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Virginia Code Commission

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THE VIRGINIA REGISTER INFORMATION PAGE

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

ADOPTION, AMENDMENT, AND REPEAL OF REGULATIONS

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

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

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

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

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

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

A regulation becomes effective at the conclusion of the 30-day final adoption period, or at any other later date specified by the promulgating agency, unless (i) a legislative objection has been filed, in which event the regulation, unless withdrawn, becomes effective on the date specified, which shall be after the expiration of the 21-day objection period; (ii) the Governor exercises his authority to require the agency to provide for additional public comment, in which event the regulation,

unless withdrawn, becomes effective on the date specified, which shall be after the expiration of the period for which the Governor has provided for additional public comment; (iii) the Governor and the General Assembly exercise their authority to suspend the effective date of a regulation until the end of the next regular legislative session; or (iv) the agency suspends the regulatory process, in which event the regulation, unless withdrawn, becomes effective on the date specified, which shall be after the expiration of the 30-day public comment period and no earlier than 15 days from publication of the readopted action.

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

FAST-TRACK RULEMAKING PROCESS

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

EMERGENCY REGULATIONS

Pursuant to § 2.2-4011 of the Code of Virginia, an agency, upon consultation with the Attorney General, and at the discretion of the Governor, may adopt emergency regulations that are necessitated by an emergency situation. An agency may also adopt an emergency regulation when Virginia statutory law or the appropriation act or federal law or federal regulation requires that a regulation be effective in 280 days or less from its enactment. The emergency regulation becomes operative upon its adoption and filing with the Registrar of Regulations, unless a later date is specified. Emergency regulations are limited to no more than 12 months in duration; however, may be extended for six months under certain circumstances as provided for in § 2.2-4011 D. Emergency regulations are published as soon as possible in the *Register*. During the time the emergency status is in effect, the agency may proceed with the adoption of permanent regulations through the usual procedures. To begin promulgating the replacement regulation, the agency must (i) file the Notice of Intended Regulatory Action with the Registrar within 60 days of the effective date of the emergency regulation and (ii) file the proposed regulation with the Registrar within 180 days of the effective date of the emergency regulation. If the agency chooses not to adopt the regulations, the emergency status ends when the prescribed time limit expires.

STATEMENT

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

CITATION TO THE VIRGINIA REGISTER

The *Virginia Register* is cited by volume, issue, page number, and date. **29:5 VA.R. 1075-1192 November 5, 2012**, refers to Volume 29, Issue 5, pages 1075 through 1192 of the *Virginia Register* issued on November 5, 2012.

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

Members of the Virginia Code Commission: **John S. Edwards**, Chairman; **Gregory D. Habeeb**; **James M. LeMunyon**; **Ryan T. McDougle**; **Robert L. Calhoun**; **E.M. Miller, Jr.**; **Thomas M. Moncure, Jr.**; **Wesley G. Russell, Jr.**; **Charles S. Sharp**; **Robert L. Taverner**; **Christopher R. Nolen**; **J. Jasen Eige** or **Jeffrey S. Palmore**.

Staff of the Virginia Register: **Jane D. Chaffin**, Registrar of Regulations; **June T. Chandler**, Assistant Registrar; **Rhonda Dyer**, Publications Assistant; **Terri Edwards**, Operations Staff Assistant; **Karen Perrine**, Staff Attorney.

PUBLICATION SCHEDULE AND DEADLINES

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

December 2012 through January 2014

<u>Volume: Issue</u>	<u>Material Submitted By Noon*</u>	<u>Will Be Published On</u>
29:7	November 13, 2012 (Tuesday)	December 3, 2012
29:8	November 28, 2012	December 17, 2012
29:9	December 11, 2012 (Tuesday)	December 31, 2012
29:10	December 26, 2012	January 14, 2013
29:11	January 9, 2013	January 28, 2013
29:12	January 23, 2013	February 11, 2013
29:13	February 6, 2013	February 25, 2013
29:14	February 20, 2013	March 11, 2013
29:150	March 6, 2013	March 25, 2013
29:16	March 20, 2013	April 8, 2013
29:17	April 3, 2013	April 22, 2013
29:18	April 17, 2013	May 6, 2013
29:19	May 1, 2013	May 20, 2013
29:20	May 15, 2013	June 3, 2013
29:21	May 29, 2013	June 17, 2013
29:22	June 12, 2013	July 1, 2013
29:23	June 26, 2013	July 15, 2013
29:24	July 10, 2013	July 29, 2013
29:25	July 24, 2013	August 12, 2013
29:26	August 7, 2013	August 26, 2013
30:1	August 21, 2013	September 9, 2013
30:2	September 4, 2013	September 23, 2013
30:3	September 18, 2013	October 7, 2013
30:4	October 2, 2013	October 21, 2013
30:5	October 16, 2013	November 4, 2013
30:6	October 30, 2013	November 18, 2013
30:7	November 13, 2013	December 2, 2013
30:8	November 26, 2013 (Tuesday)	December 16, 2013
30:9	December 11, 2013	December 30, 2013
30:10	December 23, 2013 (Tuesday)	January 13, 2014
30:11	January 8, 2014	January 27, 2014

*Filing deadlines are Wednesdays unless otherwise specified.

PETITIONS FOR RULEMAKING

TITLE 18. PROFESSIONAL AND OCCUPATIONAL LICENSING

BOARD OF PHYSICAL THERAPY

Initial Agency Notice

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

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

Name of Petitioner: Sharan Zirges, PT.

Nature of Petitioner's Request: Sentara would like to ask the board to amend the rule (18VAC112-20-131) regarding who can provide educational experiences to include health care organizations accredited by any Centers for Medicare and Medicaid Services (CMS) approved accrediting body empowered to deem CMS accredited provider status.

All Sentara hospital facilities are now accredited by DNV. DNV Healthcare is the leading accreditor of U.S. hospitals integrating ISO 9001 quality compliance with the Medicare Conditions of Participation per their website. In addition, DNV accreditation requires an annual survey and the organization's continual compliance with the DNV accreditation process. Sentara Home Care services are accredited by CHAP – Community Health Accreditation Program, which is an independent, not-for-profit, accrediting body for community-based health care organizations. CHAP through "deeming authority" granted by the CMS has the regulatory authority to survey agencies providing home health, hospice, and home medical equipment services to determine if they meet the Medicare Conditions of Participation and CMS Quality Standards.

Agency Plan for Disposition of Request: In accordance with Virginia law, the petition has been filed with the Register of Regulations and will be published on December 3, 2012. Comment on the petition may be sent by email, regular mail, or posted on the Virginia Regulatory Townhall at www.townhall.virginia.gov; comment will be accepted until December 28, 2012. Following receipt of all comments on the petition to amend regulations, the board will decide whether to make any changes to the regulatory language. This matter will be on the board's agenda for its meeting scheduled for February 15, 2013.

Public Comment Deadline: December 28, 2012.

Agency Contact: Elaine J. Yeatts, Agency Regulatory Coordinator, Department of Health Professions, 9960 Mayland Drive, Suite 300, Richmond, VA 23233, telephone (804) 367-4688, FAX (804) 527-4434, or email elaine.yeatts@dhp.virginia.gov.

VA.R. Doc. No. R13-10; Filed November 5, 2012, 8:42 a.m.

NOTICES OF INTENDED REGULATORY ACTION

TITLE 18. PROFESSIONAL AND OCCUPATIONAL LICENSING

REAL ESTATE APPRAISER BOARD

Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 2.2-4007.01 of the Code of Virginia that the Real Estate Appraiser Board intends to consider promulgating **18VAC130-30, Appraisal Management Company Regulations**. The purpose of the proposed action is to establish definitions, qualifications, fees, and standards of practice and conduct for appraisal management companies. The new regulation is required to implement Chapter 405 of the 2012 Acts of Assembly, which resulted from HB 210.

The agency is seeking comments on this regulatory action including, but not limited to (i) ideas to be considered in the development of this proposal, (ii) the costs and benefits of the alternatives stated in the Agency Background Document or other alternatives, and (iii) potential impacts of the regulation. The agency is also seeking information on impacts on small businesses as defined in § 2.2-4007.1 of the Code of Virginia. Information may include (i) projected reporting, recordkeeping, and other administrative costs; (ii) the probable effect of the regulation on affected small businesses; and (iii) the description of less intrusive or costly alternatives for achieving the purpose of the regulation.

Anyone wishing to submit comments may do so via the Regulatory Town Hall website (<http://www.townhall.virginia.gov>) or by mail, email, or fax to Christine Martine, Executive Director, Virginia Real Estate Appraiser Board, 9960 Mayland Drive, Suite 400, Richmond, VA 23233, 804-367-8552, reappraisers@dpor.virginia.gov, fax 866-350-7849. Written comments must include the name and address of the commenter. In order to be considered, comments must be received by midnight on the last day of the public comment period.

The agency intends to hold a public hearing on the proposed action after publication in the Virginia Register. Notice of the hearing also will be posted on the Virginia Regulatory Town Hall website (<http://www.townhall.virginia.gov>) and on the Commonwealth Calendar website (<http://www.virginia.gov/cmsportal3/cgi-bin/calendar.cgi>). Both oral and written comments may be submitted at that time.

The agency is using the participatory approach in the development of the proposal. Pursuant to Public Participation Guidelines, 18VAC130-11, a panel will not be used.

Statutory Authority: §§ 54.1-201 and 54.1-2013 of the Code of Virginia.

Public Comment Deadline: January 2, 2013.

Agency Contact: Christine Martine, Executive Director, Real Estate Appraiser Board, 9960 Mayland Drive, Suite 400, Richmond, VA 23233, telephone (804) 367-8552, FAX (866) 350-7849, or email reappraisers@dpor.virginia.gov.

VA.R. Doc. No. R13-3435; Filed November 2, 2012, 9:17 a.m.

REGULATIONS

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

Symbol Key

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

TITLE 2. AGRICULTURE

BOARD OF AGRICULTURE AND CONSUMER SERVICES

Final Regulation

REGISTRAR'S NOTICE: The Board of Agriculture and Consumer Services is claiming an exemption from the Administrative Process Act in accordance with § 3.2-703 of the Code of Virginia, which authorizes the board to quarantine areas within the Commonwealth to prevent or retard the spread of a pest into, within, or from the Commonwealth and § 3.2-704 of the Code of Virginia, which provides that the Board of Agriculture and Consumer Services shall prohibit the importation of any regulated article from any locality of other states, territories, or countries, into the Commonwealth.

Title of Regulation: **2VAC5-330. Rules and Regulations for Enforcement of the Virginia Pest Law - Virginia Gypsy Moth Quarantine (amending 2VAC5-330-30).**

Statutory Authority: §§ 3.2-701 and 3.2-704 of the Code of Virginia.

Effective Date: November 14, 2012.

Agency Contact: Erin Williams, Policy and Planning Coordinator, Department of Agriculture and Consumer Services, P.O. Box 1163, Richmond, VA 23218, telephone (804) 786-1308, FAX (804) 371-7479, TTY (800) 828-1120, or email erin.williams@vdacs.virginia.gov.

Summary:

The amendment extends the regulated areas under the Virginia Gypsy Moth Quarantine due to the detection of adult, larvae, or other life stages of the gypsy moth in an area not currently under regulation. The current regulation area is changed by the addition of Tazewell County. All other parts of the Virginia Gypsy Moth Quarantine will remain unchanged. An amendment also corrects the citation for the federal Gypsy Moth Quarantine.

2VAC5-330-30. Regulated areas.

A. Any area of another state or the District of Columbia, whether designated high risk or low risk, in which gypsy moth is known to occur and is so geographically described and regulated by the United States Department of Agriculture under the ~~Gypsy Moth and Brown-tail Moth Quarantine No. 45, (7 USC §§ 1520dd, 150ee, 162) federal Gypsy Moth Quarantine (7 CFR Part 301 Subpart - Gypsy Moth)~~ or under a state gypsy moth quarantine or other state legislation.

B. The following areas in Virginia:

1. The entire counties of: Accomack, Albemarle, Alleghany, Amelia, Amherst, Appomattox, Arlington, Augusta, Bath, Bedford, Bland, Botetourt, Brunswick, Buckingham, Campbell, Caroline, Charles City, Charlotte, Chesterfield, Clarke, Craig, Culpeper, Cumberland, Dinwiddie, Essex, Fairfax, Fauquier, Floyd, Fluvanna, Franklin, Frederick, Giles, Gloucester, Goochland, Greene, Greensville, Halifax, Hanover, Henrico, Highland, Isle of Wight, James City, King George, King and Queen, King William, Lancaster, Loudoun, Louisa, Lunenburg, Madison, Mathews, Mecklenburg, Middlesex, Montgomery, Nelson, New Kent, Northampton, Northumberland, Nottoway, Orange, Page, Pittsylvania, Powhatan, Prince Edward, Prince George, Prince William, Pulaski, Rappahannock, Richmond, Roanoke, Rockbridge, Rockingham, Shenandoah, Southampton, Spotsylvania, Stafford, Surry, Sussex, Tazewell, Warren, Westmoreland, and York.

2. The entire independent cities of: Alexandria, Bedford, Buena Vista, Charlottesville, Chesapeake, Clifton Forge, Colonial Heights, Covington, Danville, Emporia, Fairfax City, Falls Church, Franklin, Fredericksburg, Hampton, Harrisonburg, Hopewell, Lexington, Lynchburg, Manassas, Manassas Park, Newport News, Norfolk, Petersburg, Poquoson, Portsmouth, Radford, Richmond, Roanoke, Salem, Staunton, Suffolk, Virginia Beach, Waynesboro, Williamsburg, and Winchester.

VA.R. Doc. No. R13-3484; Filed November 14, 2012, 4:52 p.m.

TITLE 12. HEALTH

STATE BOARD OF HEALTH

Fast-Track Regulation

Title of Regulation: **12VAC5-545. Regulations for the Nurse Educator Scholarship Program (adding 12VAC5-545-10 through 12VAC5-545-90).**

Statutory Authority: § 32.1-122.6:01 of the Code of Virginia.

Public Hearing Information: No public hearings are scheduled.

Public Comment Deadline: January 2, 2013.

Effective Date: January 17, 2013.

Agency Contact: Michael Royster, M.D., M.P.H., Director, Office of Minority Health/Health Equity, Department of

Regulations

Health, 109 Governor Street, Richmond, VA 23219, telephone (804) 864-7425, or email michael.royster@vdh.virginia.gov.

Basis: Section 23-35.9 of the Code of Virginia establishes annual nursing scholarships for part-time and full-time students enrolled in undergraduate and graduate nursing programs to be awarded by an advisory committee appointed by the State Board of Health.

Section 32.1-122.6:01 of the Code of Virginia authorizes the Board of Health to establish criteria for awarding nursing scholarships to eligible part-time and full-time students pursuant to the procedures for the administration of the scholarships awarded through § 23-35.9.

Item 289 C of Chapter 3 of the 2012 Acts of Assembly, Special Session I, appropriates funds to the Department of Health to provide scholarships and loan repayments for nursing students pursuing an advanced degree towards becoming nursing faculty at the college level and provides that priority be given to master's degree candidates who will teach in the community colleges.

Purpose: Beginning in 2009, the General Assembly included funds in the appropriation act for scholarships and loan repayments for nursing students pursuing an advanced degree towards becoming nursing faculty at the college level. Priority is given to master's degree candidates who commit to teaching in the community colleges. Pursuant to this legislative mandate, regulations have been developed for the Virginia Nurse Educator Scholarship Program. The intent of this program is to increase the number of nurse educators by providing masters and doctoral level nursing students with financial support for advanced degree programs. Up to 10 nurse educator scholarships are planned to be awarded annually.

Rationale for Using Fast-Track Process: The Administrative Process Act (APA) provides for expedited rulemaking for noncontroversial regulatory actions. The regulation as proposed is noncontroversial because the scholarship was provided for in the 2009 appropriation act and implementing the resulting program is expected to be straightforward. The Virginia General Assembly recognized a need for increasing the number of nurse educators. The regulations are patterned after other existing scholarship programs, which have not been controversial.

Substance: The proposed regulation provides for the administration of the Virginia Nurse Educator Scholarship Program. The provisions include definitions, purpose, administration, eligible applicants, scholarship amount, distribution of scholarships, contract provisions, repayment of scholarships, repayment by practice, cash repayment, cash repayment amount, cash repayment schedule, and reporting requirements.

Issues: The advantage to the public is an increase in nursing educators and a subsequent increase in access to quality nursing services within medical practices throughout the

Commonwealth. The purpose of the regulation is to comply with the Code of Virginia. There are no known disadvantages to the public, the regulated entities, business entities, or the Commonwealth.

Department of Planning and Budget's Economic Impact Analysis:

Summary of the Proposed Amendments to Regulation. Pursuant to Code of Virginia Sections 23-35.9 and 32.1-122.6:01, the Board of Health (Board) awards scholarships to students enrolled in undergraduate and graduate nursing programs. Current regulations exist for 1) nursing scholarships that require service in a long-term-care facility, 2) General Assembly nursing scholarships, and 3) nurse practitioner/nurse midwife scholarships. Beginning in 2009, the General Assembly included funds in the Appropriation Act for scholarships and loan repayments for nursing students pursuing an advanced degree towards becoming nursing faculty at the college level. The Board proposes these regulations to manage the "Virginia Nurse Educator Scholarship Program."

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

Estimated Economic Impact. The proposed regulations establish sections relating to definitions, purpose, administration, eligible applicants, scholarship amounts, scholarship distribution, contract provisions, repayment of scholarships, repayment by practice, cash repayment, cash repayment amount, cash repayment schedule, and reporting requirements. All of the proposed language is consistent with current statutes and practice. Placing the requirements of the Nurse Educator Scholarship Program in regulation will be beneficial in that it will reduce uncertainty for potential scholarship candidates.

Businesses and Entities Affected. Approximately ten nurse educator candidates will receive scholarships per year. Graduate level nursing programs in Virginia are also potentially affected.

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

Projected Impact on Employment. The Virginia Nurse Educator Scholarship Program may increase the number of nurse educators in Virginia nursing programs.

Effects on the Use and Value of Private Property. Placing the requirements of the Nurse Educator Scholarship Program in regulation may marginally increase the likelihood that some individuals will pursue a career as a nurse educator by reducing uncertainty.

Small Businesses: Costs and Other Effects. The proposed amendments are unlikely to significantly affect small businesses.

Small Businesses: Alternative Method that Minimizes Adverse Impact. The proposed amendments are unlikely to significantly affect small businesses.

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

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 14 (10). 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 Economic Impact Analysis: The proposed regulations establish the nursing educator scholarship program consistent with current Virginia statutes and practice. This program and its regulations will allow students enrolled in master's or doctoral degree nursing programs to receive scholarships in exchange for a period of faculty service in nursing education in Virginia. Placing the requirements of the Nurse Educator Scholarship Program in regulation is necessary in order to implement the program and provide appropriate guidelines for potential scholarship candidates.

Virginia Department of Health concurs with the conclusion reached by the Department of Planning and Budget's economic impact analysis that the benefits for the proposed regulations will exceed the costs for the proposed changes.

Summary:

The proposed regulation establishes the nursing educator scholarship program consistent with Virginia law. The program and its regulations will allow students enrolled in master's or doctoral degree nursing programs to receive scholarships in exchange for a period of faculty service in nursing education in Virginia.

CHAPTER 545
REGULATIONS FOR THE NURSE EDUCATOR
SCHOLARSHIP PROGRAM

12VAC5-545-10. General information.

This chapter has been prepared to familiarize scholarship applicants, deans and directors of nursing programs, and financial aid officers with the Virginia Nurse Educator Scholarship Program. The appropriation act empowers the State Board of Health to promulgate regulations. All scholarships are awarded without regard to race, color, religion, sex, or national origin.

All scholarship awards will be made by the commissioner after receiving recommendations from a Nursing Scholarship Advisory Committee appointed by the board.

This chapter sets forth the basis for determining scholarship recipients. The committee will review applications against the set of criteria set forth in this chapter and recommend the scholarship recipients, with due regard given to scholastic attainment, financial need, character, and adaptability to the nurse educator profession.

12VAC5-545-20. Definitions.

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

"Board" or "Board of Health" means the State Board of Health.

"Commissioner" means the State Health Commissioner.

"Committee" means a group that advises the commissioner on the awarding of the nurse educator scholarships.

"Department" means the department that manages and administers the program.

"Interest" means the prime lending rate as published in the Wall Street Journal on the last day of the month in which the recipient is determined to be in default, plus two percentage points.

"Penalty" means an amount of money equal to one times the amount of all monetary scholarship awards paid to the scholarship recipient.

"Recipient" or "scholarship recipient" means an eligible registered nurse who enters into a contract with the commissioner and receives one or more scholarship awards via the Virginia Nurse Educator Scholarship Program.

"Restitution" means the amount of monetary reimbursement, including repayment of all pertinent scholarship awards plus penalty and applicable interest that will be owed to the Commonwealth of Virginia by a scholarship recipient who is in default of his contractual obligation.

"Teaching service" means to teach as a nurse educator in a Virginia nursing school for two years for each year of a scholarship award.

Regulations

12VAC5-545-30. Administration.

The commissioner shall act as fiscal agent for the board in administration of the scholarship program. The commissioner shall make scholarship awards after receiving the recommendations of the committee.

The committee shall consist of seven members: four faculty members representing nurse practitioner, nurse midwife, or nurse educator education programs; one nurse practitioner currently engaged in practice; one former nurse practitioner or nurse midwife scholarship recipient; and one nurse educator scholarship recipient. If an appointed member is unable to serve, the board shall appoint a replacement. Committee appointments shall be for two years and members may not serve more than two consecutive terms.

12VAC5-545-40. Eligible applicants.

To be considered eligible for the Virginia Nurse Educator Scholarship Program, all applicants must meet the following criteria:

1. Be a U.S. citizen;
2. Be a Virginia resident;
3. Be a full-time or part-time student in a master's or doctoral level nursing program in Virginia who will complete the degree requirements within two years or less;
4. Have submitted a completed application;
5. Have submitted all other required materials (such as transcript, curriculum vitae, and letters of reference); and
6. Have signed and submitted a written contract agreeing to serve via teaching in a school of nursing in the Commonwealth of Virginia.

Priority shall be given to master's degree candidates who will teach at one of the colleges within the Virginia Community College System.

Failure to comply with any of this section will cause the applicant to be ineligible to participate in the Virginia Nurse Educator Scholarship Program. Applicants will be evaluated and ranked by the committee. The committee will forward the names of the recommended award recipients to the commissioner for review and final decision.

12VAC5-545-50. Scholarship amount.

The amount available each year for Virginia nurse educator scholarships shall be as provided by the Virginia General Assembly in the appropriation act. Scholarships shall be awarded to the recipients upon or following the recipient's execution of a contract with the commissioner for scholarship repayment.

12VAC5-545-60. Distribution of scholarships.

The committee shall inform nursing schools of the availability of the nurse educator scholarships through staff to the committee by March 1 of the same year the scholarship will be awarded. The committee shall convene annually for the purpose of reviewing applications and making

recommendations on the awarding of scholarships as funding allows. Scholarship recommendations shall be based upon majority vote of the committee and awards will be made by the commissioner.

Persons dissatisfied with the award or denial of an application to become a scholarship recipient must notify staff to the committee (identified in application materials) within 14 days of receiving notification of the award or denial of an application.

12VAC5-545-70. Contract provisions and default.

A. Prior to the payment of money to a scholarship recipient, the commissioner shall enter into a contract with the recipient. The contract shall:

1. Provide that the recipient shall pursue a nurse educator program of the designated school until graduation and shall begin full-time (as determined by the institution) teaching service as a nurse educator within one year (12 months) following completion of training and for a period of two years per annual scholarship award. Employment must be at a Virginia nursing school program.
2. Provide that the recipient shall not voluntarily obligate himself for military service prior to completion of the repayment period.
3. Provide that the recipient shall notify the commissioner in writing of his proposed teaching location within 30 days of his employment at a teaching location.
4. Provide that the recipient may request approval of a change of teaching location. The commissioner in his discretion may approve such a request.
5. Provide that if the recipient (i) fails to maintain satisfactory academic progress; (ii) is placed on academic or other probation; (iii) is suspended or expelled from school; or (iv) voluntarily withdraws from school, the recipient may, upon certification by the commissioner, be relieved of the contract obligation to engage in full-time teaching service upon repayment to the Commonwealth of the total amount of scholarship funds received plus applicable interest.
6. Provide that if the recipient defaults while still in a nursing education program and notifies the commissioner in writing that the recipient will not provide teaching services in a nursing program as required, the recipient will make restitution to the Commonwealth of Virginia by repayment of all scholarship award or awards plus applicable interest on the amount of such restitution.
7. Provide that if the recipient is in default due to death or permanent disability so as not to be able to engage in teaching service, the recipient, or his personal representative, may be relieved of the obligation under the contract to engage in full-time teaching service upon repayment to the Commonwealth of the total amount of scholarship funds received plus applicable interest. For recipients completing part of the teaching obligation prior

to becoming permanently disabled, or in the event of death, the total amount of scholarship funds owed shall be reduced by the proportion of obligated years served.

8. Provide that if the recipient is in default due to death or permanent disability so as not to be able to engage in full-time teaching service at a Virginia nursing school program, the obligation to make restitution may be waived by the commissioner upon application of the recipient or the recipient's estate to the commissioner.

9. Provide that individual cases of hardship may be considered by the commissioner for forgiveness of payment or service.

10. Provide that any recipient of a scholarship who defaults by evasion or refusal to fulfill the obligation to teach full time at a Virginia nursing school program for the full number of years required at any time following completion of his nurse educator program shall make restitution by repaying all monetary scholarship awards, plus penalty and applicable interest on such restitution to the Commonwealth of Virginia.

11. Provide that partial fulfillment of the recipient's obligation shall reduce the amount of restitution plus penalty and applicable interest due by an amount of money equal to the same percentage of time employed.

B. With respect to default, the contract shall provide that a recipient will be considered to be in default on the date:

1. The commissioner is notified in writing by the recipient that he does not intend to fulfill the contractual obligation;

2. The recipient has not accepted a placement and commenced the period of obligated practice as provided for in subdivision A 1 of this section; or

3. The recipient leaves without the consent of the commissioner the place of full-time teaching service that the commissioner has approved for fulfillment of the contractual obligation.

12VAC5-545-80. Repayment of scholarships.

Unless repayment is forgiven as specified in 12VAC5-545-70, all scholarships shall be repaid to the Commonwealth, either by the recipient's teaching service as a nurse educator or through cash repayments.

12VAC5-545-90. Reporting requirements.

Reporting requirements of nursing schools and scholarship recipients are as follows:

1. Each nursing school shall maintain accurate records of the status of scholarship recipients until the recipients graduate. The schools shall provide a report listing the academic status of each recipient annually to the committee.

2. Each scholarship recipient shall, at any time, provide information as requested by the commissioner to verify compliance with the teaching requirements of the scholarship contract. The recipient shall report any change

of mailing address, change of academic standing, change of intent to fulfill his contractual obligation, and any other information that may be relevant to the contract at such time as changes or information may occur. The recipient shall promptly respond with such information as may be requested by the commissioner.

3. The committee shall report annually to the board the following: number of applicants for scholarships, number of scholarships awarded, number of minorities and students from medically underserved areas awarded, total funding awarded, teaching sites of former scholarship recipients, and number of students making monetary repayment of scholarship with reasons for failure to practice identified.

4. Monitoring of teaching service by recipients shall be conducted on an on-going basis by department staff. Teaching service verification forms shall be submitted by the recipient to the department semi-annually (every six months) and countersigned by a representative of the teaching location or site certifying continuous full-time service by recipients.

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

FORMS (12VAC5-545)

[Nurse Education Scholarship Program Application \(rev. 11/12\).](#)

VA.R. Doc. No. R13-2032; Filed November 5, 2012, 5:27 p.m.

DEPARTMENT OF MEDICAL ASSISTANCE SERVICES

Final Regulation

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

Title of Regulation: **12VAC30-20. Administration of Medical Assistance Services (amending 12VAC30-20-141).**

Statutory Authority: §§ 32.1-324 and 32.1-325 of the Code of Virginia; 42 USC § 1396 et seq.

Effective Date: January 2, 2013.

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

Summary:

This action amends 12VAC30-20-141 in accordance with Pub. L. 110-275 § 1917(b)(1)(B)(ii), as amended by § 115(a) of the Medicare Improvements for Patient and Providers Act of 2008 (MIPPA). This amendment inserted new language into the text of § 1917(b)(1)(B) prohibiting states from recovering medical assistance for Medicare cost sharing or for benefits described in § 1902(a)(10)(E). This prevents DMAS from seeking to recover Medicare cost-sharing services (Medicare A & B premiums, deductibles, coinsurance, and copayments) for Medicare/Medicaid dual eligible recipients.

This provision does not apply to Medicare Savings Program (MSP) cost-sharing benefits with a date of service before January 1, 2010, and benefits not related to MSP cost sharing. Also, this MIPPA exclusion does not affect MSP cost-sharing benefits received before January 1, 2010, in the Medicaid costs that are included in a claim that was in effect at the time of the recipient's death, regardless of the date the claim was initiated or the date of the recipient's death.

DMAS mirrors its regulations in the Virginia Administrative Code with federally required State Plan language in 12VAC30-10 through 12VAC30-90. At the time that the estate recovery updates were made to the state Medicaid regulations in response to MIPPA of 2008, this prohibition was not added to 12VAC30-20-141. This action corrects that oversight.

12VAC30-20-141. Estate recoveries.

A. Definitions. The following words and terms when used in this regulation shall have the following meanings unless the context clearly indicates otherwise:

"Act" means the Social Security Act (42 USC § 1396) as applicable.

"Applicable medical assistance payment" means the amount of any medical assistance payments made on behalf of an individual under Title XIX of the Social Security Act.

"Claim" means, for the purposes of this section, action taken by DMAS to recover from the estate of an individual, who was age 55 or older when that person received medical assistance, the total amount of assistance paid for services consistent with the coverage and reimbursement policies in the State Plan for Medical Assistance.

"Cost effective" means that both the dollar amount of the medical assistance payments (claim) and the value of the estate at least exceed the administrative costs of recovery.

"Dual eligibles" mean individuals who are entitled to Medicare hospital insurance under Part A or supplementary

medical insurance under Part B, or both, and are eligible for some form of Medicaid benefit.

"Estate" means, with respect to a deceased individual, (i) all real and personal property and other assets held by the individual at the time of death and (ii) any other real and personal property and other assets in which the individual had any legal title or interest (to the extent of such interest) at the time of his death.

"Homestead of modest value" means a home that is worth 50% or less of the average or median price, as contained in the most recent U.S. Census data or any other such source of home value information as published in the agency's guidance documents, of homes in the county or city, as appropriate, where the homestead is located as of the date of the individual's death.

"Undue hardship" means that DMAS has determined that enforcement of a claim to recover Medicaid benefits would result in substantial hardship to the devisees, legatees, and heirs or dependents of the deceased individual against whose estate the Medicaid claim exists.

B. Under the authority and consistent with the requirements of the Social Security Act § 1917 (the Act), the Commonwealth shall recover applicable medical assistance payments when such payments have been correctly or incorrectly paid on behalf of certain individuals. The Department of Medical Assistance Services (DMAS) shall provide notice of the Commonwealth's Medicaid estate recovery program at the time of application for medical assistance.

C. Adjustment and recovery. Adjustment or recovery can only be made after the death of the individual's surviving spouse, if any, and only at a time when the individual has no surviving child under age 21, or a blind or disabled child as defined in § 1614 of the Act. The Commonwealth shall seek adjustment or recovery of all medical assistance payments correctly paid on behalf of an individual who is age 55 or older under the State Plan as follows:

1. The Commonwealth shall seek adjustment or recovery from the estate of an individual who was age 55 or older when that person received medical assistance. The Except as noted in subdivision 2 of this subsection, the Commonwealth shall recover amounts up to the total amount spent on the individual's behalf for medical assistance for all items or services provided for the individual under the State Plan.

2. Dual eligible protection from recovery.

a. The Commonwealth shall recover from the estates of the following dual eligibles eligible individuals who are 55 years of age or older, who receive full Medicaid benefits in addition to Medicare: (i) qualified Medicare beneficiaries with full Medicaid benefits (QMB Plus), (ii) specified low-income Medicare beneficiaries with full Medicaid benefits (SLMB Plus), and (iii) Medicare

beneficiaries eligible for a limited package of Medicaid benefits ~~non-QMB, OMB, SLMB, qualified individuals (QI) or qualified disabled and working individuals (QDWI)).~~ The Commonwealth shall recover from ~~the individual's estate for all these individuals' estates~~ medical assistance payments made on behalf of ~~the individual.~~ ~~In addition, the Commonwealth shall include in the Commonwealth's claim against the estate, amounts expended for Medicare cost sharing or Medicare premiums, or both.~~ these individuals with the exception of Medicare cost-sharing benefits or for benefits described in § 1902(a)(10)(E). This exception shall apply to Medicare cost-sharing benefits (i.e., Part A and B premiums, deductibles, coinsurance, and copayments) with dates of service on or after January 1, 2010. The date of service for deductibles, coinsurance, and copayments shall be the date the request for payment is received by DMAS. The date of service for premiums shall be the date the Medicaid agency paid the premium.

b. The protection from estate recovery against Medicare cost-sharing benefits (premiums, deductibles, coinsurance, and copayments) set forth in subdivision 2 a of this section that is made for the applicable categories of protected dual eligible individuals described in that subdivision shall apply to approved mandatory and optional services set out in the State Plan for which Medicare cost sharing applies.

3. The Commonwealth shall recover from individuals with long-term care insurance policies. However, the Commonwealth shall not seek adjustment or recovery from the individual's estate for all Medicaid costs for nursing facility and other long-term care services if assets or resources are disregarded to the extent of payments made under a qualified long-term care partnership insurance policy.

4. Estate recovery and managed care. When a Medicaid beneficiary is enrolled in a managed care organization and services are provided by the managed care organization that are included under the State Plan, the Commonwealth shall seek adjustment or recovery from the individual's estate for the capitation payments in the Commonwealth's claim against the estate. When the individual enrolls in the managed care organization, the Commonwealth shall provide a separate notice to the individual that explains that the capitation payments made to the managed care organization are included in whole in the claim against the estate. The Commonwealth shall recover from the individual's estate the total capitation rate for the period the individual was enrolled in the managed care organization.

5. The following American Indian/Alaska Native (AI/AN) income, resources, and property shall be exempt from Medicaid estate recovery pursuant to § 1917(b)(3) of the Act for hardship applicable to federally recognized tribes:

a. Certain AI/AN income and resources (such as interests in and income derived from tribal land and other resources currently held in trust status and judgment funds from the Indian Claims Commission and the U.S. Claims Court) that are exempt from Medicaid estate recovery by other laws and regulations;

b. Ownership interest in trust or nontrust property, including real property and improvements:

(1) Located on a reservation (any federally recognized Indian tribe's reservation or near a reservation) as designated and approved by the Bureau of Indian Affairs of the U.S. Department of the Interior; or

(2) For any federally recognized tribe not described in this subdivision, located within the most recent boundaries of a prior federal reservation.

(3) Protection of nontrust property described in this subdivision is limited to circumstances when it passes from an Indian (as defined in § 4 of the Indian Health Care Improvement Act, 25 USC §§ 1601-1683) to one or more relatives (by blood, adoption, or marriage), including Indians not enrolled as members of a tribe and non-Indians, such as spouses and step-children, that their culture would nevertheless protect as family members; to a tribe or tribal organization or to one or more Indians, or all of these;

c. Income left as a remainder in an estate derived from property protected in this subdivision, that was either collected by an Indian, or by a tribe or tribal organization and distributed to an Indian or Indians, as long as the individual can clearly trace such income as coming from the protected property.

d. Ownership interests left as a remainder in an estate in rents, leases, royalties, or usage rights related to natural resources (including, but not necessarily limited to, extraction of natural resources or harvesting of timber, other plants and plant products, animals, fish, and shellfish) resulting from the exercise of federally protected rights, and income either collected by an Indian, or by a tribe or tribal organization and distributed to an Indian or Indians derived from these sources as long as the individual can clearly trace the interest as coming from protected sources.

e. Ownership interests in or usage rights to items not covered by this subdivision that have unique religious, spiritual, traditional, or cultural significance or rights, or all of these, that support subsistence or a traditional lifestyle according to applicable tribal law or custom.

6. The Commonwealth shall recover the following income, resources and property from the estates of American Indians and Alaska Natives:

a. Ownership interests in assets and property, both real and personal, that are not described in this subdivision.

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b. Any income and assets left as a remainder in an estate that do not derive from protected property or sources in this subdivision.

7. Reparation payments to individuals. Government reparation payments to special populations shall be exempt from Medicaid estate recovery.

8. Annuities. The Commonwealth considers annuities to be legal devices by which ownership of assets, such as estates, is defined and therefore may seek recovery from individuals' estates that may include such annuities.

D. Undue hardship. Whenever estate recovery would work an undue hardship on the deceased individual's heirs, the Commonwealth shall waive adjustment or recovery. Recovery from deceased individuals' estates shall be waived when the heirs are themselves Medicaid eligible. Anyone who may be affected by Medicaid estate recovery may apply for an undue hardship waiver. DMAS shall determine the merit of such applications.

1. Special consideration shall be shown in cases in which the estate subject to recovery is: (i) the sole income-producing asset of survivors (where such income is limited), such as a family farm or other family business; (ii) a homestead of modest value; or (iii) one in which other compelling circumstances exist as may be set out in agency guidance documents.

2. An undue hardship exists when the Commonwealth determines that it would not be cost effective to recover the assistance paid.

3. In cases where recovery is not waived and heirs of the estate from which recovery is sought wish to satisfy the Commonwealth's claim without selling a nonliquid asset that is subject to recovery, alternative methods of recovery may be considered. DMAS may also establish a reasonable payment schedule.

4. The Commonwealth may limit the hardship waiver to the time period during which the undue hardship circumstances existed or continue to exist.

5. An undue hardship shall not exist if the beneficiary created the hardship by resorting to estate planning methods under which the beneficiary divested assets in order to avoid estate recovery.

E. DMAS shall establish collection procedures to include identification of the estate administrator or executor, determination of the medical assistance claim amount, notification procedures, and such other procedures as are appropriate to pursue the recovery of medical assistance expenditures. Such procedures will be set out in an agency guidance document.

F. Recovery or adjustment not cost effective. DMAS shall establish a cost effectiveness threshold below which estate recovery will not be pursued.

1. The Commonwealth may waive adjustment or recovery in cases in which it is determined that it would not be cost

effective for the Commonwealth to recover from a deceased individual's estate. The estate administrator, executor, survivor, or heir does not need to assert undue hardship in such situations.

2. In determining whether recovery would be cost effective, the department may consider, but is not limited to consideration of, the following costs: staff time, litigation costs, expert witness fees, deposition expenses, travel expenses, office supplies, postage, advertising, and publishing costs. DMAS shall adjust the cost effective threshold as the agency's administrative costs change.

G. Appeals. The DMAS Appeals Division will administer appeals related to the recovery of funds pursuant to 12VAC30-110.

VA.R. Doc. No. R13-3213; Filed November 9, 2012, 4:17 p.m.

Final Regulation

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

Title of Regulation: 12VAC30-40. Eligibility Conditions and Requirements (adding 12VAC30-40-347).

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

Effective Date: January 3, 2013.

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

Summary:

This regulatory action complies with a federal mandate requiring states to implement the use of an asset verification system to electronically verify through financial institutions the ownership and amount of resources held by elderly or disabled Virginia Medicaid applicants or recipients. Individuals applying for medical assistance on the basis of being elderly or disabled are required to disclose and provide information regarding resources held by them or any other person whose resources are required as part of the eligibility determination. Currently, the process is performed manually and involves a written request for the information, submission of paper documentation by the applicant/recipient, and copying and review by staff in the local department of social services.

12VAC30-40-347. Asset verification system.

A. The agency is providing for the verification of assets for purposes of determining or redetermining Medicaid eligibility for aged, blind, and disabled Medicaid applicants and recipients using an asset verification system (AVS) that meets the following minimum requirements:

1. The request and response system is electronic.
 - a. Verification inquiries are sent electronically via the Internet or similar means from the agency to the financial institution.
 - b. The system is not based on mailing paper-based requests.
 - c. The system has the capability to accept responses electronically.
2. The system is secure, based on a recognized industry standard of security (e.g., as defined by the U.S. Commerce Department's National Institute of Standards and Technology (NIST)).
3. The system establishes and maintains a database of financial institutions that participate in the agency's AVS.
4. Verification requests are also sent to financial institutions other than those identified by applicants and recipients, based on some logic such as geographic proximity to the applicant's home address, or other reasonable factors whenever the agency determines that such requests are needed to determine or redetermine the individual's eligibility.
5. The verification request must include a request for information on both open and closed accounts, going back for a period up to five years, as determined by the Department of Medical Assistance Services.

B. System development.

- a. The agency is hiring a contractor to develop an AVS.
- b. AVS implementation information: Virginia is implementing a web-based asset verification system (AVS) as part of its Eligibility Modernization Project for implementing the mandatory provisions of health care reform. The selected contractors will provide an AVS that meets all requirements of the Centers for Medicare and Medicaid Services and § 1940 of the Social Security Act. It will be secure and meet all Medicaid Information Technology Architecture (MITA) standards.

VA.R. Doc. No. R13-3166; Filed November 1, 2012, 2:35 p.m.

TITLE 18. PROFESSIONAL AND OCCUPATIONAL LICENSING**CEMETERY BOARD****Proposed Regulation**

Title of Regulation: 18VAC47-20. Cemetery Board Rules and Regulations (amending 18VAC47-20-70, 18VAC47-20-140).

Statutory Authority: §§ 54.1-201 and 54.1-2311 of the Code of Virginia.

Public Hearing Information:

January 8, 2013 - 9 a.m. - Department of Professional and Occupational Regulation, 9960 Mayland Drive, Second Floor, Richmond, VA

Public Comment Deadline: February 1, 2013.

Agency Contact: Christine Martine, Executive Director, Cemetery Board, 9960 Mayland Drive, Suite 400, Richmond, VA 23233, telephone (804) 367-8552, FAX (804) 527-4299, or email cemetery@dpor.virginia.gov.

Basis: The proposed regulatory action is mandated by the following sections of the Code of Virginia. To comply with these statutes, the Cemetery Board evaluates its current and projected financial position and determines the type of fees and amounts to be established for each fee that will provide revenue sufficient to cover its expenses.

§ 54.1-113 (Callahan Act) Regulatory boards to adjust fees - Following the close of any biennium, when the account for any regulatory board within the Department of Professional and Occupational Regulation or the Department of Health Professions maintained under § 54.1-308 or 54.1-2505 shows expenses allocated to it for the past biennium to be more than 10% greater or less than moneys collected on behalf of the board, it shall revise the fees levied by it for certification or licensure and renewal thereof so that the fees are sufficient, but not excessive, to cover expenses.

Subdivision 4 of § 54.1-201 describes each regulatory board's power and duty to "levy and collect fees for the certification or licensure and renewal that are sufficient to cover all expenses for the administration and operation of the regulatory board and a proportionate share of the expenses of the Department..."

Subdivision 3 of § 54.1-304 describes the power and duty of the director to "collect and account for all fees prescribed to be paid into each board and account for and deposit the moneys so collected into a special fund from which the expenses of the Board, regulatory boards, and the Department shall be paid..."

§ 54.1-308 provides for compensation of the director, employees, and board members to be paid out of the total funds collected. This section also requires the director to maintain a separate account for each board showing

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moneys collected on its behalf and expenses allocated to the board.

§ 54.1-2311 provides that Cemetery Board regulants pay the board a fee that shall be remitted to the State Treasurer and shall be placed to the credit and special fund of the department to be "used in the administration of this chapter."

These Code of Virginia sections require the department to:

- Pay expenses of each board and the department from revenues collected;
- Establish fees adequate to provide sufficient revenue to pay expenses;
- Account for the revenues collected and expenses charged to each board; and
- Revise fees as necessary to ensure that revenue is sufficient, but not excessive, to cover all expenses.

To comply with these requirements, the department:

- Accounts for the revenue collected for each board distinctly;
- Accounts for direct board expenses for each board and allocates a proportionate share of agency operating expenses to each board;
- Reviews the actual and projected financial position of each board biennially to determine whether revenues are adequate, but not excessive, to cover reasonable and authorized expenses for upcoming operating cycles; and
- Recommends adjustments to fees to respond to changes and projections in revenue trends and operating expenses. If projected revenue collections are expected to be more than sufficient to cover expenses for upcoming operating cycles, decreases in fees are recommended. If projected revenue collections are expected to be inadequate to cover operating expenses for upcoming operating cycles, increases in fees are recommended.

Purpose: The intent of the proposed change in the regulations is to adjust licensing fees for regulants of the Cemetery Board. The board must establish fees adequate to support the costs of the board operations and a proportionate share of the department's operations. By the close of the next biennium, fees will not provide adequate revenue for those costs.

The Cemetery Board provides protection to the safety and welfare of the citizens of the Commonwealth by ensuring that only those persons that meet specific criteria set forth in the statutes and regulations are eligible to receive a cemetery company or sales personnel registration. The Cemetery Board is also tasked with ensuring that its regulants meet standards of practice that are set forth in the regulations. Without adequate funding, complaints against regulants brought to the attention of the Cemetery Board by citizens could not be investigated and processed in a timely manner. This could provide an opportunity for a dishonest regulant waiting for

action to be taken by the Cemetery Board to continue to work, harming additional citizens.

The Department of Professional and Occupational Regulation (DPOR) receives no general fund money but, instead, is funded almost entirely from revenue collected for license applications, renewal fees, and other licensing fees. DPOR is self supporting and must collect adequate revenue to support its mandated and approved activities and operations. Fees must be established at amounts that will provide that revenue. Fee revenue collected on behalf of the various boards funds the department's authorized special revenue appropriation.

The Cemetery Board has no other source of revenue from which to fund its operations.

Substance: The proposed amendments increase the current licensure, renewal, and reinstatement fees for a cemetery company and the fee for the addition of a cemetery from \$50 to \$200 and increase the current licensure, renewal, and reinstatement fees for sales personnel registration from \$20 to \$75.

Issues: The primary issue for the proposed fee adjustment is the department's statutory requirement to comply with the Callahan Act.

Further issues to be addressed as regulations are developed include:

The Callahan Act requires DPOR to review each board's expenditures at the close of each biennium and adjust fees if necessary. For the 2010-2012 biennium, the Cemetery Board is expected to have a \$116,787 cash balance and a Callahan Act percentage of 12.4% and for the 2012-2014 biennium, the Cemetery Board is expected to incur a deficit of \$110,747 and a Callahan Act percentage of -60%.

The regulatory review process generally takes a minimum of 18 months and so it is essential to consider fee increases now, before the deficit increases to an amount greater than previously anticipated. To avoid increasing the deficit, the new fees will need to become effective in 2012. Otherwise, the board's deficit will increase to the point that the new fees would be inadequate to provide sufficient revenue for upcoming operating cycles, which could result in the board having to consider additional fee increases in the near future.

The advantage of these changes is that the regulatory program will be able to continue to function in order to protect the public. The disadvantage is that these changes will increase the cost of the license to the regulated population; however, the impact of these changes on the income of the regulated population should not be of a great significance compared to their level of income.

Department of Planning and Budget's Economic Impact Analysis:

Summary of the Proposed Amendments to Regulation. The Cemetery Board (Board) proposes to increase all fees paid by licensees and registrants that are subject to the Board's authority.

Result of Analysis. There is insufficient information to accurately gauge whether benefits are likely to outweigh costs for these proposed changes.

Estimated Economic Impact. Under current regulations, cemetery companies pay \$50 for initial licensure for one cemetery, \$50 for each additional cemetery licensed and \$50 each for both license renewal and license reinstatement. Cemetery sales personnel currently pay \$20 for initial registration and \$20 for both registration renewal and reinstatement. The Board now proposes to increase all of these fees.

Below is a comparison table for current and proposed fees:

FEE TYPE	CURRENT FEE	PROPOSED FEE	% INCREASE
Cemetery Company Licensure	\$50	\$200	300%
Addition of Cemetery	\$50	\$200	300%
Sales Personnel Registration	\$20	\$75	275%
Renewal of Cemetery Company License	\$50	\$200	300%
Reinstatement of Cemetery Company License	\$50	\$200	300%
Renewal of Sales Personnel Registration	\$20	\$75	275%
Reinstatement of Sales Personnel Registration	\$20	\$75	275%

Board staff reports that fees were significantly reduced in 2000 because they were set at a level that was far too high to be justified by Board expenditures. As a consequence of very high fees prior to 2000, the Board had a large surplus that has offset fees that were too low to cover all Board expenses (per regulant expenditures for 02-04 biennium were, for instance, approximately \$61 but most regulants paid only \$20 and the highest fee charged was \$50). Absent some fee increase, Board staff reports that the Board will run a deficit this coming year. In addition to a large surplus finally being depleted, Board staff reports that fees will need to be raised because expenses have greatly increased over the last several years for several reasons:

- The number of individuals and companies that the Board regulates has increased (from 1,061 in the 02-04 biennium to 1,769 as of September 1, 2011) and so application costs and customer support services costs have increased,
- Enforcement actions have increased, and
- Information technology expenses have risen significantly.

While the number of entities that the Board regulates has increased, other things being equal, the fees from additional regulants would be expected to cover application costs, customer support services costs and any other expenses that the Board might incur in regulating them. Because fees have been kept artificially low for the last decade so that the Board could use up the very large surplus that it had accrued, fees from each new licensee or registrant may not, in this instance, be enough to cover the per person application and customer support costs.

Board staff reports that enforcement activity has increased precipitously in the last biennium and that most of the increase in complaints (enforcement actions) concern cemetery companies improperly depositing money into the companies' trust accounts. Board staff reported the number of enforcement actions for each year from FY02 to FY11, which will now be listed in the format FY(number of disciplinary cases): FY02(80), FY03(96), FY04(80), FY05(57), FY06(53), FY07(52), FY08(57), FY09(67), FY10(97) and FY11(103). While complaints have increased precipitously over the last two years, the number of complaints per person for FY10-FY11 (.0556 complaints per regulated entity) is still well below the per person complaint level in FY02-FY03 (.0829 complaints per regulated entity). DPB does not have information about the long term disciplinary case average and, therefore, does not know whether the years FY05 through FY08 represent a lull in enforcement activity or whether both ends of the data stream reported represent unusually high levels of disciplinary cases.

Board staff reports that the Department of Professional and Occupational Regulation (DPOR) has already paid \$3.6 million, and expects to pay an additional \$1.6 million, for its new automated licensure system. The Board's portions of those costs are \$21,600 and \$9,600, respectively. These costs are additional to other IT (VITA) costs which have increased for all state agencies. It is likely that most of the per regulant expenditure increase in the last decade is due to these increased information systems costs. Over the 02-04 biennium, the Board spent \$60.98 per regulant; for the 04-06 biennium, per regulant spending was \$52.19. During the 06-08 biennium, per regulant spending increased to \$76.63 and has increased in both of the biennia since (estimated spending for the current biennium is approximately \$87 per regulant). Given this information, it is not at all clear that these increased information systems costs represent a net benefit for the Board's regulated entities.

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Increasing fees will likely increase the cost of being licensed or registered and, so, will likely slightly decrease the number of people who choose to remain in these jobs or businesses. To the extent that the public benefits from the Board regulating these professional populations, they will also likely benefit from the Board's proposed action that will increase fees to support Board activities. There is insufficient information to ascertain whether benefits will outweigh costs.

Businesses and Entities Affected. Board staff reports that the Board currently regulates 1,796 individuals and companies. Of this number, 92 are cemetery companies, 146 are cemeteries and 1531 are cemetery sales personnel.

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

Projected Impact on Employment. Fee increases in this regulatory action will likely marginally decrease the number of individuals who choose to work in professional fields that are regulated by the Board. Individuals who work part time or whose earnings are only slightly higher in these regulated fields than they would be in other jobs that do not require licensure or registration will be more likely to be affected.

Effects on the Use and Value of Private Property. Fee increases will likely slightly decrease business profits and make affected businesses slightly less valuable.

Small Businesses: Costs and Other Effects. Board staff reports that most of the firms regulated by the Board likely qualify as small businesses. Affected small businesses will bear the costs of proposed increased fees.

Small Businesses: Alternative Method that Minimizes Adverse Impact. There are several actions that the Board could take that might mitigate the necessity of raising fees overall. The Board could slightly lengthen the time that it takes to process both license applications and complaints so that staff costs could be cut. This option would benefit current licensees but would slightly delay licensure, and the ability to legally work, for new applicants. Affected small businesses would also likely benefit from increased scrutiny of the IT costs that are driving increases in Board expenditures.

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 Economic Impact Analysis: The agency concurs with the approval. However, we do not agree with the statements made by Department of Planning and Budget in the economic impact analysis regarding the new licensing system as well as some of the statements regarding fees. The fees were reduced in 2006 not 2000 as 2000 was the first year we regulated the program. In the 02-04 biennium, most regulants paid \$50 and the highest fee paid was \$600. The board kept the fees low for the last six years. With regard to the licensing system, the new software package is being purchased to replace an unsustainable legacy system that is currently over two decades old and operating on an unsupported operating platform created by the Digital Corporation and currently owned by Hewlett-Packard. Migration from the old system to the new system is necessitated by the need to sustain licensing operations.

The legacy system had 20 years of programming customizations built into the system, and those customizations resulted in significant automation of processes, constructing many business rules into system operations, and allowed for the development and institutionalizing of training and operating that system. The new, commercial off the shelf solution does not include many of our automated processes, handles information differently, and has made all of the agency's staff novices at understanding and operating the system. As a result of these realities we don't expect to be operating with less staff or as efficiently in the next few years. We are clearly more optimistic in hoping the continued unfolding of the new licensing system offers substantial improvements in service times, ease of access for citizens, and reduced staff time by making the licensing process paperless. Further, once the development and implementation of the new system is complete, DPOR will be provided the source code for the new system by the vendor and will be able to maintain, customize, and respond the near certain changing requirements of our mission for decades to come.

The projected Callahan percentages are the result of consideration of projected expenses and the effect on the board's budget that a single unforeseen expense could create. As there is a small regulant population for this Board (and the

resulting revenue stream is small as well), any unforeseen expense would adversely affect the financial status of this program and quickly create a deficit situation.

In regard to the correlation of enforcement activity to fees for this particular occupation, it is not the intent to establish fees that cover the cost of any specific process at the occupation level. Fees for each board are established at amounts that will provide total revenues sufficient but not excessive to meet all operating and allocated expenses of the board (see §§ 54.1-113 and 54.1-308 of the Code of Virginia).

Finally, DPOR was directed by VITA to purchase a commercial off the shelf product to replace our legacy system. After going through the procurement process, the new product was selected based on the criteria established for the solicitation. In conclusion, DPOR cannot continue to rely on the existing legacy system as it runs on an unsupported platform. Further, commencing another procurement to select and purchase another system would add additional expense and time to this effort with no assurance of a different outcome and would also likely involve time consuming and costly litigation in terminating the current contract.

Summary:

The proposed amendments increase all fees paid by licensees and registrants subject to the authority of the Cemetery Board including initial licenses, registrations, renewals, and reinstatements for cemetery companies and cemetery salespersons.

18VAC47-20-70. Application Fees fees.

Application fees are nonrefundable.

Cemetery company license	\$50 \$200 per cemetery
Addition of cemetery	\$50 \$200 per cemetery
Sales personnel registration	\$20 \$75 per cemetery

18VAC47-20-140. Renewal and reinstatement fees.

All fees required by the board are nonrefundable. The date on which the fee is received by the department or its agent shall determine whether the licensee or registrant is eligible for renewal or reinstatement or must reapply as a new applicant.

Renewal of cemetery company license	\$50 \$200 per cemetery
Renewal of sales personnel registration	\$20 \$75 per cemetery
Reinstatement of cemetery company license	\$50 \$200 per cemetery

Reinstatement of sales personnel registration \$20 ~~\$75~~ per cemetery registration

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

FORMS (18VAC47-20)

~~Compliance Agent/Director/Officer Change Form, 49ADOCHG (eff. 7/05).~~

~~Cemetery Addition Form, 49CADD (eff. 1/06).~~

~~Cemetery Company License Application, 49LIC (eff. 1/06).~~

~~New Trustee/Transfer of Funds Notification Form, 49NEWTR (eff. 7/05).~~

~~Perpetual Care Trust Fund Financial Report Instructions, 49PCTINS (eff. 7/03).~~

~~Perpetual Care Fidelity Bond Form, 49PCFBND (eff. 7/05).~~

~~Perpetual Care Trust Fund Financial Report, 49PCTFR (eff. 7/05).~~

~~Perpetual Care Trust Fund Financial Report Schedule A (Statement of Receipts and Expenses), 49PCTFRA (eff. 7/05).~~

~~Perpetual Care Trust Fund Financial Report Schedule B (Statement of Required Deposits), 49PCTFRB (eff. 7/05).~~

~~Perpetual Care Trust Fund Financial Report Schedule C (Statement of Expenses Incurred for the General Care, Maintenance, Embellishment and Administration of Cemeteries), 49PCTFRC (eff. 7/05).~~

~~Perpetual Care Trust Fund Financial Report Schedule D (Statement of Investment Securities), 49PCTFRD (eff. 7/05).~~

~~Perpetual Care Trust Fund Financial Report Schedule E (Cemeteries Covered by Trust Fund), 49PCTFRE (eff. 7/05).~~

~~Preneed Trust Fund Financial Report Instructions, 49PTINS (eff. 7/03).~~

~~Preneed Fidelity Bond Form, 49PFBND (eff. 7/05).~~

~~Preneed Trust Fund Financial Report, 49PTFR (eff. 7/05).~~

~~Preneed Trust Fund Financial Report Schedule A (Statement of Receipts and Expenses), 49PTFRA (eff. 7/05).~~

~~Preneed Trust Fund Financial Report Schedule B (Statement of Financial Deposits), 49PTFRB (eff. 7/05).~~

~~Preneed Trust Fund Financial Report Schedule C (Statement of Investment Securities), 49PTFRC (eff. 7/05).~~

~~Cemetery Company Renewal/Reinstatement Application, 49RENREI (eff. 1/06).~~

~~Sales Personnel Registration Form, 49SLSREG (eff. 1/06).~~

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~~Perpetual Care Trust Fund Trustee Verification, 49TRVER (eff. 7/05).~~

~~Trustee Approval Application, 49TRAPP (eff. 7/05).~~

~~Preneed Burial Contract, 49PCTRCT (eff. 7/03).~~

~~Compliance Agent Designee Application, 49CADAPP (eff. 2/05).~~

[Cemetery Addition Form, 49CADD \(rev. 1/09\).](#)

[Cemetery Company License Application, 49LIC \(rev. 9/11\).](#)

[Cemetery Company Renewal/Reinstatement Application, 49RENREI \(rev. 1/09\).](#)

[Compliance Agent Designee Application, 49CADAPP \(rev. 6/12\).](#)

[Compliance Agent/Director/Officer Change Form, 49ADOCHG \(rev. 1/09\).](#)

[New Trustee/Transfer of Funds Notification Form, 49NEWTR \(rev. 1/09\).](#)

[Perpetual Care Fidelity Bond Form, 49PCFBND \(rev. 6/12\).](#)

[Perpetual Care Trust Fund Financial Report Instructions, 49PCTINS \(rev. 12/09\).](#)

[Perpetual Care Trust Fund Financial Report, 49PCTFR \(rev. 1/09\).](#)

[Perpetual Care Trust Fund Financial Report - Schedule A \(Statement of Receipts and Expenses\), 49PCTFRA \(rev. 1/10\).](#)

[Perpetual Care Trust Fund Financial Report - Schedule B \(Statement of Required Deposits\), 49PCTFRB \(rev. 1/09\).](#)

[Perpetual Care Trust Fund Financial Report - Schedule C \(Statement of Expenses Incurred for the General Care, Maintenance, Embellishment, and Administration of Cemeteries\), 49PCTFRC \(rev. 1/09\).](#)

[Perpetual Care Trust Fund Financial Report - Schedule D \(Statement of Investment Securities\), 49PCTFRD \(rev. 10/09\).](#)

[Perpetual Care Trust Fund Financial Report - Schedule E \(Cemeteries Covered by Trust Fund\), 49PCTFRE \(rev. 1/09\).](#)

[Perpetual Care Trust Fund Trustee Verification, 49TRVER \(rev. 1/09\).](#)

[Preneed Burial Contract, 49PCTRCT \(rev. 8/07\).](#)

[Preneed Fidelity Bond Form, 49PFBNB \(rev. 1/09\).](#)

[Preneed Trust Fund Financial Report Instructions, 49PTINS \(rev. 12/09\).](#)

[Preneed Trust Fund Financial Report, 49PTFR \(rev. 1/09\).](#)

[Preneed Trust Fund Financial Report - Schedule A \(Statement of Receipts and Expenses\), 49PTFRA \(rev. 4/12\).](#)

[Preneed Trust Fund Financial Report - Schedule B \(Statement of Financial Deposits\), 49PTFRB \(rev. 1/09\).](#)

[Preneed Trust Fund Financial Report - Schedule C \(Statement of Investment Securities\), 49PTFRC \(rev. 10/09\).](#)

[Sales Personnel Registration Form, 49SLSREG \(rev. 1/09\).](#)

[Trustee Approval Application, 49TRAPP \(rev. 1/09\).](#)

VA.R. Doc. No. R11-2767; Filed November 2, 2012, 3:27 p.m.

BOARD FOR CONTRACTORS

Proposed Regulation

Title of Regulation: **18VAC50-22. Board for Contractors Regulations (amending 18VAC50-22-10, 18VAC50-22-100; adding 18VAC50-22-65, 18VAC50-22-66).**

Statutory Authority: §§ 54.1-201 and 54.1-1102 of the Code of Virginia.

Public Hearing Information:

December 19, 2012 - 10 a.m. - Department of Professional and Occupational Regulations, 9960 Mayland Drive, 2nd Floor (Board Room 3), Suite 400, Richmond, VA

Public Comment Deadline: February 1, 2013.

Agency Contact: Eric L. Olson, Executive Director, Board for Contractors, 9960 Mayland Drive, Suite 400, Richmond, VA 23233, telephone (804) 367-2785, FAX (804) 527-4401, or email contractors@dpor.virginia.gov.

Basis: Section 54.1-201 of the Code of Virginia provides the board the authority to establish regulations. Section 54.1-1102 of the Code of Virginia provides authority to the board to promulgate regulations to carry out the requirements of Chapter 11 of Title 54.1 of the Code of Virginia.

Purpose: The proposed amendments establish temporary licensure for contractor entities pursuant to Chapters 260 and 280 of the 2010 Acts of Assembly.

The amendments to the statutes introduce "temporary license" to the regulatory authority of the Board for Contractors. These regulations will define entry requirements, list fees, and provide the disciplinary authority of the board for this license.

Substance: The board seeks to amend its regulations to include a definition and fee for "temporary licenses" and to bring "temporary license" holders under the board's jurisdiction and disciplinary authority.

18VAC50-22-10 adds "temporary licenses" to the definitions and list of licenses issued by the Board for Contractors.

18VAC50-22-65 includes entry requirements for temporary license applicants. This amendment also indicates the length of time for which a temporary license is valid and that a temporary license is not eligible for renewal or reinstatement.

18VAC50-22-66 includes the Board for Contractors' disciplinary authority over temporary license holders. This amendment also makes working on an expired temporary license against the law.

18VAC50-22-100 adds a temporary license fee of \$50.

Issues: In amending these regulations, the Board for Contractors is continuing to provide necessary public protection tasked to it through existing statutes. These

proposed amendments will, without compromising that protection, respond to statutory changes. By qualifying for a temporary license, a business entity will be permitted to bid upon or actually commence construction projects within the Commonwealth while working to meet examination, education, and other eligibility criteria. In order to meet the current criteria, contractor business entities may spend up to a month to schedule and complete the prelicense education requirements, study for and successfully complete the exam, and submit all required documentation. The ability to start a project while working to meet these criteria allows the business entity to hire individuals and properly license subcontractors to work. This allows those individuals and employees of the subcontractor to start receiving compensation sooner, putting people to work sooner and, as a result, putting more money into the economy. This is a distinct advantage to the public and the Commonwealth.

Department of Planning and Budget's Economic Impact Analysis:

Summary of the Proposed Amendments to Regulation. Pursuant to Chapters 260 and 280 of the 2010 Acts of Assembly, the Board for Contractors (Board) proposes to make permanent an emergency regulation that enables the Board to issue temporary licenses. The emergency action became effective on March 2, 2011 and expires on December 31, 2013. The proposed amendments include a definition of temporary licenses, establishment of eligibility criteria for such a license, the fees associated with such a license and other administrative requirements.

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

Estimated Economic Impact. Chapter 260 and Chapter 280 of the 2010 Acts of Assembly provide emergency authorization for the Department of Professional and Occupational Regulation's boards to issue temporary licenses and certifications in instances where applicants are validly licensed in good standing in other states and have simultaneously submitted a completed application for a Virginia license or certification. The proposed action would define entry requirements, list fees, and set out the disciplinary authority for temporary licenses.

In order to qualify for a temporary license a firm must hold a comparable license or certificate in another state and provide verification of current licensure or certification from the other state in a format acceptable to the Board. The license or certificate, as applicable, must be in good standing and have comparable qualifications to the Virginia license applied for by the firm. By qualifying for a temporary license, a business entity will be permitted to bid upon or actually commence construction projects within the Commonwealth while working to meet examination, education and other eligibility criteria. In order to meet the current criteria contractor business entities may spend up to a month to schedule and complete the pre-license education requirements, study for

and successfully complete the exam, and submit all required documentation.

The ability to start a project while working to meet these criteria allows the business entity to hire individuals and properly licensed sub-contractors to work. This allows those individuals and employees of the sub-contractor to start receiving compensation sooner, putting people to work sooner. Furthermore, firms which hold a comparable license or certificate in good standing in another state with comparable qualifications to the Virginia license applied for by the firm will be more likely to bid for contracts in Commonwealth, potentially reducing the market cost of contractor services for Virginia purchasers of these services.

Businesses and Entities Affected. The Department of Professional and Occupational Regulation forecasts that there will be approximately 12 temporary contractor license applicants per year.

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

Projected Impact on Employment. The proposal amendments are unlikely to significantly affect total employment.

Effects on the Use and Value of Private Property. The temporary license will reduce costs for firms newly operating in the Commonwealth and may moderately increase their value. Purchasers of contractor services may encounter moderately reduced through the price effect of additional competition.

Small Businesses: Costs and Other Effects. The temporary license will reduce costs for firms newly operating in the Commonwealth and may moderately reduce costs for consumers through the price effect of additional competition.

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

Real Estate Development Costs. Real estate development costs may be moderately reduced due to possible lower market prices for contractor services due to additional competition.

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 14 (10). 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

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(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 Economic Impact Analysis: The agency concurs with the economic impact analysis prepared by the Department of Planning and Budget.

Summary:

The board is amending the regulations to include temporary licenses available to out-of-state contractors that hold licenses in good standing in another state. The proposed amendments include the licensing requirements, the associated fees, and the disciplinary authority of the board for the temporary licenses.

Part I
Definitions

18VAC50-22-10. General definitions.

The following words and terms when used in this chapter, unless a different meaning is provided or is plainly required by the context, shall have the following meanings:

"Affidavit" means a written statement of facts, made voluntarily, and confirmed by the oath or affirmation of the party making it, taken before a notary or other person having the authority to administer such oath or affirmation.

"Business entity" means a sole proprietorship, partnership, corporation, limited liability company, limited liability partnership, or any other form of organization permitted by law.

"Controlling financial interest" means the direct or indirect ownership or control of more than 50% ownership of a firm.

"Firm" means any business entity recognized under the laws of the Commonwealth of Virginia.

"Formal vocational training" means courses in the trade administered at an accredited educational facility; or formal training, approved by the department, conducted by trade associations, businesses, military, correspondence schools or other similar training organizations.

"Full-time employee" means an employee who spends a minimum of 30 hours a week carrying out the work of the licensed contracting business.

"Helper" or "laborer" means a person who assists a licensed tradesman and who is not an apprentice as defined in 18VAC50-30-10.

"Licensee" means a firm holding a license issued by the Board for Contractors to act as a contractor, as defined in § 54.1-1100 of the Code of Virginia.

"Net worth" means assets minus liabilities. For purposes of this chapter, assets shall not include any property owned as tenants by the entirety.

"Reciprocity" means an arrangement by which the licensees of two states are allowed to practice within each other's boundaries by mutual agreement.

"Reinstatement" means having a license restored to effectiveness after the expiration date has passed.

"Renewal" means continuing the effectiveness of a license for another period of time.

"Responsible management" means the following individuals:

1. The sole proprietor of a sole proprietorship;
2. The partners of a general partnership;
3. The managing partners of a limited partnership;
4. The officers of a corporation;
5. The managers of a limited liability company;
6. The officers or directors of an association or both; and
7. Individuals in other business entities recognized under the laws of the Commonwealth as having a fiduciary responsibility to the firm.

"Sole proprietor" means any individual, not a corporation, who is trading under his own name, or under an assumed or fictitious name pursuant to the provisions of §§ 59.1-69 through 59.1-76 of the Code of Virginia.

"Supervision" means providing guidance or direction of a delegated task or procedure by a tradesman licensed in accordance with Chapter 11 (§ 54.1-1100 et seq.) of Title 54.1 of the Code of Virginia, being accessible to the helper or laborer, and periodically observing and evaluating the performance of the task or procedure.

"Supervisor" means the licensed master or journeyman tradesman who has the responsibility to ensure that the installation is in accordance with the applicable provisions of the Virginia Uniform Statewide Building Code and provides supervision to helpers and laborers as defined in this chapter.

"Temporary license" means a license issued by the board pursuant to § 54.1-201.1 of the Code of Virginia that authorizes a person to engage in the practice of contracting until such time as the license is issued or 45 days from the date of issuance of the temporary license, whichever occurs first.

"Tenants by the entirety" means a tenancy which is created between a husband and wife and by which together they hold title to the whole with right of survivorship so that, upon death of either, the other takes whole to exclusion of the deceased's remaining heirs.

18VAC50-22-65. Temporary licenses.

A. A firm applying for a temporary license must meet all of the requirements of § 54.1-201.1 of the Code of Virginia, including the simultaneous submission of a completed application for licensure, and the provisions of this section.

B. A firm must hold a comparable license or certificate in another state and provide verification of current licensure or certification from the other state in a format acceptable to the board. The license or certificate, as applicable, must be in good standing and have comparable qualifications to the Virginia license applied for by the firm.

C. The following provisions apply to a temporary license issued by the board:

1. A temporary license shall not be renewed.
2. A firm shall not be issued more than one temporary license.
3. The issuance of the license shall void the temporary license.
4. If the board denies approval of the application for a license, the temporary license shall be automatically suspended.

D. Any firm continuing to practice as a contractor after a temporary license has expired or been suspended and who has not obtained a comparable license or certificate may be prosecuted and fined by the Commonwealth under § 54.1-111 A 1 of the Code of Virginia.

18VAC50-22-66. Board's disciplinary authority over temporary license holders.

A. A temporary licensee shall be subject to all laws and regulations of the board and shall remain under and be subject to the disciplinary authority of the board during the period of temporary licensure.

B. The license shall be subject to disciplinary action for any violations of Virginia statutes or regulations during the period of temporary licensure.

18VAC50-22-100. Fees.

Each check or money order shall be made payable to the Treasurer of Virginia. All fees required by the board are nonrefundable. In the event that a check, money draft or similar instrument for payment of a fee required by statute or regulation is not honored by the bank or financial institution named, the applicant or regulant shall be required to remit fees sufficient to cover the original fee, plus an additional processing charge set by the department:

Fee Type	When Due	Amount Due
Class C Initial License	with license application	\$210
Class B Initial License	with license application	\$345

Class A Initial License	with license application	\$360
Temporary License	with license application and applicable initial license fee	\$50
Qualified Individual Exam Fee	with exam application	\$20
Class B Exam Fee	with exam application (\$20 per section)	\$40
Class A Exam Fee	with exam application (\$20 per section)	\$60

Note: A \$25 Recovery Fund assessment is also required with each initial license application. If the applicant does not meet all requirements and does not become licensed, this assessment will be refunded. The examination fees approved by the board but administered by another governmental agency or organization shall be determined by that agency or organization.

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

FORMS (18VAC50-22)

~~Contractor Licensing Information, 27INTRO (5/09).~~

~~Trade Related Examinations and Qualifications Information, 27EXINFO (5/09).~~

~~License Application, 27LIC (rev. 4/10).~~

~~Class C License Application (Short Form), 27CSF (rev. 4/10).~~

~~Additional License Classification/Specialty Designation Application, 27ADDCL (rev. 4/10).~~

~~Change of Qualified Individual Application, 27CHQI (rev. 4/10).~~

~~Change of Designated Employee Application, 27CHDE (rev. 4/10).~~

~~Changes of Responsible Management Form, 27CHRM (eff. 5/09).~~

~~Experience Reference, 27EXP (8/07).~~

~~Certificate of License Termination, 27TERM (5/09).~~

~~Education Provider Registration/Course Approval Application; Contractors Prelicensure and Continuing Education, 27EDREG (rev. 6/09).~~

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Certificate of License Termination, 27TERM (5/09).

Education Provider Listing Form, 27EDLIST (5/09).

Financial Statement, 27FINST (5/09).

Additional Qualified Individual Experience Reference Form, 27QIEXP (5/09).

[Additional Specialty Designation Application, A503-27ADDSP \(rev. 9/12\).](#)

[Additional Qualified Individual Experience Reference Form, A503-27QIEXP \(rev. 3/11\).](#)

[Certificate of License Termination, A503-27TERM \(rev. 3/11\).](#)

[Change in Qualified Individual and Designated Employee Application, A503-27CH_QIDE \(rev. 9/12\).](#)

[Change of Responsible Management Application, A503-27CHRM \(rev. 7/11\).](#)

[Class C License Application \(Short Form\), A503-27CSF \(rev. 9/12\).](#)

[Contractor Licensing Information, A503-27INTRO v3 \(rev. 9/12\).](#)

[Education Provider Registration/Course Approval Application, A503-27EDREG-v4 \(rev. 10/11\).](#)

[Education Provider Listing Application, A503-27EDLIST \(rev. 3/11\).](#)

[Expedited Class A License Application, A503-2705A_ELIC \(rev. 9/12\).](#)

[Financial Statement, A503-27FINST \(rev. 7/11\).](#)

[License Application, A503-27LIC \(rev. 9/12\).](#)

[Requirements for Qualified Individuals, A503-27EXINFO-v2 \(rev. 9/12\).](#)

[Trade-Related Examinations and Qualifications Information, 27EXINFO \(rev. 3/10\).](#)

VA.R. Doc. No. R11-2484; Filed October 31, 2012, 4:14 p.m.

Proposed Regulation

Title of Regulation: **18VAC50-30. Individual License and Certification Regulations (amending 18VAC50-30-10, 18VAC50-30-40, 18VAC50-30-90, 18VAC50-30-100, 18VAC50-30-120, 18VAC50-30-130, 18VAC50-30-185, 18VAC50-30-190, 18VAC50-30-200, 18VAC50-30-220).**

Statutory Authority: §§ 54.1-201 and 54.1-1102 of the Code of Virginia.

Public Hearing Information:

December 19, 2012 - 10 a.m. - Department of Professional and Occupational Regulations, 9960 Mayland Drive, 2nd Floor (Board Room 3), Suite 400, Richmond, VA

Public Comment Deadline: February 1, 2013.

Agency Contact: Eric L. Olson, Executive Director, Board for Contractors, 9960 Mayland Drive, Suite 400, Richmond, VA

232233, telephone (804) 367-2785, FAX (804) 527-4401, or email contractors@dpor.virginia.gov.

Basis: Section 54.1-201 provides the authority for the board to promulgate regulations in accordance with the Administrative Process Act necessary to assure continued competence, prevent deceptive or misleading practices by practitioners, and effectively administer the regulatory system administered by the regulatory board. Section 54.1-1102 of the Code of Virginia provides the board the power and duty to promulgate regulations to carry out the requirements of Chapter 11 (§ 54.1-1100 et seq.) of Title 54.1 of the Code of Virginia. Section 54.1-1142 of the Code of Virginia authorizes the board to issue certified accessibility mechanic certificates to applicants who meet specified criteria.

Purpose: The Board for Contractors seeks to add "certified accessibility mechanic" to its regulant population. This new certification program will encompass, more specifically, areas of contracting work not previously specifically addressed in the definitions and regulations of the board. This new program will ensure members of the public are able to hire certified accessibility mechanics with the required knowledge and skill to do the work sought. Additionally, those mechanics will fall under the laws and regulations of the board.

Substance: The 2010 Acts of Assembly enacted § 54.1-1142 of the Code of Virginia. This amendment to the statutes introduces "certified accessibility mechanics" to the regulatory authority of the Board for Contractors. These regulations will define entry requirements, list fees, and set certificate maintenance procedures for this new program.

Issues: In amending these regulations, the Board for Contractors is complying with the provisions of legislation signed into law this year establishing a program to certify accessibility mechanics. After studying data relative to accident rates, inspection reports, and the licensing/education requirements in other states, the General Assembly determined a need for this level of regulation to protect the public. The primary advantage of the program is to ensure that work done on wheelchair lifts, chair lifts, dumbwaiters, private residence elevators, and limited use/limited access elevators is performed by individuals who have received sufficient training and demonstrated enough experience to reasonably assume competency in the repairs they will be completing. At the same time, the legislation takes the step to require ongoing education of those individuals in an effort to ensure that safety issues that arise as a result of technological advances are passed on to those who are responsible for repairing the devices.

The only possible disadvantage to the program may arise at the beginning with respect to the approval of continuing education classes and providers. The board initially experienced difficulty in the tradesman program with initial approval of continuing education classes and providers, but the difficulties fixed themselves and there are now over 200

providers and even double that in courses. The "certified accessibility mechanic" is a highly technical vocation and its regulant population is expected to be very computer literate and so online continuing education is expected to be offered quickly and easily. It is likely that there will be difficulties that occur during the first renewal cycle, but these should become less of a disadvantage as more training programs are approved by the board and the physical location of the regulant population is identified.

This development of this program through the legislative process was supported by industry representatives, localities, and other interested parties, all of whom were in the workgroup created by Chapter 251 of the 2009 Acts of Assembly. Testimony provided and information gathered by the work group indicated that the majority of those individuals currently employed as mechanics for wheelchair lifts, chair lifts, dumbwaiters, private residence elevators, and limited use/limited access elevators would welcome a requirement that all individuals performing this type of work meet those similar standards of training and education as already in place for nonresidential elevator companies.

Department of Planning and Budget's Economic Impact Analysis:

Summary of the Proposed Amendments to Regulation. The Board for Contractors proposes to amend its regulations to include "Certified Accessibility Mechanics" among its regulant population. The proposed amendments include adding a definition of "Certified Accessibility Mechanics", the criteria for such certification, the fees associated with such certification, the continuing education associated with such certification, prohibited acts, and the jurisdiction of the Board over such regulants. The proposed amendments also include an endorsement for "limited use/limited application" elevators.

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

Estimated Economic Impact. The proposed regulations define certified accessibility mechanic as "an individual who is certified by the board who is engaged in erecting, constructing, installing, altering, servicing, repairing, testing or maintaining wheelchair lifts, incline chairlifts, dumbwaiters with a capacity limit of 300 pounds, and private residence elevators." The proposed accessibility mechanic certification is essentially a subset of the existing elevator mechanic certification. In other words, a certified elevator mechanic may do all the work that a certified accessibility mechanic would be legally permitted to do, but a certified accessibility mechanic would not be legally permitted to do all the work that a certified elevator mechanic can do.

The proposed regulations define limited use/limited application endorsement as "an addition to the certification record of a certified accessibility mechanic authorizing the certificate holder to erect, construct, install, alter, service, repair, test, or maintain limited use/limited application

elevators as defined by the Uniform Statewide Building Code." The proposed accessibility mechanic certification with the additional limited use/limited application endorsement is still a proper subset of the existing elevator mechanic certification. So a certified elevator mechanic may do all the work that a certified accessibility mechanic with the limited use/limited application endorsement would be legally permitted to do, but a certified accessibility mechanic limited with the use/limited application endorsement would not be legally permitted to do all the work that a certified elevator mechanic can do.

The requirements to become a certified accessibility mechanic are less burdensome than the requirements to become a certified elevator mechanic, with or without the limited use/limited application endorsement. Thus, for the individuals and firms who are only engaged in the activities permitted under the certified accessibility mechanic definition, the proposed new certification creates a significant benefit. The requirements for the new certification are still substantial and relevant, and will likely be sufficient to ensure public safety. Therefore the proposed amendments are very likely to produce a net benefit for the Commonwealth.

Businesses and Entities Affected. Firms that employ labor who are engaged in erecting, constructing, installing, altering, servicing, repairing, testing or maintaining wheelchair lifts, incline chairlifts, dumbwaiters with a capacity limit of 300 pounds, and private residence elevators will be affected by the proposed regulations. The Department of Professional and Occupational Regulation forecasts that there will be approximately 150 to 300 applications for accessibility mechanic certification and limited use/limited application endorsement.

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

Projected Impact on Employment. The proposal amendments are unlikely to significantly affect total employment.

Effects on the Use and Value of Private Property. The creation of the accessibility mechanic certification may moderately reduce costs for firms that employ labor who are engaged in erecting, constructing, installing, altering, servicing, repairing, testing or maintaining wheelchair lifts, incline chairlifts, dumbwaiters with a capacity limit of 300 pounds, and private residence elevators. Thus the value of these firms may moderately increase.

Small Businesses: Costs and Other Effects. The creation of the accessibility mechanic certification may moderately reduce costs for firms that employ labor who are engaged in erecting, constructing, installing, altering, servicing, repairing, testing or maintaining wheelchair lifts, incline chairlifts, dumbwaiters with a capacity limit of 300 pounds, and private residence elevators.

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

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Real Estate Development Costs. The creation of the accessibility mechanic certification may moderately reduce costs for firms that employ labor who are engaged in erecting, constructing, installing, altering, servicing, repairing, testing or maintaining wheelchair lifts, incline chairlifts, dumbwaiters with a capacity limit of 300 pounds, and private residence elevators. Real estate that is being developed with buildings or structures that include these elements may find their costs slightly reduced.

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 14 (10). 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 Economic Impact Analysis: The agency concurs with the economic impact analysis prepared by the Department of Planning and Budget.

Summary:

The proposed amendments add (i) definitions for "certified accessibility mechanics" and "limited use/limited application endorsement" and (ii) criteria, fees, and continuing education requirements associated with certification. The proposed action also includes an endorsement for limited use/limited application elevators.

Part I
General

18VAC50-30-10. Definitions.

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

"Apprentice" means a person who assists tradesmen while gaining knowledge of the trade through on-the-job training

and related instruction in accordance with the Virginia Voluntary Apprenticeship Act (§ 40.1-117 et seq. of the Code of Virginia).

"Backflow prevention device work" means work performed by a backflow prevention device worker as defined in § 54.1-1128 of the Code of Virginia.

"Building official/inspector" is an employee of the state, a local building department or other political subdivision who enforces the Virginia Uniform Statewide Building Code.

"Certified accessibility mechanic" means an individual who is certified by the board who is engaged in erecting, constructing, installing, altering, servicing, repairing, testing, or maintaining wheelchair lifts, incline chairlifts, dumbwaiters with a capacity limit of 300 pounds, and private residence elevators.

"Certified elevator mechanic" means an individual who is certified by the board who is engaged in erecting, constructing, installing, altering, servicing, repairing, testing or maintaining elevators, escalators, or related conveyances in accordance with the Virginia Uniform Statewide Building Code.

"Division" means a limited subcategory within any of the trades, as approved by the department.

"Electrical work" consists of, but is not limited to, the following: (i) planning and layout of details for installation or modifications of electrical apparatus and controls including preparation of sketches showing location of wiring and equipment; (ii) measuring, cutting, bending, threading, assembling and installing electrical conduits; (iii) performing maintenance on electrical systems and apparatus; (iv) observation of installed systems or apparatus to detect hazards and need for adjustments, relocation or replacement; and (v) repairing faulty systems or apparatus.

"Electrician" means a tradesman who does electrical work including the construction, repair, maintenance, alteration or removal of electrical systems in accordance with the National Electrical Code and the Virginia Uniform Statewide Building Code.

"Formal vocational training" means courses in the trade administered at an accredited educational facility; or formal training, approved by the department, conducted by trade associations, businesses, the military, correspondence schools or other similar training organizations.

"Gas fitter" means an individual who does gas fitting-related work usually as a division within the HVAC or plumbing trades in accordance with the Virginia Uniform Statewide Building Code. This work includes the installation, repair, improvement or removal of liquefied petroleum or natural gas piping, tanks, and appliances annexed to real property.

"Helper" or "laborer" means a person who assists a licensed tradesman and who is not an apprentice as defined in this chapter.

"HVAC tradesman" means an individual whose work includes the installation, alteration, repair or maintenance of heating systems, ventilating systems, cooling systems, steam and hot water heating systems, boilers, process piping, backflow prevention devices, and mechanical refrigeration systems, including tanks incidental to the system.

"Incidental" means work that is necessary for that particular repair or installation.

"Journeyman" means a person who possesses the necessary ability, proficiency and qualifications to install, repair and maintain specific types of materials and equipment utilizing a working knowledge sufficient to comply with the pertinent provisions of the Virginia Uniform Statewide Building Code and according to plans and specifications.

"Limited use/limited application endorsement" means an addition to the certification record of a certified accessibility mechanic authorizing the certificate holder to erect, construct, install, alter, service, repair, test, or maintain limited use/limited application elevators as defined by the Virginia Uniform Statewide Building Code.

"Liquefied petroleum gas fitter" means any individual who engages in, or offers to engage in, work for the general public for compensation in work that includes the installation, repair, improvement, alterations or removal of piping, liquefied petroleum gas tanks and appliances (excluding hot water heaters, boilers and central heating systems that require a heating, ventilation and air conditioning or plumbing certification) annexed to real property.

"Maintenance" means the reconstruction or renewal of any part of a backflow device for the purpose of maintaining its proper operation. This does not include the actions of removing, replacing or installing, except for winterization.

"Master" means a person who possesses the necessary ability, proficiency and qualifications to plan and lay out the details for installation and supervise the work of installing, repairing and maintaining specific types of materials and equipment utilizing a working knowledge sufficient to comply with the pertinent provisions of the Virginia Uniform Statewide Building Code.

"Natural gas fitter provider" means any individual who engages in, or offers to engage in, work for the general public for compensation in the incidental repair, testing, or removal of natural gas piping or fitting annexed to real property, excluding new installation of gas piping for hot water heaters, boilers, central heating systems, or other natural gas equipment that requires heating, ventilation and air conditioning or plumbing certification.

"Periodic inspection" means to examine a cross connection control device in accordance with the requirements of the locality to be sure that the device is in place and functioning in accordance with the standards of the Virginia Uniform Statewide Building Code.

"Plumber" means an individual who does plumbing work in accordance with the Virginia Uniform Statewide Building Code.

"Plumbing work" means work that includes the installation, maintenance, extension, or alteration or removal of piping, fixtures, appliances, and appurtenances in connection with any of the following:

1. Backflow prevention devices;
2. Boilers;
3. Domestic sprinklers;
4. Hot water baseboard heating systems;
5. Hydronic heating systems;
6. Process piping;
7. Public/private water supply systems within or adjacent to any building, structure or conveyance;
8. Sanitary or storm drainage facilities;
9. Steam heating systems;
10. Storage tanks incidental to the installation of related systems;
11. Venting systems; or
12. Water heaters.

These plumbing tradesmen may also install, maintain, extend or alter the following:

1. Liquid waste systems;
2. Sewerage systems;
3. Storm water systems; and
4. Water supply systems.

"Regulant" means an individual licensed as a tradesman, liquefied petroleum gas fitter, natural gas fitter provider or certified as a backflow prevention device worker, elevator mechanic, or water well systems provider.

"Reinstatement" means having a license or certification card restored to effectiveness after the expiration date has passed.

"Renewal" means continuing the effectiveness of a license or certification card for another period of time.

"Repair" means the reconstruction or renewal of any part of a backflow prevention device for the purpose of returning to service a currently installed device. This does not include the removal or replacement of a defective device by the installation of a rebuilt or new device.

"Supervisor" means the licensed master or journeyman tradesman who has the responsibility to ensure that the installation is in accordance with the applicable provisions of the Virginia Uniform Statewide Building Code, one of whom must be on the job site at all times during installation.

"Testing organization" means an independent testing organization whose main function is to develop and administer examinations.

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"Trade" means any of the following: electrical, gas fitting, HVAC (heating, ventilation and air conditioning), liquefied petroleum gas fitting, natural gas fitting, plumbing, and divisions within them.

"Water distribution systems" include fire sprinkler systems, highway/heavy, HVAC, lawn irrigation systems, plumbing, or water purveyor work.

18VAC50-30-40. Evidence of ability and proficiency.

A. Applicants for examination to be licensed as a journeyman shall furnish evidence that one of the following experience and education standards has been attained:

1. Four years of practical experience in the trade and 240 hours of formal vocational training in the trade. Experience in excess of four years may be substituted for formal vocational training at a ratio of one year of experience for 80 hours of formal training, but not to exceed 200 hours;
2. Four years of practical experience and 80 hours of vocational training for liquefied petroleum gas fitters and natural gas fitter providers except that no substitute experience will be allowed for liquefied petroleum gas and natural gas workers;
3. An associate degree or a certificate of completion from at least a two-year program in a tradesman-related field from an accredited community college or technical school as evidenced by a transcript from the educational institution and two years of practical experience in the trade for which licensure is desired;
4. A bachelor's degree received from an accredited college or university in an engineering curriculum related to the trade and one year of practical experience in the trade for which licensure is desired; or
5. On or after July 1, 1995, an applicant with 10 years of practical experience in the trade as verified by reference letters of experience from any of the following: building officials, building inspectors, current or former employers, contractors, engineers, architects or current or past clients attesting to the applicant's work in the trade, may be granted permission to sit for the journeyman's level examination without having to meet the educational requirements.

B. Applicants for examination to be licensed as a master shall furnish evidence that one of the following experience standards has been attained:

1. Evidence that they have one year of experience as a licensed journeyman; or
2. On or after July 1, 1995, an applicant with 10 years of practical experience in the trade, as verified by reference letters of experience from any of the following: building officials, building inspectors, current or former employers, contractors, engineers, architects or current or past clients, attesting to the applicant's work in the trade, may be granted permission to sit for the master's level examination without having to meet the educational requirements.

C. Individuals who have successfully passed the Class A contractors trade examination prior to January 1, 1991, administered by the Virginia Board for Contractors in a certified trade shall be deemed qualified as a master in that trade in accordance with this chapter.

D. Applicants for examination to be certified as a backflow prevention device worker shall furnish evidence that one of the following experience and education standards has been attained:

1. Four years of practical experience in water distribution systems and 40 hours of formal vocational training in a school approved by the board; or
2. Applicants with seven or more years of experience may qualify with 16 hours of formal vocational training in a school approved by the board.

The board accepts the American Society of Sanitary Engineers' (ASSE) standards for testing procedures. Other programs could be approved after board review. The board requires all backflow training to include instruction in a wet lab.

E. An applicant for certification as an elevator mechanic shall:

1. Have three years of practical experience in the construction, maintenance and service/repair of elevators, escalators, or related conveyances; 144 hours of formal vocational training; and satisfactorily complete a written examination administered by the board. Experience in excess of four years may be substituted for formal vocational training at a ratio of one year of experience for 40 hours of formal training, but not to exceed 120 hours;
2. Have three years of practical experience in the construction, maintenance, and service/repair of elevators, escalators, or related conveyances and a certificate of completion of the elevator mechanic examination of a training program determined to be equivalent to the requirements established by the board; or
3. Successfully complete an elevator mechanic apprenticeship program that is approved by the Virginia Apprenticeship Council or registered with the Bureau of Apprenticeship and Training, U.S. Department of Labor, as evidenced by providing a certificate of completion or other official document, and satisfactorily complete a written examination administered by the board.

F. Pursuant to § 54.1-1129 D of the Code of Virginia, an applicant for examination as a certified water well systems provider shall provide satisfactory proof to the board of at least:

1. One year of full-time practical experience in the drilling, installation, maintenance, or repair of water wells or water well systems under the supervision of a certified master water well systems provider to qualify for examination as a trainee water well systems provider;

2. Three years of practical experience in the drilling, installation, maintenance, or repair of water wells or water well systems under the supervision of a certified master water well systems provider and 24 hours of formal vocational training in the trade to qualify for examination as a journeyman water well systems provider; or
3. Six years of practical experience in the drilling, installation, maintenance, or repair of water wells or water well systems under the supervision of a certified master water well systems provider and 48 hours of formal vocational training in the trade to qualify for examination as a master water well systems provider.

G. An applicant for certification as an accessibility mechanic shall:

1. Have three years of practical experience in the construction, installation, maintenance, service, repair, and testing of wheelchair lifts, incline chairlifts, dumbwaiters, residential elevators, or related conveyances; 80 hours of formal vocational training; and satisfactorily complete a written examination administered by the board. Experience in excess of four years may be substituted for formal vocational training at a ratio of one year of experience for 20 hours of formal training, but not to exceed 60 hours;
2. Have three years of practical experience in the construction, installation, maintenance, service, repair, and testing of wheelchair lifts, incline chairlifts, dumbwaiters, residential elevators, or related conveyances and a certificate of completion of an accessibility mechanic examination of a training program determined to be equivalent to the requirements established by the board; or
3. Successfully complete an accessibility mechanic apprenticeship program that is approved by the Virginia Apprenticeship Council or registered with the Bureau of Apprenticeship and Training, U.S. Department of Labor, as evidenced by providing a certificate of completion or other official document, and satisfactorily complete a written examination administered by the board.

H. An applicant for a limited use/limited application (LULA) endorsement shall:

1. Hold a current certification as an accessibility mechanic issued by the board.
2. Have one year of practical experience in the construction, installation, maintenance, service, repair, and testing of limited use/limited application elevators and complete a vocational education program approved by the board; and satisfactorily complete a written examination administered by the board; or complete a limited use/limited application elevator training program determined to be equivalent to the requirements established by the board.

18VAC50-30-90. Fees for licensure and certification.

A. Each check or money order shall be made payable to the Treasurer of Virginia. All fees required by the board are

nonrefundable and shall not be prorated. The date of receipt by the department or its agent is the date that will be used to determine whether or not it is on time. Fees remain active for a period of one year from the date of receipt and all applications must be completed within that time frame.

B. Fees are as follows:

Original tradesman license by examination	\$130
Original tradesman license without examination	\$130
Card exchange (exchange of locality-issued card for state-issued Virginia tradesman license)	\$95
Liquefied petroleum gas fitter	\$130
Natural gas fitter provider	\$130
Backflow prevention device worker certification	\$130
Elevator mechanic certification	\$130
<u>Certified accessibility mechanic</u>	<u>\$130</u>
Water well systems provider certification	\$130
<u>Limited use/limited application endorsement</u>	<u>\$65</u>

18VAC50-30-100. Fees for examinations.

The examination fee shall consist of the administration expenses of the department resulting from the board's examination procedures and contract charges. Exam service contracts shall be established through competitive negotiation, in compliance with the Virginia Public Procurement Act (§ 2.2-4300 et seq. of the Code of Virginia). The current examination shall not exceed a cost of \$100 for the journeyman exam, \$125 for the master exam for any of the trades, or \$100 for the backflow prevention device worker, elevator mechanic, accessibility mechanic, or water well systems provider exams.

18VAC50-30-120. Renewal.

A. Licenses and certification cards issued under this chapter shall expire two years from the last day of the month in which they were issued as indicated on the license or certification card.

B. Effective with all licenses issued or renewed after December 31, 2007, as a condition of renewal or reinstatement and pursuant to § 54.1-1133 of the Code of Virginia, all individuals holding tradesman licenses with the trade designations of plumbing, electrical and heating ventilation and cooling shall be required to satisfactorily complete three hours of continuing education for each designation and individuals holding licenses as liquefied petroleum gas fitters and natural gas fitter providers, one hour of continuing education, relating to the applicable building

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code, from a provider approved by the board in accordance with the provisions of this chapter.

C. Certified elevator mechanics and certified accessibility mechanics, as a condition of renewal or reinstatement and pursuant to § 54.1-1143 of the Code of Virginia, shall be required to satisfactorily complete eight hours of continuing education relating to the provisions of the Virginia Uniform Statewide Building Code pertaining to elevators, escalators, and related conveyances. This continuing education will be from a provider approved by the board in accordance with the provisions of this chapter.

D. Certified water well systems providers, as a condition of renewal or reinstatement and pursuant to § 54.1-1129 B of the Code of Virginia, shall be required to satisfactorily complete eight hours of continuing education in the specialty of technical aspects of water well construction, applicable statutory and regulatory provisions, and business practices related to water well construction from a provider approved by the board in accordance with the provisions of this chapter.

E. Renewal fees are as follows:

Tradesman license	\$90
Liquefied petroleum gas fitter license	\$90
Natural gas fitter provider license	\$90
Backflow prevention device worker certification	\$90
Elevator mechanic certification	\$90
<u>Certified accessibility mechanic</u>	<u>\$90</u>
Water well systems provider certification	\$90

All fees are nonrefundable and shall not be prorated.

F. The board will mail a renewal notice to the regulant outlining procedures for renewal. Failure to receive this notice, however, shall not relieve the regulant of the obligation to renew. If the regulant fails to receive the renewal notice, a photocopy of the tradesman license or backflow prevention device worker certification card may be submitted with the required fee as an application for renewal within 30 days of the expiration date.

G. The date on which the renewal fee is received by the department or its agent will determine whether the regulant is eligible for renewal or required to apply for reinstatement.

H. The board may deny renewal of a tradesman license or a backflow prevention device worker certification card for the same reasons as it may refuse initial issuance or to discipline a regulant. The regulant has a right to appeal any such action by the board under the Virginia Administrative Process Act (§ 2.2-4000 et seq. of the Code of Virginia).

I. Failure to timely pay any monetary penalty, reimbursement of cost, or other fee assessed by consent order or final order shall result in delaying or withholding services provided by the department such as, but not limited to,

renewal, reinstatement, processing of a new application, or exam administration.

18VAC50-30-130. Reinstatement.

A. Should the Department of Professional and Occupational Regulation fail to receive the renewal application or fees within 30 days of the expiration date, the regulant will be required to apply for reinstatement of the license or certification card.

B. Reinstatement fees are as follows:

Tradesman license	\$140*
Liquefied petroleum gas fitter license	\$140*
Natural gas fitter provider license	\$140*
Backflow prevention device worker certification	\$140*
Elevator mechanic certification	\$140*
<u>Certified accessibility mechanic</u>	<u>\$140*</u>
Water well systems provider certification	\$140*

*Includes renewal fee listed in 18VAC50-30-120.

All fees required by the board are nonrefundable and shall not be prorated.

C. Applicants for reinstatement shall meet the requirements of 18VAC50-30-30.

D. The date on which the reinstatement fee is received by the department or its agent will determine whether the license or certification card is reinstated or a new application is required.

E. In order to ensure that license or certification card holders are qualified to practice as tradesmen, liquefied petroleum gas fitters, natural gas fitter providers, backflow prevention device workers, elevator mechanics, or water well systems providers, no reinstatement will be permitted once one year from the expiration date has passed. After that date the applicant must apply for a new license or certification card and meet the then current entry requirements.

F. Any tradesman, liquefied petroleum gas fitter, or natural gas fitter provider activity conducted subsequent to the expiration of the license may constitute unlicensed activity and may be subject to prosecution under Title 54.1 of the Code of Virginia. Further, any person who holds himself out as a certified backflow prevention device worker, as defined in § 54.1-1128 of the Code of Virginia, or as a certified elevator mechanic or certified accessibility mechanic, as defined in § 54.1-1140 of the Code of Virginia, or as a water well systems provider as defined in § 54.1-1129.1 of the Code of Virginia, without the appropriate certification, may be subject to prosecution under Title 54.1 of the Code of Virginia. Any activity related to the operating integrity of an elevator, escalator, or related conveyance, conducted subsequent to the expiration of an elevator mechanic

certification may constitute illegal activity and may be subject to prosecution under Title 54.1 of the Code of Virginia.

G. The board may deny reinstatement of a license or certification card for the same reasons as it may refuse initial issuance or to discipline a regulant. The regulant has a right to appeal any such action by the board under the Virginia Administrative Process Act (§ 2.2-4000 et seq. of the Code of Virginia).

H. Failure to timely pay any monetary penalty, reimbursement of cost, or other fee assessed by consent order or final order shall result in delaying or withholding services provided by the department, such as, but not limited to, renewal, reinstatement, processing of a new application, or exam administration.

Part V
Standards of Conduct

18VAC50-30-185. Revocation of licensure or certification.

A. Licensure or certification may be revoked for misrepresentation or a fraudulent application or for incompetence as demonstrated by an egregious or repeated violation of the Virginia Uniform Statewide Building Code.

B. The board shall have the power to require remedial education and to suspend, revoke, or deny renewal of a license or certification card of any individual who is found to be in violation of the statutes or regulations governing the practice of licensed tradesmen, liquefied petroleum gas fitters, natural gas fitter providers, backflow prevention device workers ~~or~~, elevator mechanics, or accessibility mechanics in the Commonwealth of Virginia.

18VAC50-30-190. Prohibited acts.

Any of the following are cause for disciplinary action:

1. Failure in any material way to comply with provisions of Chapter 1 (§ 54.1-100 et seq.) or Chapter 11 (§ 54.1-1100 et seq.) of Title 54.1 of the Code of Virginia or the regulations of the board;
2. Furnishing substantially inaccurate or incomplete information to the board in obtaining, renewing, reinstating, or maintaining a license or certification card;
3. Where the regulant has failed to report to the board, in writing, the suspension or revocation of a tradesman, liquefied petroleum gas fitter or natural gas fitter provider license, certificate or card, or backflow prevention device worker ~~or~~, water well systems provider, elevator mechanic, or accessibility mechanic certification card, by another state or a conviction in a court of competent jurisdiction of a building code violation;
4. Gross negligence in the practice of a tradesman, liquefied petroleum gas fitter, natural gas fitter provider, backflow prevention device worker, elevator mechanic, accessibility mechanic, or water well systems provider;
5. Misconduct in the practice of a tradesman, liquefied petroleum gas fitter, natural gas fitter provider, backflow

prevention device worker, elevator mechanic, accessibility mechanic, or water well systems provider;

6. A finding of improper or dishonest conduct in the practice of a tradesman, liquefied petroleum gas fitter, natural gas fitter provider, backflow prevention device worker, elevator mechanic, accessibility mechanic, or water well systems provider by a court of competent jurisdiction;

7. For licensed tradesmen, liquefied petroleum gas fitters or natural gas fitter providers performing jobs under \$1,000, or backflow prevention device workers, elevator mechanics, accessibility mechanics, or water well systems providers performing jobs of any amount, abandonment, the intentional and unjustified failure to complete work contracted for, or the retention or misapplication of funds paid, for which work is either not performed or performed only in part (unjustified cessation of work under the contract for a period of 30 days or more shall be considered evidence of abandonment);

8. Making any misrepresentation or making a false promise of a character likely to influence, persuade, or induce;

9. Aiding or abetting an unlicensed contractor to violate any provision of Chapter 1 or Chapter 11 of Title 54.1 of the Code of Virginia, or these regulations; or combining or conspiring with or acting as agent, partner, or associate for an unlicensed contractor; or allowing one's license or certification to be used by an unlicensed or uncertified individual;

10. Where the regulant has offered, given or promised anything of value or benefit to any federal, state, or local government employee for the purpose of influencing that employee to circumvent, in the performance of his duties, any federal, state, or local law, regulation, or ordinance governing the construction industry;

11. Where the regulant has been convicted or found guilty, after initial licensure or certification, regardless of adjudication, in any jurisdiction of any felony or of a misdemeanor involving lying, cheating or stealing, sexual offense, drug distribution, physical injury, or relating to the practice of the profession, there being no appeal pending therefrom or the time of appeal having elapsed. Any pleas of guilty or nolo contendere shall be considered a conviction for the purposes of this subdivision. The record of a conviction certified or authenticated in such form as to be admissible in evidence under the laws of the jurisdiction where convicted shall be admissible as prima facie evidence of such guilt;

12. Having failed to inform the board in writing, within 30 days, that the regulant has pleaded guilty or nolo contendere or was convicted and found guilty of any felony or a misdemeanor involving lying, cheating, stealing, sexual offense, drug distribution, physical injury, or relating to the practice of the profession;

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13. Having been disciplined by any county, city, town, or any state or federal governing body for actions relating to the practice of any trade, backflow prevention device work, elevator or accessibility work, or water well systems provider work, which action shall be reviewed by the board before it takes any disciplinary action of its own;

14. Failure to comply with the Virginia Uniform Statewide Building Code, ~~as amended~~;

15. Practicing in a classification or specialty service for which the regulant is not licensed or certified; and

16. Failure to obtain any document required by the Virginia Department of Health for the drilling, installation, maintenance, repair, construction, or removal of water wells, water well systems, water well pumps, or other water well equipment.

Part VI

Vocational Training and Continuing Education Providers

18VAC50-30-200. Vocational training.

A. Vocational training courses must be completed through accredited colleges, universities, junior and community colleges; adult distributive, marketing and formal vocational training as defined in this chapter; Virginia Apprenticeship Council programs; or proprietary schools approved by the Virginia Department of Education.

B. Backflow prevention device worker courses must be completed through schools approved by the board. The board accepts the American Society of Sanitary Engineers' (ASSE) standards for testing procedures. Other programs could be approved after board review. The board requires all backflow training to include instruction in a wet lab.

C. Elevator mechanic courses must be completed through schools approved by the board. The board accepts training programs approved by the National Elevator Industry Education Program (NEIEP). Other programs could be approved after board review.

D. Water well systems provider courses must be completed through schools or programs approved by the board.

E. Certified accessibility courses must be completed through education providers approved by the board.

18VAC50-30-220. Continuing education courses.

A. All courses offered by continuing education providers must be approved by the board and shall cover articles of the current edition of the building code for the applicable license specialty. For tradesmen with the electrical specialty, the National Electrical Code; for tradesmen with the plumbing specialty, the International Plumbing Code; for tradesmen with HVAC specialty, the International Mechanical Code; for gas fitters, liquefied petroleum gas fitters, and natural gas fitters, the International Fuel Gas Code. Courses offered by continuing education providers for elevator mechanics shall cover articles of the current edition of the building code and other applicable laws governing elevators, escalators, or

related conveyances. Courses offered by continuing education providers for accessibility mechanics shall cover articles of the current edition of the building code and other applicable laws governing wheelchair lifts, incline chairlifts, dumbwaiters, and private residence elevators. Courses offered by continuing education providers for water well systems providers shall cover the specialty of technical aspects of water well construction, applicable statutory and regulatory provisions, and business practices related to water well construction.

B. Approved continuing education providers shall submit an application for course approval on a form provided by the board. The application shall include but is not limited to:

1. The name of the provider and the approved provider number;
2. The name of the course;
3. The date(s), time(s), and location(s) of the course;
4. Instructor information, including name, license number(s) if applicable, and a list of other appropriate trade designations;
5. Course and material fees;
6. Course syllabus.

C. Courses may be approved retroactively; however, no regulant will receive credit toward the continuing education requirements of renewal until such approval is received from the board.

VA.R. Doc. No. R11-2485; Filed October 31, 2012, 4:34 p.m.

REAL ESTATE BOARD

Proposed Regulation

Title of Regulation: **18VAC135-50. Fair Housing Regulations (amending 18VAC135-50-10, 18VAC135-50-20, 18VAC135-50-50, 18VAC135-50-110, 18VAC135-50-200, 18VAC135-50-270, 18VAC135-50-290, 18VAC135-50-350, 18VAC135-50-400, 18VAC135-50-440).**

Statutory Authority: §§ 36-96.8 and 54.1-2105 of the Code of Virginia; 42 USC § 3613.

Public Hearing Information:

January 8, 2013 - 10 a.m. - Department of Professional and Occupational Regulation, 9960 Mayland Drive, Suite 200, Richmond, VA

Public Comment Deadline: February 1, 2013.

Agency Contact: Christine Martine, Executive Director, Real Estate Board, 9960 Mayland Drive, Suite 400, Richmond, VA 23233, telephone (804) 367-8552, FAX (804) 527-4299, or email reboard@dpor.virginia.gov.

Basis: Section 2.2-4017 of the Code of Virginia provides that regulations shall be periodically reviewed as mandated by Executive Order of the Governor. Executive Order 36 (2006) required that all existing regulations be reviewed at least once every four years to ensure the regulations are supported by

statutory authority and every five years to ensure the regulations' economic impact on small businesses is minimized as much as possible. Executive Order 14 (2010) likewise requires existing regulations to be periodically reviewed every four years. Since the regulations regarding the Fair Housing Law were last reviewed in 2003, the Real Estate Board and Fair Housing Board elected in 2008 to begin this periodic review of regulations.

Section 54.1-2105 A of the Code of Virginia states that the Real Estate Board "may do all things necessary and convenient for carrying into effect the provisions of this chapter and may promulgate necessary regulations."

In accordance with § 54.1-2344 D of the Code of Virginia, the Real Estate Board is responsible for the administration and enforcement of the Fair Housing Law with respect to real estate licensees, their agents, or their employees, and the Fair Housing Board is responsible for the administration and enforcement of the Fair Housing Law with respect to all others who allegedly violated, or who in fact have violated, the Fair Housing Law.

Section 36-96.8 B of the Code of Virginia permits the Real Estate Board and Fair Housing Board to coordinate the promulgation and amendment of necessary regulations to carry out the provisions of the Fair Housing Law.

Purpose: It is the policy of the Commonwealth of Virginia to ensure that all Virginia citizens are provided access to residential housing free from illegal discrimination. Through this periodic review of regulations, the Real Estate Board and Fair Housing Board provide clarification of the provisions of the Fair Housing Law, ensure that the regulations are consistent with federal and state law, and provide guidance regarding the provisions of the Fair Housing Law.

Substance: The substantive changes proposed by the Real Estate Board and Fair Housing Board clarify definitions and other aspects of the provisions of the Fair Housing Law, provide guidance regarding the Fair Housing Law provisions for disabled persons, and amend information regarding advertising.

18VAC135-50-10 - amend definitions such as authorized representative for clarity.

18VAC135-50-20 - clarify purpose section. For example, clarify discriminatory conduct covered by the Virginia Fair Housing Law.

18VAC135-50-50 - clarify scope section to ensure it encompasses the scope of the Virginia Fair Housing Law.

18VAC135-50-110 - amend discriminatory advertisements, statements, and notices to include updated language for publishers notices.

18VAC135-50-200 - amend general prohibitions against discrimination because of handicap to include (i) new definitions such as "disability," (ii) where to obtain ANSI A117.1 accessibility standards, and (iii) guidance document

references for reasonable accommodations and reasonable modifications.

18VAC135-50-270 - amend list of words indicative of protected classes to ensure consistency.

18VAC135-50-290 - amend fair housing policy and practices to ensure individuals know how to obtain equal housing logos, statement, or slogan.

18VAC135-50-350 - clarify the procedure for determining the date of filing a fair housing complaint.

18VAC135-50-400 - clarify the administrator's duties.

18VAC135-50-440 - clarify when investigations are complete.

Issues: The primary advantage to the public is ensuring the regulations are consistent with federal and state law and providing guidance regarding the provisions of the Fair Housing Law.

The primary advantage to the agency will be that the agency can better protect the health, welfare, and safety of the citizens of Commonwealth by having regulations that are consistent with federal and state law.

No disadvantages to the public or to the Commonwealth have been identified.

Department of Planning and Budget's Economic Impact Analysis:

Summary of the Proposed Amendments to Regulation. The Real Estate Board and Fair Housing Board (Boards) propose to make several language changes for clarification of current rules and to update other language for consistency with federal law and other state law.

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

Estimated Economic Impact. As none of the proposed amendments change any requirements, no new costs are introduced. The proposed clarifications and updates will be beneficial in that there will be less likelihood of confusion among affected entities and other members of the public.

Businesses and Entities Affected. The revised regulations apply to all Real Estate Board licensees and Fair Housing Board certificate holders. Any person in the business of selling or renting dwellings is also affected. There are approximately 60,000 individual regulants and 8,300 business regulants.¹

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

Projected Impact on Employment. The proposal amendments are unlikely to significantly affect total employment.

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

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Small Businesses: Costs and Other Effects. The proposed amendments will not significantly affect costs for small businesses.

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

Real Estate Development Costs. The proposed amendments are unlikely to have a large impact on real estate development costs.

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 14 (10). 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.

¹ Data source: Department of Professional and Occupational Regulation

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

Summary:

The proposed amendments clarify and update the regulations for consistency with federal and state laws. Amendments include (i) changing the definition of "handicap" to be synonymous with the term "disability," (ii) clarifying the procedure for determining the date of filing for a fair housing complaint, and (iii) clarifying that the fair housing administrator's duties include developing facts sufficient to support a recommendation regarding a complaint rather than a determination.

Part I General Provisions

18VAC135-50-10. Definitions.

The definitions provided in the Virginia Fair Housing Law, as they may be supplemented herein, shall apply throughout this chapter.

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

"Authorized representative" means (i) an attorney licensed to practice law in the Commonwealth, or (ii) a law student appearing in accordance with the third-year student practice rule, or (iii) a non-lawyer under the supervision of an attorney and acting pursuant to Part 6, § 1, Rule 1 (UPR 1-101(A)(1)) of the Rules of the Supreme Court of Virginia, or (iv) a person who, without compensation, advises a complainant, respondent, or aggrieved person in connection with a complaint, a conciliation conference or proceeding before the board. When a complainant, respondent, or aggrieved person authorizes a person to represent him under subdivision (iv) of this definition, such authority shall be made to the board, either in writing or orally in an appearance before the board, and shall be accepted by the representative by sending a written acknowledgement to the board or by the representative's appearance before the board.

"Board" means the Real Estate Board or the Fair Housing Board, or both.

"Broker" or "agent" means any person authorized to perform an action on behalf of another person regarding any matter related to the sale or rental of dwellings, including offers, solicitations or contracts and the administration of matters regarding such offers, solicitations or contracts or any residential real estate-related transactions.

"Department" means the Virginia Department of Professional and Occupational Regulation.

"Fair housing administrator" means the individual employed and designated as such by the Director of the Department of Professional and Occupational Regulation.

"Fair housing law" means the Virginia Fair Housing Law, Chapter 5.1 (§ 36-96.1 et seq.) of Title 36 of the Code of Virginia, effective July 1, 1991.

"Person in the business of selling or renting dwellings" means any person who (i) within the preceding 12 months, has participated as principal in three or more transactions involving the sale or rental of any dwelling or any interest therein; (ii) within the preceding 12 months, has participated as agent, other than in the sale of his own personal residence, in providing sales or rental facilities or sales or rental services in two or more transactions involving the sale or rental of any dwelling or any interest therein; or (iii) is the owner of any dwelling designed or intended for occupancy by or occupied by, five or more families.

"Receipt of notice" means the day that personal service is completed by handing or delivering a copy of the document to an appropriate person or the date that a document is delivered by certified mail, or three days after the date of the proof of mailing of first class mail.

18VAC135-50-20. Purpose.

This chapter governs the exercise of the administrative and enforcement powers granted to and the performance of duties imposed upon the Real Estate Board and the Fair Housing Board by the Virginia Fair Housing Law. In accordance with § 54.1-2344 of the Code of Virginia, the Real Estate Board is responsible for the administration and enforcement of the Fair Housing Law with respect to real estate licensees or their agents or employees who have allegedly violated or violated the Fair Housing Law. The Fair Housing Board is responsible for the administration and enforcement of the Fair Housing Law with respect to all others who have allegedly violated or violated the Fair Housing Law.

This chapter provides the board's interpretation of the coverage of the fair housing law regarding discrimination related to the sale or rental of dwellings, the provision of services in connection therewith, ~~and~~ the availability of residential real estate-related transactions, or any other discriminatory conduct prohibited by the Virginia Fair Housing Law.

18VAC135-50-50. Scope.

It is the policy of Virginia to provide, within constitutional limitations, for fair housing throughout the Commonwealth and to impose obligations, rights and remedies substantially equivalent to those granted under federal law. No person shall be subject to discriminatory housing practices ~~because of race, color, religion, sex, handicap, elderliness, familial status, or national origin~~ in the sale, rental, advertising of dwellings, inspection of dwellings or entry into a neighborhood, in the provision of brokerage services, financing ~~or~~ the availability of residential real estate-related transactions, or any other discriminatory conduct prohibited by the Virginia Fair Housing Law because of race, color, religion, sex, handicap, elderliness, familial status, or national origin.

18VAC135-50-110. Discriminatory advertisements, statements and notices.

A. It shall be unlawful to make, print or publish, or cause to be made, printed or published, any notice, statement, or advertisement with respect to the sale or rental of a dwelling which indicates any preference, limitation or discrimination because of race, color, religion, sex, handicap, familial status, elderliness, or national origin, or an intention to make any such preference, limitation, or discrimination.

B. The prohibitions in this section shall apply to all written or oral notices or statements by a person engaged in the sale or rental of a dwelling. Written notices and statements include any applications, flyers, brochures, deeds, signs, banners,

posters, billboards, or any documents used with respect to the sale or rental of a dwelling.

C. Discriminatory notices, statements, and advertisements include, but are not limited to:

1. Using words, phrases, photographs, illustrations, symbols, or forms which convey that dwellings are available or not available to a particular group of persons because of race, color, religion, sex, handicap, familial status, elderliness or national origin.
2. Expressing to agents, brokers, employees, prospective sellers, or renters or any other persons a preference for or limitation on any purchaser or renter because of race, color, religion, sex, handicap, familial status, elderliness, or national origin of such person.
3. Selecting media or locations for advertising the sale or rental of dwelling which deny particular segments of the housing market information about housing opportunities because of race, color, religion, sex, handicap, familial status, elderliness, or national origin.
4. Refusing to publish advertising for the sale or rental of dwellings or requiring different charges or terms for such advertising because of race, color, religion, sex, handicap, familial status, elderliness, or national origin.

D. Publishers' notice. All publishers shall publish at the beginning of the real estate advertising section a notice such as that appearing ~~in Table III, Appendix I to 24 CFR Part 109, Ch. 1 (4-1-00 edition)~~ in this subsection below. The notice shall include a statement regarding the coverage of any ~~local fair housing or human rights ordinance~~ Virginia and federal fair housing laws prohibiting discrimination in the sale, rental or financing of dwellings:

All real estate advertised herein is subject to the Virginia and federal fair housing laws, which make it illegal to advertise "any preference, limitation, or discrimination because of race, color, religion, sex, handicap, familial status, national origin, or elderliness, or intention to make any such preference, limitation, or discrimination."

We will not knowingly accept any advertising for real estate which is in violation of the law. All persons are hereby informed that all dwellings advertised are available on an equal opportunity basis. (Table III, Appendix I to 24 CFR Part 109, Ch. 1 (4/1/2000 edition).

E. Fair housing poster requirements.

1. Persons subject to § 36-96.3 of the Virginia Fair Housing Law shall post and maintain a HUD approved fair housing poster as follows:
 - a. With respect to a single-family dwelling (not being offered for sale or rental in conjunction with the sale or rental of other dwellings) offered for sale or rental through a real estate broker, agent, salesman, or person in the business of selling or renting dwellings, such person shall post and maintain a fair housing poster at any place

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of business where the dwelling is offered for sale or rental.

b. With respect to all other dwellings covered by the Virginia Fair Housing Law: (i) a fair housing poster shall be posted and maintained at any place of business where the dwelling is offered for sale or rental, and (ii) a fair housing poster shall be posted and maintained at the dwelling, except that with respect to a single-family dwelling being offered for sale or rental in conjunction with the sale or rental of other dwellings, the fair housing poster may be posted and maintained at the model dwellings or at a conspicuous location instead of at each of the individual dwellings.

c. With respect to those dwellings to which subdivision 1 b of this subsection applies, the fair housing poster must be posted at the beginning of construction and maintained throughout the period of construction and sale or rental.

2. The poster requirement does not apply to vacant land, or any single-family dwelling, unless such dwelling (i) is being offered for sale or rental in conjunction with the sale or rental of other dwellings in which circumstances a fair housing poster shall be posted and maintained as specified in subdivision 1 b (ii) of this subsection, or (ii) is being offered for sale or rental through a real estate broker, agent, salesman, or person in the business of selling or renting dwellings in which circumstances a fair housing poster shall be posted and maintained as specified in subdivision 1 a of this subsection.

3. All persons subject to § 36-96.4 of the Virginia Fair Housing Law, Discrimination in Residential Real Estate-Related Transactions, shall post and maintain a fair housing poster at all their places of business which participate in the covered activities.

4. All persons subject to 18VAC135-50-140, Discrimination in the Provision of Brokerage Services, shall post and maintain a fair housing poster at all their places of business.

5. Location of posters. All fair housing posters shall be prominently displayed so as to be readily apparent to all persons seeking housing accommodations or seeking to engage in residential real estate-related transactions or brokerage services.

6. Availability of posters. All persons subject to this part may obtain fair housing posters from the Virginia Department of Professional and Occupational Regulation. A facsimile may be used if the poster and the lettering are equivalent in size and legibility to the poster available from the Department of Professional and Occupational Regulation. Any person who claims to have been injured by a discriminatory housing practice may file a complaint with the administrator pursuant to Part III of this chapter.

18VAC135-50-200. General prohibitions against discrimination because of handicap.

A. Definitions. As used in this section unless a different meaning is plainly required by the context:

"Accessible," when used with respect to the public and common use areas of a building containing covered multi-family dwellings, means that the public or common use areas of the building can be approached, entered, and used by individuals with physical ~~handicaps~~ disabilities. The phrase "readily accessible to and usable by" is synonymous with "accessible." A public or common use area that complies with the appropriate requirements of ANSI A117.1-1986 or with any other standards adopted as part of regulations promulgated by HUD at 24 CFR Part 100 providing accessibility and usability for physically handicapped people is accessible within the meaning of this section.

"Accessible route" means a continuous unobstructed path connecting accessible elements and spaces in a building or within a site that can be negotiated by a person with a severe disability using a wheelchair and that is also safe for and usable by people with other disabilities. Interior accessible routes may include corridors, floors, ramps, elevators and lifts. Exterior accessible routes may include parking access aisles, curb ramps, walks, ramps and lifts. A route that complies with the appropriate requirements of ANSI A117.1-1986, or with any other standards adopted as part of regulations promulgated by HUD at 24 CFR Part 100, is an "accessible route."

"ANSI A117.1" means ANSI A117.1-1986, the American National Standard for buildings and facilities providing accessibility and usability for physically handicapped people, or an equivalent or stricter standard. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 ~~U.S.C.~~ USC § 552(a) and 1 CFR Part 51. Copies may be obtained from ~~American National Standards Institute, Inc., 1430 Broadway, New York, New York 10018~~ Global Engineering Documents, 15 Inverness Way East, Englewood, Colorado 90112.

"Building" means a structure, facility or portion thereof that contains or serves one or more dwelling units.

"Building entrance on an accessible route" means an accessible entrance to a building that is connected by an accessible route to public transportation stops, to accessible parking and passenger loading zones, or to public streets or sidewalks, if available. A building entrance that complies with ANSI A117.1 or a comparable standard complies with the requirements of this paragraph.

"Common use areas" shall include, but not be limited to, rooms, spaces, or elements inside or outside of a building which are not part of the dwelling unit and which are made available for the use of residents of a building or the guests thereof. These areas include hallways, lounges, lobbies, laundry rooms, refuse rooms, mailrooms, recreational areas and passageways among and between buildings.

"Controlled substance" means any drug or other substance as defined in Virginia or federal law.

"Disability" or "disabled" means, and is synonymous with, the term "handicap" as defined in the Virginia Fair Housing Law.

"Dwelling unit" means a single unit of residence for a family or one or more persons. Examples of dwelling units include: a single family home; an apartment unit within an apartment building; and in other types of dwellings in which sleeping accommodations are provided but toileting or cooking facilities are shared by occupants of more than one room or portion of the dwelling, rooms in which people sleep. Examples of the latter include dormitory rooms and sleeping accommodations in shelters intended for occupancy as a residence for homeless persons.

"Entrance" means any access point to a building or portion of a building used by residents for the purpose of entering.

"Exterior" means all areas of the premises outside of an individual dwelling unit.

"First occupancy" means a building that has never before been used for any purpose.

"Ground floor" means a floor of a building with a building entrance on an accessible route. A building may have more than one ground floor.

The following terms, as used in the definition of "handicap" contained in § 36-96.1:1 of the Code of Virginia, shall mean:

"Has a record of such an impairment" means has a history of, or has been misclassified as having, a mental or physical impairment that substantially limits one or more major life activities.

"Is regarded as having an impairment" means:

1. Has a physical or mental impairment that does not substantially limit one or more major life activities but that is treated by another person as constituting such a limitation;
2. Has a physical or mental impairment that substantially limits one or more major life activities only as a result of the attitudes of other toward such impairment; or
3. Has none of the impairments defined in "physical or mental impairment" but is treated by another person as having such an impairment.

"Interior" means the spaces, parts, components or elements of an individual dwelling unit.

"Major life activities" means functions such as caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning and working.

"Modification" means any change to the public or common use areas of a building or any change to a dwelling unit.

"Physical or mental impairment" includes:

1. Any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of

the following body systems: neurological; musculoskeletal; special sense organs; respiratory, including speech organs; cardiovascular; reproductive; digestive; genito-urinary; hemic and lymphatic; skin; and endocrine; or

2. Any mental or psychological disorder, such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities. The term "physical or mental impairment" includes, but is not limited to, such diseases and conditions as orthopedic, visual, speech and hearing impairments, cerebral palsy, autism, epilepsy, muscular dystrophy, multiple sclerosis, cancer, heart disease, diabetes, Human Immunodeficiency Virus infection, mental retardation, emotional illness, drug addiction (other than addiction caused by current, illegal use of a controlled substance) and alcoholism.

"Premises" means the interior or exterior spaces, parts, components or elements of a building, including individual dwelling units and the public and common use areas of a building.

"Public use areas" means interior or exterior rooms or spaces of a building that are made available to the general public. Public use may be provided at a building that is privately or publicly owned.

"Site" means a parcel of land bounded by a property line or a designated portion of a public right of way.

B. General prohibitions against discrimination because of handicap. It shall be unlawful to make an inquiry to determine whether an applicant for a dwelling, a person intending to reside in that dwelling after it is so sold, rented or made available, or any person associated with that person, has a handicap or to make inquiry as to the nature or severity of a handicap of such a person. However, this subdivision does not prohibit the following inquiries, provided these inquiries are made of all applicants, whether or not they have handicaps:

1. Inquiry into an applicant's ability to meet the requirements of ownership or tenancy;
2. Inquiry to determine whether an applicant is qualified for a dwelling available only to persons with handicaps or to persons with a particular type of handicap;
3. Inquiry to determine whether an applicant for a dwelling is qualified for a priority available to persons with handicaps or to persons with a particular type of handicap;
4. Inquiring whether an applicant for a dwelling is a current illegal abuser or addict of a controlled substance;
5. Inquiring whether an applicant has been convicted of the illegal manufacture or distribution of a controlled substance.

C. Reasonable modifications of existing premises.

1. It shall be unlawful for any person to refuse to permit, at the expense of a handicapped person, reasonable modifications of existing premises, occupied or to be

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occupied by a handicapped person, if the proposed modifications may be necessary to afford the handicapped person full enjoyment of the premises of a dwelling. In the case of a rental, the landlord may, where it is reasonable to do so, condition permission for a modification on the renter agreeing to restore the interior of the premises to the condition that existed before the modification, reasonable wear and tear excepted. The landlord may not increase for handicapped persons any customarily required security deposit. However, where it is necessary in order to ensure with reasonable certainty that funds will be available to pay for the restorations at the end of the tenancy, the landlord may negotiate as part of such a restoration agreement a provision requiring that the tenant pay into an interest bearing escrow account, over a reasonable period, a reasonable amount of money not to exceed the cost of the restorations. The interest in any such account shall accrue to the benefit of the tenant.

2. A landlord may condition permission for a modification on the renter providing a reasonable description of the proposed modifications as well as reasonable assurances that the work will be done in a workmanlike manner and that any required building permits will be obtained.

3. Except as otherwise provided, the Joint Statement of the Department of Housing and Urban Development and the Department of Justice "Reasonable Modifications Under the Fair Housing Act" dated March 5, 2008, is hereby incorporated by reference to provide guidance regarding the rights and obligations of persons with disabilities and housing providers relating to reasonable modifications. A copy of the joint statement may be obtained from the Virginia Fair Housing Office.

D. Reasonable accommodations.

1. It shall be unlawful for any person to refuse to make reasonable accommodations in rules, policies, practices, or services, when such accommodations may be necessary to afford a handicapped person equal opportunity to use and enjoy a dwelling unit, including public and common use areas.

2. Except as otherwise provided, the Joint Statement of the Department of Housing and Urban Development and the Department of Justice "Reasonable Accommodations under the Fair Housing Act" dated May 17, 2004, is hereby incorporated by reference to provide guidance regarding the rights and obligations of persons with disabilities and housing providers relating to reasonable accommodations. A copy of this joint statement may also be obtained from the Virginia Fair Housing Office.

E. Design and construction requirements. Covered multi-family dwellings for first occupancy after March 13, 1991, shall be designed and constructed to have at least one building entrance on an accessible route unless it is impractical to do so because of the terrain or unusual characteristics of the site. The burden of establishing

impracticality because of terrain or unusual site characteristics is on the person or persons who designed or constructed the housing facility.

18VAC135-50-270. Use of words, phrases, symbols and visual aids.

The following words, phrases, symbols, and forms typify those most often used in residential real estate advertising to convey either overt or tacit discriminatory preferences or limitations. In considering a complaint under the fair housing law, the board will consider the use of these and comparable words, phrases, symbols, and forms to determine a possible violation of the law and to establish a need for further proceedings on the complaint, if it is apparent from the context of the usage that discrimination within the meaning of the law is likely to result.

1. Words descriptive of dwelling, landlord and tenants. White private home, Colored home, Jewish home, Hispanic residence, adult building.
2. Words indicative of race, color, religion, sex, handicap, familial status, elderliness or national origin, including but not limited to:
 - a. Race: African-American, Negro, Black, White, Caucasian, Oriental, Asian, American Indian, Native American, Arab.
 - b. Color: White, Black, Colored.
 - c. Religion: Protestant, Christian, Catholic, Jewish, Muslim, Islamic.
 - d. National origin: Mexican American, Puerto Rican, Philippine, Polish, Hungarian, Irish, Italian, Chicano, African, Hispanic, Chinese, Indian, Latino.
 - e. Sex: The exclusive use of words in advertisements, including those involving the rental of separate units in a single or multi-family dwelling, stating or intending to imply that the housing being advertised is available to persons of only one sex and not the other, except where the sharing of living areas is involved. Nothing in this section restricts advertisements of dwellings used exclusively for dormitory facilities by educational institutions.
 - f. Handicap: crippled, blind, deaf, mentally ill, retarded, impaired, handicapped, physically fit. Nothing in this section restricts the inclusion of information about the availability of accessible housing in advertising of dwellings.
 - g. Familial status: adults, children, singles, mature persons. Nothing in this section restricts advertisements of dwellings which are intended and operated for occupancy by older persons and which constitute "housing for older persons" as defined in 18VAC135-50-210.
 - h. Elderliness: elderly, senior citizens, young, old, active, available to those between 25 and 55.

3. Catch words. Words and phrases used in a discriminatory context should be avoided, e.g., "restricted," "exclusive," "private," "integrated," "traditional," "board approval," "membership approval."
4. Symbols or logotypes. Symbols or logotypes which imply or suggest race, color, religion, sex, handicap, familial status, elderliness or national origin.
5. Colloquialisms. Words or phrases used regionally or locally which imply or suggest race, color, religion, sex, handicap, familial status, elderliness or national origin.
6. Directions to real estate for sale or rent (use of maps or written instructions). Directions can imply a discriminatory preference, limitation, or exclusion. For example, references to real estate location made in terms of racial or national origin significant landmarks, such as an existing black development (signal to blacks) or an existing development known for its exclusion of minorities (signal to whites). Specific directions which make reference to a racial or national origin significant area may indicate a preference.
7. Area (location) description. Names of facilities which cater to a particular racial, national origin or religious group, such as country club or private school designations, or names of facilities which are used exclusively by one sex may indicate a preference.

18VAC135-50-290. Fair housing policy and practices.

In the investigation of complaints, the board will consider the implementation of fair housing policies and practices provided in this section as evidence of compliance with the prohibitions against discrimination in advertising under the fair housing law.

1. Use of equal housing opportunity logotype, statement, or slogan. All advertising of residential real estate for sale, rent, or financing should contain an equal housing opportunity logotype, statement, or slogan as a means of educating the homeseeking public that the property is available to all persons regardless of race, color, religion, sex, handicap, familial status, elderliness, or national origin. The choice of logotype, statement, or slogan will depend on the type of media used (visual or auditory) and, in space advertising, on the size of the advertisement. See Appendix I to 24 CFR Part 109, Ch. 1 (4/1/00 edition) for suggested use of the logotype, statement, or slogan and size of logotype and copies of the suggested equal housing opportunity logotype, statement and slogan. A copy of Appendix I to 24 CFR Part 109, Ch. 1 (4/1/2000 edition) is posted on the Fair Housing Office's website or may be obtained by contacting the Fair Housing Office.
2. Use of human models. Human models in photographs, drawings, or other graphic techniques may not be used to indicate exclusiveness because of race, color, religion, sex, handicap, familial status, elderliness, or national origin. If models are used in display advertising campaigns, the

models should be clearly definable as reasonably representing majority and minority groups in the metropolitan area, both sexes and, when appropriate, families with children. Models, if used, should portray persons in an equal social setting and indicate to the general public that the housing is open to all without regard to race, color, religion, sex, handicap, familial status, elderliness, or national origin, and is not for the exclusive use of one such group. Human models include any depiction of a human being, paid or unpaid, resident or nonresident.

18VAC135-50-350. Date of filing of a complaint.

A. Except as provided in subsection B of this section, a complaint is filed when it is received by the board or dual filed with the federal government in a form that reasonably meets the standards of 18VAC135-50-340.

B. The administrator may determine that a complaint is filed for the purposes of the one-year period for filing of complaints upon submission of written information (~~including information provided by telephone and reduced to writing by an employee of the board~~) identifying the parties and describing generally the alleged discriminatory housing practice. Written information includes information provided by telephone and reduced to writing by Fair Housing Office staff. A filed complaint can be signed at any time during the investigation.

C. Where a complaint alleges a discriminatory housing practice that is continuing, as manifested in a number of incidents of such conduct, the complaint will be timely if filed within one year of the last alleged occurrence of that practice.

Article 3
Investigations

18VAC135-50-400. Investigations.

A. Upon the filing of a complaint, the administrator shall investigate the allegations. The purposes of an investigation are:

1. To obtain information concerning the events or transactions that relate to the alleged discriminatory housing practice identified in the complaint.
2. To document policies or practices of the respondent involved in the alleged discriminatory housing practice raised in the complaint.
3. To develop factual data necessary for the administrator on behalf of the board to make a ~~determination~~ recommendation whether reasonable cause exists to believe that a discriminatory housing practice has occurred or is about to occur, and to take other actions provided under this part.

B. Based on the authority delegated to the fair housing administrator by the board, the administrator may investigate housing practices to determine whether a complaint should be

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filed. Such an initiation may include using testers and other established practices or procedures.

18VAC135-50-440. Completion of investigation.

The investigation will remain open until a determination regarding reasonable cause is made, the board determines that the matter involves the legality of local zoning or land use laws or ordinances, or a conciliation agreement is executed and approved.

DOCUMENTS INCORPORATED BY REFERENCE
(18VAC135-50)

ANSI A117.1-1986, American National Standard for Buildings and Facilities-providing accessibility and usability for physically handicapped people, American National Standards Institute, Inc., ~~A117.1-1986~~.

Reasonable Modifications under the Fair Housing Act, Joint Statement of the Department of Housing and Urban Development and the Department of Justice, March 5, 2008, Office of Fair Housing and Equal Opportunity, United States Department of Housing and Urban Development and the Civil Rights Division, United States Department of Justice, Washington, D.C.

Reasonable Accommodations under the Fair Housing Act, Joint Statement of the Department Of Housing and Urban Development and the Department of Justice, May 17, 2004, Office of Fair Housing and Equal Opportunity, United States Department of Housing and Urban Development and the Civil Rights Division, United States Department of Justice, Washington, D.C.

VA.R. Doc. No. R11-2269; Filed November 2, 2012, 3:29 p.m.

BOARD FOR WATERWORKS AND WASTEWATER WORKS OPERATORS AND ONSITE SEWAGE SYSTEM PROFESSIONALS

Notice of Objection to Fast-Track Rulemaking Action

REGISTRAR'S NOTICE: Pursuant to § 2.2-4012.1 of the Code of Virginia, the Board for Waterworks and Wastewater Works Operators and Onsite Sewage System Professionals has filed a notice of objection to the fast-track rulemaking action published in 29:3 VA.R. 613-620 October 8, 2012. The board intends to proceed with the normal promulgation process set out in Article 2 (§ 2.2-4006 et seq.) of Chapter 40 of the Administrative Process Act.

Title of Regulation: **18VAC160-20. Board for Waterworks and Wastewater Works Operators and Onsite Sewage System Professionals Regulations (amending 18VAC160-20-10, 18VAC160-20-97).**

Statutory Authority: §§ 54.1-201 and 54.1-2301 of the Code of Virginia.

Fast-Track Publication Date: 29:3 VA.R. 613-620 October 8, 2012.

The proposed language changes the definitions of "direct supervisor" and "direct supervision," allowing licensees to supervise the work of unlicensed individuals who are not seeking licensure. Also, the requirements for applicants for an individual onsite sewage system installer license have been modified to reflect current industry procedures consistent with the Virginia Department of Health (VDH). The experience requirement for the individual onsite sewage system installer license has also been changed to allow an individual's installation experience to fulfill the requirement for licensure as long as the applicant's firm is properly licensed as a Virginia contractor with the specialty of Sewage Disposal Systems (SDS) at the time which he applies for the installer license.

More than 10 persons objected to the fast-track rulemaking process during the public comment period, which ended November 7, 2012. Consequently, in accordance with § 2.2-4012.1 of the Code of Virginia, the agency is terminating the fast-track rulemaking process and proceeding with the normal promulgation process with the initial publication of the fast-track regulation serving as the Notice of Intended Regulatory Action.

Agency Contact: Trisha Henshaw, Executive Director, Board for Waterworks and Wastewater Works Operators and Onsite Sewage System Professionals, 9960 Mayland Drive, Suite 400, Richmond, VA 23233, telephone (804) 367-8595, FAX (866) 350-5354, or email waterwasteoper@dpor.virginia.gov.

VA.R. Doc. No. R13-2270; Filed November 15, 2012, 2:00 p.m.

TITLE 22. SOCIAL SERVICES

STATE BOARD OF SOCIAL SERVICES

Proposed Regulation

Title of Regulation: **22VAC40-745. Assessment in Assisted Living Facilities (amending 22VAC40-745-10 through 22VAC40-745-110).**

Statutory Authority: §§ 63.2-217, 63.2-800, and 63.2-1732 of the Code of Virginia.

Public Hearing Information:

December 12, 2012 - 4 p.m. - Henrico Department of Social Services, 8600 Dixon Powers Drive, Henrico, VA

Public Comment Deadline: February 1, 2013.

Agency Contact: Karin Clark, Regulatory Coordinator, Department of Social Services, 801 East Main Street, Room 1507, Richmond, VA 23219, telephone (804) 726-7017, FAX (804) 726-7015, TTY (800) 828-1120, or email karin.clark@dss.virginia.gov.

Basis: Section 63.2-217 of the Code of Virginia provides general authority for the State Board of Social Services to adopt regulations as may be necessary or desirable to carry

out the purpose of Title 63.2 of the Code of Virginia. Section 63.2-800 of the Code of Virginia requires the board to promulgate regulations specific to the Auxiliary Grant Program, which includes assessments on persons residing in assisted living facilities. Section 63.2-1732 of the Code of Virginia authorizes the board to adopt regulations to carry out the provisions of Subtitle IV of Title 63.2 of the Code of Virginia and to protect residents of assisted living facilities (ALFs) and promote their highest level of functioning.

Purpose: The proposed regulatory action is necessary to ensure that regulation content addresses the assessment of individuals applying to or residing in ALFs. Conformity across regulations and clarity in regulation content are essential to ensuring that the individual's health and safety needs are best met in an ALF setting and that the assessment process occurs in a timely and appropriate manner.

Substance: The majority of changes are technical, such as clarifying definitions and other regulation text to comport with DSS licensing regulations and using acronyms to replace certain terms. Regulation content is amended to clarify the intent. The regulation also incorporates person-centered language by replacing terms such as resident and applicant.

Issues: The amendments to the regulation ensure that an auxiliary grant payment to an individual in an assisted living facility (ALF) is approved only after a qualified assessor has determined the individual meets residential or assisted living level of care.

The amendments to the regulation clarify but do not increase ALF staffs' or qualified assessors' assessment responsibilities. The regulatory action comports the regulation content with Department of Social Services licensing regulations. Clarifying regulation content ensures that the assessment process is understood by ALF providers, assessors, and individuals who reside in ALFs.

The regulatory action incorporates person-centered language such as individual and removes terms such as applicant and recipient.

Department of Planning and Budget's Economic Impact Analysis:

Summary of the Proposed Amendments to Regulation. The State Board of Social Services (Board) proposes to amend its regulations that govern assessment of potential residents (and re-assessment of current residents) of assisted living facilities to make definitions and regulatory language consistent with assisted living facility licensure regulations (22VAC40 -72).

Result of Analysis. Benefits likely outweigh costs for all proposed changes.

Estimated Economic Impact. The Board's regulations governing assessment in assisted living facilities set the rules for assessment of individuals who may be entering assisted living facilities, as well as re-assessment of individuals who are already residents of assisted living facilities, and set qualifying criteria for individuals who conduct assessments.

The Board now proposes to amend these regulations for clarification and so that they comport with current assisted living facility licensure regulations.

The Board, for instance, proposes to remove references to "applicant" and "resident" and replace them with "individual" and also proposes to add language that clarifies when information about auxiliary grants must be given. All of the changes that are proposed for these regulations will either clarify the requirements of the regulations or harmonize the language used with that in the licensure regulations but will not change any current practices. Consequently, no affected entity is likely to incur any costs on account of these regulatory changes. The clarity that these changes bring will, however, benefit individuals who found the language differences between the regulations confusing.

Businesses and Entities Affected. These proposed regulatory changes will affect all 550 licensed assisted living facilities in the Commonwealth as well as all 120 local Departments of Social Services.

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

Projected Impact on Employment. This proposed regulatory action is unlikely to have any effect on employment in the Commonwealth.

Effects on the Use and Value of Private Property. These proposed regulatory changes are unlikely to affect the use or value of private property in the Commonwealth.

Small Businesses: Costs and Other Effects. No small business is likely to incur any costs on account of this regulatory action.

Small Businesses: Alternative Method that Minimizes Adverse Impact. No small business is likely 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

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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 Economic Impact Analysis: The Department of Social Services concurs with the economic impact analysis prepared by the Department of Planning and Budget.

Summary:

The proposed amendments include (i) revised definitions and text to comport with current Department of Social Services licensing regulations, (ii) clarification of regulation content related to assessment of individuals applying to or residing in ALFs, determination of services to be provided, and discharge or transition, and (iii) incorporation of person-centered language throughout the regulation.

Part I Definitions

22VAC40-745-10. Definitions.

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

"Activities of daily living (~~ADLs~~)" or "ADLs" means bathing, dressing, toileting, transferring, bowel control, bladder control, and eating/feeding. ~~A person's~~ An individual's degree of independence in performing these activities is a part of determining appropriate level of care and services.

~~"Applicant" means an adult planning to reside in an assisted living facility.~~

"Administrator" means the licensee or person designated by the licensee who (i) is responsible for the general administration and management of an assisted living facility and who oversees the day-to-day operation of the facility, including compliance with all regulations for assisted living facilities and (ii) meets the requirements of 22VAC40-72.

~~"Assessment" means a standardized approach using common definitions to gather sufficient information about applicants to and residents of assisted living facilities~~ an individual applying to or residing in an assisted living facility to determine the need for appropriate level of care and services.

"Assisted living care" means a level of service provided by an assisted living facility ~~for adults~~ to individuals who may have physical or mental impairments and require at least moderate assistance with the activities of daily living. Moderate assistance means dependency in two or more of the

activities of daily living. Included in this level of service are individuals who are dependent in behavior pattern (i.e., abusive, aggressive, disruptive) as documented on the uniform assessment instrument.

~~"Assisted living facility (ALF)" or "ALF" means any public or private assisted living facility~~ ALF that is required to be licensed as an ~~assisted living facility~~ ALF by the Department of Social Services under Chapter 17 (§ 63.2-1700 et seq.) of Title 63.2 of the Code of Virginia, specifically, any congregate residential setting that provides or coordinates personal and health care services, 24-hour supervision, and assistance (scheduled and unscheduled) for the maintenance or care of four or more adults who are aged, infirm or disabled and who are cared for in a primarily residential setting, except (i) a facility or portion of a facility licensed by the State Board of Health or the Department of Behavioral Health and Developmental Services, but including any portion of such facility not so licensed; (ii) the home or residence of an individual who cares for or maintains only persons related to him by blood or marriage; (iii) a facility or portion of a facility serving infirm or disabled persons between the ages of 18 and 21, or 22 if enrolled in an educational program for the handicapped pursuant to § 22.1-214 of the Code of Virginia, when such facility is licensed by the department as a children's residential facility under Chapter 17 (§ 63.2-1700 et seq.) of Title 63.2 of the Code of Virginia, but including any portion of the facility not so licensed; and (iv) any housing project for persons 62 years of age or older or the disabled that provides no more than basic coordination of care services and is funded by the U.S. Department of Housing and Urban Development, by the U.S. Department of Agriculture, or by the Virginia Housing Development Authority. Included in this definition are any two or more places, establishments or institutions owned or operated by a single entity and providing maintenance or care to a combined total of four or more aged, infirm or disabled adults. Maintenance or care means the protection, general supervision and oversight of the physical and mental well-being of an aged, infirm or disabled individual. Assuming responsibility for the well-being of individuals, either directly or through contracted agents, is considered general supervision and oversight.

~~"Assisted living facility administrator" means any individual charged with the general administration of an assisted living facility, regardless of whether he has an ownership interest in the facility and meets the requirements of 22VAC40-72.~~

"Auxiliary Grants Program" means a state and locally funded assistance program to supplement the income of ~~a~~ an individual who is receiving Supplemental Security Income (SSI) ~~recipient~~ or ~~adult~~ an individual who would be eligible for SSI except for excess income, and who resides in an ~~assisted living facility~~ ALF with an approved rate.

"Case management" means multiple functions designed to link individuals to appropriate services. Case management

may include a variety of common components such as initial screening of need, comprehensive assessment of needs, development and implementation of a plan of care, service monitoring, and follow-up.

"Case management agency" means a public human service agency which employs a case manager or contracts for case management.

"Case manager" means an employee of a public human services agency who is qualified to perform assessments and designated to develop and coordinate plans of care.

~~"Consultation" means the process of seeking and receiving information and guidance from appropriate human services agencies and other professionals when assessment data indicate certain social, physical and mental health conditions.~~

"Department" or "DSS" means the Virginia Department of Social Services.

"Dependent" means, for ~~activities of daily living (ADLs)~~ ADLs and instrumental activities of daily living (IADLs), the individual needs the assistance of another person or needs the assistance of another person and equipment or device to safely complete the activity. For medication administration, dependent means the individual needs to have medications administered or monitored by another person or professional staff. For behavior pattern, dependent means the ~~person's~~ individual's behavior is aggressive, abusive, or disruptive.

"Discharge" means the ~~movement of a resident out of process that ends an individual's stay in the assisted living facility~~ ALF.

"Emergency placement" means the temporary status of an individual in an ~~assisted living facility~~ ALF when the ~~person's~~ individual's health and safety would be jeopardized by not permitting entry into the facility until requirements for admission have been met.

"Facility" means an ~~assisted living facility~~ ALF.

"Independent physician" means a physician who is chosen by ~~the resident of an individual residing in the assisted living facility~~ ALF and who has no financial interest in the ~~assisted living facility~~ ALF, directly or indirectly, as an owner, officer, or employee or as an independent contractor with the facility.

"Instrumental activities of daily living (~~IADLs~~)" or "IADLs" means for the purposes of this chapter, meal preparation, housekeeping, laundry, and money management. ~~A person's~~ An individual's degree of independence in performing these activities is a part of determining appropriate level of care and services.

"Maximum physical assistance" means that an individual has a rating of total dependence in four or more of the seven activities of daily living as documented on the uniform assessment instrument.

"Medication administration" means for purposes of this regulation, assessing the degree of assistance required an

individual requires to take medications and is a part of determining the need for in order to determine the individual's appropriate level of care and services.

"Private pay" means that ~~a resident of an individual residing in~~ an assisted living facility is not eligible for benefits under the Auxiliary Grants Program.

"Prohibited conditions" means physical or mental health conditions or care needs as described in § 63.2-1805 of the Code of Virginia. An ALF shall not admit or allow the continued residence of an individual with a prohibited condition. Prohibited conditions include, but are not limited to, an individual who requires maximum physical assistance as documented on the uniform assessment instrument and meets nursing facility level of care criteria as defined in the State Plan for Medical Assistance. Unless the individual's independent physician determines otherwise, an individual who requires maximum physical assistance and meets nursing facility level of care criteria as defined on the State Plan for Medical Assistance shall not be admitted to or continue to reside in an ALF.

"Public human services agency" means an agency established or authorized by the General Assembly under Chapters 2 and 3 (§§ 63.2-203 et seq. and 63.2-300 et seq.) of Title 63.2, Chapter 14 (§ 51.5-116 et seq.) of Title 51.5, Chapters 1 and 5 (§§ 37.2-100 et seq. and 37.2-500 et seq.) of Title 37.2, or Article 5 (§ 32.1-30 et seq.) of Chapter 1 of Title 32.1, or hospitals operated by the state under Chapters 6.1 and 9 (§§ 23-50.4 et seq. and 23-62 et seq.) of Title 23 of the Code of Virginia and supported wholly or principally by public funds, including but not limited to funds provided expressly for the purposes of case management.

"Public pay" means that ~~a resident of an individual residing in an assisted living facility~~ ALF is eligible for benefits under the Auxiliary Grants Program.

"Qualified assessor" means ~~an individual a person~~ who is authorized to perform an assessment, reassessment, or change in level of care for an ~~applicant to or resident of an assisted living facility~~ individual who is seeking admission to an ALF or who resides in an ALF. For public pay individuals, a qualified assessor is an employee of a public human services agency who is trained in the completion of the uniform assessment instrument and is authorized to approve placement for an individual who is seeking admission to or residing in an ALF. For private pay individuals, a qualified assessor is staff of the ~~assisted living facility~~ ALF trained in the completion of the uniform assessment instrument or an independent ~~private~~ physician or a qualified assessor for public pay individuals.

"Reassessment" means an update of information on the uniform assessment instrument at any time after the initial assessment. In addition to ~~a periodic~~ an annual reassessment, a reassessment ~~should~~ shall be completed whenever there is a significant change in the ~~resident's~~ individual's condition.

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~~"Resident" means an individual who resides in an assisted living facility.~~

"Residential living care" means a level of service provided by an ~~assisted living facility ALF~~ for ~~adults~~ individuals who may have physical or mental impairments and require only minimal assistance with the activities of daily living. Minimal assistance means dependency in only one ~~activity of daily living ADL~~ or dependency in one or more of the selected ~~instrumental activities of daily living IADLs as documented on the uniform assessment instrument.~~ Included in this level of service are individuals who are dependent in medication administration as documented on the uniform assessment instrument. ~~This~~ The definition of residential living care includes independent living facilities that voluntarily become licensed the services provided by the ALF to individuals who are assessed as capable of maintaining themselves in an independent living status.

"Significant change" means a change in a ~~resident's~~ an individual's condition that is expected to last longer than 30 days. It does not include short-term changes that resolve with or without intervention, a short-term acute illness or episodic event, or a well-established, predictive, cyclic pattern of clinical signs and symptoms associated with a previously diagnosed condition where an appropriate course of treatment is in progress.

"Targeted case management" means the provision of ongoing case management services by an employee of a public human services agency contracting with the Department of Medical Assistance Services to an ~~auxiliary grant resident of~~ individual who is receiving an auxiliary grant in an assisted living facility ALF who meets the criteria set forth in 12VAC30-50-470.

"Total dependence" means the individual is entirely unable to participate in the performance of an ~~activity of daily living ADL.~~

"Uniform assessment instrument" or "UAI" means the department-designated assessment form. There is an alternate version of the uniform assessment instrument ~~which that~~ may be used for ~~private pay residents; social~~ individuals paying privately. Social and financial information ~~which that~~ is not relevant because of the ~~resident's~~ individual's payment status is not included on ~~this~~ the private pay version.

"User's Manual: Virginia Uniform Assessment Instrument" means the department-designated handbook containing common definitions and procedures for completing the department-designated assessment form.

"Virginia Department of Medical Assistance Services (~~DMAS~~)" or "DMAS" means the single state agency designated to administer the Medical Assistance Services Program in Virginia.

Part II Assessment Services

22VAC40-745-20. Persons Individuals to be assessed.

A. All ~~residents of and applicants to assisted living facilities~~ must individuals applying to or residing in an ALF shall be assessed face-to-face using the ~~uniform assessment instrument UAI~~ prior to admission, at least annually, and whenever there is a significant change in the ~~resident's~~ individual's condition.

B. For private pay individuals, qualified staff of the ~~assisted living facility ALF~~ or an independent ~~private~~ physician may complete the ~~uniform assessment instrument UAI.~~ Qualified staff of the ~~assisted living facility~~ are ALF employees of the facility who have successfully completed state-approved training on the ~~uniform assessment instrument UAI~~ for either public or private pay assessments. The ~~assisted living facility ALF~~ maintains documentation of the completed training. The administrator or the administrator's designated representative ~~must~~ shall approve and sign the completed ~~uniform assessment instrument UAI~~ for private pay individuals. A private pay individual may request the assessment be completed by a qualified public human services agency assessor. When a public human services agency assessor completes the ~~uniform assessment instrument UAI~~ for a private pay individual, the agency may determine and charge a fee for private pay ~~applicants and residents; the fee assessments that~~ may not exceed the ~~fee paid by~~ amount DMAS reimburses for public pay ~~applicants and residents~~ assessments.

C. For public pay individuals, a ~~uniform assessment instrument the UAI~~ shall be completed by a case manager or a qualified assessor to determine the need for residential care or assisted living care services. The assessor is qualified to complete the assessment if the assessor has completed a state-approved training course on the ~~state designated uniform assessment instrument UAI.~~ Public human services agency assessors Assessors who prior to January 1, 2004, routinely complete, completed UAIs as part of their job descriptions, ~~uniform assessment instruments for applicants to or residents of assisted living facilities prior to January 1, 2004,~~ may be deemed to be qualified assessors without the completion of the training course. Qualified assessors who may initially authorize ~~assisted living facility ALF~~ services for public pay individuals are employees of ~~(i) local departments of social services; (ii) area agencies on aging; (iii) centers for independent living; (iv) community services boards; (v) local departments of health; (vi) state facilities operated by the Department of Mental Health, Mental Retardation and Substance Abuse Services, (vii) acute care hospitals, and (viii) Department of Corrections Community Release Units; and independent physicians.~~

1. Local departments of social services;
2. Area agencies on aging;
3. Centers for independent living;

- 4. Community services boards or behavioral health authorities;
- 5. Local departments of health;
- 6. State facilities operated by the Department of Behavioral Health and Developmental Services;
- 7. Acute-care hospitals;
- 8. Department of Corrections Community Release Units; and
- 9. Independent physicians who have a contract with DMAS to conduct ALF assessments.

D. The assisted living facility must For public pay individuals, the ALF shall coordinate with the assessor to ensure that the uniform assessment instrument UAI is completed as required. If the individual has not been assessed, the local department of social services eligibility worker shall inform the individual or the individual's legal representative of the need to be assessed by a qualified assessor prior to admission. If the individual has not applied for an auxiliary grant, the qualified assessor conducting the assessment shall inform the individual or the individual's legal representative of the need to submit an application for an auxiliary grant.

22VAC40-745-30. Determination of services to be provided.

A. The assessment shall be conducted with the department-designated uniform assessment instrument which using the UAI that sets forth a resident's an individual's care needs. The uniform assessment instrument UAI is designed to be a comprehensive, accurate, standardized, and reproducible assessment of individuals seeking or receiving long-term care services. The uniform assessment instrument UAI is comprised of a short assessment and a full assessment. The short assessment is designed to briefly assess the individual's need for appropriate level of care and services and to determine if a full assessment is needed. The uniform assessment instrument shall contain the following items: Full name of the individual; social security number; current address; date of birth; sex; marital status; racial/ethnic background; education; method for communication of needs; primary caregiver or emergency contact or both; usual living arrangements; problems with physical environmental; use of current formal services; annual income; sources of income; legal representatives; benefits or entitlements received; types of health insurance; performance on functional status which includes ADLs, continence, ambulation and IADLs; physician information; admissions to hospitals, nursing facilities or assisted living facilities for medical or rehabilitation reasons; advance directives; diagnoses and medication profile; sensory functioning; joint motion; presence of fractures/dislocations; missing limbs or paralysis/paresis; nutrition; smoking history; use of rehabilitation therapies; presence of pressure ulcers; need for special medical procedures; need for ongoing medical/nursing needs; orientation; memory and judgment; behavior pattern;

life stressors; emotional status; social history which includes activities, religious involvement; contact with family and friends; hospitalization for emotional problems; use of alcohol or drugs; assessment of caregivers; and an assessment summary.

B. Sections The following sections of the uniform assessment instrument which must UAI shall be completed are as follows:

1. The assessment for private pay individuals shall include the following portions of the uniform assessment instrument: name of the individual; social security number; current address; birthdate; sex; marital status; performance on For private pay individuals, the assessment shall include sections related to identification and background, functional status, which includes ADLs, continence, ambulation, IADLs, medication administration, and behavior pattern. In lieu of completing selected parts of the department designated uniform assessment instrument, the alternate uniform assessment instrument developed for private pay applicants and residents The private pay or public pay UAI may be used.

2. For public pay individuals, the short form of the uniform assessment instrument UAI shall be completed. The short form consists of sections related to identification and background, and functional status (i.e., the first four pages of the UAI), plus sections on medication administration, and behavior pattern. If, upon assessment, it is determined that the individual is dependent in at least two activities of daily living ADLs or is dependent in behavior, then the full assessment must shall be completed.

C. 1. The uniform assessment instrument UAI shall be completed within 90 days prior to the date of admission to the assisted living facility ALF. If there has been a significant change in the individual's condition since the completion of the uniform assessment instrument which UAI that would affect the admission to an assisted living facility ALF, a new uniform assessment instrument UAI shall be completed as specified in 22VAC40-745-20.

2. D. When a resident an individual moves to an assisted living facility ALF from another assisted living facility ALF, a new uniform assessment instrument UAI is not required except that a new uniform assessment instrument UAI shall be completed whenever there is a significant change in the resident's individual's condition or the assessment was completed more than 12 months ago.

3. E. In emergency placements, the uniform assessment instrument must UAI shall be completed within seven working days from the date of placement. An emergency placement shall occur only when the emergency is documented and approved by a Virginia adult protective services worker for public pay individuals or by a Virginia adult protective services worker or independent physician for private pay individuals.

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~~D. F.~~ The ~~uniform assessment instrument UAI~~ shall be completed ~~at least~~ annually on all ~~residents of assisted living facilities individuals residing in ALFs.~~ ~~Uniform assessment instruments UAIs~~ shall be completed ~~as needed~~ whenever there is a significant change in the ~~resident's individual's~~ condition. All ~~uniform assessment instruments UAIs~~ shall be completed as required by 22VAC40-745-20. The ALF shall provide an area for assessments and reassessment to be conducted that ensures the individual's privacy and protects confidentiality.

~~E. G.~~ At the request of the ~~assisted living facility ALF,~~ the ~~resident individual residing in the ALF,~~ the ~~resident's individual's~~ legal representative, the ~~resident's individual's~~ physician, DSS, or the local department of social services, an independent assessment using the ~~uniform assessment instrument UAI~~ shall be completed to determine whether the ~~resident's individual's~~ care needs are being met in the current ~~placement ALF.~~ An independent assessment is an assessment that is completed by an entity other than the original assessor. The ~~assisted living facility ALF~~ shall assist the ~~resident individual~~ in obtaining the independent assessment as requested. If the request is for a private pay ~~resident individual,~~ and the independent assessment confirms that the ~~resident's placement is appropriate,~~ then the entity requesting the independent assessment shall be responsible for ~~payment of paying for~~ the assessment, ~~if applicable.~~

~~F. H.~~ The assessor shall consult with other appropriate human service professionals as needed to complete the assessment.

~~G. I.~~ DMAS shall reimburse for completion of assessments and authorization of ~~assisted living facility ALF~~ placement for public pay ~~applicants and residents individuals~~ pursuant to this section.

22VAC40-745-40. Discharge.

~~A.~~ ~~Discharge is the process that ends the stay in an assisted living facility. Staff of the assisted living facility must plan for post discharge services when the public pay resident is returned to a home based placement, a nursing facility, or other placement ALF staff shall assist the individual and legal representative in the discharge or transfer process. Assisted living facility For public pay individuals, ALF staff shall notify in writing provide written notification of the individual's date and place of discharge or of the individual's death to the local department of social services financial eligibility worker in the jurisdiction responsible for authorizing the auxiliary grant and the public human services agency qualified assessor of the date and place of discharge as well as when a resident dies who conducted the most recent assessment. The assisted living facility must ALF shall make these notifications at least 14 calendar days prior to the resident's individual's planned discharge or within five calendar days after the individual's death of the resident. In the event of an emergency discharge as defined by 22VAC40-74-160 specified in 22VAC40-72-420, the notification shall~~

be made as rapidly as possible, but must be made by close of business on the day following the emergency discharge.

~~B.~~ Upon issuing a notice of summary order of suspension to an ~~assisted living facility ALF,~~ the Commissioner of the Virginia Department of Social Services or his designee shall contact the appropriate local department of social services to develop a relocation plan. ~~The residents of an assisted living facility Individuals residing in an ALF~~ whose license has been summarily suspended pursuant to § 63.2-1709 of the Code of Virginia shall be relocated as soon as possible to reduce the risk of ~~jeopardizing the to their~~ health, safety, and welfare ~~of residents.~~ ~~An assessment of the relocated resident is~~ New assessments of the individuals who are relocating are not required, pursuant to 22VAC40-745-30-C-3 22VAC40-745-30 D.

22VAC40-745-50. Authorization of services to be provided.

~~A.~~ The assessor is responsible for authorizing public payment to the individual for the appropriate level of care for upon admission to and for continued stay in an assisted living facility ALF.

~~B.~~ The ~~assisted living facility must ALF staff shall~~ be knowledgeable of the criteria for level of care in an ~~assisted living facility ALF~~ and is are responsible for ~~discharge of the resident whenever a resident discharging the individual when the individual~~ does not meet the criteria for level of care in an ~~assisted living facility ALF~~ upon admission or at any later time.

~~C.~~ The appropriate level of care ~~must shall~~ be documented on the ~~uniform assessment instrument UAI,~~ and completed in a manner consistent with the definitions of ~~activities of daily living ADLs~~ and directions provided in the User's Manual: Virginia Uniform Assessment Instrument as well as the requirements set forth in this chapter.

~~D.~~ During an inspection or review, staff from ~~either the department, DMAS, DSS or the local department of social services~~ may initiate a change in level of care for any ~~assisted living facility resident individual residing in the ALF~~ for whom it is determined that the ~~resident's uniform assessment instrument is not reflective of UAI~~ does not reflect the ~~resident's individual's~~ current status.

22VAC40-745-60. Criteria for residential living care.

Individuals shall meet the criteria for residential living as documented on the ~~uniform assessment instrument UAI~~ when at least one of the following describes their functional capacity:

1. Rated dependent in only one of seven ADLs (i.e., bathing, dressing, toileting, transferring, bowel function, bladder function, and eating/feeding).
2. Rated dependent in one or more of four selected IADLs (i.e., meal preparation, housekeeping, laundry, and money management).
3. Rated dependent in medication administration.

22VAC40-745-70. Criteria for assisted living care.

Individuals shall meet the criteria for assisted living as documented on the ~~uniform assessment instrument~~ UAI when at least one of the following describes their capacity:

1. Rated dependent in two or more of seven ADLs.
2. Rated dependent in behavior pattern (i.e., abusive, aggressive, and disruptive).

22VAC40-745-80. Rating of levels of care on the uniform assessment instrument.

A. The rating of functional dependencies on the ~~uniform assessment instrument~~ UAI shall be based on the individual's ability to function in a community environment.

B. ~~The~~ For purposes of this chapter, the following abbreviations shall mean: D = dependent; and TD = totally dependent. Mechanical help means equipment or a device or both are used; human help includes supervision and physical assistance. Asterisks (*) denote dependence in a particular function.

1. Activities of daily living.
 - a. Bathing.
 - (1) Without help
 - (2) Mechanical help only
 - (3) Human help only* (D)
 - (4) Mechanical help and human help* (D)
 - (5) Is performed by others* (TD)
 - b. Dressing.
 - (1) Without help
 - (2) Mechanical help only
 - (3) Human help only* (D)
 - (4) Mechanical help and human help* (D)
 - (5) Is performed by others* (TD)
 - (6) Is not performed* (TD)
 - c. Toileting.
 - (1) Without help
 - (2) Mechanical help only
 - (3) Human help only* (D)
 - (4) Mechanical help and human help* (D)
 - (5) Performed by others* (TD)
 - (6) Is not performed* (TD)
 - d. Transferring.
 - (1) Without help
 - (2) Mechanical help only
 - (3) Human help only* (D)
 - (4) Mechanical help and human help* (D)
 - (5) Is performed by others* (TD)
 - (6) Is not performed* (TD)

e. Bowel function.

- (1) Continent
- (2) Incontinent less than weekly
- (3) Ostomy self-care
- (4) Incontinent weekly or more* (D)
- (5) Ostomy not self-care* (TD)

f. Bladder function.

- (1) Continent
- (2) Incontinent less than weekly
- (3) External device, indwelling catheter, ostomy, self-care
- (4) Incontinent weekly or more* (D)
- (5) External device, not self-care* (TD)
- (6) Indwelling catheter, not self-care* (TD)
- (7) Ostomy, not self-care* (TD)

g. Eating/feeding.

- (1) Without help
- (2) Mechanical help only
- (3) Human help only* (D)
- (4) Mechanical help and human help* (D)
- (5) Performed by others (includes spoon fed, syringe/tube fed, fed by IV)* (TD)

2. Behavior pattern.

- a. Appropriate
- b. Wandering/passive less than weekly
- c. Wandering/passive weekly or more
- d. Abusive/aggressive/disruptive less than weekly* (D)
- e. Abusive/aggressive/disruptive weekly or more* (D)

3. Instrumental activities of daily living.

a. Meal preparation.

- (1) No help needed
- (2) Needs help* (D)

b. Housekeeping.

- (1) No help needed
- (2) Needs help* (D)

c. Laundry.

- (1) No help needed
- (2) Needs help* (D)

d. Money management.

- (1) No help needed
- (2) Needs help* (D)

4. Medication administration.

a. Without assistance

b. Administered/monitored by lay person* (D)

c. Administered/monitored by professional staff* (D)

Regulations

22VAC40-745-90. Actions to be taken upon completion of the uniform assessment instrument.

A. Public pay individuals.

1. Upon completion of the ~~uniform assessment instrument UAI~~ for admission, a significant change in the ~~resident's individual's~~ condition, or the annual reassessment, the case manager or a qualified assessor shall forward to the local department of social services ~~financial~~ eligibility worker in the appropriate agency of jurisdiction, in the format specified by the department, the effective date of admission or change in level of care. Qualified assessors who ~~may~~ are authorized to perform the annual reassessment or a change in level of care for public pay individuals are employees of (i) local departments of social services; (ii) area agencies on aging; (iii) centers for independent living; (iv) community services boards or behavioral health authority; and (v) local departments of health, or an independent physician ~~to complete the uniform assessment instrument who has a contract with DMAS to conduct assessments.~~

2. The completed ~~uniform assessment instrument UAI~~, the referral to the ~~financial~~ eligibility worker, and other relevant data shall be maintained in the individual's record at the assisted living facility resident's record ALF.

3. The annual reassessment shall be completed by the qualified assessor conducting the initial assessment. If the original assessor is neither willing nor able to complete the assessment and another assessor is not available, the local department of social services where the ~~resident individual~~ resides following placement in an assisted living facility in the ALF shall be the assessor, except that individuals who receive services from a community service board or behavioral health authority shall be assessed and reassessed by qualified assessors employed by the community services board or behavioral health authority.

4. ~~Clients of a community services board shall be assessed and reassessed by qualified assessors employed by the community services board.~~

5. ~~4.~~ The facility ALF shall ~~provide to notify~~ the community services board or behavioral health authority ~~notification of uniform assessment instruments that when UAIs~~ indicate observed behaviors or patterns of behavior indicative of mental illness, intellectual disability, substance abuse, or behavioral disorders, pursuant to § 63.2-1805 B of the Code of Virginia.

B. For private pay ~~residents individuals~~, the ~~assisted living facility ALF~~ shall ensure that assessments for all ~~residents individuals~~ at admission and at subsequent intervals are completed as required in this chapter. The ~~assisted living facility ALF~~ shall maintain ~~in the resident's record the resident's uniform assessment instrument the individual's UAI~~ and other relevant data in the individual's ALF record.

22VAC40-745-100. Targeted case management for ~~auxiliary grant recipients~~ individuals receiving an auxiliary grant.

A. Targeted case management shall be limited to those ~~residents individuals~~ who have multiple needs across multiple providers and this coordination is beyond the scope of the ~~assisted living facility ALF~~. It shall be the responsibility of the assessor who identifies the individual's need for residential care or assisted living care in an ~~assisted living facility ALF~~ to assess the need for targeted case management services as defined in ~~Part IV (12VAC30-50-410 et seq.) of 12VAC30-50~~ 12VAC30-50-470.

B. A case management agency ~~must~~ shall have signed an agreement with DMAS to be reimbursed for the provision of targeted case management ~~services to auxiliary grant recipients~~ for individuals receiving an auxiliary grant.

C. The local department of social services where the ~~adult individual~~ resides, following ~~placement in an assisted living facility admission to an ALF~~, shall be the case management agency when there is no other qualified case management provider willing or able to provide case management services.

D. A qualified case manager ~~must~~ shall possess a combination of relevant work experience in human services or health care and relevant education which indicates that the individual possesses the knowledge, skills, and abilities at entry level as defined in ~~Part IV (12VAC30-50-410 et seq.) of 12VAC30-50~~ 12VAC30-50-470. This must be documented on the case manager's job application form or supporting documentation or observable in the job or promotion interview. When the provider agency is a local department of social services, case managers shall meet the qualifications for social work/social work supervisor classification as specified in ~~22VAC40-670~~ 22VAC40-670-20.

Part III Resident Appeals

22VAC40-745-110. ~~Resident appeals~~ Appeals.

Assessors shall advise orally and in writing all ~~applicants to and residents of assisted living facilities~~ public pay individuals for ~~which whom~~ assessment or targeted case management services or both are provided of the right to appeal the outcome of the assessment, the annual reassessment, or determination of level of care. ~~Applicants for auxiliary grants~~ An individual who are is denied an auxiliary grant because the assessor determines that ~~they do~~ the individual does not require the minimum level of services offered in the residential ~~care level have~~ of care has the right to file an appeal with the department of under § 63.2-517 of the Code of Virginia. A determination that the individual does not meet the criteria to receive assisted living level of care is an action which is appealable to DMAS.

NOTICE: The following forms used in administering the regulation were filed by the agency. The forms are not being published; however, online users of this issue of the Virginia

Register of Regulations may click on the name to access a form. The forms are also available from the agency contact or may be viewed at the Office of the Registrar of Regulations, General Assembly Building, 2nd Floor, Richmond, Virginia 23219.

FORMS (22VAC40-745)

[Virginia Uniform Assessment Instrument for Private Pay Residents of Assisted Living Facilities \(rev. 1/10\).](#)

[Virginia Uniform Assessment Instrument, UAI \(1994\).](#)

DOCUMENTS INCORPORATED BY REFERENCE
(22VAC40-745)

~~User's Manual: Virginia Uniform Assessment Instrument (UAI), Commonwealth of Virginia, Revised April 1998.~~

[User's Manual: Virginia Uniform Assessment Instrument \(UAI\), Commonwealth of Virginia \(rev. 7/05\).](#)

VA.R. Doc. No. R11-2585; Filed November 5, 2012, 12:54 p.m.

GOVERNOR

Executive Order No. 54 (2012)

Designation of the Director of the Department of Housing and Community Development as the Delegate of the Governor to Make the Certifications Required by Section 1.25-4T(d) of the Regulations of the U.S. Department of the Treasury

Importance of the Initiative

By virtue of the Authority vested in me as Governor under Article V of the Constitution of Virginia and under the laws of the Commonwealth, including but not limited to Chapter 1 of Title 2.2 of the Code of Virginia, and under Title 26 Code of Federal Regulations Section 1.25-4T(d) and subject always to my continuing and ultimate authority and responsibility to act in such matters, I hereby designate the Director of the Department of Housing and Community Development as the delegate of the Governor for the purpose of making the certifications required by Title 26 Code of Federal Regulations Section 1.25-4T(d) that the issues of Mortgage Credit Certificates (as defined in Section 25 of the Internal Revenue Code of 1986, as amended) meet the requirements of Section 146 of the Internal Revenue Code of 1986, as amended, and the regulations thereunder relating to volume limitation.

Effective Date of the Executive Order

This Executive Order shall be effective November 14, 2012 and shall remain in full force and effect unless amended or rescinded by further executive order.

Given under my hand and under the Seal of the Commonwealth of Virginia, this 14th day of November, 2012.

/s/ Robert F. McDonnell
Governor

GENERAL NOTICES/ERRATA

DEPARTMENT FOR AGING AND REHABILITATIVE SERVICES

Notice of Periodic Review

Pursuant to Executive Order 14 (2010) and §§ 2.2-4007.1 and 2.2-4017 of the Code of Virginia, the Department for Aging and Rehabilitative Services is conducting a periodic review of:

22VAC30-20, Provision of Vocational Rehabilitation Services

22VAC30-30, Provision of Independent Living Rehabilitation Services

22VAC30-60, Grants to Area Agencies on Aging

22VAC30-70, The Virginia Public Guardian and Conservator Program

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

The comment period begins December 3, 2012, and ends on December 24, 2012.

Comments may be submitted online to the Virginia Regulatory Town Hall at <http://www.townhall.virginia.gov/L/Forums.cfm>.

Comments may also be sent to Vanessa S. Rakestraw, Ph.D., CRC, Regulatory Coordinator, Department for Aging and Rehabilitative Services, 8004 Franklin Farms Drive, Richmond, VA 23229, telephone (804) 662-7612, FAX (804) 662-7663, or email vanessa.rakestraw@dars.virginia.gov.

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

DEPARTMENT OF ENVIRONMENTAL QUALITY

Regulatory Reform - Public Comment Opportunity

Purpose of notice: To seek public comment on regulations of the Department of Environmental Quality (DEQ), State Air Pollution Control Board, State Water Control Board, and Virginia Waste Management Board that should be amended or repealed.

Public comment period: November 8, 2012, to December 10, 2012

Description: On October 22, 2012, Governor McDonnell announced the Regulatory Reform Initiative. As part of that initiative the Governor charged regulatory agencies to conduct a review of regulations currently in place and to repeal or amend regulations that are unnecessary or no longer in use and reduce unnecessary regulatory burdens on individuals, businesses, and other regulated groups. In response, the Department of Environmental Quality is currently reviewing all regulations of the department and the three regulatory boards and is seeking input from the public on regulations that should be considered for repeal or amendment based on the Governor's criteria.

How to comment: DEQ accepts written comments by email, fax, or postal mail. Written comments should include the name, address, and telephone number of the person commenting and be received by DEQ during the comment period.

Contact Information: Cindy Berndt, Regulatory Coordinator, Department of Environmental Quality, 629 East Main Street, P.O. Box 1105, Richmond, VA 23218, telephone (804) 698-4378, FAX (804) 698-4346, TDD (804) 698-4021, or email cindy.berndt@deq.virginia.gov.

Notice of Public Meeting and Public Comment for Several Total Maximum Daily Load Studies in Waters in Northampton and Accomack Counties

The Virginia Department of Environmental Quality (DEQ) will host a public meeting on water quality studies for Red Bank Creek and a portion of Machipongo River located in Northampton and Accomack Counties on Thursday, December 13, 2012.

The meeting will start at 6:30 p.m. at the Northampton Free Library located at 7745 Seaside Road, Nassawadox, VA 23413. The purpose of the meeting is to provide information and discuss the study with community members and local government.

Red Bank Creek (Enterococci, E.coli, fecal coliform, dissolved oxygen) and Machipongo River (Enterococci) were identified in Virginia's 2010 Water Quality Assessment & Integrated Report as impaired due to violations of the state's water quality standards for recreation bacteria, dissolved oxygen, and shellfish consumption bacteria and do not support the Designated Uses. The Red Bank Creek watershed includes both riverine and tidal portions of the creek. The Machipongo River watershed only includes the area of the stream covered from the end of tidal waters downstream to 0.5 mile south of Route 182.

Section 303(d) of the Clean Water Act and § 62.1-44.19:7 C of the Code of Virginia require DEQ to develop TMDLs for pollutants responsible for each impaired water contained in

General Notices/Errata

Virginia's § 303(d) TMDL Priority List and Report and subsequent Water Quality Assessment Reports.

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

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

The public comment period on materials presented at this meeting will extend from December 14, 2012, to January 14, 2013. For additional information or to submit comments, contact Jennifer Howell, Department of Environmental Quality, Tidewater Regional Office, 5636 Southern Blvd., Virginia Beach, VA 23462, telephone (757) 518-2111, or email jennifer.howell@deq.virginia.gov.

DEPARTMENT OF FORENSIC SCIENCE

Approval of Field Tests for Detection of Drugs

In accordance with 6VAC40-30, Regulations for the Approval of Field Tests for Detection of Drugs, and under the authority of the Code of Virginia, the following field tests for detection of drugs are approved field tests:

O D V INCORPORATED
13386 INTERNATIONAL PARKWAY
JACKSONVILLE, FLORIDA 32218-2383

ODV NarcoPouch

Drug or Drug Type:

Heroin
Amphetamine
Methamphetamine
3,4-Methylenedioxymethamphetamine (MDMA)
Cocaine Hydrochloride
Cocaine Base
Barbiturates
Lysergic Acid Diethylamide (LSD)
Marijuana
Hashish Oil
Marijuana
Hashish Oil
Phencyclidine (PCP) Reagent
Heroin
Methamphetamine
3,4-Methylenedioxymethamphetamine (MDMA)
Heroin
Diazepam
Ketamine
Ephedrine
gamma – Hydroxybutyrate (GHB)

ODV NarcoTest

Drug or Drug Type:

Heroin
Amphetamine
Methamphetamine
3,4-Methylenedioxymethamphetamine (MDMA)
Barbiturates
Lysergic Acid Diethylamide (LSD)
Marijuana
Hashish Oil
Marijuana
Hashish Oil
Cocaine Hydrochloride

Manufacturer's Field Test:

902 – Marquis Reagent
902 – Marquis Reagent
902 – Marquis Reagent
902 – Marquis Reagent
904 or 904B – Cocaine HCl and Base Reagent
904 or 904B – Cocaine HCl and Base Reagent
905 – Dille-Koppanyi Reagent
907 – Ehrlich's (Modified) Reagent
908 – Duquenois – Levine Reagent
908 – Duquenois – Levine Reagent
909 – K N Reagent
909 – K N Reagent
914 – PCP Methaqualone
922 – Opiates Reagent
923 – Methamphetamine/Ecstasy Reagent
923 – Methamphetamine/Ecstasy Reagent
924 – Mecke's (Modified) Reagent
925 – Valium/Ketamine Reagent
925 – Valium/Ketamine Reagent
927 – Ephedrine Reagent
928 – GHB Reagent

Manufacturer's Field Test:

7602 – Marquis Reagent
7602 – Marquis Reagent
7602 – Marquis Reagent
7602 – Marquis Reagent
7605 – Dille-Koppanyi Reagent
7607 – Ehrlich's (Modified) Reagent
7608 – Duquenois Reagent
7608 – Duquenois Reagent
7609 – K N Reagent
7609 – K N Reagent
7613 – Scott (Modified) Reagent

Cocaine Base
Phencyclidine (PCP)
Heroin
Methamphetamine
3,4-Methylenedioxymethamphetamine (MDMA)
Heroin
Diazepam
Ketamine
Ephedrine
gamma – Hydroxybutyrate (GHB)

7613 – Scott (Modified) Reagent
7614 – PCP Methaqualone Reagent
7622 – Opiates Reagent
7623– Methamphetamine/Ecstasy Reagent
7623– Methamphetamine/Ecstasy Reagent
7624 – Mecke's Reagent
7625 – Valium/Ketamine Reagent
7625 – Valium/Ketamine Reagent
7627 – Chen's Reagent - Ephedrine
7628 – GHB Reagent

SIRCHIE FINGERPRINT LABORATORIES
100 HUNTER PLACE
YOUNGSVILLE, NORTH CAROLINA 27596

NARK

Drug or Drug Type:

Narcotic Alkaloids
Heroin
Morphine
Amphetamine
Methamphetamine
Opium Alkaloids
Heroin
Morphine
Amphetamine
Methamphetamine
3,4-Methylenedioxymethamphetamine (MDMA)
Meperidine (Demerol) (Pethidine)
Heroin
Morphine
Cocaine Hydrochloride
Cocaine Base
Procaine
Tetracaine
Barbiturates
Heroin
Morphine
Amphetamine
Methamphetamine
Lysergic Acid Diethylamide (LSD)
Marijuana
Hashish
Hashish Oil
Tetrahydrocannabinol (THC)
Marijuana
Hashish
Hashish Oil
Tetrahydrocannabinol (THC)
Cocaine Base

Manufacturer's Field Test:

1 – Mayer's Reagent
1 – Mayer's Reagent
1 – Mayer's Reagent
1 – Mayer's Reagent
1 – Mayer's Reagent
2 – Marquis Reagent
2 – Marquis Reagent
2 – Marquis Reagent
2 – Marquis Reagent
2 – Marquis Reagent
2 – Marquis Reagent
2 – Marquis Reagent
2 – Marquis Reagent
3 – Nitric Acid
3 – Nitric Acid
4 – Cobalt Thiocyanate Reagent
4 – Cobalt Thiocyanate Reagent
4 – Cobalt Thiocyanate Reagent
4 – Cobalt Thiocyanate Reagent
5 – Dille-Koppanyi Reagent
6 – Mandelin Reagent
6 – Mandelin Reagent
6 – Mandelin Reagent
6 – Mandelin Reagent
6 – Mandelin Reagent
7 – Ehrlich's Reagent
8 – Duquenois Reagent
8 – Duquenois Reagent
8 – Duquenois Reagent
8 – Duquenois Reagent
9 – NDB (Fast Blue B Salt) Reagent
9 – NDB (Fast Blue B Salt) Reagent
9 – NDB (Fast Blue B Salt) Reagent
9 – NDB (Fast Blue B Salt) Reagent
13 – Cobalt Thiocyanate/Crack Test

NARK II

Drug or Drug Type:

Narcotic Alkaloids
Heroin
Morphine
Amphetamine
Methamphetamine

Manufacturer's Field Test:

01 – Marquis Reagent
01 – Marquis Reagent
01 – Marquis Reagent
01 – Marquis Reagent
01 – Marquis Reagent

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3,4-Methylenedioxymethamphetamine (MDMA)
Morphine
Heroin
Barbiturates
Lysergic Acid Diethylamide (LSD)
Marijuana
Hashish
Hashish Oil
Tetrahydrocannabinol (THC)
Cocaine Hydrochloride
Cocaine Base
Phencyclidine (PCP)
Opiates
Heroin
Morphine
Buprenorphine
Heroin
3,4-Methylenedioxymethamphetamine (MDMA)
Pentazocine
Ephedrine
Diazepam
Methamphetamine
Narcotic Alkaloids
Heroin
Morphine
Amphetamine
Methamphetamine
3,4-Methylenedioxypyrovalerone (MDPV)
4-Methylmethcathinone (Mephedrone)
Alpha-pyrrolidinovalerophenone (other name: alpha-PVP)
Psilocybin

ARMOR HOLDINGS, INCORPORATED
13386 INTERNATIONAL PARKWAY
JACKSONVILLE, FLORIDA 32218-2383

NIK

Drug or Drug Type:

Heroin
Amphetamine
Methamphetamine
3,4-Methylenedioxymethamphetamine (MDMA)
Morphine
Barbiturates
Lysergic Acid Diethylamide (LSD)
Marijuana
Hashish Oil
Tetrahydrocannabinol
Cocaine Hydrochloride
Cocaine Base
Cocaine Hydrochloride
Cocaine Base
Phencyclidine (PCP)
Heroin
Heroin
gamma – Hydroxybutyrate (GHB)
Ephedrine

01 – Marquis Reagent
02 – Nitric Acid
02 – Nitric Acid
03 – Dille-Koppanyi Reagent
04 – Ehrlich's Reagent
05 – Duquenois – Levine Reagent
05 – Duquenois – Levine Reagent
05 – Duquenois – Levine Reagent
05 – Duquenois – Levine Reagent
07 – Scott's (Modified) Reagent
07 – Scott's (Modified) Reagent
09 – Phencyclidine Reagent
10 – Opiates Reagent
10 – Opiates Reagent
10 – Opiates Reagent
10 – Special Opiates Reagent
11 – Mecke's Reagent
11 – Mecke's Reagent
12 – Talwin/ Pentazocine Reagent
13 – Ephedrine Reagent
14 – Valium Reagent
15 – Methamphetamine (Secondary Amines Reagent)
19 – Mayer's Reagent
19 – Mayer's Reagent
19 – Mayer's Reagent
19 – Mayer's Reagent
19 – Mayer's Reagent
24 – MDPV (Bath Salts) Reagent
25 – Mephedrone (Bath Salts) Reagent
26 – A-PVP (Synthetic Stimulant) Reagent
30 – Psilocybin/Psilocin Reagent (NARK20030)

Manufacturer's Field Test:

Test A 6071 – Marquis Reagent
Test A 6071 – Marquis Reagent
Test A 6071 – Marquis Reagent
Test A 6071 – Marquis Reagent
Test B 6072 – Nitric Acid Reagent
Test C 6073 – Dille-Koppanyi Reagent
Test D 6074 – LSD Reagent System
Test E 6075 – Duquenois – Levine Reagent
Test E 6075 – Duquenois – Levine Reagent
Test E 6075 – Duquenois – Levine Reagent
Test G 6077 – Scott (Modified) Reagent
Test G 6077 – Scott (Modified) Reagent
6500 or 6501 – Cocaine ID Swab
6500 or 6501 – Cocaine ID Swab
Test J 6079 – PCP Reagent System
Test K 6080 – Opiates Reagent
Test L 6081 – Brown Heroin Reagent System
Test O 6090 – GHB Reagent
Test Q 6085 – Ephedrine Reagent

Pseudoephedrine
Diazepam
Methamphetamine
3,4-Methylenedioxymethamphetamine (MDMA)
Methadone

MISTRAL SECURITY INCORPORATED
7910 WOODMONT AVENUE SUITE 820
BETHESDA, MARYLAND 20814

Drug or Drug Type:

Heroin
Amphetamine
Methamphetamine
Marijuana
Hashish Oil
Methamphetamine
Heroin
Marijuana
Hashish Oil
Cocaine Hydrochloride
Cocaine Base
Marijuana
Phencyclidine
Amphetamine
Ketamine
Methamphetamine
Ephedrine
Heroin
Methadone
Buprenorphine
Opium
Phenobarbital
Marijuana
Phencyclidine
Cocaine Hydrochloride
Cocaine base
Buprenorphine
Cocaine Hydrochloride
Cocaine base
Ephedrine
Ketamine
Heroin
Lysergic Acid Diethylamide (LSD)
Methadone
Methamphetamine
Heroin
Methadone
Lysergic Acid Diethylamide
Methamphetamine
3,4-Methylenedioxymethamphetamine (MDMA)
Morphine
Opium
Diazepam
Ephedrine
Pseudoephedrine

Test Q 6085 – Ephedrine Reagent
Test R 6085 – Valium Reagent
Test U 6087 – Methamphetamine Reagent
Test U 6087 – Methamphetamine Reagent
Test W 6088 – Mandelin Reagent System

Manufacturer's Field Test:

Detect 4 Drugs Aerosol
Detect 4 Drugs Aerosol
Detect 4 Drugs Aerosol
Detect 4 Drugs Aerosol
Detect 4 Drugs Aerosol
Meth 1 and 2 Aerosol
Herosol Aerosol
Cannabispray 1 and 2 Aerosol
Cannabispray 1 and 2 Aerosol
Coca-Test Aerosol
Coca-Test Aerosol
Pen Test – D4D
Pen Test – D4D
Pen Test – D4D
Pen Test – D4D
Pen Test – D4D
Pen Test – D4D
Pen Test – D4D
Pen Test – D4D
Pen Test – D4D
Pen Test – D4D
Pen Test – D4D
Pen Test – D4D
Pen Test – Barbitusol
Pen Test – Cannabis Test
Pen Test – Coca Test
Pen Test – Coca Test
Pen Test – Coca Test
Pen Test – C&H Test
Pen Test – C&H Test
Pen Test – C&H Test
Pen Test – C&H Test
Pen Test – C&H Test
Pen Test – C&H Test
Pen Test – C&H Test
Pen Test – C&H Test
Pen Test – C&H Test
Pen Test – C&H Test
Pen Test – C&H Test
Pen Test – Herosol
Pen Test – Herosol
Pen Test – LSD Test
Pen Test – Meth/X Test
Pen Test – Meth/X Test
Pen Test – Opiatest
Pen Test – Opiatest
Pen Test – BZO
Pen Test – Ephedrine
Pen Test – Ephedrine

General Notices/Errata

JANT PHARMACAL CORPORATION
16255 VENTURA BLVD., #505
ENCINO, CA 91436

Formerly available through:
MILLENNIUM SECURITY GROUP

Accutest IDenta

Drug or Drug Type:

Marijuana
Hashish Oil
Heroin
Cocaine Hydrochloride
Cocaine Base
3,4-Methylenedioxymethamphetamine (MDMA)
Methamphetamine

COZART PLC

92 MILTON PARK
ABINGDON, OXFORDSHIRE ENGLAND OX14 4RY

Drug or Drug Type:

Cocaine
Lynn Peavey Company
10749 West 84th Terrace
Lexexa, KS 66214

QuickCheck

Drug or Drug Type:

Marijuana
Marijuana
Hashish Oil
Hashish Oil
Heroin
Heroin
Cocaine Hydrochloride
Cocaine Base
Methamphetamine
Methamphetamine
MDMA
MDMA

M.M.C. INTERNATIONAL B.V.
FRANKENTHALERSTRAAT 16-18
4816 KA BREDA
THE NETHERLANDS

Drug or Drug Type:

Heroin
Morphine
Amphetamine
Methamphetamine
Codeine
Marijuana
Hashish Oil
Cocaine Hydrochloride
Cocaine base
Heroin
Ketamine
Methadone
Methamphetamine

Manufacturer's Field Test:

Marijuana/Hashish (Duquenois-Levine Reagent)
Marijuana/Hashish (Duquenois-Levine Reagent)
Heroin Step 1 and Step 2
Cocaine/Crack Step 1 and Step 2
Cocaine/Crack Step 1 and Step 2
MDMA Step 1 and Step 2
Methamphetamine Step 1 and Step 2

Manufacturer's Field Test:

Cocaine Solid Field Test

Manufacturer's Field Test:

Marijuana – 10120
Marijuana – 10121
Marijuana – 10120
Marijuana – 10121
Marquis – 10123
Heroin - 10125
Cocaine – 10124
Cocaine – 10124
Meth/Ecstasy – 10122
Marquis – 10123
Meth/Ecstasy – 10122
Marquis – 10123

Manufacturer's Field Test:

Opiates/Amphetamine Test (Ampoule)
Opiates/Amphetamine Test (Ampoule)
Opiates/Amphetamine Test (Ampoule)
Opiates/Amphetamine Test (Ampoule)
Opiates/Amphetamine Test (Ampoule)
Cannabis Test (Ampoule)
Cannabis Test (Ampoule)
Cocaine/Crack Test (Ampoule)
Cocaine/Crack Test (Ampoule)
Heroin Test (Ampoule)
Ketamine Test (Ampoule)
Methadone Test (Ampoule)
Crystal Meth/XTC Test (Ampoule)

3,4-Methylenedioxyamphetamine (MDMA)
 Morphine
 Heroin
 Ephedrine
 Pseudoephedrine
 Pentazocine
 Buprenorphine
 Gamma butyrolactone (GBL)
 Gamma hydroxybutyric acid (GHB)
 Oxycodone
 Oxymetholone
 Testosterone
 Methandrostenolone
 Phenylacetone
 Lysergic Acid Diethylamide (LSD)
 Phencyclidine (PCP)
 Methaqualone
 Amobarbital
 Pentobarbital
 Phenobarbital
 Secobarbital
 Propoxyphene
 Diazepam
Drug or Drug Type:
 Cocaine Hydrochloride
 Cocaine base
 Cocaine Hydrochloride
 Cocaine base
 Morphine
 Heroin
 3,4-Methylenedioxyamphetamine (MDMA)
 Methamphetamine
 Amphetamine

Crystal Meth/XTC Test (Ampoule)
 M&H Test (Ampoule)
 M&H Test (Ampoule)
 Ephedrine HCL Test (Ampoule)
 Ephedrine HCL Test (Ampoule)
 Pentazocine Test (Ampoule)
 Buprenorphine HCL Test (Ampoule)
 GBL Test (Ampoule)
 GHB Test (Ampoule)
 Oxycodone Test (Ampoule)
 Steroids Test B (Ampoule)
 Steroids Test B (Ampoule)
 Steroids Test B (Ampoule)
 PMK/BMK(BMK) Test (Ampoule)
 LSD Test (Ampoule)
 PCP Test (Ampoule)
 Methaqualone Test (Ampoule)
 Barbiturates Test (Ampoule)
 Barbiturates Test (Ampoule)
 Barbiturates Test (Ampoule)
 Barbiturates Test (Ampoule)
 Propoxyphene Test (Ampoule)
 V&R Test (Ampoule)
Manufacturer's Field Test:
 Cocaine/Crack Test (Spray)
 Cocaine/Crack Test (Spray)
 Cocaine Trace Wipes
 Cocaine Trace Wipes
 Opiate Cassette
 Opiate Cassette
 MDMA/Ecstasy Cassette
 Methamphetamine Cassette
 Amphetamine Cassette

BOARD OF NURSING

Notice of Periodic Review

Pursuant to Executive Order 14 (2010) and §§ 2.2-4007.1 and 2.2-4017 of the Code of Virginia, the Board of Nursing is conducting a periodic review of:

- 18VAC90-30, Regulations Governing the Licensure of Nurse Practitioners
- 18VAC90-40, Regulations for Prescriptive Authority for Nurse Practitioners

The review is part of the Governor's Regulatory Reform Project with the goal of:

- a. Repealing regulations that are unnecessary or no longer in use;
- b. Reducing unnecessary regulatory burdens on individuals, businesses, and other regulated groups; and
- c. Identifying statutes that require unnecessary or overly burdensome regulations.

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

The comment period begins November 28, 2012, and ends December 28, 2012. Comments may be submitted online to the Virginia Regulatory Town Hall at <http://www.townhall.virginia.gov/L/Forums.cfm>. Comments may also be sent to Elaine J. Yeatts, Agency Regulatory Coordinator, Department of Health Professions, 9960 Mayland Drive, Suite 300, Henrico, VA 23233, FAX (804) 527-4434, or email elaine.yeatts@dhp.virginia.gov.

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

General Notices/Errata

STATE BOARD OF SOCIAL SERVICES

Notice of Periodic Review

Pursuant to Executive Order 14 (2010) and §§ 2.2-4007.1 and 2.2-4017 of the Code of Virginia, the State Board of Social Services is conducting a periodic review of:

22VAC40-100, Minimum Standards for Licensed Child Caring Institutions

22VAC40-141, Licensing Standards for Independent Foster Homes

22VAC40-705, Child Protective Services

The review of each regulation will be guided by the principles in Executive Order 14 (2010) and § 2.2-4007.1 of the Code of Virginia.

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

The comment period begins December 3, 2012, and ends December 24, 2012.

Comments may be submitted online to the Virginia Regulatory Town Hall at <http://www.townhall.virginia.gov/L/Forums.cfm>. Comments may also be sent to Sharon Lindsay, Program Consultant, Department of Social Services, 801 East Main Street, Richmond, VA 23219, telephone (804) 726-7167, FAX (804) 726-7132, or email sharon.lindsay@dss.virginia.gov.

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

STATE WATER CONTROL BOARD

Notice of Periodic Review

Pursuant to Executive Order 14 (2010) and §§ 2.2-4007.1 and 2.2-4017 of the Code of Virginia, the Department of Environmental Quality, on behalf of the State Water Control Board, will conduct a periodic review of 9VAC25-200, Water Withdrawal Reporting.

The review of this regulation will be guided by the principles in Executive Order 14 (2010) and § 2.2-4007.1 of the Code of Virginia.

The purpose of this review is to determine whether this regulation should be terminated, amended, or retained in its current form. The department and the board are seeking public comments on the review of any issue relating to the regulation including whether (i) the regulation is effective in achieving its goals; (ii) the regulation is essential to protect the health, safety, or welfare of citizens or for the economical performance of important governmental functions; (iii) there are available alternatives for achieving the purpose of the regulation; (iv) there are less burdensome and less intrusive alternatives for achieving the purpose of the regulation; and (v) the regulation is clearly written and easily understandable by the affected persons. In addition, the department and the board are seeking public comments on ways to minimize the economic impact on small businesses in a manner consistent with the purpose of the regulation. The purpose of this regulation is to document the amount of water withdrawn from surface and ground water resources by requiring withdrawers to annually report their withdrawals. Information received assists with efficiently planning for water supply needs of the citizens by identifying areas where water withdrawals can cause significant impact on the local water supply sources. The information is also used as input for water quantity models used in issuing water withdrawal permits. This regulation is designed to protect public health and welfare with the least possible costs and intrusiveness to the citizens and businesses of the Commonwealth and to provide the necessary procedures and rules by which the statute may be administered.

The comment period begins December 3, 2012, and ends December 28, 2012.

Comments may be submitted online to the Virginia Regulatory Town Hall at <http://www.townhall.virginia.gov/L/Forums.cfm>. Comments may also be sent to Tammy D. Stephenson, Program Coordinator, Office of Water Supply, Department of Environmental Quality, 3019 Peters Creek Road, Roanoke, VA 24019, telephone (540) 562-6828, FAX (540) 562-6725, or email tammy.stephenson@deq.virginia.gov.

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

Proposed Consent Order for the Town of Craigsville

An enforcement action has been proposed for the Town of Craigsville for violations in Augusta County. A proposed consent order amendment describes a settlement to resolve consent order violations at the Craigsville sewage treatment plant. A description of the proposed action is available at the Department of Environmental Quality office named below or online at www.deq.virginia.gov. Steven W. Hetrick will

accept comments by email at steven.hetrick@deq.virginia.gov, FAX (540) 574-7878, or postal mail at Department of Environmental Quality, Valley Regional Office, P.O. Box 3000, 4411 Early Road, Harrisonburg, VA 22801, from December 17, 2012, to January 16, 2013.

Proposed Consent Order for County of Culpeper

An enforcement action has been proposed for the County of Culpeper for violations of the State Water Control Law and regulations in Culpeper County. The State Water Control Board proposes to issue a consent order to the County of Culpeper to resolve violations at the Greens Corner Wastewater Treatment Plant. A description of the proposed action is available at the Department of Environmental Quality office named below or online at www.deq.virginia.gov. Daniel Burstein will accept comments by email at daniel.burstein@deq.virginia.gov, FAX (703) 583-3821, or postal mail at Department of Environmental Quality, Northern Regional Office, 13901 Crown Court, Woodbridge, VA 22193, from December 4, 2012, through January 3, 2013.

Proposed Consent Special Order for Howard Hughes Medical Institute

An enforcement action has been proposed for Howard Hughes Medical Institute for violations of the State Water Control Law and regulations in Loudoun County associated with the Janelia Farm Research Campus. The consent order describes a settlement to resolve violations associated with the mowing of a compensatory wetland creation site. A description of the proposed action is available at the Department of Environmental Quality office named below or online at www.deq.virginia.gov. Stephanie Bellotti will accept comments by email at stephanie.bellotti@deq.virginia.gov, FAX (703) 583-3821, or postal mail at Department of Environmental Quality, Northern Regional Office, 13901 Crown Court, Woodbridge, VA 22193, from December 4, 2012, through January 3, 2013.

Proposed Consent Special Order for Clyde W. Hudgins Jr. and Mary Alice Hudgins

An enforcement action has been proposed for Clyde W. Hudgins Jr. and Mary Alice Hudgins for alleged violations at 178 Khyber Pass Trail, Mathews County, VA. The State Water Control Board proposes to issue a consent special order to Clyde W. Hudgins Jr. and Mary Alice Hudgins to address noncompliance with State Water Control Board law. A description of the proposed action is available at the Department of Environmental Quality office named below or online at www.deq.virginia.gov. Gina Pisoni will accept comments by email at gina.pisoni@deq.virginia.gov, FAX (804) 527-5106, or postal mail at Department of Environmental Quality, Piedmont Regional Office, 4949-A

Cox Road, Glen Allen, VA 23060, from December 3, 2012, to January 5, 2013.

Proposed Consent Special Order for Nutri-Blend, Inc.

An enforcement action has been proposed for Nutri-Blend, Inc., for alleged violations regarding a release of biosolids by a dump trailer onto State Route 711 in Powhatan County, VA. The State Water Control Board proposes to issue a consent special order to Nutri-Blend, Inc., to address noncompliance with State Water Control Board law. A description of the proposed action is available at the Department of Environmental Quality office named below or online at www.deq.virginia.gov. Gina Pisoni will accept comments by email at gina.pisoni@deq.virginia.gov, FAX (804) 527-5106, or postal mail at Department of Environmental Quality, Piedmont Regional Office, 4949-A Cox Road, Glen Allen, VA 23060, from December 3, 2012, to January 4, 2013.

Proposed Consent Special Order for Rogers-Chenault, Inc.

An enforcement action has been proposed for Rogers-Chenault, Inc., for alleged violations that occurred at the Hunton Station Subdivision, in Henrico County, VA. The State Water Control Board proposes to issue a consent special order to Rogers-Chenault, Inc., to address noncompliance with State Water Control Board law. A description of the proposed action is available at the Department of Environmental Quality office named below or online at www.deq.virginia.gov. Cynthia Akers will accept comments by email at cynthia.akers@deq.virginia.gov, FAX (804) 527-5106, or postal mail at Department of Environmental Quality, Piedmont Regional Office, 4949-A Cox Road, Glen Allen, VA 23060, from December 3, 2012, to January 2, 2013.

VIRGINIA CODE COMMISSION

Notice to State Agencies

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

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

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

General Notices/Errata

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