policy and procedure manual detailing the type and method of operation, hours of operation, schedules of drugs to be maintained by the pharmacy, and method of documentation of continuing pharmacist control must accompany the application.

3. The issuance and continuation of such permits shall be subject to continuing compliance with the conditions set forth by the board.

B. For a special-use pharmacy located in or providing services to a free clinic that uses volunteer pharmacists on a part-time basis with pharmacy business hours less than 20 hours a week, the board may grant a waiver to the restricted access provisions of 18VAC110-20-190 under the following conditions:

1. The access is only for the purpose of repairing or upgrading essential equipment or for the purpose of securing a delivered drug order in the pharmacy.

2. The PIC shall be notified prior to each entry and give permission for the designated, specific individuals to enter.

3. If entry is by a nonpharmacist, two persons must enter together, one of whom must be an employee or volunteer of the free clinic who holds a license as a nurse, physician, or a physician assistant. Both persons must remain in the pharmacy the entire time that access is required.

4. The key or other means of unlocking the pharmacy and the alarm access code shall be maintained in a secure location within the facility in a sealed envelope or other container with the name of the "sealing" pharmacist written across the seal. If a nonpharmacist accesses the pharmacy, this means of access may be used, and the licensed health professional, as set forth in subdivision 3 of this subsection, is responsible for resealing the means of access and writing his name across the seal. The PIC shall ensure that the alarm access code is changed within 48 hours. In lieu of the pharmacist's signature across a seal, the executive director for the board may approve other methods of securing the emergency access to the prescription department.

5. A log must be maintained of each nonpharmacist entry showing date and time of entry, names of the two persons entering, purpose for entry, and notation that permission was granted by the pharmacist-in-charge and the date it was granted. Such log shall be maintained on premises for one year.

18VAC110-20-130. Pharmacy closings; going out of business; change of ownership.

A. At least 14 days prior to the date a pharmacy closes in accordance with § 54.1-3434.01 of the Code of Virginia or goes out of business, the owner shall notify the board. The proposed disposition of all Schedule II through VI drugs, prescription dispensing records, patient information records, and other required records shall be reported to the board. If the pharmacy drug stock and records are to be transferred to another licensee, the owner shall inform the board of the name and address of the licensee to whom the drugs and records are being transferred and the date of transfer. Prescription records for prescriptions with active refills shall be transferred to another pharmacy where a patient may obtain access for the purpose of obtaining refills either at that location or in accordance with the transfer provisions of 18VAC110-20-360.

B. Exceptions to the public notice as required in § 54.1-3434.01 of the Code of Virginia and the notice required in subsection A of this section shall be approved by the board and may include sudden closing due to fire, destruction, natural disaster, death, property seizure, eviction, bankruptcy, or other emergency circumstances. If the pharmacy is not able to meet the notification requirements of § 54.1-3434.01, the owner shall ensure that the board and public are properly notified as soon as he knows of the closure and shall disclose the emergency circumstances preventing the notification within the required deadlines.

C. In the event of an exception to the notice as required in § 54.1-3434.01 of the Code of Virginia and in subsection A of this section, the PIC or owner shall provide notice as far in advance of closing as allowed by the circumstances.

D. At least 14 days prior to any change in ownership of an existing pharmacy, the owner shall notify the board of the pending change.

1. Upon any change in ownership of an existing pharmacy, the prescription dispensing records for the two years immediately preceding the date of change of ownership and other required patient information shall be provided to the new owners on the date of change of ownership in substantially the same format as previously used immediately prior to the transfer to provide continuity of pharmacy services.

2. The previous owner shall be held responsible for assuring the proper and lawful transfer of records on the date of the transfer.

3. The format of the prescription dispensing records which are transferred to a new owner shall comply with the requirements of Chapter 34 (§ 54.1-3400 et seq.) of Title 54.1 of the Code of Virginia, and this chapter. Failure to comply with this chapter during a change in ownership shall be deemed to be a closing of the existing pharmacy for which the existing pharmacy owner shall be required to provide notice to the board and public in accordance with § 54.1-3434.01 of the Code of Virginia and subsection A of this section.

18VAC110-20-140. New pharmacies, acquisitions and changes to existing pharmacies.

A. Any person wishing to open a new pharmacy, engage in the acquisition of an existing pharmacy, change the location of an existing pharmacy, move the location or make structural changes to an existing prescription department, or make

changes to a previously approved security system shall file an application with the board.

B. In the acquisition of an existing pharmacy, if prescription records are to be accessible to anyone for purposes other than for continuity of pharmacy services at substantially the same level offered by the previous owner or for the necessary transfer of prescription records, the owner of the pharmacy acquiring the records shall disclose such information in writing to each patient 14 days prior to the acquisition. Such release of prescription records shall be allowed only to the extent authorized by § 32.1-127.1:03 of the Code of Virginia.

C. The proposed location or structural changes shall be inspected by an authorized agent of the board prior to issuance of a permit.

1. Pharmacy permit applications which indicate a requested inspection date, or requests which are received after the application is filed, shall be honored provided a 14-day notice is allowed prior to the requested inspection date.

2. Requested inspection dates which do not allow a 14-day notice to the board may be adjusted by the board to provide 14 days for the scheduling of the inspection.

3. At the time of the inspection, the dispensing area shall comply with 18VAC110-20-150, 18VAC110-20-160, 18VAC110-20-170, 18VAC110-20-180, and 18VAC110-20-190.

4. If an applicant substantially fails to meet the requirements for issuance of a permit and a reinspection is required, or if the applicant is not ready for the inspection on the established date and fails to notify the inspector or the board at least 24 hours prior to the inspection, the applicant shall pay a reinspection fee as specified in 18VAC110-20-20 prior to a reinspection being conducted.

D. Drugs shall not be stocked within the proposed pharmacy or moved to a new location until approval is granted by the inspector or board staff.

E. Once the permit is issued, prescription drugs may not be stocked earlier than two weeks prior to the designated opening date. Once prescription drugs have been placed in the pharmacy, a pharmacist shall be present on a daily basis to ensure the safety and integrity of the drugs. If there is a change in the designated opening date, the pharmacy shall notify the board office, and a pharmacist shall continue to be on site on a daily basis.

18VAC110-20-180. Security system.

A. A device for the detection of breaking shall be installed in each prescription department of each pharmacy. The installation and the device shall be based on accepted ~~burglar~~ alarm industry standards, and shall be subject to the following conditions:

1. The device shall be a sound, microwave, photoelectric, ultrasonic, or any other generally accepted and suitable device.

2. The device shall be monitored in accordance with accepted industry standards, maintained in operating order ~~and shall~~ , have an auxiliary source of power, and be capable of sending an alarm signal to the monitoring entity when breached if the communication line is not operational.

3. The device shall fully protect the prescription department and shall be capable of detecting breaking by any means when activated.

4. Access to the alarm system for the prescription department area of the pharmacy shall be restricted to the pharmacists working at the pharmacy, except for access by other persons in accordance with 18VAC110-20-190 B 2, and the system shall be activated whenever the prescription department is closed for business.

B. Exceptions to provisions in this section:

~~5. This regulation shall not apply to pharmacies which have been granted a permit~~ 1. Alarm systems approved prior to November 4, 1993, will be deemed to meet the requirements of subdivisions A 1, 2, and 3 [of this section], provided that ~~a previously approved security alarm system is in place, that~~ no structural changes are made in the prescription department, that no changes are made in the security system, that the prescription department is not closed while the rest of the business remains open, and ~~provided further~~ that a breaking and loss of drugs does not occur. If a breaking with a loss of drugs occurs, the pharmacy shall [~~immediately~~] upgrade the alarm to meet the current standards and shall file an application with the board in accordance with 18VAC110-20-140 A [within 14 days of the breaking].

~~6.~~ 2. If the prescription department was located in a business with extended hours prior to November 4, 1993, and had met the special security requirements by having a floor to ceiling enclosure, a separately activated alarm system shall not be required.

~~7.~~ 3. This section shall not apply to pharmacies which are open and staffed by pharmacists 24 hours a day. If the pharmacy changes its hours or if it must be closed for any reason, the PIC or owner must immediately notify the board, file an application in accordance with 18VAC110-20-140 A, and have installed ~~within 72 hours~~ prior to closing, a security system ~~which~~ that meets the requirements of subdivisions A 1 through 4 of this section.

18VAC110-20-190. Prescription department enclosures; access to prescription department.

A. The prescription ~~departments~~ department of each pharmacy shall be provided with enclosures subject to the following conditions:

1. The enclosure shall be constructed in such a manner that it protects the ~~controlled drug stock~~ prescription drugs from unauthorized entry and from pilferage at all times whether or not a pharmacist is on duty.

2. The enclosure shall be ~~of sufficient height as to prevent a person from reaching over to gain access to the drugs~~ locked and alarmed at all times when a pharmacist is not on duty.

3. ~~Entrances to the enclosed area must have a door with no more than a six inch gap from the floor and which is at least as high as the adjacent structure. The requirement for a maximum six inch gap shall not apply to those pharmacies in existence prior to February 3, 1999, with the exception of any pharmacy which experiences a related diversion or theft.~~ The enclosure shall be capable of being locked in a secure manner at any time the pharmacist on duty is not present in the prescription department.

~~4. Doors to the area must have locking devices which will prevent unauthorized entry in the absence of the pharmacist.~~

B. The ~~door~~ keys or other means of entry into a locked prescription department and the alarm access code ~~to the dispensing areas~~ shall be ~~subject to the following requirements: 1. Only~~ restricted to pharmacists practicing at the pharmacy and authorized by the PIC ~~shall be in possession of any keys to or other means of opening the locking device on the door to such enclosure, or to the alarm access code.~~ with the following exceptions:

~~2.~~ 1. The PIC or a pharmacist on duty, for emergency access, may place a key or other means of ~~opening the locking device~~ unlocking the prescription department and the alarm access code in a sealed envelope or other container with the pharmacist's signature across the seal in a safe or vault or other secured place within the pharmacy ~~or other secured place~~. This ~~key or code~~ means of emergency access shall only be used to allow entrance to the prescription department by other pharmacists, or by a pharmacy technician in accordance with subsection D of this section. In lieu of the pharmacist's signature across a seal, the executive director for the board may approve other methods of securing the emergency ~~keys or~~ access ~~codes~~ to the prescription department.

2. Pharmacy interns, pharmacy technicians, and other persons authorized by the PIC or pharmacist on duty may possess a key or other means of entry into a locked prescription department only when a pharmacist is on duty. Such key or other means of entry shall not allow entry when a pharmacist is not on duty.

C. The prescription department is restricted to pharmacists who are practicing at the pharmacy. ~~Interns~~ Pharmacy interns, pharmacy technicians, and other persons designated by the pharmacist on duty may be allowed access by the pharmacist but only ~~during the hours~~ when the pharmacist is on duty. Each pharmacist while on duty shall be responsible for the security of the pharmacy, including provisions for effective control against theft or diversion of prescription drugs and devices.

D. Upon a request by a patient to obtain an already-dispensed prescription, a pharmacy technician may enter the pharmacy for the sole purpose of retrieving filled prescriptions that have already been reviewed and certified for accuracy by a pharmacist and deemed ready for delivery to the patient if:

1. There is an unforeseen, unplanned absence of a pharmacist scheduled to work during regular prescription department hours;

2. Alternate pharmacist coverage cannot immediately be obtained;

3. The technician is accompanied by a member of the pharmacy's management or administration; and

4. All requirements of subsection E of this section are met.

E. Requirements for entry into the prescription department in the absence of a pharmacist.

1. The requirements for prescriptions awaiting delivery in subsection A of 18VAC110-20-200 are followed.

2. Prior to entry into the prescription department, the pharmacy technician shall obtain verbal permission from the PIC or another pharmacist regularly employed by that pharmacy to obtain and use the emergency key or other access and alarm access code and enter the pharmacy.

3. A record shall be made by the pharmacy technician of the entry to include the date and time of entry; the name and signature of the pharmacy technician; the name, title, and signature of the person accompanying the pharmacy technician; the pharmacist's name granting permission to enter and telephone number where the pharmacist was reached; the name of the patient initially requesting needed medication and the nature of the emergency; a listing of all prescriptions retrieved during that entry; and the time of exit and re-securing of the prescription department.

4. The pharmacy technician shall reseal the key and alarm access code after the pharmacy is re-secured, and the PIC shall have the alarm access code changed within 48 hours of such an entry and shall document that this has been accomplished on the record of entry.

5. All records related to entry by a pharmacy technician shall be maintained for a period of one year on premises.

18VAC110-20-200. Storage of drugs, devices, and controlled paraphernalia; expired drugs.

A. Prescriptions awaiting delivery. Prescriptions prepared for delivery to the patient may be placed in a ~~secure place~~ secured area outside of the prescription department ~~and~~, not accessible to the public, where access to the prescriptions is restricted to individuals designated by the pharmacist ~~to designated clerical assistants~~. With the permission of the pharmacist, the prepared prescriptions may be transferred to the patient at a time when the pharmacist is not on duty. If a prescription is delivered at a time when the pharmacist is not on duty, written procedures shall be established and followed by the pharmacy which detail security of the dispensed prescriptions and a method of compliance with counseling requirements of § 54.1-3319 of the Code of Virginia. Additionally, a log shall be made and maintained of all prescriptions delivered to a patient when a pharmacist is not present to include the patient's name, prescription number(s), date of delivery, and the signature of the person receiving the prescription. Such log shall be maintained for a period of one year.

B. Dispersion of Schedule II drugs. Schedule II drugs shall either be dispersed with other schedules of drugs or shall be maintained within a securely locked cabinet, drawer, or safe. The cabinet, drawer, or safe may remain unlocked during hours that the prescription department is open and a pharmacist is on duty.

C. Safeguards for controlled paraphernalia and Schedule VI medical devices. Controlled paraphernalia and Schedule VI medical devices shall not be placed in an area completely removed from the prescription department whereby patrons will have free access to such items or where the pharmacist cannot exercise reasonable supervision and control.

D. Expired, or otherwise adulterated or misbranded drugs; security. Any drug which has exceeded the expiration date, or is otherwise adulterated or misbranded, shall not be dispensed or sold; it shall be separated from the stock used for dispensing. Expired prescription drugs shall be maintained in a designated area within the prescription department until proper disposal.

18VAC110-20-210. Disposal of drugs by pharmacies.

If a PIC wishes to dispose of unwanted drugs, he shall use one of the following procedures:

1. Transfer the drugs to another person or entity authorized to possess or provide for proper disposal of such drugs; or

2. Destroy the drugs by burning in an incinerator, or other board-approved method, in compliance with all applicable local, state, and federal laws and regulations. If Schedule II through V drugs are to be destroyed, the following procedures shall apply:

a. At least 14 days prior to the destruction date, the PIC shall provide a written notice to the board office; the notice shall state the following:

(1) Date, time, manner, and place of destruction.

(2) The names of the pharmacists who will witness the destruction process.

b. If the destruction date is to be changed or the destruction does not occur, a new notice shall be provided to the board office as set forth above in subdivision 2 of this section.

c. The actual destruction shall be witnessed by the PIC and another pharmacist not employed by the pharmacy.

d. The DEA drug destruction form shall be fully completed and used as the record of all drugs to be destroyed. A copy of the destruction form shall be retained at the pharmacy with other inventory records.

Part VI
Drug Inventory and Records

18VAC110-20-240. Manner of maintaining records, prescriptions, inventory records.

A. Each pharmacy shall maintain the inventories and records of drugs as follows:

1. Inventories and records of all drugs listed in Schedules I and II shall be maintained separately from all other records of the pharmacy. Each pharmacy shall maintain a perpetual inventory of all Schedule II drugs received and dispensed, with reconciliation at least [~~every 30 days~~ monthly]. Electronic monitoring at the pharmacy or by another entity that provides alerts for discrepancies between drugs received and drugs dispensed is acceptable provided such alerts are reviewed at least monthly.

2. Inventories and records of drugs listed in Schedules III, IV, and V may be maintained separately or with records of Schedule VI drugs but shall not be maintained with other records of the pharmacy.

3. All executed order forms, prescriptions, and inventories of Schedule II through V drugs shall be maintained at the same ~~location~~ address as the stock of drugs to which the records pertain. If authorized by DEA, other records pertaining to Schedule II through V drugs, such as invoices, may be maintained in an off-site database or in secured storage. All records in off-site storage shall be retrieved and made available for inspection or audit within 48 hours of a request by the board or an authorized agent.

~~4. In the event that an inventory is taken as the result of a theft of drugs pursuant to § 54.1 3404 of the Drug Control Act, the inventory shall be used as the opening inventory~~

~~within the current biennial period. Such an inventory does not preclude the taking of the required inventory on the required biennial inventory date.~~

~~5.~~ 4. All inventories required by § 54.1-3404 of the Code of Virginia shall be signed and dated by the person taking the inventory and shall indicate whether the inventory was taken prior to the opening of business or after close of business. A 24-hour pharmacy with no opening or closing of business shall clearly document whether the receipt or distribution of drugs on the inventory date occurred before or after the inventory was taken.

5. Invoices or other records showing receipts of Schedule VI drugs shall be maintained, but may be stored in an electronic database or record as an electronic image that provides an exact, clearly legible, image of the document or in secured storage either on or off site. All records in off-site storage or database shall be retrieved and made available for inspection or audit within 48 hours of a request by the board or an authorized agent.

6. All records required by this section shall be filed chronologically and maintained for a period of not less than two years from the date of transaction.

B. Prescriptions.

1. A hard copy prescription shall be placed on file for every initial prescription dispensed and be maintained for two years from the date of last refill. All prescriptions shall be filed chronologically by date of initial dispensing.

2. Schedule II drugs. Prescriptions for Schedule II drugs shall be maintained in a separate prescription file.

3. Schedule III through V drugs. Prescriptions for Schedule III through V drugs shall be maintained either in a separate prescription file for drugs listed in Schedules III, IV, and V only or in such form that they are readily retrievable from the other prescriptions of the pharmacy. Prescriptions will be deemed readily retrievable if, at the time they are initially filed, the face of the prescription is stamped in red ink in the lower right corner with the letter "C" no less than one inch high and filed in the prescription file for drugs listed in the usual consecutively numbered prescription file for Schedule VI drugs. However, if a pharmacy employs an automated data processing system or other electronic recordkeeping system for prescriptions which permits identification by prescription number and retrieval of original documents by prescriber's name, patient's name, drug dispensed, and date filled, then the requirement to mark the hard copy prescription with a red "C" is waived.

C. Chart orders.

1. A chart order written for a patient in a hospital or long-term care facility, a patient receiving home infusion services, or a hospice patient pursuant to § 54.1-3408.01 A of the Code of Virginia shall be exempt from having to contain all required information of a written prescription provided:

a. This information is contained in other readily retrievable records of the pharmacy; and

b. The pharmacy maintains a current policy and procedure manual that sets out where this information is maintained and how to retrieve it and the minimum requirements for chart orders consistent with state and federal law and accepted standard of care.

2. A chart order may serve as the hard copy prescription for those patients listed in subdivision 1 of this subsection.

3. Requirements for filing of chart orders.

a. Chart orders shall be filed chronologically by date of initial dispensing with the following exception: If dispensing data can be produced showing a complete audit trail for any requested drug for a specified time period and each chart order is readily retrievable upon request, chart orders may be filed using another method. Such alternate method shall be clearly documented in a current policy and procedure manual.

b. If a single chart order contains both an order for a Schedule II drug and one or more orders for a drug in another schedule, where the Schedule II drug is not floor stocked, but is dispensed from the pharmacy pursuant to this order for the specific patient, the original order must be filed with records of dispensing of Schedule II drugs and a copy of the order placed in the file for other schedules.

Part VII
Prescription Order and Dispensing Standards

18VAC110-20-270. Dispensing of prescriptions; certification of completed prescriptions; supervision of pharmacy technicians.

A. In addition to the acts restricted to a pharmacist in § 54.1-3320 A of the Code of Virginia, a pharmacist shall provide personal supervision of compounding of extemporaneous preparations by pharmacy technicians.

B. ~~A pharmacist directly monitoring the activities of a person enrolled in an approved pharmacy technician training program who is performing the tasks restricted to a pharmacy technician prior to registration in accordance with § 54.1-3321 D of the Code of Virginia shall not monitor more than two such trainees at the same time, and at no time shall a pharmacist supervise more than four persons performing technician functions to include technicians and trainees.~~ A pharmacist shall determine the number of pharmacy interns, pharmacy technicians, and pharmacy technician trainees he can safely and competently supervise at one time.

C. After the prescription has been prepared and prior to the delivery of the order, the pharmacist shall inspect the

prescription product to verify its accuracy in all respects, and place his initials on the record of dispensing as a certification of the accuracy of, and the responsibility for, the entire transaction. Such record showing verification of accuracy shall be maintained on a pharmacy record for the required time period of two years, unless otherwise specified in regulation.

D. If a pharmacist declines to fill a prescription for any reason other than the unavailability of the drug prescribed, he shall record on the back of the prescription the word "declined"; the name, address, and telephone number of the pharmacy; the date filling of the prescription was declined; and the signature of the pharmacist.

E. If a pharmacist determines from a prescriber or [by] other means [, including the use of his professional judgment], that a prescription presented for dispensing is a forgery, the pharmacist shall not return the forged prescription to the person presenting it. The forged prescription may be given to a law-enforcement official investigating the forgery; or it shall be retained for a minimum of 30 days before destroying it, in the event it is needed for an investigative or other legitimate purpose.

18VAC110-20-275. Delivery of dispensed prescriptions.

A. Pursuant to § 54.1-3420.2 B of the Code of Virginia, in addition to direct hand delivery to a patient or patient's agent or delivery to a patient's residence, a pharmacy may deliver prescriptions to another pharmacy, to a practitioner of the healing arts licensed to practice pharmacy or to sell controlled substances, or to an authorized person or entity holding a controlled substances registration issued for this purpose in compliance with this section and any other applicable state or federal law.

B. Delivery to another pharmacy.

1. One pharmacy may fill prescriptions and deliver the prescriptions to a second pharmacy for patient pickup or direct delivery to the patient provided the two pharmacies have the same owner, or have a written contract or agreement specifying the services to be provided by each pharmacy, the responsibilities of each pharmacy, and the manner in which each pharmacy will comply with all applicable federal and state law.

2. Each pharmacy using such a drug delivery system shall maintain and comply with all procedures in a current policy and procedure manual that includes the following information:

a. A description of how each pharmacy will comply with all applicable federal and state law;

b. The procedure for maintaining required, retrievable dispensing records to include which pharmacy maintains the hard-copy prescription, which pharmacy maintains the active prescription record for refilling purposes, how each pharmacy will access prescription information necessary to carry out its assigned responsibilities, method of recordkeeping for identifying the pharmacist or pharmacists responsible for dispensing the prescription and counseling the patient, and how and where this information can be accessed upon request by the board;

c. The procedure for tracking the prescription during each stage of the filling, dispensing, and delivery process;

d. The procedure for identifying on the prescription label all pharmacies involved in filling and dispensing the prescription;

e. The policy and procedure for providing adequate security to protect the confidentiality and integrity of patient information;

f. The policy and procedure for ensuring accuracy and accountability in the delivery process;

g. The procedure and recordkeeping for returning to the initiating pharmacy any prescriptions that are not delivered to the patient; and

h. The procedure for informing the patient and obtaining consent ~~if required by law~~ for using such a dispensing and delivery process.

3. Drugs waiting to be picked up at or delivered from the second pharmacy shall be stored in accordance with subsection A of 18VAC110-20-200.

C. Delivery to a practitioner of the healing arts licensed by the board to practice pharmacy or to sell controlled substances or other authorized person or entity holding a controlled substances registration authorized for this purpose.

1. A prescription may be delivered by a pharmacy to the office of such a practitioner or other authorized person provided there is a written contract or agreement between the two parties describing the procedures for such a delivery system and the responsibilities of each party.

2. Each pharmacy using this delivery system shall maintain a policy and procedure manual that includes the following information:

a. Procedure for tracking and assuring security, accountability, integrity, and accuracy of delivery for the dispensed prescription from the time it leaves the pharmacy until it is handed to the patient or agent of the patient;

b. Procedure for providing counseling;

c. Procedure and recordkeeping for return of any prescription medications not delivered to the patient;

d. The procedure for assuring confidentiality of patient information; and

e. The procedure for informing the patient and obtaining consent ~~if required by law~~ for using such a delivery process.

3. Prescriptions waiting to be picked up by a patient at the alternate site shall be stored in a lockable room or lockable cabinet, cart, or other device that cannot be easily moved and that shall be locked at all times when not in use. Access shall be restricted to the licensed practitioner of the healing arts or the responsible party listed on the application for the controlled substances registration, or either person's designee.

D. The contracts or agreements and the policy and procedure manuals required by this section for alternate delivery shall be maintained both at the originating pharmacy as well as the alternate delivery site.

E. A controlled substances registration as an alternate delivery site shall only be issued to an entity without a prescriber or pharmacist present at all times the site is open if there is a valid patient health or safety reason not to deliver dispensed prescriptions directly to the patient and if compliance with all requirements for security, policies, and procedures can be reasonably assured.

18VAC110-20-280. Transmission of a prescription order by facsimile machine.

A. [~~Prescription~~ Unless otherwise prohibited by federal law, prescription] orders for Schedule III through VI drugs may be transmitted to pharmacies by facsimile device (FAX) upon the following conditions:

1. The prescription shall be faxed only to the pharmacy of the patient's choice.

2. A valid faxed prescription shall contain all required information for a prescription. A written prescription shall include the prescriber's signature.

3. An authorized agent, as defined in § 54.1-3408.01 [~~D~~ C] of the Code of Virginia, may transmit an oral prescription by facsimile and shall record on the faxed prescription the agent's full name and wording that clearly indicates that the prescription being transmitted is an oral prescription.

4. A faxed prescription shall be valid only if faxed from the prescriber's practice location, except in the following situations:

~~for forwarding~~ a. Forwarding a faxed chart order from a long-term care facility or from a hospice, including a home hospice;

b. Faxing an oral prescription by authorized agent under the conditions set forth in subdivision [~~2~~ 3] of this subsection; or

c. Forwarding a written prescription by an authorized agent from a long-term care facility, provided the provider pharmacy maintains written procedures for such transactions, and provided the original prescription is obtained by the provider pharmacy within seven days of dispensing. The original prescription shall be attached to the faxed copy.

5. The following additional information shall be recorded on the faxed prescription:

a. The date that the prescription was faxed;

b. The printed name, address, phone number, and fax number of the authorized prescriber; and

c. The institution, if applicable, from which the prescription was faxed, including address, phone number and fax number.

B. Prescription orders for Schedule II drugs may only be faxed for information purposes and may not serve as the original written prescription authorizing dispensing, except for orders to be administered to ~~nursing home~~ long-term care facility and home infusion patients in accordance with § 54.1-3408.01 ~~C~~ B of the Code of Virginia and except for prescriptions written for a Schedule II narcotic substance for patients residing in a hospice certified by Medicare under Title XVIII or licensed by the state, which may include home hospice. The prescriber shall note on the prescription if the patient is a hospice patient, and the prescription shall meet all requirements for a written prescription, including the prescriber's signature.

C. If the faxed prescription is of such quality that the print will fade and not remain legible for the required retention period, the receiving pharmacist shall copy or transcribe the faxed prescription on paper of permanent quality.

D. Authorizations for refills may be faxed by the prescriber to the pharmacy provided the authorization includes patient name, address, drug name and strength, quantity, directions for use, prescriber's name, prescriber's signature or agent's name, and date of authorization.

18VAC110-20-286. Chart orders for outpatients.

A chart order may be filled by an outpatient (community/retail) pharmacy for outpatient use provided the following conditions are met:

1. The chart order was written for a patient while in a hospital or long-term care facility.

2. The pharmacist has all information necessary to constitute a valid outpatient prescription.

3. The pharmacist in an outpatient setting has direction, either written or obtained verbally, that the chart order is actually intended to be outpatient or discharge prescription

orders, and not merely a listing drugs the patient was taking while an inpatient.

4. The orders include some direction related to quantity to be dispensed or authorized duration of the order by which the pharmacist can calculate the authorized quantity using directions for use and duration.

18VAC110-20-320. Refilling of Schedule III through VI prescriptions.

A. A prescription for a drug listed in Schedule III, IV, or V shall not be dispensed or refilled more than six months after the date on which such prescription was issued, and no such prescription authorized to be filled may be refilled more than five times.

1. Each refilling of a prescription shall be entered on the back of the prescription or on another record in accordance with § 54.1-3412 and 18VAC110-20-255, initialed and dated by the pharmacist as of the date of dispensing. If the pharmacist merely initials and dates the prescription, it shall be presumed that the entire quantity ordered was dispensed.

2. The partial dispensing of a prescription for a drug listed in Schedule III, IV, or V is permissible, provided that:

a. Each partial dispensing is recorded in the same manner as a refilling;

b. The total quantity of drug dispensed in all partial dispensing does not exceed the total quantity prescribed; and

c. No dispensing occurs after six months after the date on which the prescription order was issued.

B. A prescription for a drug listed in Schedule VI shall be refilled only as expressly authorized by the practitioner. If no such authorization is given, the prescription shall not be refilled, except as provided in § 54.1-3410 C or subdivision 4 of § 54.1-3411 of the Code of Virginia.

A prescription for a Schedule VI drug or device shall not be dispensed or refilled more than one year after the date on which it was issued unless the prescriber specifically authorizes dispensing or refilling for a longer period of time not to exceed two years.

C. As an alternative to all manual recordkeeping requirements provided for in subsections A and B of this section, an automated data processing system as provided in 18VAC110-20-250 may be used for the storage and retrieval of all or part of dispensing information for prescription drugs dispensed.

D. ~~Authorized refills of all prescription drugs may only be dispensed in~~ The timing of dispensing an authorized refill of a prescription shall be within reasonable conformity with the directions for use as indicated by the practitioner; if directions have not been provided, then any authorized refills may only be dispensed in reasonable conformity with the recommended dosage and with the exercise of sound professional judgment. An authorized refill may be dispensed early provided the pharmacist documents a valid reason for the necessity of the early refill.

18VAC110-20-340. Packaging standards for dispensed prescriptions.

A. A drug shall be dispensed only in packaging approved by the current U.S.P.-N.F. for that drug. In the absence of such packaging standard for that drug, it shall be dispensed in a well-closed container.

B. Drugs may be dispensed in compliance packaging for self-administration when requested by the patient or for use in hospitals or long-term care facilities provided that such packaging meets all current U.S.P.-N.F. standards for packaging, labeling and [~~record keeping~~ recordkeeping]. Compliance packaging that is comprised of a series of individual containers or pockets labeled with the specific date and time when the contents of that container are to be taken, and which may contain more than one different drug, shall comply with USP-NF standards for customized patient medication packages to include:

1. If the packaging allows for the separation of the individual containers, the labels for each individual container shall be labeled with the identity of each of the drug products contained within; and

2. The main packaging label shall contain all the required elements for any outpatient prescription label and shall contain a physical description identifying each solid dosage form contained within the individual containers.

18VAC110-20-350. Special packaging.

A. Each drug dispensed to a person in a household shall be dispensed in special packaging except when otherwise directed in a prescription by a practitioner, when otherwise requested by the purchaser, or when such drug is exempted from 16 CFR § 1702.1 et seq. promulgated pursuant to the Poison Prevention Packaging Act of 1970 (15 USC §§ 1471-1476).

~~B. Each pharmacy may have a sign posted near the prescription department advising the patients that nonspecial packaging may be requested.~~

~~C.~~ B. If nonspecial packaging is requested, ~~a release of such request shall be obtained from the patient or the patient's authorized agent and maintained for two years from the date of dispensing~~ a notation shall be made on the dispensing record or other retrievable record.

18VAC110-20-355. Pharmacy repackaging of drug; records required; labeling requirements.

A. Pharmacies in which bulk reconstitution of injectable, bulk compounding or the repackaging or prepackaging of drugs is performed shall maintain adequate control records for a period of one year or until the expiration, whichever is greater. The records shall show the name of the drug(s) used; strength, if any; date repackaged; quantity prepared; initials of the pharmacist verifying the process; the assigned lot or control number; the manufacturer's or distributor's name and lot or control number; and an expiration date.

B. The drug name; strength, if any; the assigned lot or control number or the manufacturer's or distributor's name and lot or control number; and an appropriate expiration date determined by the pharmacist in accordance with USP guidelines shall appear on any subsequently repackaged or reconstituted units.

C. Pharmacies using automated counting devices or dispensers in which drugs are removed from manufacturer's original packaging and placed in bulk bins shall comply with the following requirements:

1. A bin filling record shall be maintained, manually or in a computerized record for a period of one year from date of filling from which information can be readily retrieved, for each bin including:

a. The drug name and strength, if any;

b. The name of the manufacturer or distributor;

c. Manufacturer's control or lot number(s) and expiration date for all lots placed into the bin at the time of filling;

d. Any assigned lot number; ~~and~~

e. An expiration date determined according to USP guidelines for repackaging;

f. The date of filling; and

g. The pharmacist's initials verifying the accuracy of the process.

2. If more than one lot is added to a bin at the same time, the lot which expires first shall be used to determine the expiration date if shorter than a calculated date based on USP guidelines.

3. Each bin shall be labeled in such a manner as to cross-reference the information on the filling record with the correct expiration date.

4. If only one lot is added to a bin at one time, but a ~~second~~ subsequent lot may be added before the first has cleared, the automated device shall be constructed to reasonably dispense the first lot before the second lot is dispensed, the expiration date on the bin's label shall reflect the expiration date assigned to the earlier lot, and the bin shall be allowed to "run dry" where all product is completely removed prior to filling at least once every 60 days with a record made of the run dry dates.

D. A pharmacy may return a dispensed drug to stock for redispensing that has never left the pharmacy premises or the control of the pharmacy delivery agent pursuant to § 54.1-3411.1 A 3 of the Code of Virginia under the following conditions:

1. An expiration date shall be placed on the label prior to returning the drug to stock. In the absence of stability data to the contrary, the date on the label may not exceed the expiration date on the manufacturer's container or one year from the date the drug was originally dispensed and placed in the prescription vial, whichever date is earlier.

2. The restocked drug shall be used to fill the next prescription received for that product. In the event that the drug is not dispensed prior to the new assigned expiration date, it shall be removed from working stock as expired, and disposed of in accordance with 18VAC110-20-210.

3. If there is no lot number on the label of a drug returned to stock or on the prescription records that can be cross-referenced from the prescription label, the drug shall be removed from stock upon any recall of that drug product and returned to the manufacturer or otherwise disposed of in accordance with 18VAC110-20-210.

18VAC110-20-391. Prescription blanks.

If a pharmacy provides prescription blanks to prescribers, no advertising or other information shall be on the face of the prescription blank other than prompts for essential information required by law to be on a written prescription. Any nonessential information such as coupons or pharmacy name may be placed on the back of the prescription blank or on a separate sheet of paper, but shall not be on or attached to the face of the blank.

18VAC110-20-395. Purchase of drugs.

Except for an emergency purchase from another pharmacy, a pharmacist may only purchase Schedule II through VI drugs from a wholesale distributor or warehouser licensed or registered by the board.

18VAC110-20-410. Permitted physician licensed by the board.

A. Pursuant to § 54.1-3304 of the Code of Virginia, physicians licensed by the board to dispense drugs, when pharmacy services are not reasonably available, shall be subject to the following sections of this chapter. For purposes of this section, the terms "pharmacist," "pharmacist-in-charge," "pharmacy," and "PIC" in the following shall be deemed to mean the physician permitted by the board:

1. 18VAC110-20-110 C and D;

2. 18VAC110-20-130 A;

3. 18VAC110-20-140 A and C;

4. 18VAC110-20-150 except that these requirements shall not apply to physicians licensed prior to August 25, 2004, unless the dispensing area is relocated or remodeled;

5. 18VAC110-20-160;

6. 18VAC110-20-180;

7. 18VAC110-20-190 A, B and C;

8. 18VAC110-20-200;

9. 18VAC110-20-210; and

10. 18VAC110-20-240 through 18VAC110-20-410.

B. A physician may apply for a special or limited use permit in accordance with 18VAC110-20-120.

18VAC110-20-425. Robotic ~~Pharmacy Systems~~ pharmacy systems.

~~A.~~ A pharmacy providing services to a hospital or a long-term care facility using a unit dose dispensing system may ~~apply for approval of~~ operate a robotic pharmacy system ~~and a waiver of 18VAC110-20-270 B~~ dispensing unit dose, bar-coded drugs, and is exempted from 18VAC110-20-270 C, provided the accuracy of the final dispensed prescription product ~~is determined by~~ complies with a written quality assurance plan and requirements of this chapter. ~~An applicant shall apply using a form provided by the board and shall pay a fee as set forth in 18VAC110-20-20.~~ The following requirements for operation of a robotic pharmacy system shall apply:

1. Pharmacists shall review for accuracy and appropriateness of therapy all data entry of prescription orders into the computer operating the system.

2. The packaging, repackaging, stocking and restocking of the robotic pharmacy system shall be performed by pharmacy technicians or pharmacists.

3. Pharmacists shall verify and check for the accuracy of all drugs packaged or repackaged for use by the robot by a visual check of both labeling and contents prior to stocking the drugs in the robotic pharmacy system. A repackaging record shall be maintained in accordance with 18VAC110-20-355 A, and the verifying pharmacist shall initial the record. Packaging and labeling, including the appropriate beyond-use date, shall conform to requirements of this chapter and current USP-NF standards.

4. A written policy and procedure must be maintained and shall include at a minimum, procedures for ensuring:

a. Accurate packaging and repackaging of all drugs for use in the robotic pharmacy system, to include properly labeled barcodes, and method for ensuring pharmacist verification of all packaged and repacked drugs compliant with this chapter;

b. Accurate stocking and restocking of the robotic pharmacy system;

c. Removing expired drugs;

d. Proper handling of drugs that may be dropped by the robotic pharmacy system;

e. Performing routine maintenance of robotic pharmacy system as indicated by manufacturer's schedules and recommendations;

f. Accurate dispensing of drugs via robotic pharmacy system for cart fills, first doses, and cart fill updates during normal operation and during any scheduled or unscheduled downtime;

g. Appropriately investigating, identifying and correcting sources of discrepancies or errors associated with the robotic pharmacy system; and

h. Maintaining quality assurance reports.

5. Pharmacists shall perform a daily random check of medications picked by the robot for 5.0% of all patients' bins and 5.0% of all first doses or cart updates. Documentation of this check shall include the pharmacist's initials for each medication checked and a description of all discrepancies found.

6. All manual picks shall be checked by pharmacists.

7. If the robot picks an incorrect medication, the pharmacy shall immediately institute a 100% check of all patients' bins or doses and shall immediately report the error to the board. The 100% check procedure shall continue until such time as the pharmacy provides documentation to the board showing that the cause of the error has been determined and addressed and that the robot is no longer making errors, and the board allows the pharmacy to return to a reduction in checking.

8. Quarterly quality assurance reports demonstrating the accuracy of the robot shall be maintained. At a minimum, these reports shall include:

a. A summary indicating the date and description of all discrepancies that include but are not limited to discrepancies involving the packaging, repackaging and dispensing of drugs via the robotic pharmacy system found during that quarter plus a cumulative summary since initiation of the robotic pharmacy system.

b. The total number of doses packaged for the robotic pharmacy system and total number of doses picked by the robot during the quarter.

c. The total number of doses picked by the robot that were checked in conducting the 5.0% patient bin check, 5.0% cart updates check, and 5.0% first dose check.

d. Dates and time associated with any scheduled or unanticipated downtime with an explanation of the problem to include the time span of the downtime and the resolution.

9. All unanticipated downtime shall be immediately reported to the board.

10. All records required by this section shall be maintained at the address of the pharmacy for a minimum of two years. Records may be maintained in offsite storage or as an electronic image that provides an exact image of the document that is clearly legible provided such offsite or electronic storage is retrievable and made available for inspection or audit within 48 hours of a request by the board or an authorized agent.

~~B. A copy of the quality assurance plan shall be submitted as a part of the application and shall include at a minimum the following:~~

~~1. Method of ensuring accurate packaging and loading of the robotic pharmacy system.~~

~~2. Procedures for conducting quality control checks of final dispensing for accuracy.~~

~~3. Manufacturer's schedules and recommendations for maintenance of the device.~~

~~4. Plan for maintenance of all related documentation for a minimum of two years.~~

~~C. The application shall be reviewed by an informal conference committee of the board, consisting of no less than two members of the board.~~

~~1. The informal conference committee may approve or deny the application, or may approve the application upon terms and conditions.~~

~~2. The committee may require an inspection of a new or modified robotic pharmacy system prior to approval.~~

~~3. The committee may require that periodic reports be submitted detailing frequency and types of errors determined by the continuous quality assurance checks.~~

~~4. The board may withdraw the approval of a waiver for failure to comply with the quality assurance plan or with other terms and conditions which have been established by the board.~~

~~D. The board shall be notified prior to implementing any modification to the approved application and no modification may be implemented until approved by the board.~~

~~E. If a robotic pharmacy system is used, a pharmacist shall review all data entry of prescription orders into the computer operating the system for accuracy and appropriateness of therapy and shall check all repackaged medication prior to use in loading the system.~~

Part XI
Pharmacy Services to Hospitals

18VAC110-20-440. Responsibilities of the pharmacist-in-charge.

A. The PIC in a pharmacy located within a hospital or the PIC of any outside pharmacy providing pharmacy services to a hospital shall be responsible for establishing procedures for and assuring maintenance of the proper storage, security, and dispensing of all drugs used throughout the hospital.

B. The PIC of a pharmacy serving a hospital shall be responsible for maintaining a policy and procedure for providing reviews of drug therapy to include at a minimum any irregularities in drug therapy~~, drug interactions, drug administration, or transcription errors. All significant irregularities shall be brought to the attention of the attending practitioner or other person having authority to correct the potential problem~~ consistent with § 54.1-3319 A of the Code of Virginia.

C. Prior to the opening of a satellite pharmacy within the hospital, the PIC shall notify the board as required by 18VAC110-20-140 and shall ensure compliance with subsections B through G of 18VAC110-20-150, 18VAC110-20-160, 18VAC110-20-170, 18VAC110-20-180 and 18VAC110-20-190. No drugs shall be stocked in a satellite pharmacy until an inspection has been completed and approval given for opening.

D. For the following list of Schedule VI controlled substances, the PIC of a pharmacy serving a hospital may authorize the storage in an area of the hospital outside the pharmacy, and may delegate the ordering and distribution within the hospital to nonpharmacy personnel provided the conditions for proper storage and adequate security and the procedures for distribution are set forth in the pharmacy's policy and procedure manual, and provided that the PIC assures that these storage areas are checked monthly for compliance. The storage areas must be locked when authorized staff is not present in the area. Except for nitrous oxide, medical gases may be stored in an unlocked area.

1. Large volume parenteral solutions that contain no active therapeutic drugs other than electrolytes;

2. Irrigation solutions;

3. Contrast media;

4. Medical gases;

5. Sterile sealed surgical trays that may include a Schedule VI drug; and

6. Blood components and derivatives, and synthetic blood components and products that are classified as prescription drugs.

18VAC110-20-450. After-hours access to the pharmacy.

A. When authorized by the PIC, an authorized nurse may have access to ~~the pharmacy in the absence of the pharmacist~~ a supply of drugs maintained by the pharmacy at a location outside the pharmacy in order to obtain emergency medication during hours the pharmacy is closed, provided that such drug is available in the manufacturer's original package or in units which have been prepared and labeled by a pharmacist and provided further that a separate record shall be made and left ~~within the pharmacy~~ at the location of the stock of drugs on a form prescribed by the PIC and such records are maintained within the pharmacy for a period of one year showing:

1 The date of withdrawal;

2. The patient's name;

3. The name of the drug, strength, dosage form and dose prescribed;

4. Number of doses removed; and

5. The signature of the authorized nurse.

B. If the after-hours supply of drugs is in an area that is continuously open and staffed, such as a patient floor or emergency room, then the area does not need to be alarmed. If the after-hours supply is maintained in an area of the hospital that is not open and continuously staffed, such as a floor that primarily houses departments that are closed daily, then an alarm that meets the requirements of 18VAC110-20-180 shall be installed and activated at all times.

18VAC110-20-460. Floor stock drugs; proof of delivery; distribution records.

A. A pharmacist shall check all Schedule II-VI drugs delivered to a hospital unit as floor-stock before the drugs leave the pharmacy and shall initial or sign manually or electronically the record of distribution verifying the accuracy of the distribution.

B. A delivery receipt shall be obtained for Schedule II through V drugs supplied as floor stock. This record shall include the date, drug name and strength, quantity, hospital unit receiving drug and the manual or electronic signatures of the dispensing pharmacist and the receiving nurse. ~~Receipts shall be maintained in the pharmacy for a period of two years or in off site storage which shall be retrievable and made available for inspection or audit within 48 hours of a request by the board or an authorized agent.~~

~~B.~~ C. A record of disposition/administration shall be used to document administration of Schedule II through V drugs when a floor stock system is used for such drugs. The record shall be returned to the pharmacy within three months of its issue. The PIC or his designee shall:

1. Match returned records with delivery receipts to verify that all records are returned;

2. Periodically audit returned administration records for completeness as to patient's names, dose, date and time of administration, signature or initials of person administering the drug, and date the record is returned;

3. Verify that all additions to inventory are recorded, that all additions to and deductions from inventory are correctly calculated, that sums carried from one record to the next are correctly recorded, and periodically verify that doses documented on administration records are reflected in the medical record; and

4. Initial the returned record~~, file chronologically by date of issue, and retain for two years from the date of return or in off site storage which shall be retrievable and made available for inspection or audit within 48 hours of a request by the board or an authorized agent~~.

~~C.~~ D. All records required by this section shall be filed chronologically by date of issue, and retained for two years from the date of return at the address of the pharmacy. Schedule VI records may be maintained in offsite storage or as an electronic image that provides an exact image of the document that is clearly legible provided such offsite or electronic storage is retrievable and made available for inspection or audit within 48 hours of a request by the board or an authorized agent. Schedule II-V records may only be stored offsite or electronically as described in this subsection if authorized by DEA or in federal law or regulation. The filing requirements of 18VAC110-20-240 A 1 for separation of Schedule II records shall be met for administration records if the Schedule II drugs are listed in a separate section on a page that contains other schedules of drugs.

18VAC110-20-490. Automated devices for dispensing and administration of drugs.

A hospital may use automated devices for the dispensing and administration of drugs pursuant to § 54.1-3301 of the Code of Virginia and §§ 54.3401 and 54.1-3434.02 of the Drug Control Act and in accordance with 18VAC110-20-270, 18VAC110-20-420 or 18VAC110-20-460 as applicable. The following conditions shall apply:

1. Prior to removal of drugs from the pharmacy, a delivery record shall be generated for all drugs to be placed in an automated dispensing device which shall include the date; drug name, dosage form, and strength; quantity; hospital unit and a unique identifier for the specific device receiving the drug; initials of the person loading the automated dispensing device; and initials of the pharmacist ~~reviewing the transaction~~ checking the drugs to be

removed from the pharmacy and the delivery record for accuracy.

2. At the time of loading, the delivery record for all Schedule II through V drugs shall be signed by a nurse or other person authorized to administer drugs from that specific device, and the record returned to the pharmacy ~~and maintained in chronological order for a period of two years from date of delivery. The delivery record and required signatures may be generated or maintained electronically provided the system being used has the capability of recording an electronic signature which is a unique identifier and restricted to the individual receiving the drugs and provided that this record is maintained in a "read only" format which cannot be altered after the information is recorded. The electronic record shall be readily retrievable, maintained for a period of two years, and the system used shall be capable of producing a hard copy printout of the record upon request~~.

3. At the time of loading any Schedule II through V drug, the person loading will verify that the count of that drug in the automated dispensing device is correct. Any discrepancy noted shall be recorded on the delivery record and immediately reported to the pharmacist in charge, who shall be responsible for reconciliation of the discrepancy or properly reporting of a loss.

4. Automated dispensing devices in hospitals shall be capable of producing a hard-copy record of distribution which shall show patient name, drug name and strength, dose withdrawn, dose to be administered, date and time of withdrawal from the device, and identity of person withdrawing the drug.

5. The PIC or his designee shall conduct at least a monthly audit to review distribution and administration of Schedule II through V drugs from each automated dispensing device as follows:

a. The audit shall reconcile records of all quantities of Schedule II through V drugs dispensed from the pharmacy with records of all quantities loaded into each device to detect whether any drugs recorded as removed from the pharmacy were diverted rather than being placed in the proper device.

b. A discrepancy report shall be generated for each discrepancy in the count of a drug on hand in the device. Each such report shall be resolved by the PIC or his designee within 72 hours of the time the discrepancy was discovered or, if determined to be a theft or an unusual loss of drugs, shall be immediately reported to the board in accordance with § 54.1-3404 E of the Drug Control Act.

c. The audit shall include a review of a sample of administration records from each device per month for possible diversion by fraudulent charting. A sample ~~from each device shall not be less than 24 consecutive hours within the month being audited~~ shall include all Schedule II-V drugs administered for a time period of not less than 24 consecutive hours during the audit period.

d. The audit shall include a check of medical records to ensure that a valid order exists for a random sample of doses recorded as administered.

e. The audit shall also check for compliance with written procedures for security and use of the automated dispensing devices, accuracy of distribution from the device, and proper recordkeeping.

f. The hard-copy distribution and administration records printed out and reviewed in the audit shall be initialed and dated by the person conducting the audit ~~and maintained in the pharmacy for a period of two years~~. If nonpharmacist personnel conduct the audit, a pharmacist shall review the record and shall initial and date the record. ~~These distribution records reviewed in conducting the audit may be maintained electronically provided they can be readily retrieved upon request; provided they are maintained in a read only format which does not allow alteration of the records; and provided a log is maintained for a period of two years showing dates of audit and review, the identity of the automated dispensing device being audited, the time period covered by the audit and review, and the initials of all reviewers.~~

6. If an automated dispensing device is used to obtain drugs for dispensing from an emergency room, a separate dispensing record is not required provided the automated record distinguishes dispensing from administration and records the identity of the physician who is dispensing.

7. Automated dispensing devices shall be inspected monthly by pharmacy personnel to verify proper storage, proper location of drugs within the device, expiration dates, the security of drugs and validity of access codes.

8. Personnel allowed access to an automated dispensing device shall have a specific access code which records the identity of the person accessing the device.

9. Proper use of the automated dispensing devices and means of compliance with requirements shall be set forth in the pharmacy's policy and procedure manual.

10. All records required by this section shall be filed in chronological order from date of issue and maintained for a period of not less than two years. Records shall be maintained at the address of the pharmacy providing services to the hospital except:

a. Manual Schedule VI distribution records may be maintained in offsite storage or electronically as an electronic image that provides an exact image of the document that is clearly legible provided such offsite or electronic records are retrievable and made available for

inspection or audit within 48 hours of a request by the board or an authorized agent.

b. Distribution and delivery records and required signatures may be generated or maintained electronically provided:

(1) The system being used has the capability of recording an electronic signature that is a unique identifier and restricted to the individual required to initial or sign the record.

(2) The records are maintained in a read-only format that cannot be altered after the information is recorded.

(3) The system used is capable of producing a hard-copy printout of the records upon request.

c. Schedule II-V distribution and delivery records may only be stored offsite or electronically as described in subdivisions 10 a and b of this section if authorized by DEA or in federal law or regulation.

d. Hard-copy distribution and administration records that are printed and reviewed in conducting required audits may be maintained at an off-site location or electronically provided they can be readily retrieved upon request; provided they are maintained in a read-only format that does not allow alteration of the records; and provided a separate log is maintained for a period of two years showing dates of audit and review, the identity of the automated dispensing device being audited, the time period covered by the audit and review, and the initials of all reviewers.

18VAC110-20-500. Licensed emergency medical services agencies program.

The pharmacy may prepare a drug kit for a licensed emergency medical services agency provided:

1. The PIC of the hospital pharmacy shall be responsible for all ~~controlled~~ prescription drugs contained in this drug kit. A pharmacist shall check each drug kit after filling the kit, and initial the filling record certifying the accuracy and integrity of the contents of the kit.

2. The drug kit is sealed in such a manner that it will ~~preclude any possibility of~~ deter theft or loss of drugs and aid in detection of such.

3. Drugs may be administered by an emergency medical technician upon an oral order or written standing order of an authorized medical practitioner in accordance with § 54.1-3408 of the Code of Virginia. Oral orders shall be reduced to writing by the technician and shall be signed by a medical practitioner. Written standing orders shall be signed by the operational medical director for the emergency medical services agency. The emergency medical technician shall make a record of all drugs administered to a patient. This administration record shall be signed by the medical practitioner who assumes responsibility for the patient at the hospital. If the patient is not transported to the hospital or if the attending medical practitioner at the hospital refuses to sign the record, a copy of this record shall be signed and placed in delivery to the hospital pharmacy who was responsible for that kit exchange by the agency's operational medical director within seven days of the administration.

4. When the drug kit has been opened, the kit shall be returned to the pharmacy and exchanged for an unopened kit. The record of the drugs administered shall accompany the opened kit when exchanged. An accurate record shall be maintained by the pharmacy on the exchange of the drug kit for a period of one year.

5. The record of the drugs administered shall be maintained as a part of the pharmacy records pursuant to state and federal regulations for a period of not less than two years.

6. Intravenous solutions provided by a hospital pharmacy to an emergency medical services agency may be stored separately outside the drug kit.

[Part XII
Pharmacy Services to Long-Term Care Facilities]

18VAC110-20-520. Drugs in long-term care facilities.

~~Drugs~~ Prescription drugs, as defined in the Drug Control Act, shall not be floor stocked by a long-term care facility, except those in the stat drug box or emergency drug box or as provided for in 18VAC110-20-560 within this chapter.

[~~Part XII~~
~~Pharmacy Services to Long-Term Care Facilities~~]

18VAC110-20-530. Pharmacy's responsibilities to long-term care facilities.

The pharmacy serving a long-term care facility shall:

1. Receive a valid order prior to the dispensing of any drug.

2. Ensure that personnel administering the drugs are trained in using the dispensing system provided by the pharmacy.

3. Ensure that the drugs for each patient are kept and stored in the originally received containers and that the medication of one patient shall not be transferred to another patient.

4. Ensure that each cabinet, cart or other area utilized for the storage of drugs is locked and accessible only to authorized personnel.

5. Ensure that the storage area for [~~patients~~ patients'] drugs is well lighted, of sufficient size to permit storage without crowding, and is maintained at appropriate temperature.

6. Ensure that poison and drugs for "external use only" are kept in a cabinet and separate from other medications.

7. Provide for the disposition of discontinued drugs under the following conditions:

a. Discontinued drugs may be returned to the pharmacy for resale or transferred to another pharmacy for redispensing to the indigent if authorized by § 54.1-3411.1 and 18VAC110-20-400, or ~~destroyed~~ disposed of by appropriate means in compliance with 18VAC110-20-210 and with any applicable local, state, and federal laws and regulations.

b. Drug destruction at the pharmacy shall be witnessed by the PIC and by another pharmacy employee. The pharmacy may transfer the drugs for destruction to an entity appropriately licensed to accept returns for destruction. Drug destruction at the facility shall be witnessed by the director of nursing or, if there is no director, then by the facility administrator and by a pharmacist providing pharmacy services to the facility or by another employee authorized to administer medication.

c. A complete and accurate record of the drugs returned or destroyed or both shall be made. The original of the record of destruction shall be signed and dated by the persons witnessing the destruction and maintained at the long-term care facility for a period of two years. A copy of the destruction record shall be maintained at the provider pharmacy for a period of two years.

d. Long-term care facilities shall destroy discontinued or unused drugs or return them to the pharmacy [~~without~~ within] 30 days of the date the drug was discontinued.

8. Ensure that appropriate drug reference materials are available in the facility units.

9. Ensure that a monthly review of drug therapy by a pharmacist is conducted for each patient in long-term care facilities except those licensed under Title 63.2 of the Code of Virginia. Such review shall be used to determine any irregularities, which may include but not be limited to drug therapy, drug interactions, drug administration or transcription errors. The pharmacist shall sign and date the notation of the review. All significant irregularities shall be brought to the attention of the attending practitioner or other party having authority to correct the potential problem.

18VAC110-20-535. Repackaging of already dispensed prescriptions.

The primary provider pharmacy for a long-term care facility may, but shall not be required to, repackage a resident's prescription drugs dispensed by another pharmacy into the unit-dose or compliance packaging system used by the long-term care facility to assist in maintaining a uniform or more accurate system of administration.

1. Such repackaging shall only be done at the provider pharmacy.

2. Unit dose repackaging shall comply with requirements of 18VAC110-20-420 and compliance packaging shall comply with 18VAC110-20-340 B.

3. Records shall be maintained of all such repackaging of previously dispensed medications to include date; repackaging pharmacist's initials (or those of the checking pharmacist); and the pharmacy name, address, and prescription number of the original dispensing.

4. Any portion of a resident's medication not placed into unit dose or compliance packaging may be returned to the resident or kept for subsequent repackaging at the provider pharmacy in the original labeled container. If kept at the pharmacy, the medication shall be stored within the prescription department but separate from any working stock of drugs used for dispensing by the pharmacy, and shall only be used for the patient to whom the medication was originally dispensed.

18VAC110-20-536. Prescription drugs sent outside the facility.

A. The provider pharmacy shall assure that residents who leave a long-term care facility for short periods of time or are discharged and who are allowed to take dispensed prescription medications with them, do so only in appropriate packaging, properly labeled for outpatient use.

B. Pharmacies that provide medication to residents in compliance packaging that meets the requirements of 18VAC110-20-340 B, shall assure that if the facility separates and sends only the individual containers needed during the time the resident is away without the main package label, that the resident is also given a copy of the main package label or other appropriate documentation that contains the complete labeling information on the main package label.

18VAC110-20-540. Emergency drug kit.

The pharmacist providing services may prepare an emergency kit for a long-term care facility in which ~~only those persons licensed to administer are administering drugs~~ access to the kit is restricted to a licensed nurse, pharmacist, or prescriber and only these licensed individuals may administer a drug taken from the kit and only under the following conditions:

1. The contents of the emergency kit shall be of such a nature that the absence of the drugs would threaten the survival of the patients.

2. The contents of the kit shall be determined by the provider pharmacist in consultation with the medical and

nursing staff of the institutions and shall be limited to drugs for administration by injection or inhalation only, except that Nitroglycerin SL may be included.

3. The kit is sealed in such a manner that it will preclude any possible loss of the drug.

a. The dispensing pharmacy must have a method of sealing such kits so that once the seal is broken, it cannot be reasonably resealed without the breach being detected.

b. If a seal is used, it shall have a unique numeric or alphanumeric identifier to preclude replication and/or resealing. The pharmacy shall maintain a record of the seal identifiers when placed on a box or kit and maintain the record until such time as the seal is replaced.

c. In lieu of seals, a kit with a built-in mechanism preventing resealing or relocking once opened except by the provider pharmacy is also acceptable.

4. The kit shall have a form to be filled out upon opening the kit and removing contents to write the name of the person opening the kit, the date, time and name and quantity of item(s) removed. The opened kit is maintained under secure conditions and returned to the pharmacy within 72 hours for replenishing.

5. Any drug used from the kit shall be covered by a prescription, signed by the prescriber, when legally required, within 72 hours.

18VAC110-20-550. Stat-drug box.

An additional drug box called a stat-drug box may be prepared by a pharmacy to provide for initiating therapy prior to the receipt of ordered drugs from the pharmacy. Access to the stat-drug box is restricted to a licensed nurse, pharmacist, or prescriber and only these licensed individuals may administer a drug taken from the stat-drug box. Additionally, a valid prescription or lawful order of a prescriber must exist prior to the removal of any drug from the stat-drug box. A stat-drug box ~~shall be provided to those facilities in which only those persons licensed to administer are administering drugs and~~ shall be subject to the following conditions:

1. The box is sealed in such a manner that will preclude the loss of drugs.

a. The dispensing pharmacy must have a method of sealing such boxes so that once the seal is broken, it cannot be reasonably resealed without the breach being detected.

b. If a seal is used, it shall have a unique numeric or alphanumeric identifier to preclude replication or resealing, or both. The pharmacy shall maintain a record of the seal identifiers when placed on a box and maintain the record until such time as the seal is replaced.

c. In lieu of seals, a box with a built-in mechanism preventing resealing or relocking once opened except by the provider pharmacy is also acceptable.

2. The box shall have a form to be filled out upon opening the box and removing contents to write the name of the person opening the box, the date, time and name and quantity of item(s) removed. When the stat-drug box has been opened, it is returned to the pharmacy.

~~3. Any drug used from the box shall be covered by a drug order signed by the prescriber, when legally required, within 72 hours.~~

~~4.~~ 3. There shall be a listing of the contents of the box maintained in the pharmacy and also attached to the box in the facility. This same listing shall become a part of the policy and procedure manual of the facility served by the pharmacy.

~~5.~~ 4. The drug listing on the box shall bear an expiration date for the box. The expiration date shall be the day on which the first drug in the box will expire.

~~6.~~ 5. The contents of the box shall be limited to those drugs in which a delay in initiating therapy may result in harm to the patient.

a. The listing of drugs contained in the stat-drug box shall be determined by the provider pharmacist in consultation with the medical and nursing staff of the long-term care facility.

b. The stat-drug box shall contain no Schedule II drugs.

c. The stat-drug box shall contain no more than one Schedule III through V drug in each therapeutic class and no more than five doses of each.

18VAC110-20-555. Use of automated dispensing devices.

Nursing homes licensed pursuant to Chapter 5 (§ 32.1-123 et seq.) of Title 32.1 of the Code of Virginia may use automated drug dispensing systems, as defined in § 54.1-3401 of the Code of Virginia, upon meeting the following conditions:

1. Drugs placed in an automated drug dispensing system in a nursing home shall be under the control of the pharmacy providing services to the nursing home, the pharmacy shall have on-line communication with and control of the automated drug dispensing system, and access to any drug for a patient shall be controlled by the pharmacy.

2. A nursing home without an in-house pharmacy shall obtain a controlled substances registration prior to using an automated dispensing system.

3. Removal of drugs from any automated drug dispensing system for administration to patients can only be made pursuant to a valid prescription or lawful order of a prescriber~~.~~ under the following conditions:

a. A drug may not be administered to a patient from an automated dispensing device until a pharmacist has reviewed the prescription order and electronically authorized the access of that drug for that particular patient in accordance with the order.

b. The PIC of the provider pharmacy shall ensure that a pharmacist who has on-line access to the system is available at all times to review a prescription order as needed and authorize administering pursuant to the order reviewed.

c. Drugs that would be stocked in an emergency drug kit pursuant to 18VAC110-20-540 may be accessed prior to receiving electronic authorization from the pharmacist provided that the absence of the drugs would threaten the survival of the patients.

d. Automated dispensing devices shall be capable of producing a hard-copy record of distribution that shall show patient name, drug name and strength, dose withdrawn, dose to be administered, date and time of withdrawal from the device, and identity of person withdrawing the drug.

4. Drugs placed in automated dispensing devices shall be in the manufacturer's sealed original unit dose or unit-of-use packaging or in repackaged unit-dose containers in compliance with the requirements of 18VAC110-20-355 relating to repackaging, labeling, and records.

5. Prior to the removal of drugs from the pharmacy, a delivery record shall be generated for all drugs to be placed in an automated dispensing device which shall include the date; drug name, dosage form, and strength; quantity; nursing home; a unique identifier for the specific device receiving drugs; and initials of the pharmacist checking the order of drugs to be removed from the pharmacy and the records of distribution for accuracy.

6. At the direction of the PIC, drugs may be loaded in the device by a pharmacist or a pharmacy technician adequately trained in the proper loading of the system.

7. At the time of loading, the delivery record for all Schedule II through ~~V~~ VI drugs shall be signed by a nurse or other person authorized to administer drugs from that specific device, and the record returned to the pharmacy ~~and maintained in chronological order for a period of two years from date of delivery. The delivery record and required signatures may be generated or maintained electronically provided the system being used has the capability of recording an electronic "signature" which is a unique identifier and restricted to the individual receiving the drugs and provided that this record is maintained in a "read-only" format which cannot be altered after the information is recorded. The electronic record shall be readily retrievable, maintained for a period of two years, and the system used shall be capable of producing a hard copy printout of the record upon request~~.

8. At the time of loading any Schedule II through V drug, the person loading will verify that the count of that drug in the automated dispensing device is correct. Any discrepancy noted shall be recorded on the delivery record and immediately reported to the PIC, who shall be responsible for reconciliation of the discrepancy or the proper reporting of a loss.

9. The PIC of the provider pharmacy or his designee shall conduct at least a monthly audit to review distribution and administration of Schedule II through V drugs from each automated dispensing device as follows:

a. The audit shall reconcile records of all quantities of Schedule II through V drugs dispensed from the pharmacy with records of all quantities loaded into each device to detect whether any drugs recorded as removed from the pharmacy were diverted rather than being placed in the proper device.

b. A discrepancy report shall be generated for each discrepancy in the count of a drug on hand in the device. Each such report shall be resolved by the PIC or his designee within 72 hours of the time the discrepancy was discovered or, if determined to be a theft or an unusual loss of drugs, shall be immediately reported to the board in accordance with § 54.1-3404 E of the Drug Control Act.

c. The audit shall include a review of a sample of administration records from each device per month for possible diversion by fraudulent charting. A sample ~~from each device shall not be less than 24 consecutive hours within the month being audited~~ shall include all Schedule II [- through] V drugs administered for a time period of not less than 24 consecutive hours during the audit period.

d. The audit shall include a check of medical records to ensure that a valid order exists for a random sample of doses recorded as administered.

e. The audit shall also check for compliance with written procedures for security and use of the automated dispensing devices, accuracy of distribution from the device, and proper recordkeeping.

f. The hard copy distribution and administration records printed out and reviewed in the audit shall be initialed and dated by the person conducting the audit ~~and maintained in the pharmacy for a period of two years~~. If nonpharmacist personnel conduct the audit, a pharmacist shall review the record and shall initial and date the record. ~~These distribution records reviewed in conducting the audit may be maintained electronically provided they can be readily retrieved upon request;~~

~~provided they are maintained in a "read-only' format which does not allow alteration of the records; and provided a log is maintained for a period of two years showing the dates of audit and review, the identity of the automated dispensing device being audited, the time period covered by the audit and review, and the initials of all reviewers.~~

10. Automated dispensing devices shall be inspected monthly by pharmacy personnel to verify proper storage, proper location of drugs within the device, expiration dates, the security of drugs and validity of access codes.

11. Personnel allowed access to an automated dispensing device shall have a specific access code which records the identity of the person accessing the device.

12. The PIC of the pharmacy providing services to the nursing home shall establish, maintain, and assure compliance with written policy and procedure for the accurate stocking and proper storage of drugs in the automated drug dispensing system, accountability for and security of all drugs maintained in the automated drug dispensing system, preventing unauthorized access to the system, tracking access to the system, complying with federal and state regulations related to the storage and dispensing of controlled substances, maintaining patient confidentiality, maintaining required records, and assuring compliance with the requirements of this chapter. The manual shall be capable of being accessed at both the pharmacy and the nursing home.

13. All records required by this section shall be filed in chronological order from date of issue and maintained for a period of not less than two years. Records shall be maintained at the address of the pharmacy providing services to the nursing home except:

a. Manual Schedule VI distribution records may be maintained in offsite storage or electronically as an electronic image that provides an exact image of the document that is clearly legible provided such offsite or electronic storage is retrievable and made available for inspection or audit within 48 hours of a request by the board or an authorized agent.

b. Distribution and delivery records and required signatures may be generated or maintained electronically provided:

(1) The system being used has the capability of recording an electronic signature that is a unique identifier and restricted to the individual required to initial or sign the record.

(2) The records are maintained in a read-only format that cannot be altered after the information is recorded.

(3) The system used is capable of producing a hard-copy printout of the records upon request.

c. Schedule II-V distribution and delivery records may only be stored offsite or electronically as described in subdivisions 13 a and b of this section if authorized by DEA or in federal law or regulation.

d. Hard-copy distribution and administration records that are printed and reviewed in conducting required audits may be maintained off site or electronically provided they can be readily retrieved upon request; provided they are maintained in a read-only format that does not allow alteration of the records; and provided a separate log is maintained for a period of two years showing dates of audit and review, the identity of the automated dispensing device being audited, the time period covered by the audit and review, and the initials of all reviewers.

Part XIII
Other Institutions and Facilities

18VAC110-20-570. Drugs in infirmaries/first aid rooms.

A. ~~Controlled~~ Prescription drugs purchased by an institution, agency, or business within the Commonwealth, having been purchased in the name of a practitioner licensed by the Commonwealth of Virginia and who is employed by an institution, agency, or business which does not hold a pharmacy permit, shall be used only for administering to those persons at that institution, agency, or business.

B. All ~~controlled~~ prescription drugs shall be maintained and secured in a suitable locked storage area, the key to which will be in the possession of the practitioner or nurse who is under the direction and supervision of the practitioner.

C. Such institution, agency, or business shall adopt a specific protocol for the administration of prescription drugs, listing the inventory of such drugs maintained, and authorizing the administering of such drugs in the absence of a practitioner in an emergency situation when the timely prior verbal or written order of a prescriber is not possible. Administering of such drugs shall be followed by written orders.

1. For the purpose of this chapter, "emergency" means a circumstance requiring administration of ~~controlled~~ prescription drugs necessary to preserve life or to prevent significant or permanent injury or disability.

2. The protocol shall be maintained for inspection and documentation purposes.

~~D. A nurse may, in the absence of a practitioner, administer and provide nonprescription drugs in unit dose containers in quantities which in the professional judgment of the nurse will maintain the person at an optimal comfort level until the person's personal practitioner can be consulted. The administering and providing of such medication must be in accordance with explicit instructions of a specific protocol promulgated by the practitioner in charge of the institution, agency, or business.~~

18VAC110-20-580. Humane societies and animal shelters.

A humane society or animal shelter, after having obtained the proper [~~permits~~ registrations] pursuant to state and federal laws, may purchase, possess and administer [~~any drug approved by the State Veterinarian to euthanize injured, sick, homeless and unwanted domestic pets and animals~~ controlled substances in accordance with provisions of § 54.1-3423 of the Code of Virginia] provided that these procedures are followed:

1. Drugs ordered by a humane society [~~for euthanasia~~ or animal shelter] shall only be stored and administered at the address of the humane society [~~. Humane societies shall not order or possess a stock of drugs for any purpose other than euthanasia~~ or shelter].

~~1.~~ 2. A veterinarian shall provide general supervision for the facility and shall provide and certify training in accordance with guidelines set forth by the State Veterinarian to the person(s) responsible for administration of the drugs. Certification of training signed by the veterinarian providing the training shall be maintained at the facility for each person administering drugs and must be retained for not less than two years after the person ceases administering.

~~2.~~ 3. The person in charge of administration of drugs [~~for euthanasia~~] for the facility shall obtain the required permit and controlled substances registration from the board and shall be responsible for maintaining proper security and required records of all controlled substances obtained and administered.

a. If that person ceases employment with the facility or relinquishes his position, he shall immediately return the [~~permit~~ registration] to the board and shall take a complete and accurate inventory of all drugs in stock.

b. An application for a new [~~permit~~ registration] shall be filed with the required fee within 14 days on a form provided by the board. At that time, the new responsible person shall take a complete and accurate inventory of all drugs in stock.

~~3.~~ 4. Drugs shall be stored in a secure, locked place and only the person(s) responsible for administering may have access to the drugs.

~~4.~~ [~~5. Any drug used shall be obtained and administered in the injectable form only.~~]

[5. ~~6.~~] All invoices and order forms shall be maintained for a period of two years.

[6. ~~7.~~] Complete and accurate records shall be maintained for two years on the administration of the drug. The record shall show the name and strength of the drug, date of administration, the species of the animal, the weight of animal, the amount of drug administered and the signature of the person administering the drug.

18VAC110-20-590. Drugs in correctional ~~institutions~~ facilities.

A. All prescription drugs at any correctional ~~unit~~ facility shall be obtained only on an individual prescription basis from a pharmacy and subject to the following conditions:

1. All prepared drugs shall be maintained in a suitable locked storage area with only the person responsible for administering the drugs having access.

2. Complete and accurate records shall be maintained of all drugs received, administered and discontinued. The administration record shall show the:

a. Patient name;

b. Drug name and strength;

c. Number of dosage units received;

d. Prescriber's name; and

e. Date, time and signature of the person administering the individual dose of drug.

3. All unused or discontinued drugs shall be sealed and the amount in the container at the time of the sealing shall be recorded on the drug administration record. Such drugs shall be returned to the provider pharmacy or to a secondary pharmacy along with the drug administration record, a copy of the drug administration record, or other form showing substantially the same information, within 30 days of discontinuance.

a. The provider or secondary pharmacy shall conduct random audits of returned drug administration records for accountability.

b. The drug administration records shall be filed in chronological order by the provider or secondary pharmacy and maintained for a period of one year or, at the option of the facility, the records may be returned by the pharmacy to the facility.

c. Drugs may be returned to pharmacy stock in compliance with the provisions of 18VAC110-20-400.

d. Other drugs shall be disposed of or destroyed by the provider pharmacy in accordance with local, state, and federal regulations.

4. Alternatively, drugs for destruction may be forwarded by a pharmacist directly from the correctional facility to a returns company after performing the audit required by subdivision 3 a of this subsection and ensuring the proper maintenance of the administration records.

B. Emergency and stat-drug box. An emergency box and a stat-drug box may be prepared for ~~the~~ a correctional facility

served by the pharmacy pursuant to 18VAC110-20-540 and 18VAC110-20-550 provided that the facility employs one or more full-time physicians, registered nurses, licensed practical nurses, or physician assistants ~~or correctional health assistants~~.

C. Prescription drugs, including but not limited to vaccines, may be ~~stocked~~ floor-stocked only at a medical clinic or surgery center that is part of a correctional facility and that is staffed by one or more ~~physicians~~ prescribers during the hours of operation, provided the clinic first obtains a controlled substances registration and complies with the requirements of 18VAC110-20-690, 18VAC110-20-700, 18VAC110-20-710, and 18VAC110-20-720.

18VAC110-20-610. Exempted chemical preparations.

The list of exempt chemical preparations ~~set forth in~~ pursuant to 21 CFR ~~§~~1308.24 and maintained by the administrator of DEA is adopted pursuant to the authority set forth in §§ 54.1-3443, 54.1-3450 and 54.1-3452 of the Drug Control Act.

18VAC110-20-620. Exempted prescription products.

The list of exempt prescription products ~~set forth in~~ pursuant to 21 CFR 1308.32 and maintained by the administrator of DEA is adopted pursuant to the authority set forth in §§ 54.1-3443, 54.1-3450 and 54.1-3452 of the Drug Control Act; the exempted prescription products are drugs which are subject to the provisions of § 54.1-3455 of the Drug Control Act.

18VAC110-20-621. Exempted anabolic steroid products.

The list of exempt anabolic steroid products ~~set forth in~~ pursuant to 21 CFR 1308.34 and maintained by the administrator of DEA is adopted pursuant to the authority set forth in §§ 54.1-3443, 54.1-3450 and 54.1-3452 of the Drug Control Act; the exempted anabolic steroid products are drugs which are subject to the provisions of § 54.1-3455 of the Drug Control Act.

18VAC110-20-622. Excluded veterinary anabolic steroid implant products.

The list of excluded veterinary anabolic steroid implant products ~~set forth in~~ pursuant to 21 CFR 1308.26 and maintained by the administrator of DEA is adopted only for legitimate veterinary use pursuant to the authority set forth in §§ 54.1-3443, 54.1-3450 and 54.1-3452 of the Drug Control Act; the exempted anabolic steroid products are drugs which are subject to the provisions of § 54.1-3455 of the Drug Control Act when used for implant to cattle or other nonhuman species. These products are not excluded from Schedule III if prescribed, administered, dispensed, or otherwise distributed for human use.

18VAC110-20-680. Medical equipment suppliers.

A. A medical equipment supplier's location shall be inspected by the board prior to engaging in business. The location shall be clean and sanitary and shall have a system of temperature control to provide for specified storage conditions for any Schedule VI drug or device.

B. Hypodermic needles and syringes and Schedule VI drugs shall not be placed on open display or in an open area where patrons will have access to such items. No Schedule VI devices shall be placed in an area where responsible parties cannot exercise reasonable supervision and control.

C. A medical equipment supplier shall receive a valid order from a practitioner prior to dispensing and shall maintain this order on file on the premises for a period of two years from date of last dispensing. The original order may be kept at a centralized office as long as it is readily retrievable within 48 hours and a copy of the order is kept on the premises of the dispensing supplier. In lieu of a hard copy, an electronic image of an order may be maintained in an electronic database provided it preserves and provides an exact image of the order that is clearly legible and made available within 48 hours of a request by a person authorized by law to have access to prescription information.

D. Medical equipment suppliers shall make a record at the time of dispensing. This record shall be maintained on the premises for two years from date of dispensing and shall include:

1. Name and address of patient;

2. Item dispensed and quantity, if applicable; and

3. Date of dispensing.

Part XVI
Controlled Substances Registration for Other Persons or Entities

18VAC110-20-690. Persons or entities authorized or required to obtain a controlled substances registration.

A. A person or entity which maintains or intends to maintain a supply of Schedule II through Schedule VI controlled substances, other than manufacturers' samples, ~~in order to administer such drugs~~ in accordance with provisions of the Drug Control Act (§ 54.1-3400 et seq. of the Code of Virginia) may apply for a controlled substances registration on forms approved by the board.

B. Persons or entities which may be registered by the board shall include, but not be limited to, hospitals without in-house pharmacies, nursing homes without in-house pharmacies that use automated drug dispensing systems, ambulatory surgery centers, outpatient clinics, alternate delivery sites, and emergency medical services agencies provided such persons or entities are otherwise authorized by law and hold required licenses or appropriate credentials to administer the drugs for which the registration is being sought.

C. In determining whether to register an applicant, the board shall consider factors listed in subsections A and D of § 54.1-

3423 of the Code of Virginia and compliance with applicable requirements of this chapter.

1. The proposed location shall be inspected by an authorized agent of the board prior to issuance of a controlled substances registration.

2. Controlled substances registration applications that indicate a requested inspection date, or requests that are received after the application is filed, shall be honored provided a 14-day notice is allowed prior to the requested inspection date.

3. Requested inspection dates that do not allow a 14-day notice to the board may be adjusted by the board to provide 14 days for the scheduling of the inspection.

4. Any person wishing to change an approved location of the drug stock, make structural changes to an existing approved drug storage location, or make changes to a previously approved security system shall file an application with the board and be inspected consistent with subsection B of this section.

5. Drugs shall not be stocked within the proposed drug storage location or moved to a new location until approval is granted by the board.

D. The application shall be signed by a person who will act as a responsible party for the controlled substances. The responsible party may be a prescriber, nurse, pharmacist, or pharmacy technician for alternate delivery sites or other person approved by the board who is authorized to administer or otherwise possess the controlled substances for that type entity.

~~D.~~ E. The board may require a person or entity to obtain a controlled substances registration upon a determination that Schedule II through VI controlled substances have been obtained and are being used as common stock by multiple practitioners and that one or more of the following factors exist:

1. A federal, state, or local government agency has reported that the person or entity has made large purchases of controlled substances in comparison with other persons or entities in the same classification or category.

2. The person or entity has experienced a diversion, theft, or other unusual loss of controlled substances which requires reporting pursuant to § 54.1-3404 of the Drug Control Act.

3. The person or entity has failed to comply with recordkeeping requirements for controlled substances.

4. The person or entity or any other person with access to the common stock has violated any provision of federal, state, or local law or regulation relating to controlled substances.

18VAC110-20-700. Requirements for supervision for controlled substances registrants.

A. A practitioner licensed in Virginia shall provide supervision for all aspects of practice related to the maintenance and use of controlled substances as follows:

1. In a hospital or nursing home without an in-house pharmacy, a pharmacist shall supervise.

2. In an emergency medical services agency, the operational medical director shall supervise.

3. For any other ~~person or entity approved by the board, a practitioner of pharmacy, medicine, osteopathy, podiatry, dentistry, or veterinary medicine~~ type of applicant or registrant, a pharmacist or a prescriber whose scope of practice is consistent with the practice of the ~~person or entity~~ applicant or registrant and who is approved by the board ~~shall~~ may provide the required supervision.

B. The supervising practitioner shall approve the list of drugs which may be ordered by the holder of the controlled substances registration; possession of controlled substances by the entity shall be limited to such approved drugs. The list of drugs approved by the supervising practitioner shall be maintained at the address listed on the controlled substances registration.

C. Access to the controlled substances shall be limited to the supervising practitioner or to those persons who are authorized by the supervising practitioner and who are authorized by law to administer drugs in Virginia, or to other such persons as designated by the supervising practitioner or the responsible party to have access in an emergency situation. If approved by the supervising practitioner, pharmacy technicians may have access for the purpose of delivering controlled substances to the registrant, stocking controlled substances in automated dispensing devices, conducting inventories, audits and other recordkeeping requirements, and overseeing delivery of dispensed prescriptions at an alternate delivery site.

D. The supervising practitioner shall establish procedures for and provide training as necessary to ensure compliance with all requirements of law and regulation, including, but not limited to, storage, security, and recordkeeping.

E. Within 14 days of a change in the responsible party or supervising practitioner assigned to the registration, either the responsible party or outgoing responsible party shall inform the board and a new application shall be submitted indicating the name and license number, if applicable, of the new responsible party or supervising practitioner.

18VAC110-20-710. Requirements for storage and security for controlled substances registrants.

A. Drugs shall be stored under conditions which meet USP-NF specifications or manufacturers' suggested storage for each drug.

B. Any drug which has exceeded the expiration date shall not be administered; it shall be separated from the stock used for administration and maintained in a separate, locked area until properly disposed.

C. If a controlled substances registrant wishes to dispose of unwanted or expired Schedule II through VI drugs, he shall transfer the drugs to another person or entity authorized to possess and to provide for proper disposal of such drugs.

D. Drugs shall be maintained in a lockable cabinet, cart, device or other area which shall be locked at all times when not in use. The keys or access code shall be restricted to the supervising practitioner and persons designated access in accordance with 18VAC110-20-700 C.

E. In a facility not staffed 24 hours a day, the drugs shall be stored in a fixed and secured room, cabinet or area which has a security device for the detection of breaking which meets the following conditions:

1. The device shall be a sound, microwave, photoelectric, ultrasonic, or any other generally accepted and suitable device.

2. The installation ~~shall be hard wired and both the installation~~ and device shall be based on accepted ~~burglar~~ alarm industry standards.

3. The device shall be maintained in operating order ~~and shall,~~ have an auxiliary source of power, be monitored in accordance with accepted industry standards, be maintained in operating order; and shall be capable of sending an alarm signal to the monitoring entity if breached and the communication line is not operational.

4. The device shall fully protect all areas where prescription drugs are stored and shall be capable of detecting breaking by any means when activated.

5. Access to the alarm system shall be restricted to only designated and necessary persons, and the system shall be activated whenever the drug storage areas are closed for business.

6. An alarm system is not required for researchers, animal control officers, humane societies, or alternate delivery sites as provided in 18VAC110-20-275.

NOTICE: The forms used in administering the above regulation are not being published; however, the name of each form is listed below. The forms are available for public inspection by contacting the agency contact for this regulation, or at the office of the Registrar of Regulations, General Assembly Building, 2nd Floor, Richmond, Virginia.

[FORMS (18VAC110-20)

Application for Registration as a Pharmacy Intern (rev. 8/07).

Affidavit of Practical Experience, Pharmacy Intern (rev. 8/07).

Application for Licensure as a Pharmacist by Examination (rev. 8/07).

Instructions for Reinstating or Reactivating a Pharmacist License (rev. 11/07).

Application to Reinstate or Reactivate a Pharmacist License (rev. 11/07).

Application for Approval of a Continuing Education Program (rev. 8/07).

Application for Approval of ACPE Pharmacy School Course(s) for Continuing Education Credit ~~(rev. 8/07)~~ (rev. 4/09).

Application for License to Dispense Drugs (permitted physician) (rev. 8/07).

Application for a Pharmacy Permit ~~(rev. 8/07)~~ (rev. 3/09).

Application for a Nonresident Pharmacy Registration (rev. 7/08).

Application for a Permit as a Medical Equipment Supplier ~~(rev. 8/07)~~ (rev. 3/09).

Application for a Controlled Substances Registration Certificate ~~(rev. 8/07)~~ (rev. 4/09).

~~Application for a Permit as a Humane Society (rev. 8/07).~~

Application for Registration as a Pharmacy Intern for Graduates of a Foreign College of Pharmacy (rev. 8/07).

Closing of a Pharmacy (rev. 8/07).

Application for Approval of a Robotic Pharmacy System (rev. 8/07).

Inspection Required for Approval of a Robotic Pharmacy System (rev. 8/07).

Application for Approval of an Innovative (Pilot) Program (rev. 8/07).

Pharmacy Technician Registration Instructions and Application ~~(rev. 7/08)~~ (rev. 3/09).

Instructions for Reinstating a Pharmacy Technician Registration (rev. 11/07).

Application to Reinstate a Pharmacy Technician Registration (rev. 11/07).

Application for Approval of a Pharmacy Technician Training Program (rev. 8/07).

Application for Registration for Volunteer Practice (rev. 8/07).

Sponsor Certification for Volunteer Registration (rev. 8/07).

Preceptor Verification Form (rev. 8/07).

Application for Reinstatement of Registration as a Pharmacy Intern (eff. 9/07).

Affidavit for Limited-Use Pharmacy Technician (rev. 8/07).

Limited-Use Pharmacy Technician Registration Instructions and Application (rev. 7/08).

Application for Registration as a Pharmacy Technician (eff. 3/09).

~~Application for Registration as a Limited-Use Pharmacy Technician (eff. 7/08).~~]

VA.R. Doc. No. R07-753; Filed July 15, 2009, 11:21 a.m.

BOARD OF COUNSELING

Final Regulation

Title of Regulation: **18VAC115-50. Regulations Governing the Practice of Marriage and Family Therapy (amending 18VAC115-50-40, 18VAC115-50-60).**

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

Effective Date: September 2, 2009.

Agency Contact: Evelyn B. Brown, Executive Director, Board of Counseling, 9960 Mayland Drive, Suite 300, Richmond, VA 23233, telephone (804) 367-4488, FAX (804) 527-4435, or email evelyn.brown@dhp.virginia.gov.

Summary:

The requirements for a residency in marriage and family therapy are amended to specify that at least 100 of the required 200 hours of face-to-face supervision must be provided by a person holding a license as a marriage and family therapist. The requirements for licensure by endorsement are amended to repeal the provision that allows a person holding a license as a licensed professional counselor to be licensed by endorsement without taking and passing the national examination in marriage and family therapy.

In the adoption of the final regulation, the board amended the requirement so that 100 of the 200 hours of supervision could be either individually or in group.

Summary of Public Comments and Agency's Response: No public comments were received by the promulgating agency.

18VAC115-50-40. Application for licensure by endorsement.

A. Every applicant for licensure by endorsement shall submit in one package:

1. A completed application;

2. The application processing and initial licensure fee prescribed in 18VAC115-50-20; and

3. Documentation of licensure as follows:

a. Verification of all professional licenses or certificates ever held in any other jurisdiction. In order to qualify for endorsement the applicant shall have no unresolved action against a license or certificate. The board will consider history of disciplinary action on a case-by-case basis; [and]

b. Documentation of a marriage and family therapy license obtained by standards specified in subsection B of this section~~; or~~.

~~c. If currently holding an unrestricted license as a professional counselor in Virginia, documentation of successful completion of the requirements set forth in 18VAC115-50-50, 18VAC115-50-55 and 18VAC115-50-60.~~

B. Every applicant for licensure by endorsement shall meet one of the following:

1. Educational requirements consistent with those specified in 18VAC115-50-50 and 18VAC115-50-55 and experience requirements consistent with those specified in 18VAC115-50-60; or

2. If an applicant does not have educational and experience credentials consistent with those required by this chapter, he shall provide:

a. Documentation of education and supervised experience that met the requirements of the jurisdiction in which he was initially licensed as verified by an official transcript and a certified copy of the original application materials; and

b. Evidence of clinical practice for five of the last six years immediately preceding his licensure application in Virginia.

3. In lieu of transcripts verifying education and documentation verifying supervised experience, the board may accept verification from the credentials registry of the American Association of State Counseling Boards or any other board-recognized entity.

18VAC115-50-60. Residency.

A. Registration.

1. Applicants who render counseling services shall:

a. With their supervisor, register their supervisory contract on the appropriate forms for board approval before starting to practice under supervision;

b. Have submitted an official transcript documenting a graduate degree as specified in 18VAC115-50-50 to include completion of the internship requirement specified in 18VAC115-50-55; and

c. Pay the registration fee.

2. After September 3, 2008, applicants who are beginning their residencies in exempt settings shall register supervision with the board to assure acceptability at the time of application.

B. Residency requirements.

1. The applicant shall have completed at least two years of supervised post-graduate degree experience, representing no fewer than 4,000 hours of supervised work experience, to include 200 hours of supervision with the supervisor in the practice of marriage and family therapy. Residents shall receive a minimum of one hour and a maximum of four hours of supervision for every 40 hours of supervised work experience. No more than 100 hours of the supervision may be acquired through group supervision, with the group consisting of no more than six residents. One hour of group supervision will be deemed equivalent to one hour of individual supervision.

2. Of the 4,000 hours stipulated, at least 2,000 hours must be acquired in direct client contact of which 1,000 hours shall be with couples or families or both.

3. The residency shall consist of practice in the core areas set forth in 18VAC115-50-55.

4. The residency shall begin after the completion of a master's degree in marriage and family therapy or a related discipline as set forth in 18VAC115-50-50.

5. A graduate-level internship completed in a program that meets the requirements set forth in 18VAC115-50-50 may count for no more than 600 of the required 4,000 hours of experience. The internship shall include 20 hours of individual on-site supervision, and 20 hours of individual or group off-site supervision. Internship hours shall not begin until completion of 30 semester hours toward the graduate degree.

6. A graduate-level degree internship completed in a COAMFTE-approved program or a CACREP-approved program in marriage and family counseling/therapy may count for no more than 900 of the required 4,000 hours of experience.

7. In order for a graduate level internship to be counted toward a residency, either the clinical or faculty supervisor shall be licensed as set forth in subsection C of this section.

8. Residents shall not call themselves marriage and family therapists, solicit clients, bill for services rendered or in any way represent themselves as marriage and family therapists. During the residency, they may use their names, the initials of their degree and the title "Resident in Marriage and Family Therapy." Clients shall be informed in writing of the resident's status, along with the name, address and telephone number of the resident's supervisor.

9. Residents shall not engage in practice under supervision in any areas for which they do not have appropriate education.

10. Residents who do not become candidates for licensure after five years of supervised training shall submit an explanation to the board stating reasons the residency should be allowed to continue.

C. Supervisory qualifications. A person who provides supervision for a resident in marriage and family therapy shall:

1. Hold an active, unrestricted license as a marriage and family therapist, professional counselor, clinical psychologist, clinical social worker or psychiatrist in the jurisdiction where the supervision is being provided;

2. Document two years post-licensure marriage and family therapy experience; and

3. Have received professional training in supervision, consisting of three credit hours or 4.0 quarter hours in graduate-level coursework in supervision or at least 20 hours of continuing education in supervision offered by a provider approved under 18VAC115-50-96. Persons who have provided supervision for a residency prior to September 3, 2008, shall complete such coursework or continuing education by September 3, 2010. At least one-half of the [~~face-to-face~~ 200 hours of] supervision shall be rendered by a licensed marriage and family therapist.

D. Supervisory responsibilities.

1. The supervisor shall complete evaluation forms to be given to the resident at the end of each three-month period. The supervisor shall report the total hours of residency and evaluate the applicant's competency to the board.

2. Supervision by an individual whose relationship to the resident is deemed by the board to compromise the objectivity of the supervisor is prohibited.

3. The supervisor shall assume full responsibility for the clinical activities of residents as specified within the supervisory contract, for the duration of the residency.

NOTICE: The forms used in administering the above regulation are not being published; however, the name of each form is listed below. The forms are available for public inspection by contacting the agency contact for this

regulation, or at the office of the Registrar of Regulations, General Assembly Building, 2nd Floor, Richmond, Virginia.

[FORMS (18VAC115-50)

Marriage and Family Therapist Licensure Application, MFT Form 2 (rev. 8/08).

Verification of Licensure, MFT Form 2-VL (rev. 8/08).

Verification of Supervision – Post-Graduate Degree Supervised Experience, MFT Form 2-VS (rev. 8/08).

Licensure Verification of Out-of-State Supervisor, MFT Form 1-LV (rev. 8/08).

Quarterly Evaluation, MFT Form 1-QE (rev. 8/08).

Coursework Outline Form for Marriage and Family Therapist Licensure, MFT Form 2-CO (rev. 8/08).

Verification of Internship, MFT Form 2-VI (rev. 8/08).

Verification of Internship Hours Towards the Residency, MFT Form 2-IR (rev. 8/08).

Supervision Outline Examination Applicants Only, MFT Form 2-SO (rev. 8/08).

Verification of Clinical Practice, Endorsement Applicants Only, Form MFT-ECP (rev. 8/08).

Registration of Supervision Instructions (rev. 4/09).

Registration of Supervision – for Marriage and Family Therapist Licensure, ~~MFT~~ Form ~~1 (rev. 8/08)~~ A (rev. 4/09).

Application for Reinstatement of a Lapsed License (rev. 8/07).

Continuing Education Summary Form (LMFT) (rev. 8/07).]

VA.R. Doc. No. R06-319; Filed July 15, 2009, 11:20 a.m.

BOARD OF PSYCHOLOGY

Final Regulation

Title of Regulation: **18VAC125-20. Regulations Governing the Practice of Psychology (amending 18VAC125-20-121, 18VAC125-20-122).**

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

Effective Date: September 2, 2009.

Agency Contact: Evelyn B. Brown, Executive Director, Board of Psychology, 9960 Mayland Drive, Suite 300, Richmond, VA 23233, telephone (804) 367-4697, FAX (804) 327-4435, or email evelyn.brown@dhp.virginia.gov.

Summary:

The amendments to the requirements for continuing education for psychologists licensed by the Board of Psychology (i) reduce the number of continuing education hours that must be gained face to face, (ii) include real-time interactive hours as face to face, (iii) recognize the educational value in preparation for presentations or publication, (iv) expand the listing of approved providers, and (v) eliminate the process and fee for board approval of individual courses and providers.

One change from the proposed regulation clarifies that the preparation for a continuing education program, seminar, workshop, or course could be counted toward meeting the CE requirement for the presenter with a limit of four hours per renewal cycle.

Summary of Public Comments and Agency's Response: A summary of comments made by the public and the agency's response may be obtained from the promulgating agency or viewed at the office of the Registrar of Regulations.

18VAC125-20-121. Continuing education course requirements for renewal of an active license.

A. ~~After January 1, 2004, licensees~~ Licensees shall be required to have completed a minimum of 14 hours of board-approved continuing education courses each year for annual licensure renewal. A minimum of 1.5 of these hours shall be in courses that emphasize the ethics, standards of practice or laws governing the profession of psychology ~~in Virginia~~.

B. For the purpose of this section, "course" means an organized program of study, classroom experience or similar educational experience that is directly related to the practice of psychology and is provided by a board-approved provider that meets the criteria specified in 18VAC125-20-122.

1. At least ~~half~~ six of the required hours shall be earned in face-to-face or real-time interactive educational experiences. Real-time interactive shall include a course in which the learner has the opportunity to interact with the presenter and participants during the time of the presentation.

2. The board may approve up to four hours per renewal cycle for specific educational experiences to include:

a. [~~Presentation~~ Preparation for and presentation] of a continuing education program, seminar, workshop or course offered by an approved provider and directly related to the practice of psychology. Hours may only be credited one time, regardless of the number of times the presentation is given, and may not be credited toward the face-to-face requirement.

b. Publication of an article or book in a recognized publication directly related to the practice of psychology. Hours may only be credited one time, regardless of the number of times the writing is published, and may not be credited toward the face-to-face requirement.

C. Courses must be directly related to the scope of practice in the category of licensure held. Continuing education courses for clinical psychologists shall emphasize, but not be

limited to, the diagnosis, treatment and care of patients with moderate and severe mental disorders.

D. The board may grant an extension for good cause of up to one year for the completion of continuing education requirements upon written request from the licensee prior to the renewal date. Such extension shall not relieve the licensee of the continuing education requirement.

E. The board may grant an exemption for all or part of the continuing education requirements for one renewal cycle due to circumstances determined by the board to be beyond the control of the licensee.

18VAC125-20-122. Continuing education providers.

A. The following organizations, associations or institutions are ~~recognized~~ approved by the board ~~as providers of~~ to provide continuing education:

1. Any ~~board-approved~~ psychological association recognized by the profession or providers approved by such an association.

2. Any ~~board-approved~~ association or organization of mental health, health or psychoeducational providers recognized by the profession or providers approved by such an association or organization.

3. Any ~~board-approved~~ association or organization providing courses related to forensic psychology recognized by the profession or providers approved by such an association or organization.

4. Any regionally accredited institution of higher learning. A maximum of 14 hours will be accepted for each academic course directly related to the practice of psychology.

5. Any governmental agency or facility that offers mental health, health or psychoeducational services.

6. Any licensed hospital or facility that offers mental health, health or psychoeducational services.

7. Any association or organization that has been approved as a continuing competency provider by a psychology board in another state or jurisdiction.

~~B. Course providers not listed in subsection A of this section may apply for approval by the board as continuing education providers.~~

~~1. To be considered for board approval, a continuing education provider shall submit:~~

~~a. Documentation of an instructional plan for continuing education courses that are primarily psychological in nature with systematized instruction provided by licensed psychologists or other licensed mental health service providers; and~~

~~b. The provider review fee set forth under 18VAC125-20-30.~~

~~2. Board approval of continuing education providers under this subsection shall expire two years from the date of issuance, and may be renewed upon submission of documentation and provider review fee as required by the board.~~

~~C.~~ B. Continuing education providers approved under subsection A ~~or B~~ of this section shall:

1. Maintain documentation of the course titles and objectives and of licensee attendance and completion of courses for a period of four years.

2. Monitor attendance at classroom or similar face-to-face educational experiences.

3. Provide a certificate of completion for licensees who successfully complete a course.

NOTICE: The forms used in administering the above regulation are not being published; however, the name of each form is listed below. The forms are available for public inspection by contacting the agency contact for this regulation, or at the office of the Registrar of Regulations, General Assembly Building, 2nd Floor, Richmond, Virginia.

[FORMS (18VAC125-20)

Instructions for Virginia Board of Psychology Application for Licensure by Examination (rev. 10/03).

Instructions for Virginia Board of Psychology Application of Licensure by Endorsement (rev. 10/03).

Psychologist Application for Licensure by Examination, Form 1 (rev. 8/07).

Application for Licensure as a School Psychologist-Limited (rev. 8/07).

Employment Verification Form (rev. 8/07).

Registration of Residency -- Post-Graduate Degree Supervised Experience, Form 2 (rev. 8/07).

Psychologist Application for Licensure by Endorsement, Form 1 (rev. 8/07).

Psychologist Application for Reinstatement of a Lapsed License, PSYREIN (rev. 8/07).

School Psychologist-Limited Application for Reinstatement of a Lapsed License, PSYREIN (rev. 8/07).

Psychologist Application for Reinstatement Following Disciplinary Action, PSYREDISC (rev. 8/07).

Verification of Post-Degree Supervision, Form 3 (rev. 8/07).

Internship Verification, Form 4 (rev. 8/07).

Licensure/Certification Verification, Form 5 (rev. 8/07).

Areas of Graduate Study, Form 6 (rev. 8/07).

~~Application for Approval as a "Paragraph B" Continuing Education Provider (rev. 8/07).~~

Continuing Education Audit Summary Form (rev. ~~8/07)~~ 4/09).]

VA.R. Doc. No. R06-216; Filed July 15, 2009, 11:19 a.m.

TITLE 22. SOCIAL SERVICES

DEPARTMENT OF REHABILITATIVE SERVICES

Final Regulation

Title of Regulation: **22VAC30-50. Policies and Procedures for Administering the Commonwealth Neurotrauma Initiative Trust Fund (amending 22VAC30-50-10, 22VAC30-50-20, 22VAC30-50-30, 22VAC30-50-50, 22VAC30-50-60, 22VAC30-50-70, 22VAC30-50-80, 22VAC30-50-90, 22VAC30-50-100, 22VAC30-50-110; adding 22VAC30-50-120).**

Statutory Authority: §§ 51.5-12.4 and 51.5-14 of the Code of Virginia.

Effective Date: September 3, 2009.

Agency Contact: Vanessa S. Rakestraw, Policy Analyst, Department of Rehabilitative Services, 8004 Franklin Farms Drive, Richmond, VA 23229, telephone (804) 662-7612, FAX (804) 662-7696, TTY (800) 464-9950, or email vanessa.rakestraw@drs.virginia.gov.

Summary:

The amendments (i) clarify that the Commonwealth Neurotrauma Initiative Trust Fund is to be used for innovative research and treatment programs and is not to be used as a source for long-term funding; (ii) remove the assigned weights to the criteria that are used in reviewing and ranking grant applications; (iii) provide that the commissioner can reallocate a limited amount of unexpended balances to fund new research in the area of neurotrauma; and (iv) make clarification and editorial changes.

Summary of Public Comments and Agency's Response: No public comments were received by the promulgating agency.

Part I
Definitions and General Information

22VAC30-50-10. Definitions.

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

"Advisory board" means the Commonwealth Neurotrauma Initiative Advisory Board.

"Fund" means the Commonwealth Neurotrauma Initiative Trust Fund.

"Neurotrauma" means an injury to the central nervous system, i.e., a traumatic spinal cord or brain injury, which results in loss of physical functions, cognitive functions or both.

"RFP" or "request" means a request for proposals ~~published~~ issued by the advisory board seeking applications for grant moneys in the fund.

22VAC30-50-20. Statement of general policy.

The Commonwealth of Virginia has recognized the need to prevent traumatic spinal cord and brain injuries and is committed to ~~improve~~ improving the treatment and care of Virginians with traumatic spinal cord and brain injuries. By creating the fund and authorizing the advisory board to administer the fund, the Commonwealth makes grant funds available to Virginia-based organizations, institutions [,] and researchers ~~funds~~ to address these needs. The advisory board ~~seeks to administer~~ administers the fund ~~in order~~ to carry out the intent of the law in accordance with its authority.

22VAC30-50-30. ~~Purpose of chapter~~ Disbursement of funds.

A. This chapter serves to (i) establish policies and procedures for soliciting and receiving applications for grants from the fund, (ii) establish criteria for reviewing and ranking such applications, and (iii) establish procedures for distributing moneys in the fund, which shall be used solely to provide grants to Virginia-based organizations, institutions, and researchers.

B. Forty-seven and one-half percent of the moneys shall be allocated for research on the mechanisms and treatment of neurotrauma; 47-1/2% of the moneys shall be allocated for rehabilitative services, i.e., the development of innovative, model community-based rehabilitative programs and services for ~~injured~~ individuals with neurotrauma; and 5.0% of the moneys shall be allocated for the Department of Rehabilitative Services' costs for administering and staffing the Commonwealth Neurotrauma Initiative ~~Advisory Board~~ Trust Fund and advisory board. ~~Those applications for grants to conduct research on the mechanisms and treatment of neurotrauma shall be identified as Option A applications. Those applications for grants to provide rehabilitative services shall be identified as Option B applications.~~

22VAC30-50-50. Application of ~~an~~ exemption to the Virginia Freedom of Information Act.

Pursuant to a provision of the Virginia Freedom of Information Act, Chapter 37 (§ 2.2-3700 et seq.) of Title 2.2 of the Code of Virginia, records submitted to the advisory

board as a grant application, or accompanying a grant application, ~~to the advisory board~~ pursuant to the law and this chapter are excluded from the requirement of open inspection to the extent that they contain medical or mental records or other data identifying individual patients, or proprietary business or research-related information produced or collected by an applicant in the conduct of or as a result of study or research on medical, rehabilitative, scientific, technical [,] or scholarly issues~~,~~. This exemption shall apply when such information has not been publicly released, published, copyrighted [,] or patented, if the disclosure of such information would be harmful to the competitive position of the applicant. The advisory board intends to rely upon this exemption in order to encourage the submission of applications.

Part II
Soliciting and Reviewing Applications

22VAC30-50-60. Requests for proposals.

The advisory board will solicit applications for grants of moneys from the fund by ~~publishing~~ issuing requests for proposals from time to time. Each application for a grant must be received in response to an actual request for ~~proposals~~ a proposal and by a deadline specified in the request~~, which will be no fewer than 60 days following publication of the request~~.

22VAC30-50-70. ~~Appointment of grant~~ Grant reviewers and technical advisors.

The advisory board may choose, at any time, to appoint grant reviewers or other technical advisors, or both, ~~at any time~~ to assist in reviewing and ranking applications. Such reviewers and advisors may represent medical researchers, medical practitioners, community-based service providers, consumers, ~~or~~ advocates for consumers, or others deemed appropriate by the advisory board for this purpose. Reviewers and advisors shall be appointed so as to provide equal representation from Virginia's three medical schools. Reviewers and advisors shall be selected so as to avoid any conflict of interests or the appearance thereof, and ~~may be chosen because of their~~ the advisory board may choose reviewers and advisors residing or working outside Virginia ~~in order~~ to ensure impartiality. Whenever reviewers or advisors sit as a committee, the chairman of the advisory board or his designee shall serve as chairman of the committee but shall not vote on individual applications.

22VAC30-50-80. Specification of Option A or B.

Each application shall clearly state a purpose to seek funds ~~to carry out a program consistent with Option A or Option B.~~ for projects to conduct research on the mechanisms and treatment of neurotrauma, which shall be referred to as "Option A," or to develop innovative, model community-based rehabilitative programs and services for individuals with neurotrauma, which shall be referred to as "Option B." Option A applications shall state and demonstrate a clear intention of researching the mechanisms of neurotrauma or the treatment of neurotrauma, or both. Option B applications shall state and demonstrate a clear intention to provide innovative, model community-based rehabilitative services by developing, expanding [,] or improving community-based programs and ~~facilities serving and treating individuals who have experienced~~ services for people with traumatic brain injury or traumatic spinal cord injury, or both, and expanding opportunities for such individuals to become as independent and physically and functionally capable as possible. Neither Option A nor Option B grants are intended for long-term funding of research projects or service programs.

22VAC30-50-90. ~~Review of applications; stated priorities.~~ Submission of applications.

In reviewing applications submitted for grant awards, whether Option A or Option B, the advisory board will ~~give priority to~~ accept applications that:

1. Present a convincing and persuasive discussion of how the proposed project will carry out its intention as specified in accordance with 22VAC30-50-80, and describe in as much detail as possible its anticipated effectiveness in carrying out its intention [~~.~~ ;]

~~2. Include a system for measuring outcomes and documenting project impact and effectiveness, including any anticipated long-term effect of the proposed project.~~

~~3. Provide the means for consumer involvement in the design, implementation and evaluation of the project as relevant to the intention of the proposed project;~~

~~4. Identify sources of funds, if known, and fundraising strategies to be used in sustaining the proposed project following termination of a grant award as relevant to the intention of the proposed project;~~

~~5.~~ 2. Comply fully with ~~additional~~ informational and administrative requirements stated in the specific RFP to which ~~applications~~ applicants are responding [~~,~~ and]

~~6.~~ 3. In the case of an Option A application:

a. Discuss the relevance of the proposed project to an identified field of medical or rehabilitative inquiry,

b. Demonstrate the anticipated benefit of the proposed project in terms of expanding knowledge and understanding of neurotrauma,

c. Discuss any innovation or breakthrough the project seeks to promote, specifying outcome measures where possible for each of the preceding enumerated items in this subdivision, and

d. Describe efforts to ensure that the proposed project ~~will~~ does not duplicate ~~completed~~ previous or ongoing research; [~~and~~ or]

~~7.~~ 4. In the case of an Option B application:

a. ~~Describe and demonstrate the need for the~~ Discuss the relevance of the proposed project to an identified need for innovative, model community-based rehabilitative services in terms of the absence of alternative programs, services, and resources ~~and facilities~~ available to the intended individuals and community~~,~~;

b. ~~Demonstrate the avoidance of duplication of~~ Describe efforts to ensure that the proposed project does not duplicate programs, services, or resources already available; and

c. State and emphasize a commitment to collaborative community planning involving consumer groups, service providers, employers, relevant state and local agencies, and other funding sources, as available or anticipated to become available~~, and relevant state and local agencies~~.

Part III
Specific Project Consideration and Application Criteria, Selection of Successful Applications and Amount and Announcement of Awards

22VAC30-50-100. ~~Ranking and reviewing~~ Reviewing and ranking grant applications.

A. The advisory board will distinguish the class of Option A applications from the class of Option B applications when soliciting, ~~ranking and~~ reviewing [,] and ranking grant applications. Applications will be considered and ranked only among ~~only~~ other applications ~~with the stated intention to address the same option~~ submitted under the same stated option, either Option A or Option B. Applications initially deemed effective in ~~serving~~ meeting the purpose of ~~either option~~ a solicitation and to have substantially addressed the general considerations stated in Part II (22VAC30-50-60 et seq.) of this chapter, as applicable, will be subsequently ~~ranked and~~ reviewed and ranked according to ~~their satisfaction of~~ the following criteria~~, which will be weighted as indicated~~:

1. The purpose and significance of the project~~ – 20 points~~;

2. The objectives and expected benefits of the project~~ – 20 points~~;

3. The design of the project~~, means of assessing outcomes, methods to be employed, and the level of detail and feasibility of an included action plan – 25 points~~ to include (i) methods, activities, and a timeline for achieving project goals and objectives, and (ii) a system for measuring outcomes and documenting project impact, effectiveness, and any anticipated long-term effects;

4. ~~Detailed nature, completeness and feasibility of an included~~ A detailed budget~~ – 15 points~~ that is reasonable and appropriate for the scope of the project;

5. The identification of potential sources of funds and fundraising strategies to be used in sustaining the proposed project following termination of a grant award as relevant to the intention of the proposed project;

~~5.~~ 6. Demonstrated or anticipated capability of the existing or planned organizational structure~~ – 15 points~~;

7. The means for consumer involvement in the design, implementation, and evaluation of the project as feasible and relevant to the intention of the proposed project; [and]

~~6.~~ 8. A commitment to include the participation of small, women-owned and minority businesses, as such are available and capable of participation~~ – 5 points~~.

B. When initially reviewing applications or subsequently ~~ranking and~~ reviewing and ranking applications, the advisory board may ask applicants to provide required information that is missing from the application or additional clarifying information relating to their applications and proposed projects. Failure to provide missing information or failure to provide additional information that is material and relevant may result in the rejection or lowered ranking of an application.

22VAC30-50-110. Amount of grant awards; duration and availability of funding.

A. After reviewing all applications, duly received, for either Option A or Option B, the advisory board will determine which proposed projects will be offered funding. The selection of successful applications will be made based on (i) availability of moneys in the fund ~~and~~, (ii) the ~~criteria listed in this chapter~~ review and ranking of the applications according to the criteria listed in this chapter, (iii) information from grant reviewers or technical advisors who the board may appoint to assist in evaluating applications, and (iv) the advisory board's assessment of those applications, which further the intentions and the purpose of the fund. ~~Subsequent discussions~~ Discussions and negotiations may be conducted between the advisory board and ~~successful~~ grant applicants in order to clarify any remaining issues relating to the proposed project.

B. In considering and determining the amount of a grant award and the duration of funding for a particular project, the advisory board will consider the requested amount, ~~need, and~~ the project design [,] and justification. Actual grant awards will be made in amounts ranging from $5,000 to $150,000 per year for an anticipated ~~duration, i.e., a total anticipated~~ funding period~~,~~ of one to three years as described in the proposal. The award and duration of funding ~~for~~ of a project ~~of an~~ anticipated ~~duration exceeding~~ to exceed one year will be contingent upon (i) the availability of moneys in the fund, whether so stated at the time of the award or not, and (ii) the grantee's successful completion of timelines and of interim

objectives and milestones as proposed and approved in the grant application, grant award, and contract documents.

~~C. The award of grants to successful applicants will be made public within 60 days of the advisory board's decision regarding all applications submitted in response to a request for proposals.~~

~~D.~~ C. In the event any timelines and interim objectives and milestones pertaining to a project are not completed to the satisfaction of the advisory board, the advisory board may act to withhold moneys not yet disbursed for such a project. In the event of a substantial decline in moneys in the fund, the advisory board will attempt to distribute moneys to projects of an anticipated duration greater than one year in a manner as fair and equitable as possible.

D. The award of grants to successful applicants will be made public within 60 days of the advisory board's decision regarding all applications submitted in response to a request for proposals.

22VAC30-50-120. Unexpended funds.

Notwithstanding any other law to the contrary, the Commissioner of the Department of Rehabilitative Services may reallocate up to $500,000 from unexpended balances in the Commonwealth Neurotrauma Initiative Trust Fund to fund new grant awards for research on traumatic brain and spinal cord injuries.

VA.R. Doc. No. R08-843; Filed July 9, 2009, 1:31 p.m.

STATE BOARD OF SOCIAL SERVICES

Final Regulation

Title of Regulation: **22VAC40-211. Resource, Foster and Adoptive Family Home Approval Standards (adding 22VAC40-211-10 through 22VAC40-211-110).**

Statutory Authority: §§ 63.2-217 and 63.2-319 of the Code of Virginia.

Effective Date: September 2, 2009.

Agency Contact: Phyl Parrish, Acting Program Manager, Quality Review, Department of Social Services, Division of Family Services, 7 North 8th Street, Richmond, VA 23219, telephone (804) 726-7926, FAX (804) 726-7895, TTY (800) 828-1120, or email phyl.parrish@dss.virginia.gov.

Summary:

The proposed regulations are intended to ensure compliance with changes to federal and state laws and regulations regarding resource, foster, and adoptive family homes. Regulations addressing approval of providers by local departments were contained in 22VAC40-770, which was repealed in 2007. This action is necessary to provide local departments with guidance in the approval of provider homes. In addition, the new regulations will create consistency between providers approved by local departments of social services and licensed child-placing agencies. This consistency was an action step of the Performance Improvement Plan developed in response to the federal Child and Family Services Review and is required by federal regulations.

Major components of the regulation include making all definitions and requirements consistent with other social services regulations and applicable approval requirements that fall under the purview of other state agencies; mandating training for resource, foster, and adoptive home providers; requiring a narrative home study report; creating one set of standards for the approval of all types of family home providers (i.e.; resource, foster, and adoptive) to streamline the process of approval; requiring proof of provider approval to be maintained in the child's file; and ensuring safety through standards for the home of the provider and requirements for criminal background checks.

Nonsubstantive changes are made to the proposed regulation to correct grammar, clarify, and, in some instances, improve organization. Definitions are added for "background checks","respite parent," and "respite care."

More substantive changes include adding training requirements for respite families, adding a prohibition against corporeal punishment, requiring DMV checks for all adults in the home, and adding a provision allowing the suspension or revocation of a provider's approval. In addition, provisions are removed related to attics and basements in providers' homes to avoid conflicts with building codes and local ordinances. A provision is added limiting the number of children in the provider home to eight. Also, a provision is added that requires the provider to contact the child abuse hotline and provide contact information if the provider has been forced to evacuate his home during a hurricane or other disaster and has been unable to contact his local department of social services. Clarification is added on worker visits to the provider's home and on tuberculosis screenings.

Summary of Public Comments and Agency's Response: A summary of comments made by the public and the agency's response may be obtained from the promulgating agency or viewed at the office of the Registrar of Regulations.

CHAPTER 211
RESOURCE, FOSTER AND ADOPTIVE FAMILY HOME APPROVAL STANDARDS

22VAC40-211-10. Definitions.

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

"Adoptive parent" means any provider selected and approved by a parent or a child-placing agency for the placement of a child with the intent of adoption.

"Adult" means any person 18 years of age or over.

"Applicant" means an individual or couple applying to be approved as a resource, foster and/or adoptive home provider.

["Background checks" means a sworn statement or affirmation, criminal history record information, child abuse and neglect central registry check, and any other requirement as set forth in § 63.2-901.1 of the Code of Virginia.]

"Caretaker" means any individual having the responsibility of providing care for a child and includes the following: (i) parent or other person legally responsible for the child's care; (ii) any other person who has assumed caretaking responsibility by virtue of an agreement with the legally responsible person; (iii) person responsible by virtue of their position of conferred authority; or (iv) adult person residing in the home with the child.

"Central registry" means a subset of the child abuse and neglect information system and is the name index with identifying information on an individual named as an abuser and/or neglector in founded child abuse and/or neglect complaints or reports not currently under administrative appeal, maintained by the department.

"Child" means any natural person under 18 years of age.

"Child-placing agency" means any person who places children in foster homes, adoptive homes or independent living arrangements pursuant to § 63.2-1819 of the Code of Virginia or a local board that places children in foster homes or adoptive homes pursuant to § 63.2-900, 63.2-903 or 63.2-1221 of the Code of Virginia. Officers, employees, or agents of the Commonwealth, or any locality acting within the scope of their authority as such, who serve as or maintain a child-placing agency, shall not be required to be licensed.

"Child abuse and neglect information system" means the computer system that collects and maintains information regarding incidents of child abuse and neglect involving parents or other caretakers. The computer system is composed of three parts: the statistical information system with nonidentifying information, the central registry of founded complaints not on appeal, and a database that can be accessed only by the department and local departments that contains all nonpurged child protective services reports. This system is the official state automated system.

"Commissioner" means the commissioner of the department, his designee or authorized representative.

"Corporal punishment" means punishment administered through the intentional infliction of pain or discomfort to the body through actions such as, but not limited to, (i) striking, or hitting with any part of the body or with an implement; (ii) pinching, pulling, or shaking; or (iii) any similar action that normally inflicts pain or discomfort.

"Department" means the State Department of Social Services.

"Dual approval process" means a process that includes a home study, mutual selection, interviews, training and background checks to be completed on all applicants to be considered for approval as a resource, foster [~~and/or~~, or] adoptive family home provider.

"Foster parent" means an approved provider who gives 24-hour substitute family care, room and board, and services for children or youth committed or entrusted to a child-placing agency.

"Fully approved" means a decision by the local department that the provider has met all requirements to be approved as a resource, foster [~~and/or,~~] adoptive [, or respite] home provider.

["In-service training" means the ongoing instruction received by providers after they complete their preservice training.]

"Interstate Compact on the Placement of Children" means a uniform law that has been enacted by all 50 states, the District of Columbia, and the U.S. Virgin Islands that establishes orderly procedures for the interstate placement of children and sets responsibility for those involved in placing those children.

[~~"Infant" means any child from birth up to 16 months of age.~~]

"Local department" means the local department of social services of any county or city in this Commonwealth.

"Parent" means the birth or adoptive parent of a child.

["Preservice training" means the instruction received by providers during the initial approval process.]

"Provider" means [a] resource, foster [~~and/or~~,] adoptive [~~provider~~, or respite family].

"Resource parent" means [~~a~~ an approved] provider who is [~~trained and~~] committed both to support reunification and also to be prepared to adopt the child if the child and family do not reunify.

["Respite care" means the provision of temporary care for children on an emergency or planned basis for the purposes of providing placement stability, supporting the achievement of timely permanency, and promoting connections to relatives.

"Respite parent" means an approved provider who gives temporary care to children on an emergency or planned basis.]

22VAC40-211-20. Approval of provider homes.

A. When applicants are approved in accordance with these standards, they are approved as foster families [~~and/or,~~] adoptive families [~~or,~~] resource families [, or respite families]. The approved provider shall, however, be allowed to choose to provide only foster care [~~or adoption services,~~ adoptive care, or respite care] should they not wish to serve as a resource family.

B. If the provider cannot meet the standards described in these sections, the local department may, upon its discretion, [~~allow~~ request] a variance on certain standards in accordance with [~~22VAC40-211-100~~ 22VAC40-211-90]. If the variance is not allowed, the local department shall not approve the home for the placement of children.

C. These standards apply to adoptive home providers until the final order of adoption is issued.

[D. Respite care families shall not serve as foster, adoptive, or resource families without completion of all requirements to be fully approved as foster, adoptive, or resource families.

E. Emergency approval of a provider may be granted in accordance with guidance developed by the department.

1. Emergency approvals shall include:

a. Background checks; and

b. A home visit by the local department prior to or on the day of the placement.

2. Emergency approvals shall not exceed 60 days.

3. Emergency approval of a provider may be granted when the placement:

a. Is with a relative;

b. Is with an adult known to the family; or

c. Will facilitate the child remaining in the community.

F. All local department-approved resource, foster, adoptive, and respite providers shall:

1. Be at least 18 years of age;

2. Agree not to use corporal punishment with the child in their care or allow others to do so and shall sign an agreement to that effect; and

3. Sign a statement indicating their understanding of the confidentiality of information related to the child in their care.

G. If the approval process results in the local department's denial of the application, the local department shall notify the applicant in writing of its decision. A copy of the letter shall be filed in the applicant's record.]

22VAC40-211-30. Background checks and health standards.

[~~A. All local department approved resource, foster and/or adoptive providers shall be at least 18 years of age.~~]

~~B.~~ A.] All background checks must be in accordance with applicable federal and state laws and regulations. Convictions of offenses as set out in § 63.2-1719 of the Code of Virginia shall preclude approval [of] an application to become [~~resource, foster and/or adoptive~~ a] provider.

[~~C.~~ B.] Documentation of the results of the [~~criminal records~~ background] check shall be maintained in the applicant's record. [~~Criminal history record~~ Background check] information shall not be disseminated to any other party, nor shall it be archived except in the local department's provider file.

[~~D.~~ C.] The [~~resource, foster and/or adoptive home~~ provider] applicant and all other household members who come in contact with children shall submit to tuberculosis screening or tests in compliance with Virginia Department of Health requirements. The applicant and other caretakers residing in the home shall submit the results of a physical examination administered within the 12-month period prior to approval, from a licensed health care professional that comments on each applicant's or caretaker's mental or physical condition relative to taking care of a child.

[~~E.~~ D.] The local department shall obtain a Department of Motor Vehicle driver record check for any [~~resource, foster and/or adoptive~~ provider] applicants or other adults in the home who are expected to transport children and [~~may~~ shall] consider the results of the driver record check in the approval process.

22VAC40-211-40. Home study requirements.

A. [~~Applicants for resource, foster and/or adoptive~~ An applicant to become a] provider shall complete and submit an application [~~to become an approved provider~~] in accordance with department requirements and on department-approved forms or other forms that address all of the department's requirements.

B. Upon submission of a completed provider application, the local department is responsible for ensuring the [~~completion~~ initiation] of the [~~home study~~ approval] process. [If at any point in the approval process the local department determines the home may not be approved, the application may be denied and the process ended.]

C. Local departments shall conduct a minimum of three face-to-face interviews with each applicant, at least one shall be in the applicant's home. If there are two individuals listed as applicants, at least one interview must be with both individuals. At least one interview shall be with all individuals who [~~are residing~~ reside] in the home.

D. The local department shall obtain at least three references from persons who have knowledge of each applicant's character and applicable experience with children and caretaking of others. At least one reference per person shall be from a nonrelative.

E. Local departments shall ask if a prospective resource, foster [~~and/or,~~] adoptive [, or respite] provider previously applied to, or was approved by, another local department or licensed child-placing agency. The local department shall have the applicant sign a request to release information from the other agency in order to obtain information about previous applications and performance and shall use that information in considering approval of the applicant.

F. [As part of the approval process, the local department shall conduct a home study.] The home study shall [~~contain~~ address] all [~~department required information~~ elements required by this standard] and be documented by a combination of narrative and other data collection formats, and shall be signed and dated by the individual completing the home study and the director of the local department or his designee. The information [~~presented~~ contained in the home study] shall include:

1. Demographic information including:

a. Age of applicant;

b. Marital status and history; and

c. Family composition and history.

2. Financial information [(not required for applicants to be respite providers)] including:

a. Employment information on applicant;

b. Assets and resources of applicant; and

c. Debts and obligations of applicant.

3. List of individuals involved in completing the home study process and their [~~role~~ roles].

4. Narrative documentation shall include information from the interviews, references, observations and other available information, and shall be used to assess and document that the applicant:

a. Is knowledgeable about the necessary care for children and physically and mentally capable of providing the necessary care for children;

[~~b. Is able to sustain positive and constructive relationships with others in their care, and relate to people with respect, courtesy and understanding;~~

~~c. Family is~~ b. Is] able to articulate a reasonable process for managing emergencies and ensuring the adequate care, safety [,] and protection of children;

[~~d.~~ c.] Expresses attitudes that demonstrate the capacity to love and nurture a child born to someone else;

[~~e.~~ d.] Expresses appropriate motivation [~~for reasons~~] to foster or adopt;

[~~f. If married, shows marital stability; and~~ e. Shows stability in all household relationships];

[~~g.~~ f.] Has the financial resources to provide for current and ongoing household needs [; and

g. Has complied with 22VAC40-211-70].

[~~5. Documentation of compliance with 22VAC40-211-70.~~

~~6. A confidentiality form signed by the providers, which local departments shall keep in the child's file.~~

~~G. Significant changes in the circumstances of the provider that would impact the conditions of their approval require an updated home study documented through an addendum updating the home study. This does not change the approval period for the provider.~~]

22VAC40-211-50. Approval period and documentation of approval.

A. The approval period for a provider is 36 months.

B. The approved provider shall be given an approval certificate specifying the following:

1. Type of approval (resource, foster [~~and/or,~~] adoptive [, or respite] family home provider);

2. Date when the approval became effective and the date when the approval lapses; [and]

[~~3. The gender, age and number of children recommended for placement in the home; and~~

~~4.~~ 3.] The signature and title of the individual approving the home.

C. Documentation shall be maintained on the provider and child:

1. The local department's file on the child shall contain:

a. A copy of the provider's approval certificate; or

b. [~~If the provider is licensed by a licensed child placing agency, a~~ A] copy of the licensed child-placing agency license and the provider home approval certificate or letter [if the provider is approved by a licensed child placing agency].

2. All information on the provider able to be maintained in the department's official child welfare data system shall be maintained in that system.

3. The local department's file on the provider shall contain but not be limited to:

a. A copy of the provider's approval certificate;

b. A copy of the [~~criminal~~] background check results;

c. A copy of the Child Protective Services check;

d. [~~A copy of the~~ The] application;

e. Reference letters;

f. A copy of the home study and supporting documentation;

g. Documentation of orientation and training; [~~and~~]

h. Documentation of contacts and visits in the provider's home [;

i. Medical information;

j. A copy of the signed confidentiality agreement and the corporal punishment agreement; and

k. Any other documents set out in guidance as part of the approval process].

4. Local departments shall require the provider to maintain legible written information on each child in their care including:

a. Identifying information on the child;

b. Name, address, and work telephone number of the local department caseworker and local department after hours emergency contact information;

c. Name, address, and home and/or work telephone numbers of persons authorized to pick up the child;

d. Name of persons not authorized to call or visit the child;

e. Educational records, report cards and other school-related documentation;

f. Medical information pertinent to the health care of the child including all licensed health care providers' names, addresses and telephone numbers [and medical care authorization form];

g. Correspondence related to the child;

h. The service plan as well as other written child information provided by the local department; [~~and~~]

i. The placement agreement between the provider and the local department [; and

j. A copy of the signed confidentiality statement].

5. Providers shall maintain files in a secure location in order to protect the confidentiality of that information. The file and its contents shall not be shared with anyone other than those approved by the local department and shall be returned to the local department if the child leaves the provider's home.

6. The local department and its representatives shall have access to all records.

[7. Significant changes in the circumstances of the provider that would impact the conditions of their approval require an addendum updating the home study.

8. The local department shall revoke or suspend the approval of a provider when a change in the circumstances of the provider results in the provider's temporary inability to meet standards. Reinstating the approval requires resolution of the circumstances that caused the suspension and shall be documented in an addendum to the provider's record. Any child placed with a provider at the time approval is suspended shall be immediately removed. No other children may be placed with the provider during the period of suspension. A suspension does not change the approval period. A provider whose approval has been revoked must submit a new application.]

22VAC40-211-60. Training.

A. The local department shall ensure that [~~pre-service~~ preservice] training is provided for resource, foster and adoptive family home providers. This training shall address but not be limited to the following core competencies:

1. Factors that contribute to neglect, emotional maltreatment, physical abuse, and sexual abuse, and the effects thereof;

2. Conditions and experiences that may cause developmental delays and affect attachment;

3. Stages of normal human growth and development;

4. Concept of permanence for children and selection of the permanency goal;

5. Reunification as the primary child welfare goal, the process and experience of reunification;

6. Importance of visits and other contacts in strengthening relationships between the child and his birth family, including his siblings;

7. Legal and social processes and implications of adoption;

8. Support of older youth's transition to independent living;

9. The professional team's role in supporting the transition to permanency and preventing unplanned placement disruptions;

10. Relationship between child welfare laws, the local department's mandates, and how the local department carries out its mandates;

11. Purpose of service planning;

12. Impact of multiple placements on a child's development;

13. Types of and response to loss, and the factors that influence the experience of separation, loss, and placement;

14. Cultural, spiritual, social, and economic similarities and differences between a child's primary family and foster or adoptive family;

15. Preparing a child for family visits and helping him manage his feelings in response to family contacts;

16. Developmentally appropriate, effective and nonphysical disciplinary techniques;

17. Promoting a child's sense of identity, history, culture, and values;

18. Respecting a child's connection to his birth family, previous foster families and/or adoptive families;

19. Being nonjudgmental in caring for the child, working with his family, and collaborating with other members of the team;

20. Roles, rights, and responsibilities of foster parents and adoptive parents; and

21. Maintaining a home and community environment that promotes safety and well-being.

B. Local departments shall ensure that each provider receives annual [~~ongoing~~ in-service] training.

1. Training shall be relevant to the needs of children and families and may be structured to include multiple types of training modalities (for example, online foster parent training courses; seminars and conferences).

2. The department shall provide opportunities for training on an annual basis.

C. The provider is required to complete [~~pre-service~~ preservice] and annual in-service trainings.

[~~D. The provider is considered fully approved if he meets all other requirements for approval and is enrolled in and completes the next available pre-service training. The provider shall sign a written agreement to this effect. A provider's approval shall be revoked if he does not complete the training as per the written agreement.~~

~~E.~~ D.] Local departments shall explain confidentiality requirements to providers and require providers [to] keep [confidential] all information regarding the child, his family and the circumstances that resulted in the child coming into care [~~confidential~~].

[22VAC40-211-65. Training for respite care providers.

A. The local department shall ensure that preservice training is provided for respite care providers. This training shall address, but not be limited to, the following core competencies:

1. Factors that contribute to neglect, emotional maltreatment, physical abuse, and sexual abuse, and the effects thereof;

2. Conditions and experiences that may cause developmental delays and affect attachment;

3. Reunification as the primary child welfare goal, the process and experience of reunification;

4. Importance of visits and other contacts in strengthening relationships between the child and his birth family, including his siblings;

5. The professional team's role in supporting the transition to permanency and preventing unplanned placement disruptions;

6. Impact of multiple placements on a child's development;

7. Cultural, spiritual, social, and economic similarities and differences between a child's primary family and foster or adoptive family;

8. Preparing a child for family visits and helping him manage his feelings in response to family contacts;

9. Developmentally appropriate, effective, and nonphysical disciplinary techniques;

10. Maintaining a home and community environment that promotes safety and well-being;

11. Promoting a child's sense of identity, history, culture, and values;

12. Respecting a child's connection to his birth family, previous foster families, and adoptive families; and

13. Being nonjudgmental in caring for the child, working with his family, and collaborating with other members of the team.

B. The department shall provide opportunities annually for in-service training.]

22VAC40-211-70. Standards for the home of the provider.

A. The home shall have sufficient appropriate space and furnishings for each child receiving care in the home including:

1. Space to keep clothing and other personal belongings;

2. Accessible basin and toilet facilities;

3. [~~Comfortable~~ Safe, comfortable] sleeping furnishings;

4. Sleeping space on the first floor of the home for a child unable to use stairs unassisted, other than a child who can easily be carried; and

5. Space for recreational activities.

B. All rooms used by the child shall be heated in winter, dry, and well-ventilated.

C. Rooms [and study space] used by the child shall have adequate lighting.

D. The provider [and children] shall have access to a working telephone in the home.

E. Multiple children sharing a bedroom shall each have adequate space including closet and storage space. Bedrooms shall have adequate square footage for each child to have personal space.

F. Children over the age of [~~16 months (infants)~~ two years] shall not share a bed.

G. Children over the age of two shall not share a bedroom with an adult unless the local department approves and documents a plan to allow the child to sleep in the [~~provider's~~ adult's] bedroom due to documented needs, disabilities or other specified conditions. [Children of any age cannot share a bed with an adult.

H. Children of the opposite sex over the age of three shall not sleep in the same room.]

[~~H.~~ I.] Children under age seven or children with significant and documented cognitive or physical disabilities shall not use the top bunk of bunk beds.

[~~I.~~ J.] The home and grounds shall be free from litter and debris and present no hazard to the safety of the child receiving care.

1. The provider shall permit a fire inspection of the home by appropriate authorities if conditions indicate a need and the local department requests such an inspection.

[~~2. Attics or basements used by the child for any reason shall have two exits. One of the exits shall lead directly outside, and may be an escapable door or an escapable window.~~

~~3.~~ 2.] Possession of any weapons, including firearms, in the home shall comply with federal and state laws and local ordinances. The provider shall store any firearms and other weapons with the activated safety mechanisms, in a locked closet or cabinet. Ammunition shall be stored in a separate and locked area. The key or combination to the locked closet or cabinet shall be maintained out of the reach of all children in the home.

[~~4.~~ 3.] Providers shall ensure that household pets are not a health or safety hazard in accordance with state laws and local ordinances and the local department shall request verification of provider compliance.

[~~5.~~ 4.] Providers shall keep cleaning supplies and other toxic substances stored away from food and locked as appropriate. [Medications shall be out of reach of children and locked as appropriate. Medications shall be stored separately from food, except those medicines that require refrigeration.]

[~~6. All homes shall have an ABC class fire extinguisher.~~

~~7.~~ 5.] Every home shall have an operable smoke detector, the specific requirements of which shall be coordinated through the local fire marshal. If a locality does not have a local fire marshal, the state fire marshal shall be contacted.

[6. Every home shall contain basic first aid supplies.]

[~~J.~~ K.] The number of children [~~placed~~] in the provider's home shall [~~be determined by the local department based, on but not limited to, the following considerations~~ not exceed eight. Factors to consider in determining capacity include, but are not limited to]:

1. The physical accommodations of the home;

2. The capabilities and skills of the provider to manage the number of children;

3. The needs and special requirements of the child;

4. Whether the child's best interest requires placement in a certain type of home [~~(for example, a home with no young children or a home with no other child)~~];

5. Whether any individuals in the home, including the provider's children, require special attention or services of the provider that interfere with the provider's ability to ensure the safety of all children in the home; and

6. [~~The~~ Whether the] foster care provider is also a [~~day~~ child] care provider.

[~~K.~~ L.] During the approval process, the provider shall develop a written emergency plan that includes, but is not limited to, fire and natural disasters. The plan shall include:

1. How the provider plans to maintain the safety and meet the needs of the child in their home during a disaster;

2. How the provider shall evacuate the home, if necessary, in a disaster; and

3. How the provider shall relocate in the event of a large scale evacuation.

[~~Resource or foster parents~~ M. Providers] shall arrange for responsible adults to be available who can serve in the caretaker's role in case of an emergency. If the planned or long-term absence of the provider is required, the local department shall be notified of and approve any substitute arrangements the provider wishes to make.

[N. In the event of a large scale evacuation due to a disaster, if the provider cannot reach the local department, the provider shall call the State Child Abuse Hotline to notify the department of the provider's location and contact information.]

22VAC40-211-80. Standards of care for continued approval.

A. The provider shall provide care that does not discriminate on the basis of race, color, sex, national origin, age, religion, political beliefs, sexual orientation, disability, or family status.

B. The provider shall ensure the child receives meals and snacks appropriate to his daily nutritional needs. The child shall receive a special diet if prescribed by a licensed health care provider or designee or in accordance with religious or ethnic requirements or other special needs.

C. The provider shall ensure that he can be responsive to the special mental health or medical needs of the child.

D. The provider shall establish rules that encourage desired behavior and discourage undesired behavior. The provider shall not use corporal punishment or give permission to others to do so and shall sign an agreement to this effect.

E. The provider shall provide clean and seasonal clothing appropriate for the age and size of the child.

F. If a provider [~~regularly~~] transports the child, the provider [~~must~~ shall] have a valid driver's license and automobile liability insurance. These will be checked at approval and [~~re-approval~~ reapproval] but verification may be required at any time deemed necessary.

G. The vehicle used to transport the child shall have a valid [~~license~~ registration] and inspection sticker.

H. Providers and any other adults who transport children shall use [functioning] child restraint devices in accordance with requirements of Virginia law.

22VAC40-211-90. Allowing a variance.

A. The local department may request and the provider may receive a variance from the department on a standard if the variance does not jeopardize the safety and proper care of the child or violate federal or state laws or local ordinances.

B. If a provider is granted a variance and is in compliance with all other requirements of this chapter, the provider is considered fully approved.

C. Any variances granted [are considered on a case-by-case basis and] must be reviewed on an annual basis by the department.

22VAC40-211-100. Monitoring and reapproval of providers.

A. The local department's representative shall visit the home of the approved provider as often as necessary but at least quarterly to provide support to and monitor the performance of the provider and shall document these visits in the provider record.

[1. When a child is placed in the home, these visits may coincide with the monthly visits to the child.

2. If there is no child placed in the home, the quarterly visit may be replaced by telephone contact.]

B. The [~~re-approval~~ reapproval] process shall include [a minimum of one interview with the provider in his home and the following activities]:

1. A review of the previous home approval information;

2. Updating [the home study and] any information that has changed and [~~a~~] consideration of new information since the previous approval;

3. Completing [~~all~~] state criminal record and child protective services background checks;

4. Obtaining the results of a new tuberculosis screening [and documenting the absence of tuberculosis in a communicable form];

5. Reviewing the confidentiality and the corporal punishment requirements and completing new confidentiality and corporal punishment agreements;

6. A reassessment of the above information to determine reapproval; [~~and~~]

7. A [~~home study~~ case record] addendum indicating that the above requirements were met [; and

8. Documentation of in-service training received].

C. If the reapproval process results in [the] local department's decision to [~~close the provider's home~~ revoke] or suspend the provider's approval [,] the local department shall notify the provider in writing of its decision. A copy of the notification letter shall be stored in the provider's record.

[~~C.~~ D.] If monitoring efforts indicate that significant changes in the circumstances of the provider [have occurred and] would impact the conditions of their approval [~~have occurred~~], an addendum shall be completed and included with home study [and appropriate action taken].

[~~D.~~ E.] The [~~home study~~ case record] addendum shall contain all [~~department required information~~ requirements of this chapter] and be documented by a combination of narrative and other data collection formats, and shall be signed and dated by the individual completing the addendum and the director of the local department or his designee.

22VAC40-211-110. Provider's right to grieve.

A. The applicant shall have the right to grieve the actions of the local department to the local board on issues related to their application to become a [~~resource, foster and/or adoptive home~~] provider.

B. Decisions on the placement of a specific child with a provider are not subject to grievance. The local board shall

have the final authority to determine appropriate placement for children pursuant to § 16.1-278.2 of the Code of Virginia. Decisions regarding final adoptive placements are made by the circuit court pursuant to Chapter 12 (§ 63.2-1200 et seq.) of Title 63.2 of the Code of Virginia.

VA.R. Doc. No. R07-736; Filed July 14, 2009, 2:00 p.m.

DEPARTMENT OF CONSERVATION AND RECREATION

Total Maximum Daily Loads - Ash Camp Creek and Twittys Creek

The Department of Conservation and Recreation and the Department of Environmental Quality (DEQ) seek written and oral comments from interested persons on the development of an implementation plan (IP) for benthic total maximum daily loads (TMDLs) on the following impaired stream segments - 2.36 miles of Ash Camp Creek and 7.25 miles of Twittys Creek. The impaired stream segments are located in the south central region of Virginia in Charlotte County. The impaired water bodies are tributaries to the Roanoke Creek in the Roanoke River Basin.

TMDLs of impaired segments of the Ash Camp Creek and Twittys Creek were approved by the EPA on April 26, 2004, and on September 30, 2004, respectively. Approved reports can be found on DEQ's websites at:

http://www.deq.virginia.gov/tmdl/apptmdls/roankrvr/accbc.pdf

http://www.deq.virginia.gov/tmdl/apptmdls/roankrvr/twittybc.pdf

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

The first public meeting on the development of the IP for the above impaired segments will be held on Monday, August 17, 2009, at 7 p.m. in the Charlotte County Board Room at the Charlotte County Administration Office Building located at 250 LeGrande Ave, Suite A, Charlotte Courthouse, VA 23923. After a one-hour public meeting, stakeholders will break into working group sessions to discuss agricultural and residential sources of pollutant, sediment, and begin the public participation input process for the implementation plan.

The public comment period will end on September 16, 2009. The fact sheets on the development of an IP for the above impaired segments are available upon request. Written comments and inquiries should include the name, address, and telephone number of the person submitting the comments and should be sent to Dr. Ram Gupta, Department of Conservation and Recreation, 101 North 14th St., 11th Floor, James Monroe Building, Richmond, VA 23219, email address ram.gupta@dcr.virginia.gov, telephone (804) 371-0991.

DEPARTMENT OF CRIMINAL JUSTICE SERVICE

Minimum Qualifications for Transportation of Prisoners by Private Companies

In compliance with § 19.2-108 of the Code of Virginia, the Department of Criminal Justice Services (DCJS) has established minimum qualifications for the transportation of prisoners by private companies. These qualifications may be found on the DCJS website at www.dcjs.virginia.gov. Under Quick Links, click on "DCJS establishes minimum qualifications for private prisoner transport companies." The qualifications may also be found under the "What's New" link in the left column of the home page.

Contact Information: Judith Kirkendall, Strategic Development and Research, Department of Criminal Justice Services, 1100 Bank Street, Richmond, VA 23219, telephone (804) 786-8003, FAX (804) 225-3853, or email judith.kirkendall@dcjs.virginia.gov.

STATE LOTTERY DEPARTMENT

Director's Orders

The following Director's Order of the State Lottery Department was filed with the Virginia Registrar of Regulations on July 10, 2009.

Director's Order Number Fifty-Eight (09)
Certain Virginia Instant Game Lotteries; End of Games.

In accordance with the authority granted by §§ 2.2-4002 B 15 and 58.1-4006 A of the Code of Virginia, I hereby give notice that the following Virginia Lottery instant games will officially end at midnight on July 31, 2009.

Game 638	Weekly Grand
Game 1017	Lucky Green
Game 1051	Blackjack
Game 1067	Poker Face
Game 1074	Roll 'Em
Game 1084	Cash Blast
Game 1186	Lucky 8's
Game 1092	Hit $500
Game 1098	Double It!
Game 1099	Find The 9's

The last day for lottery retailers to return for credit unsold tickets from any of these games will be September 4, 2009. The last day to redeem winning tickets for any of these games will be January 27, 2010, 180 days from the declared official end of the game. Claims for winning tickets from any of these games will not be accepted after that date. Claims that are mailed and received in an envelope bearing a postmark of the United States Postal Service or another sovereign nation of

January 27, 2010, or earlier, will be deemed to have been received on time. This notice amplifies and conforms to the duly adopted State Lottery Board regulations for the conduct of lottery games.

This order is available for inspection and copying during normal business hours at the Virginia Lottery headquarters, 900 East Main Street, Richmond, Virginia; and at any Virginia Lottery regional office. A copy may be requested by mail by writing to Director's Office, Virginia Lottery, 900 East Main Street, Richmond, Virginia 23219.

This Director's Order becomes effective on the date of its signing and shall remain in full force and effect unless amended or rescinded by further Director's Order.

/s/ Paula I. Otto
Executive Director
July 9, 2009

STATE WATER CONTROL BOARD

Proposed Action - Miller Oil Co., Inc.

An enforcement action has been proposed for Miller Oil Co., Inc. for alleged violations at four facilities in Chesterfield, Henrico, and Dinwiddie Counties. The proposed enforcement action requires corrective action and a civil charge. A description of the proposed action is available at the DEQ office named below or online at www.deq.virginia.gov. Allison Dunaway will accept comments by email at allison.dunaway@deq.virginia.gov, FAX (804) 527-5106 or postal mail at 4949-A Cox Road, Glen Allen, VA 23060 from August 3, 2009, to September 5, 2009.

Nutrient Waste Load Allocations - Petitions for Extension of Deadline for Public Comment Opportunity

Notice of action: The State Water Control Board (the board) is considering action on petitions to extend the deadline for securing a certificate to operate for footnoted nutrient waste load allocations in the Water Quality Management Planning Regulation (WQMP).

Purpose of notice: The board seeks comments through the Department of Environmental Quality (DEQ) on the petitions and the need for and impact of resulting regulatory action to extend any deadline.

Public comment period: July 24, 2009, to August 28, 2009.

Subject matter and intent of proposal: The 2009 General Assembly passed legislation (HB 1074/SB 1022) authorizing the board to adopt certain regulations relating to wastewater treatment plants. The board was directed to accept petitions through July 10, 2009, for the purpose of conducting an expedited rulemaking process involving plants with "footnoted" nutrient waste load allocations in the WQMP regulation. The footnotes provide conditional allocations that depend on the plant owner securing a Certificate to Operate (CTO) by December 31, 2010, for an expanded design flow. The petitions must be for the sole purpose of extending the deadline to no later than December 31, 2015. Owners submitting a petition are still required to comply with their nutrient allocations as of January 1, 2011, through the Nutrient Credit Exchange Program (§ 62.1-44.19:4 of the Code of Virginia) or by other means. The board must approve or deny these petitions and adopt any resulting regulation amendments within 180 days of the petition deadline. Before making a final decision on the petitions, the board shall provide an opportunity for public comment.

DEQ received petitions for seven plants by the deadline: (i) Cape Charles; (ii) Culpeper Co. - Mountain Run; (iii) Fauquier Co. W&SA - Remington; (iv) Fauquier Co. W&SA - Vint Hill; (v) Harrisonburg-Rockingham SA - North River; (vi) Onancock; and (vii) Shenandoah Co. - North Fork Regional. The petitions are accessible at the web link provided below.

The legislation also exempted the board's adoption of any resulting regulation amendments under this rulemaking from Article 2 (§ 2.2-4006 et seq. of the Code of Virginia) of the Administrative Process Act.

The regulation to be amended is the Water Quality Management Planning Regulation (9VAC25-720).

How to comment: DEQ accepts written comments by email and postal mail. Comments must include the full name, address, and telephone number of the person commenting and be received by DEQ by 5 p.m. on the last day of the comment period. Please include a copy of any supporting documents or exhibits, which become part of the public record.

To review documents: This public notice is available on the Town Hall website at www.townhall.virginia.gov, where interested persons may also submit electronic comments. The legislation and notification letter sent May 8, 2009, to affected plant owners and the petitions received by the July 10, 2009, deadline are available through the Department of Environmental Quality, Chesapeake Bay Program webpage at http://www.deq.virginia.gov/bay/multi.html, or by contacting the Department of Environmental representative named below.

Contact for public comments, document requests, and additional information: John Kennedy, Department of Environmental Quality, Chesapeake Bay Program, P.O. Box 1105, Richmond, VA 23218, telephone (804) 698-4312, or email john.kennedy@deq.virginia.gov.

VIRGINIA CODE COMMISSION

Notice to State Agencies

Mailing Address: Virginia Code Commission, 910 Capitol Street, General Assembly Building, 2nd Floor, Richmond, VA 23219.

Filing Material for Publication in the Virginia Register of Regulations

Agencies are required to use the Regulation Information System (RIS) when filing regulations for publication in the Virginia Register of Regulations. The Office of the Virginia Register of Regulations implemented a web-based application called RIS for filing regulations and related items for publication in the Virginia Register. The Registrar's office has worked closely with the Department of Planning and Budget (DPB) to coordinate the system with the Virginia Regulatory Town Hall. RIS and Town Hall complement and enhance one another by sharing pertinent regulatory information.

The Office of the Virginia Register is working toward the eventual elimination of the requirement that agencies file print copies of regulatory packages. Until that time, agencies may file petitions for rulemaking, notices of intended regulatory actions and general notices in electronic form only; however, until further notice, agencies must continue to file print copies of proposed, final, fast-track and emergency regulatory packages.

ERRATA

STATE BOARD OF BEHAVIORAL HEALTH AND DEVELOPMENTAL SERVICES

Title of Regulation: **12VAC35-46. Regulations for Children's Residential Facilities.**

Publication: 25:21 VA.R. 3912-3950 June 22, 2009.

Correction to Final Regulation:

Page 3929, 12VAC35-46-480 H, line 4, strike "(5VAC63)" insert "(13VAC5-63)"

VA.R. Doc. No. R09-1612

DEPARTMENT OF FORESTRY

Title of Regulation: **4VAC10-30. Virginia State Forest Regulations.**

Publication: 25:20 VA.R. 3473 June 8, 2009.

Correction to Notice of Intended Regulatory Action:

Page 3473, column 2, Department of Forestry, last line, after "VA.R. Doc. No.," change "R09-1822" to "R09-06"

VA.R. Doc. No. R09-06