



VIRGINIA

REGISTER OF REGULATIONS

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Virginia Code Commission

<http://register.dls.virginia.gov>

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VIRGINIA REGISTER INFORMATION PAGE

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

ADOPTION, AMENDMENT, AND REPEAL OF REGULATIONS

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

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

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

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

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

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

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

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

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

FAST-TRACK RULEMAKING PROCESS

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

EMERGENCY REGULATIONS

Pursuant to § 2.2-4011 of the Code of Virginia, an agency, upon consultation with the Attorney General, and at the discretion of the Governor, may adopt emergency regulations that are necessitated by an emergency situation. An agency may also adopt an emergency regulation when Virginia statutory law or the appropriation act or federal law or federal regulation requires that a regulation be effective in 280 days or less from its enactment. The emergency regulation becomes operative upon its adoption and filing with the Registrar of Regulations, unless a later date is specified. Emergency regulations are limited to no more than 18 months in duration; however, may be extended for six months under certain circumstances as provided for in § 2.2-4011 D. Emergency regulations are published as soon as possible in the *Register*. During the time the emergency status is in effect, the agency may proceed with the adoption of permanent regulations through the usual procedures. To begin promulgating the replacement regulation, the agency must (i) file the Notice of Intended Regulatory Action with the Registrar within 60 days of the effective date of the emergency regulation and (ii) file the proposed regulation with the Registrar within 180 days of the effective date of the emergency regulation. If the agency chooses not to adopt the regulations, the emergency status ends when the prescribed time limit expires.

STATEMENT

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

CITATION TO THE VIRGINIA REGISTER

The *Virginia Register* is cited by volume, issue, page number, and date. **34:8 VA.R. 763-832 December 11, 2017**, refers to Volume 34, Issue 8, pages 763 through 832 of the *Virginia Register* issued on December 11, 2017.

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

Members of the Virginia Code Commission: **John S. Edwards**, Chair; **James A. "Jay" Leftwich**, Vice Chair; **Ryan T. McDougale**; **Rita Davis**; **Leslie L. Lilley**; **E.M. Miller, Jr.**; **Thomas M. Moncure, Jr.**; **Christopher R. Nolen**; **Charles S. Sharp**; **Samuel T. Towell**; **Mark J. Vucci**.

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

PUBLICATION SCHEDULE AND DEADLINES

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

January 2019 through December 2019

<u>Volume: Issue</u>	<u>Material Submitted By Noon*</u>	<u>Will Be Published On</u>
35:10	December 14, 2018 (Friday)	January 7, 2019
35:11	January 2, 2019	January 21, 2019
35:12	January 16, 2019	February 4, 2019
35:13	January 30, 2019	February 18, 2019
35:14	February 13, 2019	March 4, 2019
35:15	February 27, 2019	March 18, 2019
35:16	March 13, 2019	April 1, 2019
35:17	March 27, 2019	April 15, 2019
35:18	April 10, 2019	April 29, 2019
35:19	April 24, 2019	May 13, 2019
35:20	May 8, 2019	May 27, 2019
35:21	May 22, 2019	June 10, 2019
35:22	June 5, 2019	June 24, 2019
35:23	June 19, 2019	July 8, 2019
35:24	July 3, 2019	July 22, 2019
35:25	July 17, 2019	August 5, 2019
35:26	July 31, 2019	August 19, 2019
36:1	August 14, 2019	September 2, 2019
36:2	August 28, 2019	September 16, 2019
36:3	September 11, 2019	September 30, 2019
36:4	September 25, 2019	October 14, 2019
36:5	October 9, 2019	October 28, 2019
36:6	October 23, 2019	November 11, 2019
36:7	November 6, 2019	November 25, 2019
36:8	November 18, 2019 (Monday)	December 9, 2019
36:9	December 4, 2019	December 23, 2019

*Filing deadlines are Wednesdays unless otherwise specified.

PETITIONS FOR RULEMAKING

TITLE 18. PROFESSIONAL AND OCCUPATIONAL LICENSING

BOARD OF COUNSELING

Initial Agency Notice

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

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

Name of Petitioner: Jamie West.

Nature of Petitioner's Request: To count up to 600 hours of supervised experience in a Commission on Accreditation for Marriage and Family Therapy Education or a Council for Accreditation of Counseling and Related Educational Programs doctoral program towards hours of residency.

Agency Plan for Disposition of Request: In accordance with Virginia law, the petition will be filed with the Registrar of Regulations and published on December 10, 2018, with comment requested until January 9, 2019. It will also be placed on the Virginia Regulatory Town Hall and available for comments to be posted electronically. At its first meeting following the close of comment, scheduled for February 8, 2019, the board will consider the request to amend regulations and all comment received in support or opposition. The board will inform the petitioner of its response and any action it approves.

Public Comment Deadline: January 9, 2019.

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

VA.R. Doc. No. R19-17; Filed November 9, 2018, 8:54 a.m.

REGULATIONS

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

Symbol Key

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

TITLE 1. ADMINISTRATION

STATE BOARD OF ELECTIONS

Notice of Change in Public Hearing Date and Time

Title of Regulation: 1VAC20-50. **Candidate Qualification (amending 1VAC20-50-20).**

Statutory Authority: §§ 24.2-103 and 24.2-506 of the Code of Virginia.

Notice of Public Hearing Date and Time Change: The State Board of Elections announced a public hearing and a public comment period on proposed amendments to 1VAC20-50 in the Virginia Register of Regulations in 35:7 V.A.R. 1013 November 26, 2018. The date and time of the public hearing has changed. The public hearing is now scheduled for 2:00 p.m. on December 21, 2018, in the Virginia State Capitol, 1000 Bank Street, Senate Room 3, Richmond, VA 23219.

Agency Contact: David Nichols, Director of Election Services, Department of Elections, 1100 Bank Street, Richmond, VA 23219, telephone (804) 864-8952, or email david.nichols@elections.virginia.gov.

VA.R. Doc. No. R19-5732; Filed November 27, 2018, 11:38 a.m.

TITLE 8. EDUCATION

STATE **COUNCIL** OF HIGHER EDUCATION FOR VIRGINIA

Final Regulation

REGISTRAR'S NOTICE: The State **Council** of Higher Education for Virginia is claiming an exemption from the Administrative Process Act in accordance with § 2.2-4002 B 4 of the Code of Virginia, which exempts regulations relating to grants of state or federal funds or property.

Title of Regulation: 8VAC40-170. **Cybersecurity Student Loan Repayment Grant Regulations (adding 8VAC40-170-10 through 8VAC40-170-60).**

Statutory Authority: § 23.1-203 of the Code of Virginia; Item 141 of Chapter 2 of the 2018 Acts of Assembly, Special Session I.

Effective Date: December 10, 2018.

Agency Contact: Beverly Rebar, Senior Associate for Academic and Legislative Affairs, State **Council** of Higher

Education for Virginia, 101 North 14th Street, 9th Floor, Monroe Building, Richmond, VA 23219, telephone (804) 371-0571, or email beverlyrebar@schev.edu.

Summary:

Pursuant to Item 141 I of Chapter 2 of the 2018 Acts of Assembly, Special Session I (Appropriation Act), the action establishes requirements to govern administration and award of grant funds under the Cybersecurity Student Loan Repayment Grant Program, including (i) recent graduate and veteran eligibility and academic or job qualifications, (ii) the application process, and (iii) identification and prioritization of qualified employers and qualified employment.

CHAPTER 170

CYBERSECURITY STUDENT LOAN REPAYMENT GRANT REGULATIONS

8VAC40-170-10. Definitions.

"Active duty service" means full-time duty in the active military service of the United States. Such service includes (i) full-time training duty, annual training duty, and attendance while in the active military service at a school designated as a service school by law or by the secretary of the military department concerned and (ii) Air Force, Army, Coast Guard, Marines, Navy, and National Guard members operating under Title 10 of the United States Code, but does not include full-time National Guard duty operating under Title 32 of the United States Code. This definition is only applicable if the applicant attempts to qualify under the "separation from active duty service" provision under 8VAC40-170-30 B 2.

"Award year" means the Commonwealth of Virginia's fiscal budget year, July 1 through June 30 of the following year.

"Contract" means the document detailing the program and employer contributions for a specific employee, including annual grant amounts and duration, in conformance with this chapter.

"Full-time employment" means an employee is assigned to nonrestricted, classified, or other salaried positions that work the equivalent of 40 hours per week for 12 months per year.

"IT" means the field of information technology.

"Private institution of higher education" means each in-state nonprofit and proprietary private institution of higher education in the Commonwealth.

"Program" means the Cybersecurity Student Loan Repayment Grant Program.

"Public institution of higher education" means the Virginia Community College System as a whole and each associate-degree granting and baccalaureate public institution of higher education in the Commonwealth.

"Qualified employment" means an employment position meeting the requirements of this chapter.

"Reside within Virginia" means an individual has secured physical housing located within the geographical boundaries of the Commonwealth of Virginia during the period of qualified employment under the contract.

"SCHEV" means employees of the State Council of Higher Education for Virginia assigned to the administration of the program.

"Student loan" means any qualified education loan obtained specifically to finance education or other school-related expenses but does not include credit card debt, a home equity loan, or revolving debt.

"Veteran" means an individual who has served on active duty in the Armed Forces of the United States and who was discharged or released from such service under conditions other than dishonorable.

8VAC40-170-20. Award details.

From such funds as are available through appropriations and subject to matching employer funds, recipients will be eligible for up to \$20,000 total from a combination of program funds and employer match.

1. The employer match must be equal to or greater than the program match.
2. The actual award may be reduced based on available program funds and employer match.
3. Awards may be renewed for up to two years, for a maximum total of three years, subject to employer commitments upon initial awarding, available funds, number of applications, and prioritization of employer and position.

8VAC40-170-30. Recipient criteria.

A. A recipient shall reside within Virginia during the period of qualified employment in which the contract is in force.

B. A recipient shall begin full-time employment within one year of:

1. Graduation from a public institution of higher education or regionally accredited private institution of higher education with an undergraduate or graduate degree in computer science or another academic program recognized by the State Council of Higher Education for Virginia to prepare an individual for a career in cybersecurity; or
2. Separation from active duty service in the Armed Forces of the United States; having been discharged or released

from such service under conditions other than dishonorable and having gained experience or received training in computer science during such service.

C. A recipient shall accept an offer of qualified employment from an employer located within the Commonwealth of Virginia.

1. Eligible employers include:

- a. A state agency of the Commonwealth of Virginia.
- b. An agency of the federal government.
- c. A federal or state military or defense organization, and
- d. Any private organization that contractually provides cybersecurity services for any organization listed in this subdivision 1 and such private organization.

2. Eligible positions include:

- a. Positions tagged with "#COVAcyberjobs" on the website jobs.virginia.gov;
- b. Positions with role titles such as "Information Technology Specialist I-IV" and "Information Technology Manager I-III";
- c. Positions having a cybersecurity component or demonstrating a career-path that leads into cybersecurity responsibilities, which will be considered on a case-by-case basis; and
- d. Positions whose job descriptions include the following key words or combination of words, which may be considered on a case-by-case basis:
 - (1) Cyber, cyber security, cyber-security, security, secure, securing, compliance, threat, detection, vulnerability, audit, compliance, protect, firewall, risk, or incident.
 - (2) Analyze, collect and operate, investigate, operate and maintain, oversight and development, protect and defend, or securely provision.

8VAC40-170-40. Award prioritization.

A. Once funding for an award year has been fully committed, no further applications will be considered.

B. Merit criteria may be considered for individual eligibility and may be utilized for any individual application not yet reviewed. The criteria may include:

1. Qualifying veteran status;
2. Cumulative grade point average for a degree program;
3. Cumulative grade point average within a major;
4. Amount of outstanding student loans; and
5. Prior IT experience.

Regulations

C. Employment priority will be given **the** following order:

1. Positions explicitly supporting cybersecurity.
2. Information technology management.
3. Information technology specialist.
4. Positions with current cybersecurity responsibilities.
5. Positions whose career path leads directly into cybersecurity responsibilities.

D. Employer priority will be given **the** following order:

1. State agencies.
2. Private employers contracting with state agencies.
3. Military or defense organizations.
4. Federal agencies.
5. Private employers contracting with federal or military agencies.

8VAC40-170-50. Participation process.

A. Individual certification of eligibility.

1. **The** individual may submit an application for eligibility at any time following, but within one year of, degree completion or separation from military.
2. In **the** application, **the** individual must verify:
 - a. Physical residence within **the** Commonwealth;
 - b. That **the** individual is within one year of either:
 - (1) Graduation from a qualifying institution; or
 - (2) Separation from active duty service from **the** U.S. military; and
 - c. Amount of student loan debt.

3. Individuals meeting **the** requirements will be issued a certification of eligibility with an expiration date. Such certification does not convey any commitment by **the** individual to seek qualified employment nor assurance that grant funds will be available.

B. Employer contract submission.

1. Prior to advertisement or selection of applicants, **the** employer may seek confirmation that an open position is eligible under this program. Such verification does not convey any commitment by **the** employer to fill **the** position nor any assurance that grant funds will be available.
2. To submit a contract proposal, **the** employer must certify:
 - a. **The** eligible individual has been or will be offered a qualifying position.

b. **The** individual meets all federal and state employment requirements, including having secured necessary security clearances required for **the** performance of **the** position.

c. A permanent mailing address for **the** individual is on record.

d. A description of **the** position offered.

e. That **the** individual's education or training meet **the** requirements for **the** position being offered.

f. **The** amount and duration of **the** employer match.

g. Verification of a current valid contract with **the** Commonwealth of Virginia or a Virginia state agency, federal agency, or qualifying military organization including how **the** position relates to that contract if a private employer.

3. SCHEV verification and contract approval.

a. Using information provided, SCHEV will verify whether **the** individual, **the** employer, and **the** position are eligible under **the** program.

b. SCHEV will determine **the** amount and duration of **the** state matching commitment from **the** grant and that **the** employer match is in conformance with this chapter.

c. There is no program commitment or reservation of funds until SCHEV has confirmed individual eligibility and has signed **the** contract identifying **the** state and employer program match and duration of agreement.

8VAC40-170-60. Grant administration.

A. Funds disbursement.

1. Each six months, **the** employee will receive half of **the** annual award (half of employer match and half of **the** grant match) that **the** employer certifies that:

- a. **The** employee remains employed full time in **the** approved position; and
- b. Employer has verified payment of **the** employer matching requirement.

2. Disbursements from **the** grant will be made directly to **the** employee.

B. Grant conditions.

1. No employment service time shall be used to simultaneously satisfy **the** requirements of this program while satisfying requirements for:

- a. Federal CyberCorp® Scholarship for Service;
- b. Virginia Cybersecurity Public Service Scholarship; or
- c. Any other Commonwealth of Virginia employment incentive bonus.

2. The contract is null and void and no further grant disbursements will take place if:

a. The applicant does not accept the offer of employment, inclusive of a program contract as part of the compensation package.

b. The applicant fails to secure and maintain initial or subsequent security clearances required for the approved position.

c. The employee leaves employment or is fired for cause.

d. The employee ceases to be employed full time in a qualifying position.

e. The employer fails to fulfill the contract. In addition, the employer may be disqualified from future consideration for any contracts under this program.

f. The employee defaults on any student loan during the time of employment.

3. If the employee is subject to a layoff or other reduction in force, the employee may be considered for a pro rata award based on the length of service if the employer certifies satisfactory performance during the time of qualified employment.

C. Eligibility for multiple grants.

1. Individuals may have no more than one contract in force at one time.

2. There are two paths to eligibility: (i) degree completion or (ii) separation from military service. Therefore, it is possible for an individual to meet the initial eligibility criteria multiple times. An employee may be considered for an additional grant under this program if the employee meets the recipient criteria under 8VAC40-170-30 and

a. Is offered a qualifying position of increased responsibility level within the organization; or

b. Has been offered a qualifying position of increased responsibility at another eligible employer.

3. No employee may receive a second grant contract for the same employment position or equivalent level of employment either with the initial employer or any other eligible employer.

V.A.R. Doc. No. R19-5740; Filed November 29, 2018, 8:21 a.m.



TITLE 9. ENVIRONMENT

STATE AIR POLLUTION CONTROL BOARD

Final Regulation

REGISTRAR'S NOTICE: The State Air Pollution Control Board is claiming an exemption from Article 2 of the Administrative Process Act in accordance with § 2.2-4006 A 3 of the Code of Virginia, which excludes regulations that consist only of changes in style or form or corrections of technical errors. The State Air Pollution Control Board will receive, consider, and respond to petitions by any interested person at any time with respect to reconsideration or revision.

Title of Regulation: 9VAC5-220. Variance for Rocket Motor Test Operations at Atlantic Research Corporation Orange County Facility (Rev. A18) (amending 9VAC5-220-10, 9VAC5-220-20).

Statutory Authority: §§ 10.1-1307 and 10.1-1308 of the Code of Virginia.

Effective Date: January 9, 2019.

Agency Contact: Gary E. Graham, Department of Environmental Quality, 1111 East Main Street, Suite 1400, P.O. Box 1105, Richmond, VA 23218, telephone (804) 698-4103, or email gary.graham@deq.virginia.gov.

Summary:

The amendments correct the name of the owner and operator of the rocket motor testing facility in the regulation.

CHAPTER 220

VARIANCE FOR ROCKET MOTOR TEST OPERATIONS AT ATLANTIC RESEARCH CORPORATION AEROJET ROCKETDYNE, INC. ORANGE COUNTY FACILITY

9VAC5-220-10. Applicability and designation of affected facility.

The affected facility to which the provisions of this chapter apply is the Atlantic Research Corporation Aerojet Rocketdyne, Inc. Orange County facility.

9VAC5-220-20. Definitions.

A. For the purpose of this chapter or any associated orders issued by the board, the words or terms in subsection C of this section shall have the meanings given them in subsection C of this section.

B. As used in this chapter, all terms not defined herein in this section shall have the meanings given them in 9VAC5 Chapter 10 (9VAC5-10) and 9VAC5-170-140, unless otherwise required by context.

Regulations

C. Terms defined.

"Atlantic Research Corporation" "Aerojet Rocketdyne, Inc." means **the** owner and operator of a rocket motor test facility located at 7499 Pine Stake Road, Culpeper, Virginia, known as **the** Orange County facility.

"EPA" means **the** United States U.S. Environmental Protection Agency.

"Facility" means **the** contiguous property at 7499 Pine Stake Road, Culpeper, Virginia, owned and operated by ~~the Atlantic Research Corporation~~ Aerojet Rocketdyne, Inc. or its successors in ownership; and known as **the** Orange County facility.

"Order" means **the** order granting this variance.

"Rocket motor test operations" means static testing of solid propellant rocket motors on a fixed test stand. Such tests are conducted for **the** research, development, and production of rocket motors.

~~"VAC" and "9 VAC" mean Title 9 of the Virginia Administrative Code. This title comprises the environmental regulations for the Commonwealth of Virginia, including the regulations of the State Air Pollution Control Board.~~

"Variance" means ~~9VAC5 Chapter 220 (9VAC5-220) this chapter.~~

V.A.R. Doc. No. R19-5544; Filed November 14, 2018, 9:33 a.m.

STATE WATER CONTROL BOARD

Forms

REGISTRAR'S NOTICE: Forms used in administering **the** regulation have been filed by **the** agency. **The** form is not being published; however, online users of this issue of **the** Virginia Register of Regulations may click on **the** name of a form with a hyperlink to access it. **The** form is also available from **the** agency contact or may be viewed at **the** Office of **the** Registrar of Regulations, 900 East Main Street, 11th Floor, Richmond, Virginia 23219.

Titles of Regulations: **9VAC25-20. Fees for Permits and Certificates.**

9VAC25-115. General Virginia Pollutant Discharge Elimination System (VPDES) Permit for Seafood Processing Facilities.

9VAC25-151. General Virginia Pollutant Discharge Elimination System (VPDES) Permit for Discharges of Storm Water Associated with Industrial Activity.

9VAC25-190. Virginia Pollutant Discharge Elimination System (VPDES) General Permit Regulation for Nonmetallic Mineral Mining.

9VAC25-193. General Virginia Pollutant Discharge Elimination System (VPDES) Permit for Concrete Products Facilities.

9VAC25-210. Virginia Water Protection Permit Program Regulation.

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9VAC25-670. Virginia Water Protection General Permit for Facilities and Activities of Utility and Public Service Companies Regulated by **the Federal Energy Regulatory Commission or **the** State Corporation Commission and Other Utility Line Activities.**

9VAC25-680. Virginia Water Protection General Permit for Linear Transportation Projects.

9VAC25-690. Virginia Water Protection General Permit for Impacts from Development and Certain Mining Activities.

Contact Information: Debra Harris, Department of Environmental Quality, P.O. Box 1105, Richmond, VA 23218, telephone (804) 698-4209, or email debra.harris@deq.virginia.gov.

FORMS (9VAC25-20)

~~Department of Environmental Quality Water Division Permit Application Fee Form (rev. 10/2017)~~

[Department of Environmental Quality Water Division Permit Application Fee Form, Form 5 \(rev. 10/2018\)](#)

[Biosolids Land Application Local Monitoring Expenses Reimbursement Invoice, Form 1 \(rev. 6/2013\)](#)

[Biosolids Land Application Local Monitoring Expenses Multiple Owners Payment Assignment, Form 2 \(rev. 6/2013\)](#)

[Biosolids Land Application Fee Reimbursement Notice of Intent to Seek Reconsideration, Form 3 \(rev. 8/2007\)](#)

[Biosolids Land Application Fee Reimbursement Reconsideration Claim Form, Form 4 \(rev. 8/2007\)](#)

FORMS (9VAC25-115)

[Change of Ownership Agreement Form \(rev. 3/2014\)](#)

~~Department of Environmental Quality Water Division Permit Application Fee Form (rev. 10/2017)~~

[Department of Environmental Quality Water Division Permit Application Fee Form, Form 5 \(rev. 10/2018\)](#)

[Registration Statement for **the** General Virginia Pollutant Discharge Elimination System \(VPDES\) Permit for Seafood Processing Facilities, July 2016 reissuance \(rev. 4/2016\)](#)

FORMS (9VAC25-151)

~~Department of Environmental Quality Water Division
Permit Application Fee Form (rev. 10/2017)~~

[Department of Environmental Quality Water Division
Permit Application Fee Form, Form 5 \(rev. 10/2018\)](#)

VPDES General Permit for Industrial Activity Stormwater Discharges (VAR05) Registration Statement, SWGP VAR05-RS (eff. 7/2014)

VPDES General Permit for Industrial Activity Stormwater Discharges (VAR05) Notice of Termination, SWGP VAR05-NOT (eff. 7/2014)

Virginia Pollutant Discharge Elimination System (VPDES) Discharge Monitoring Report (DMR) (eff. 7/2014)

Virginia Pollutant Discharge Elimination System Change of Ownership Form (undated)

FORMS (9VAC25-190)

~~Department of Environmental Quality Water Division
Permit Application Fee Form (rev. 10/2017)~~

[Department of Environmental Quality Water Division
Permit Application Fee Form, Form 5 \(rev. 10/2018\)](#)

Change of Ownership Agreement Form (rev. 3/2014)

VPDES General Permit for Nonmetallic Mineral Mining (VAG84) - Notice of Termination (eff. 7/2014)

VPDES General Permit Registration Statement - Nonmetallic Mineral Mining (rev. 2014)

FORMS (9VAC25-193)

~~Department of Environmental Quality Water Division
Permit Application Fee Form (rev. 10/2017)~~

[Department of Environmental Quality Water Division
Permit Application Fee Form, Form 5 \(rev. 10/2018\)](#)

Registration Statement for **the** General Virginia Pollutant Discharge Elimination System (VPDES) Permit for Concrete Products Facilities, VAG11 (rev. 4/2013)

FORMS (9VAC25-210)

~~Department of Environmental Quality Water Division
Permit Application Fee Form (rev. 10/2017)~~

[Department of Environmental Quality Water Division
Permit Application Fee Form, Form 5 \(rev. 10/2018\)](#)

Standard Joint Permit Application for Activities in Waters and Wetlands of **the** Commonwealth of Virginia (rev. 5/2017)

Virginia Department of Transportation, Inter-Agency Coordination Meeting Joint Permit Application (eff. 6/2008)

Tidewater Joint Permit Application for Projects Involving Tidal Waters, Tidal Wetlands and/or Dunes and Beaches in Virginia (rev. 5/2017)

Monthly Reporting of Impacts Less than or Equal to One-Tenth Acre Statewide (eff. 8/2007)

FORMS (9VAC25-610)

~~Department of Environmental Quality Water Division
Permit Application Fee Form (rev. 10/2017)~~

[Department of Environmental Quality Water Division
Permit Application Fee Form, Form 5 \(rev. 10/2018\)](#)

Application Instructions for Completing a Groundwater Withdrawal Permit Application (rev. 11/2013)

Application for a Groundwater Withdrawal Permit (rev. 9/2012)

Groundwater Withdrawal Permit - Change of Ownership Agreement Form (rev. 11/2013)

Uncontested Termination Agreement (rev. 11/2013)

Uniform Water Well Completion Report, Form GW-2 (rev. 8/2016)

Uniform Water Well Completion Report Well Abandonment Form, GW-5 (rev. 8/2016)

Public Notice Authorization Form - Authorization for Public Notice Billing to Groundwater Withdrawal Permit Applicant (rev. 11/2013)

Preapplication Meeting - Application for a Groundwater Withdrawal Permit (rev. 9/2012)

Local and Areawide Planning Requirements (rev. 9/2012)

Quarterly Groundwater Withdrawal Report (rev. 11/2013)

Mitigation Plan (rev. 11/2013)

Existing Users Groundwater Withdrawal Permit Application and Instructions (eff. 2/2014)

FORMS (9VAC25-660)

~~Department of Environmental Quality Water Division
Permit Application Fee Form (rev. 10/2017)~~

[Department of Environmental Quality Water Division
Permit Application Fee Form, Form 5 \(rev. 10/2018\)](#)

Standard Joint Permit Application for Activities in Waters and Wetlands of **the** Commonwealth of Virginia (rev. 5/2017)

Virginia Department of Transportation, Inter-Agency Coordination Meeting Joint Permit Application (eff. 6/2008)

Monthly Reporting of Impacts Less than or Equal to One-Tenth Acre Statewide (eff. 8/2007)

Regulations

FORMS (9VAC25-670)

~~Department of Environmental Quality Water Division
Permit Application Fee Form (rev. 10/2017)~~

[Department of Environmental Quality Water Division
Permit Application Fee Form, Form 5 \(rev. 10/2018\)](#)

[Standard Joint Permit Application for Activities in Waters
and Wetlands of the Commonwealth of Virginia \(rev. 5/2017\)](#)

[Virginia Department of Transportation, Inter-Agency
Coordination Meeting Joint Permit Application \(eff. 6/2008\)](#)

[Monthly Reporting of Impacts Less than or Equal to One-
Tenth Acre Statewide \(eff. 8/2007\)](#)

FORMS (9VAC25-680)

~~Department of Environmental Quality Water Division
Permit Application Fee Form (rev. 10/2017)~~

[Department of Environmental Quality Water Division
Permit Application Fee Form, Form 5 \(rev. 10/2018\)](#)

[Standard Joint Permit Application for Activities in Waters
and Wetlands of the Commonwealth of Virginia \(rev. 5/2017\)](#)

[Virginia Department of Transportation, Inter-Agency
Coordination Meeting Joint Permit Application \(eff. 6/2008\)](#)

[Monthly Reporting of Impacts Less than or Equal to One-
Tenth Acre Statewide \(eff. 8/2007\)](#)

FORMS (9VAC25-690)

~~Department of Environmental Quality Water Division
Permit Application Fee Form (rev. 10/2017)~~

[Department of Environmental Quality Water Division
Permit Application Fee Form, Form 5 \(rev. 10/2018\)](#)

[Standard Joint Permit Application for Activities in Waters
and Wetlands of the Commonwealth of Virginia \(rev. 5/2017\)](#)

[Virginia Department of Transportation, Inter-Agency
Coordination Meeting Joint Permit Application \(eff. 6/2008\)](#)

[Monthly Reporting of Impacts Less than or Equal to One-
Tenth Acre Statewide \(eff. 8/2007\)](#)

VA.R. Doc. No. R19-5735; Filed November 13, 2018, 1:54 p.m.

TITLE 12. HEALTH

DEPARTMENT OF MEDICAL ASSISTANCE SERVICES

Notice of Extension of Emergency Regulation

Title of Regulation: **12VAC30-80. Methods and Standards
for Establishing Payment Rates; Other Types of Care
(amending 12VAC30-80-40).**

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

Expiration Date Extended Through: June 14, 2019.

The Governor approved the request of the Department of Medical Assistance Services to extend this emergency regulation for six months as provided in § 2.2-4011 D of the Code of Virginia. Therefore, the emergency action will continue in effect through June 14, 2019. The emergency regulation was published in 33:23 VA.R. 2536-2538 July 10, 2017. The proposed action to adopt permanent regulations was published on October 29, 2018, in 35:5 VA.R. 817-823, with the public comment period ending on December 28, 2018.

Agency Contact: Emily McClellan, Regulatory Supervisor, Department of Medical Assistance Services, 600 East Broad Street, Suite 1300, Richmond, VA 23219, telephone (804) 371-4300, FAX (804) 786-1680, or email emily.mcclellan@dmas.virginia.gov.

VA.R. Doc. No. R17-4546; Filed November 21, 2018, 2:08 p.m.

STATE BOARD OF BEHAVIORAL HEALTH AND DEVELOPMENTAL SERVICES

Proposed Regulation

Title of Regulation: **12VAC35-105. Rules and Regulations
for Licensing Providers by the Department of Behavioral
Health and Developmental Services (amending 12VAC35-
105-20, 12VAC35-105-590, 12VAC35-105-1370).**

Statutory Authority: § 37.2-203 of the Code of Virginia.

Public Hearing Information:

January 3, 2019 - 1 p.m. - Department of Behavioral Health and Development Services, 13th Floor Board Room, Jefferson Building, 1220 Bank Street, Richmond, VA 23219

Public Comment Deadline: February 8, 2019.

Agency Contact: Emily Bowles, Legal Coordinator, Office of Licensing, Department of Behavioral Health and Developmental Services, 1220 Bank Street, P.O. Box 1797, Richmond, VA 23218-1797, telephone (804) 225-3281, FAX (804) 692-0066, TTY (804) 371-8977, or email emily.bowles@dbhds.virginia.gov.

Basis: Sections 37.2-203 and 37.2-304 of the Code of Virginia authorize the State Board of Behavioral Health and Developmental Services to adopt regulations that may be necessary to carry out the provisions of Title 37.2 of the Code of Virginia and other laws of the Commonwealth administered by the commissioner and the Department of Behavioral Health and Developmental Services. An emergency regulation became effective on December 18, 2017, and expires June 17, 2019. This proposed regulatory action comes as the next step of the standard process for

adoption of permanent replacement regulations as approved by the board on April 11, 2018.

Purpose: The purpose of this regulatory action is to be consistent and comply with Chapters 136 and 418 of the 2017 Acts of Assembly regarding who shall be included in the definitions of qualified mental health professional (QMHP), qualified mental retardation professional (QMRP) and qualified paraprofessional in mental health (QMHP-P). Also, certain definitions are deferred, in accordance with Chapter 418, to the Department of Health Professions' Board of Counseling (18VAC115-80). This action supports the expansion of the workforce in Virginia's behavioral health and developmental services system.

Chapter 418 of the 2017 Acts of Assembly required a qualified mental health professional-adult (QMHP-A) or a qualified mental health professional-child (QMHP-C) to register with the Department of Health Professions if they have the education and experience to be deemed professionally qualified by the Board of Counseling in accordance with 18VAC115-80. This registration will be beneficial to the population served by the Department of Behavioral Health and Developmental Services (DBHDS) because there will be more professional accountability of education, experience, and scope of practice for those professionals.

Occupational therapists (OTs) and occupational therapy assistants (OTAs) are beneficial to the population that DBHDS serves in that OTs and OTAs help develop, improve, sustain, or restore independence to any person who has an injury, illness, disability, or psychological dysfunction.

Substance: Chapter 418 of the 2017 Acts of Assembly requires QMHP-As and QMHP-Cs to register with the Department of Health Professions if they have the education and experience to be deemed professionally qualified by the Board of Counseling in accordance with 18VAC115-80.

In 12VAC35-105-20, the general definition of QMHP from 18VAC115-80-20 is included. The definitions of QMHP-A and QMHP-C have cross-references to the Board of Counseling regulation (18VAC115-80), with repetition in each definition of the following sentence from the general QMHP definition from 18VAC115-80-20: "A QMHP-A shall provide such services as an employee or independent contractor of the department or a provider licensed by the department." Also, the definition of QMHP-E is amended with the same cross-reference to the Board of Counseling regulation and requirement to register.

In the definitions of the newly titled "qualified developmental disability professional" (QDDP; previously QMRP) and qualified mental health paraprofessionals (QMHP-Ps), OTs are inserted in QDDP and OTAs are inserted in QMHP-P. Requirements for experience are updated in both.

Amendments are made in 12VAC35-105-590 (Provider staffing plan) and 12VAC35-105-1370 (Treatment team and staffing plan) to accurately mirror the definitions of QMHP, to remove the reference to meeting standards, and to simplify the language to make clear that at least 80% of the clinical employees or contractors shall be QMHP-As.

Issues: Comprehensive behavioral health is essential to population health and cost containment. The primary advantage to the public, such as individual private citizens or businesses, of implementing the amended provisions is to improve the organization and growth of the "Q" professional fields through registration and consistent training and experience. The people working in these roles are important to the overall behavioral health and developmental service system. There is no disadvantage to individual citizens or businesses. Service providers will have to ensure proper registration of "Q" staff for Medicaid billing.

The primary advantages to the agency and the Commonwealth are the ability to track how many professionals or "eligibles" are in Virginia and where they are located (and where there are gaps); confirm who is in good standing as a "Q;" and confirm who is eligible for Medicaid billing. There are no disadvantages to the agency or the Commonwealth.

Department of Planning and Budget's Economic Impact Analysis:

Summary of the Proposed Amendments to Regulation. Pursuant to legislative mandates, the State Board of Behavioral Health and Developmental Services (Board) proposes to: 1) defer the definitions of certain mental health professionals to those of the Board of Counseling and 2) include occupational therapists and assistants in the definitions of certain mental health professionals.

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

Estimated Economic Impact. Virginia's Medicaid program has long relied on the Board's definitions of certain mental health professionals to determine who is a qualified professional for reimbursement. These definitions are Qualified Mental Health Professional (QMHP), Qualified Mental Health Professional-Adult (QMHP-A), Qualified Mental Health Professional-Child (QMHP-C), and Qualified Mental Health Professional-Eligible (QMHP-E). The Board's definitions have included varying education and experience requirements. However, these professionals were not issued any licenses or certificates concerning being designated a qualified mental health professional. The eligibility was checked and determined on a case-by-case basis when random checks were conducted, when there were questions raised, etc.

Chapter 418 of the 2017 Acts of Assembly¹ required these professionals to register with the Board of Counseling. As a

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result, **the** Board proposes to revise its definitions to state that these professionals must be registered with **the** Board of Counseling and defers all qualification, education, and experience criteria to **the** definitions of **the** Board of Counseling regulations currently under development (18VAC115-80).² In essence, going forward, **the** Board of Counseling will determine standards and register those who comply with **the** standards being adopted.

The Board of Counseling's current proposed definitions are **the** same as **the** Board's. Thus, everyone currently eligible under **the** Board's definitions should be able to comply with and register with **the** Board of Counseling. In addition, individuals who are currently providing services as professionals as of December 31, 2017 would be grandfathered in as long as they register within one year. **The** required registration would likely strengthen enforcement and prevent unqualified individuals from performing such services to **the** Medicaid population. However, **the** registration requirement would introduce costs on affected professionals, as there would be a \$50 fee for initial registration and \$30 fee for annual renewal under **the** Board of Counseling regulation. In addition, **the** affected mental health professions would have to spend time to prepare their applications for initial registration and subsequent renewals.

Pursuant to Chapter 136 of **the** 2017 Acts of Assembly, **the** Board proposes to include occupational therapists in **the** definitions of QMHP-A, QMHP-C, and Qualified Developmental Disability Professional and occupational therapy assistants in **the** definition of Qualified Paraprofessional in Mental Health. These proposed changes would expand **the** number of mental health professionals and paraprofessionals allowed to provide services to **the** Medicaid population. Affected occupational therapy providers would have more venues for employment, and **the** Medicaid population would have access to more professionals for mental health services. According to **the** Department of Behavioral Health and Developmental Services, occupational therapy practitioners are qualified to provide services within **the** scope of their professional license. Thus, there should not be any increase in health and safety risks to **the** Medicaid mental health patients.

Businesses and Entities Affected. Because there is no current license or registration requirements for affected professionals, it is not known how many professionals may be affected. However, **the** Board licenses 1,307 service providers. While some of these providers use several mental health professionals, others do not use any. According to **the** Department of Health Professions, 5,831 applicants have so far applied for **the** QMHP-A, QMHP-C, QMHP-E and Peer Recover Specialist registration. However, **the** proposed amendments do not apply to Peer Recover Specialists. In addition, DHP currently does not have way of capturing how many occupational therapists and assistants have registered for QMHP.

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

Projected Impact on Employment. **The** proposed amendments will broaden employment opportunities for occupational therapists and assistants.

Effects on **the** Use and Value of Private Property. No significant impact on **the** use and value of private property is expected.

Real Estate Development Costs. No impact on real estate development costs is expected.

Small Businesses:

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

Costs and Other Effects. **The** proposed changes do not have direct costs and other effects on small businesses. Indirectly, mental health providers, most of which are small businesses, will have a larger pool of employees to hire from with **the** inclusion of certain occupational therapy practitioners in mental health professional definitions.

Alternative Method that Minimizes Adverse Impact. No adverse impact on small businesses is expected.

Adverse Impacts:

Businesses. **The** proposed amendments do not have an adverse impact on businesses.

Localities. **The** proposed amendments will not adversely affect localities.

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

¹<http://lis.virginia.gov/cgi-bin/legp604.exe?171+ful+CHAP0418>

²<http://townhall.virginia.gov/L/ViewStage.cfm?stageid=8297>

Agency's Response to Economic Impact Analysis: **The** Department of Behavioral Health and Developmental Services concurs with **the** Department of Planning and Budget's economic impact analysis.

Summary:

*Chapter 136 of **the** 2017 Acts of Assembly requires **the** Board of Behavioral Health and Developmental Services to amend regulations to include (i) occupational therapists in **the** definitions of "qualified mental health professional-adult," "qualified mental health professional-child," and "qualified developmental disability professional" and (ii) occupational therapy assistants in **the** definition of "qualified paraprofessional in mental health." In addition,*

the board is required to establish educational and clinical experience for occupational therapists and occupational therapy assistants that is substantially equivalent to comparable professionals listed in the current licensing regulations. Chapters 418 and 426 of the 2017 Acts of Assembly establish the definition of "qualified mental health professional" in § 54.1-2400 of the Code of Virginia. The proposed amendments implement the requirements of Chapters 136, 418, and 426.

Article 2
Definitions

12VAC35-105-20. Definitions.

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

"Abuse" (§ 37.2-100 of the Code of Virginia) means any act or failure to act by an employee or other person responsible for the care of an individual in a facility or program operated, licensed, or funded by the department, excluding those operated by the Virginia Department of Corrections, that was performed or was failed to be performed knowingly, recklessly, or intentionally, and that caused or might have caused physical or psychological harm, injury, or death to a person receiving care or treatment for mental illness, mental retardation (intellectual disability), or substance abuse (substance use disorders). Examples of abuse include acts such as:

1. Rape, sexual assault, or other criminal sexual behavior;
2. Assault or battery;
3. Use of language that demeans, threatens, intimidates, or humiliates the person;
4. Misuse or misappropriation of the person's assets, goods, or property;
5. Use of excessive force when placing a person in physical or mechanical restraint;
6. Use of physical or mechanical restraints on a person that is not in compliance with federal and state laws, regulations, and policies, professional accepted standards of practice, or the person's individualized services plan;
7. Use of more restrictive or intensive services or denial of services to punish the person or that is not consistent with his the person's individualized services plan.

"Activities of daily living" or "ADLs" means personal care activities and includes bathing, dressing, transferring, toileting, grooming, hygiene, feeding, and eating. An individual's degree of independence in performing these activities is part of determining the appropriate level of care and services.

"Admission" means the process of acceptance into a service as defined by the provider's policies.

"Authorized representative" means a person permitted by law or 12VAC35-115 to authorize the disclosure of information or consent to treatment and services or participation in human research.

"Behavior intervention" means those principles and methods employed by a provider to help an individual receiving services to achieve a positive outcome and to address challenging behavior in a constructive and safe manner. Behavior intervention principles and methods must be employed in accordance with the individualized services plan and written policies and procedures governing service expectations, treatment goals, safety, and security.

"Behavioral treatment plan," "functional plan," or "behavioral support plan" means any set of documented procedures that are an integral part of the individualized services plan and are developed on the basis of a systematic data collection, such as a functional assessment, for the purpose of assisting individuals to achieve the following:

1. Improved behavioral functioning and effectiveness;
2. Alleviation of symptoms of psychopathology; or
3. Reduction of challenging behaviors.

"Brain injury" means any injury to the brain that occurs after birth, but before age 65, that is acquired through traumatic or nontraumatic insults. Nontraumatic insults may include anoxia, hypoxia, aneurysm, toxic exposure, encephalopathy, surgical interventions, tumor, and stroke. Brain injury does not include hereditary, congenital, or degenerative brain disorders or injuries induced by birth trauma.

"Care" or "treatment" means the individually planned therapeutic interventions that conform to current acceptable professional practice and that are intended to improve or maintain functioning of an individual receiving services delivered by a provider.

"Case management service" means services that can include assistance to individuals and their family members in assessing needed services that are responsive to the person's individual needs. Case management services include: identifying potential users of the service; assessing needs and planning services; linking the individual to services and supports; assisting the individual directly to locate, develop, or obtain needed services and resources; coordinating services with other providers; enhancing community integration; making collateral contacts; monitoring service delivery; discharge planning; and advocating for individuals in response to their changing needs. "Case management service" does not include maintaining service waiting lists or periodically contacting or tracking individuals to determine potential service needs.

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"Clinical experience" means providing direct services to individuals with mental illness or **the** provision of direct geriatric services or special education services. Experience may include supervised internships, practicums, and field experience.

"Commissioner" means **the** Commissioner of **the** Department of Behavioral Health and Developmental Services.

"Community gero-psychiatric residential services" means 24-hour care provided to individuals with mental illness, behavioral problems, and concomitant health problems who are usually age 65 or older in a geriatric setting that is less intensive than a psychiatric hospital but more intensive than a nursing home or group home. Services include assessment and individualized services planning by an interdisciplinary services team, intense supervision, psychiatric care, behavioral treatment planning and behavior interventions, nursing, and other health related services.

"Community intermediate care facility/mental retardation (~~ICF/MR~~)" or "ICF/MR" means a residential facility in which care is provided to individuals who have mental retardation (intellectual disability) or a developmental disability who need more intensive training and supervision than may be available in an assisted living facility or group home. Such facilities shall comply with Title XIX of **the** Social Security Act standards and federal certification requirements, provide health or rehabilitative services, and provide active treatment to individuals receiving services toward **the** achievement of a more independent level of functioning or an improved quality of life.

"Complaint" means an allegation of a violation of ~~these regulations~~ this chapter or a provider's policies and procedures related to ~~these regulations~~ this chapter.

"Co-occurring disorders" means **the** presence of more than one and often several of **the** following disorders that are identified independently of one another and are not simply a cluster of symptoms resulting from a single disorder: mental illness, mental retardation (intellectual disability), or substance abuse (substance use disorders); brain injury; or developmental disability.

"Co-occurring services" means individually planned therapeutic treatment that addresses in an integrated concurrent manner **the** service needs of individuals who have co-occurring disorders.

"Corrective action plan" means **the** provider's pledged corrective action in response to cited areas of noncompliance documented by **the** regulatory authority. A corrective action plan must be completed within a specified time.

"Correctional facility" means a facility operated under **the** management and control of **the** Virginia Department of Corrections.

"Crisis" means a deteriorating or unstable situation often developing suddenly or rapidly that produces acute, heightened, emotional, mental, physical, medical, or behavioral distress; or any situation or circumstance in which **the** individual perceives or experiences a sudden loss of ~~his~~ **the** individual's ability to use effective problem-solving and coping skills.

"Crisis stabilization" means direct, intensive nonresidential or residential direct care and treatment to nonhospitalized individuals experiencing an acute crisis that may jeopardize their current community living situation. Crisis stabilization is intended to avert hospitalization or rehospitalization; provide normative environments with a high assurance of safety and security for crisis intervention; stabilize individuals in crisis; and mobilize **the** resources of **the** community support system, family members, and others for ongoing rehabilitation and recovery.

"Day support service" means structured programs of activity or training services for adults with an intellectual disability or a developmental disability, generally in clusters of two or more continuous hours per day provided to groups or individuals in nonresidential community-based settings. Day support services may provide opportunities for peer interaction and community integration and are designed to enhance **the** following: self-care and hygiene, eating, toileting, task learning, community resource utilization, environmental and behavioral skills, social skills, medication management, prevocational skills, and transportation skills. **The** term "day support service" does not include services in which **the** primary function is to provide employment-related services, general educational services, or general recreational services.

"Department" means **the** Virginia Department of Behavioral Health and Developmental Services.

"Developmental disabilities" means autism or a severe, chronic disability that meets all of **the** following conditions identified in 42 CFR 435.1009:

1. Attributable to cerebral palsy, epilepsy, or any other condition, other than mental illness, that is found to be closely related to mental retardation (intellectual disability) because this condition results in impairment of general intellectual functioning or adaptive behavior similar to behavior of individuals with mental retardation (intellectual disability) and requires treatment or services similar to those required for these individuals;
2. Manifested before **the** individual reaches age 18;
3. Likely to continue indefinitely; and
4. Results in substantial functional limitations in three or more of **the** following areas of major life activity:
 - a. Self-care;

- b. Understanding and use of language;
- c. Learning;
- d. Mobility;
- e. Self-direction; or
- f. Capacity for independent living.

"Discharge" means the process by which the individual's active involvement with a service is terminated by the provider, individual, or authorized representative.

"Discharge plan" means the written plan that establishes the criteria for an individual's discharge from a service and identifies and coordinates delivery of any services needed after discharge.

"Dispense" means to deliver a drug to an ultimate user by or pursuant to the lawful order of a practitioner, including the prescribing and administering, packaging, labeling or compounding necessary to prepare the substance for that delivery. (§ 54.1-3400 et seq. of the Code of Virginia.)

"Emergency service" means unscheduled and sometimes scheduled crisis intervention, stabilization, and referral assistance provided over the telephone or face-to-face, if indicated, available 24 hours a day and seven days per week. Emergency services also may include walk-ins, home visits, jail interventions, and preadmission screening activities associated with the judicial process.

"Group home or community residential service" means a congregate service providing 24-hour supervision in a community-based home having eight or fewer residents. Services include supervision, supports, counseling, and training in activities of daily living for individuals whose individualized services plan identifies the need for the specific types of services available in this setting.

"Home and noncenter based" means that a service is provided in the individual's home or other noncenter-based setting. This includes noncenter-based day support, supportive in-home, and intensive in-home services.

"IFDDS Waiver" means the Individual and Family Developmental Disabilities Support Waiver.

"Individual" or "individual receiving services" means a person receiving services that are licensed under this chapter whether that person is referred to as a patient, consumer, client, resident, student, individual, recipient, family member, relative, or other term. When the term is used, the requirement applies to every individual receiving licensed services from the provider.

"Individualized services plan" or "ISP" means a comprehensive and regularly updated written plan that describes the individual's needs, the measurable goals and objectives to address those needs, and strategies to reach the individual's goals. An ISP is person-centered, empowers the

individual, and is designed to meet the needs and preferences of the individual. The ISP is developed through a partnership between the individual and the provider and includes an individual's treatment plan, habilitation plan, person-centered plan, or plan of care, which are all considered individualized service plans.

"Initial assessment" means an assessment conducted prior to or at admission to determine whether the individual meets the service's admission criteria; what the individual's immediate service, health, and safety needs are; and whether the provider has the capability and staffing to provide the needed services.

"Inpatient psychiatric service" means intensive 24-hour medical, nursing, and treatment services provided to individuals with mental illness or substance abuse (substance use disorders) in a hospital as defined in § 32.1-123 of the Code of Virginia or in a special unit of such a hospital.

"Instrumental activities of daily living" or "IADLs" means meal preparation, housekeeping, laundry, and managing money. A person's degree of independence in performing these activities is part of determining appropriate level of care and services.

"Intensive ~~Community Treatment (ICT)~~ community treatment service" or "ICT" means a self-contained interdisciplinary team of at least five full-time equivalent clinical staff, a program assistant, and a full-time psychiatrist that:

1. Assumes responsibility for directly providing needed treatment, rehabilitation, and support services to identified individuals with severe and persistent mental illness especially those who have severe symptoms that are not effectively remedied by available treatments or who because of reasons related to their mental illness resist or avoid involvement with mental health services;
2. Minimally refers individuals to outside service providers;
3. Provides services on a long-term care basis with continuity of caregivers over time;
4. Delivers 75% or more of the services outside program offices; and
5. Emphasizes outreach, relationship building, and individualization of services.

"Intensive in-home service" means family preservation interventions for children and adolescents who have or are at risk of serious emotional disturbance, including individuals who also have a diagnosis of mental retardation (intellectual disability). Intensive in-home service is usually time-limited and is provided typically in the residence of an individual who is at risk of being moved to out-of-home placement or who is being transitioned back home from an out-of-home placement. The service includes 24-hour per day emergency

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response; crisis treatment; individual and family counseling; life, parenting, and communication skills; and case management and coordination with other services.

"Investigation" means a detailed inquiry or systematic examination of **the** operations of a provider or its services regarding an alleged violation of regulations or law. An investigation may be undertaken as a result of a complaint, an incident report, or other information that comes to **the** attention of **the** department.

"Licensed mental health professional" or "LMHP" means a physician, licensed clinical psychologist, licensed professional counselor, licensed clinical social worker, licensed substance abuse treatment practitioner, licensed marriage and family therapist, certified psychiatric clinical nurse specialist, or licensed behavior analyst.

"Location" means a place where services are or could be provided.

"Medically managed withdrawal services" means detoxification services to eliminate or reduce **the** effects of alcohol or other drugs in **the** individual's body.

"Mandatory outpatient treatment order" means an order issued by a court pursuant to § 37.2-817 of **the** Code of Virginia.

"Medical detoxification" means a service provided in a hospital or other 24-hour care facility under **the** supervision of medical personnel using medication to systematically eliminate or reduce effects of alcohol or other drugs in **the** individual's body.

"Medical evaluation" means **the** process of assessing an individual's health status that includes a medical history and a physical examination of an individual conducted by a licensed medical practitioner operating within **the** scope of his license.

"Medication" means prescribed or over-the-counter drugs or both.

"Medication administration" means **the** direct application of medications by injection, inhalation, ingestion, or any other means to an individual receiving services by (i) persons legally permitted to administer medications or (ii) **the** individual at **the** direction and in **the** presence of persons legally permitted to administer medications.

"Medication assisted treatment (Opioid treatment service)" means an intervention strategy that combines outpatient treatment with **the** administering or dispensing of synthetic narcotics, such as methadone or buprenorphine (suboxone), approved by **the** federal Food and Drug Administration for **the** purpose of replacing **the** use of and reducing **the** craving for opioid substances, such as heroin or other narcotic drugs.

"Medication error" means an error in administering a medication to an individual and includes when any of **the**

following occur: (i) **the** wrong medication is given to an individual, (ii) **the** wrong individual is given **the** medication, (iii) **the** wrong dosage is given to an individual, (iv) medication is given to an individual at **the** wrong time or not at all, or (v) **the** wrong method is used to give **the** medication to **the** individual.

"Medication storage" means any area where medications are maintained by **the** provider, including a locked cabinet, locked room, or locked box.

"Mental Health Community Support Service (MHCSS)" means **the** provision of recovery-oriented services to individuals with long-term, severe mental illness. MHCSS includes skills training and assistance in accessing and effectively utilizing services and supports that are essential to meeting **the** needs identified in **the** individualized services plan and development of environmental supports necessary to sustain active community living as independently as possible. MHCSS may be provided in any setting in which **the** individual's needs can be addressed, skills training applied, and recovery experienced.

"Mental illness" means a disorder of thought, mood, emotion, perception, or orientation that significantly impairs judgment, behavior, capacity to recognize reality, or ability to address basic life necessities and requires care and treatment for **the** health, safety, or recovery of **the** individual or for **the** safety of others.

"Mental retardation (intellectual disability)" means a disability originating before **the** age of 18 years characterized concurrently by (i) significantly subaverage intellectual functioning as demonstrated by performance on a standardized measure of intellectual functioning administered in conformity with accepted professional practice that is at least two standard deviations below **the** mean; and (ii) significant limitations in adaptive behavior as expressed in conceptual, social, and practical adaptive skills (§ 37.2-100 of **the** Code of Virginia).

"Neglect" means **the** failure by an individual or a program or facility operated, licensed, or funded by **the** department, excluding those operated by **the** Department of Corrections, responsible for providing services to do so, including nourishment, treatment, care, goods, or services necessary to **the** health, safety, or welfare of a person receiving care or treatment for mental illness, mental retardation (intellectual disability), or substance abuse (substance use disorders).

"Neurobehavioral services" means **the** assessment, evaluation, and treatment of cognitive, perceptual, behavioral, and other impairments caused by brain injury that affect an individual's ability to function successfully in **the** community.

"Outpatient service" means treatment provided to individuals on an hourly schedule, on an individual, group, or family basis, and usually in a clinic or similar facility or in another location. Outpatient services may include diagnosis

and evaluation, screening and intake, counseling, psychotherapy, behavior management, psychological testing and assessment, laboratory and other ancillary services, medical services, and medication services. "Outpatient service" specifically includes:

1. Services operated by a community services board or a behavioral health authority established pursuant to Chapter 5 (§ 37.2-500 et seq.) or Chapter 6 (§ 37.2-600 et seq.) of Title 37.2 of the Code of Virginia;
2. Services contracted by a community services board or a behavioral health authority established pursuant to Chapter 5 (§ 37.2-500 et seq.) or Chapter 6 (§ 37.2-600 et seq.) of Title 37.2 of the Code of Virginia; or
3. Services that are owned, operated, or controlled by a corporation organized pursuant to the provisions of either Chapter 9 (§ 13.1-601 et seq.) or Chapter 10 (§ 13.1-801 et seq.) of Title 13.1 of the Code of Virginia.

"Partial hospitalization service" means time-limited active treatment interventions that are more intensive than outpatient services, designed to stabilize and ameliorate acute symptoms, and serve as an alternative to inpatient hospitalization or to reduce the length of a hospital stay. Partial hospitalization is focused on individuals with serious mental illness, substance abuse (substance use disorders), or co-occurring disorders at risk of hospitalization or who have been recently discharged from an inpatient setting.

"Person-centered" means focusing on the needs and preferences of the individual; empowering and supporting the individual in defining the direction for his life; and promoting self-determination, community involvement, and recovery.

"Program of ~~Assertive Community Treatment (PACT)~~ assertive community treatment service" or "PACT" means a self-contained interdisciplinary team of at least 10 full-time equivalent clinical staff, a program assistant, and a full- or part-time psychiatrist that:

1. Assumes responsibility for directly providing needed treatment, rehabilitation, and support services to identified individuals with severe and persistent mental illnesses, including those who have severe symptoms that are not effectively remedied by available treatments or who because of reasons related to their mental illness resist or avoid involvement with mental health services;
2. Minimally refers individuals to outside service providers;
3. Provides services on a long-term care basis with continuity of caregivers over time;
4. Delivers 75% or more of the services outside program offices; and
5. Emphasizes outreach, relationship building, and individualization of services.

"Provider" means any person, entity, or organization, excluding an agency of the federal government by whatever name or designation, that delivers (i) services to individuals with mental illness, mental retardation (intellectual disability), or substance abuse (substance use disorders), (ii) services to individuals who receive day support, in-home support, or crisis stabilization services funded through the IFDDS Waiver, or (iii) residential services for individuals with brain injury. The person, entity, or organization shall include a hospital as defined in § 32.1-123 of the Code of Virginia, community services board, behavioral health authority, private provider, and any other similar or related person, entity, or organization. It shall not include any individual practitioner who holds a license issued by a health regulatory board of the Department of Health Professions or who is exempt from licensing pursuant to §§ 54.1-2901, 54.1-3001, 54.1-3501, 54.1-3601 and 54.1-3701 of the Code of Virginia.

"Psychosocial rehabilitation service" means a program of two or more consecutive hours per day provided to groups of adults in a nonresidential setting. Individuals must demonstrate a clinical need for the service arising from a condition due to mental, behavioral, or emotional illness that results in significant functional impairments in major life activities. This service provides education to teach the individual about mental illness, substance abuse, and appropriate medication to avoid complication and relapse and opportunities to learn and use independent skills and to enhance social and interpersonal skills within a consistent program structure and environment. Psychosocial rehabilitation includes skills training, peer support, vocational rehabilitation, and community resource development oriented toward empowerment, recovery, and competency.

"Qualified developmental disability professional" or "QDDP" means a person who possesses at least one year of documented experience working directly with individuals who have a developmental disability and who possesses one of the following credentials: (i) a doctor of medicine or osteopathy licensed in Virginia, (ii) a registered nurse licensed in Virginia, (iii) a licensed occupational therapist, or (iv) completion of at least a bachelor's degree in a human services field, including sociology, social work, special education, rehabilitation counseling, or psychology.

"Qualified mental health professional" or "QMHP" means a person who by education and experience is professionally qualified and registered by the Board of Counseling in accordance with 18VAC115-80 to provide collaborative mental health services for adults or children. A QMHP shall not engage in independent or autonomous practice. A QMHP shall provide such services as an employee or independent contractor of the department or a provider licensed by the department.

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~~"Qualified Mental Health Professional Adult (QMHP-A) mental health professional-adult" or "QMHP-A" means a person in the human services field who is trained and experienced in providing psychiatric or mental health services to individuals who have a mental illness; including (i) a doctor of medicine or osteopathy licensed in Virginia; (ii) a doctor of medicine or osteopathy, specializing in psychiatry and licensed in Virginia; (iii) an individual with a master's degree in psychology from an accredited college or university with at least one year of clinical experience; (iv) a social worker: an individual with at least a bachelor's degree in human services or related field (social work, psychology, psychiatric rehabilitation, sociology, counseling, vocational rehabilitation, human services counseling or other degree deemed equivalent to those described) from an accredited college and with at least one year of clinical experience providing direct services to individuals with a diagnosis of mental illness; (v) a person with at least a bachelor's degree from an accredited college in an unrelated field that includes at least 15 semester credits (or equivalent) in a human services field and who has at least three years of clinical experience; (vi) a Certified Psychiatric Rehabilitation Provider (CPRP) registered with the United States Psychiatric Rehabilitation Association (USPRA); (vii) a registered nurse licensed in Virginia with at least one year of clinical experience; or (viii) any other licensed mental health professional who by education and experience is professionally qualified and registered with the Board of Counseling in accordance with 18VAC115-80 to provide collaborative mental health services for adults. A QMHP-A shall provide such services as an employee or independent contractor of the department or a provider licensed by the department. A QMHP-A may be an occupational therapist who by education and experience is professionally qualified and registered with the Board of Counseling in accordance with 18VAC115-80.~~

~~"Qualified Mental Health Professional Child (QMHP-C) mental health professional-child" or "QMHP-C" means a person in the human services field who is trained and experienced in providing psychiatric or mental health services to children who have a mental illness. To qualify as a QMHP-C, the individual must have the designated clinical experience and must either (i) be a doctor of medicine or osteopathy licensed in Virginia; (ii) have a master's degree in psychology from an accredited college or university with at least one year of clinical experience with children and adolescents; (iii) have a social work bachelor's or master's degree from an accredited college or university with at least one year of documented clinical experience with children or adolescents; (iv) be a registered nurse with at least one year of clinical experience with children and adolescents; (v) have at least a bachelor's degree in a human services field or in special education from an accredited college with at least one year of clinical experience with children and adolescents, or (vi) be a licensed mental health professional who by education and experience~~

~~is professionally qualified and registered with the Board of Counseling in accordance with 18VAC115-80 to provide collaborative mental health services for children. A QMHP-C shall provide such services as an employee or independent contractor of the department or a provider licensed by the department. A QMHP-C may be an occupational therapist who by education and experience is professionally qualified and registered with the Board of Counseling in accordance with 18VAC115-80.~~

~~"Qualified Mental Health Professional Eligible (QMHP-E) mental health professional-eligible" or "QMHP-E" means a person who has: (i) at least a bachelor's degree in a human service field or special education from an accredited college without one year of clinical experience or (ii) at least a bachelor's degree in a nonrelated field and is enrolled in a master's or doctoral clinical program, taking the equivalent of at least three credit hours per semester and is employed by a provider that has a triennial license issued by the department and has a department and DMAS approved supervision training program receiving supervised training in order to qualify as a QMHP in accordance with 18VAC115-80 and who is registered with the Board of Counseling.~~

~~"Qualified Mental Retardation Professional (QMRP)" means a person who possesses at least one year of documented experience working directly with individuals who have mental retardation (intellectual disability) or other developmental disabilities and one of the following credentials: (i) a doctor of medicine or osteopathy licensed in Virginia, (ii) a registered nurse licensed in Virginia, or (iii) completion of at least a bachelor's degree in a human services field, including, but not limited to sociology, social work, special education, rehabilitation counseling, or psychology.~~

~~"Qualified Paraprofessional in Mental Health (QPPMH) paraprofessional in mental health" or "QPPMH" means a person who must, at a minimum, meet at least one of the following criteria: (i) registered with the United States Psychiatric Rehabilitation Association (USPRA) as an Associate Psychiatric Rehabilitation Provider (APRP); (ii) has an associate's degree in a related field (social work, psychology, psychiatric rehabilitation, sociology, counseling, vocational rehabilitation, human services counseling) and at least one year of experience providing direct services to individuals with a diagnosis of mental illness; or (iii) licensed as an occupational therapy assistant, and supervised by a licensed occupational therapist, with at least one year of experience providing direct services to individuals with a diagnosis of mental illness; or (iv) has a minimum of 90 hours classroom training and 12 weeks of experience under the direct personal supervision of a QMHP-Adult QMHP-A providing services to individuals with mental illness and at least one year of experience (including the 12 weeks of supervised experience).~~

"Recovery" means a journey of healing and transformation enabling an individual with a mental illness to live a meaningful life in a community of his choice while striving to achieve his full potential. For individuals with substance abuse (substance use disorders), recovery is an incremental process leading to positive social change and a full return to biological, psychological, and social functioning. For individuals with mental retardation (intellectual disability), the concept of recovery does not apply in the sense that individuals with mental retardation (intellectual disability) will need supports throughout their entire lives although these may change over time. With supports, individuals with mental retardation (intellectual disability) are capable of living lives that are fulfilling and satisfying and that bring meaning to themselves and others whom they know.

"Referral" means the process of directing an applicant or an individual to a provider or service that is designed to provide the assistance needed.

"Residential crisis stabilization service" means (i) providing short-term, intensive treatment to nonhospitalized individuals who require multidisciplinary treatment in order to stabilize acute psychiatric symptoms and prevent admission to a psychiatric inpatient unit; (ii) providing normative environments with a high assurance of safety and security for crisis intervention; and (iii) mobilizing the resources of the community support system, family members, and others for ongoing rehabilitation and recovery.

"Residential service" means providing 24-hour support in conjunction with care and treatment or a training program in a setting other than a hospital or training center. Residential services provide a range of living arrangements from highly structured and intensively supervised to relatively independent requiring a modest amount of staff support and monitoring. Residential services include residential treatment, group or community homes, supervised living, residential crisis stabilization, community gero-psychiatric residential, community intermediate care facility-MR, sponsored residential homes, medical and social detoxification, neurobehavioral services, and substance abuse residential treatment for women and children.

"Residential treatment service" means providing an intensive and highly structured mental health, substance abuse, or neurobehavioral service, or services for co-occurring disorders in a residential setting, other than an inpatient service.

"Respite care service" means providing for a short-term, time limited period of care of an individual for the purpose of providing relief to the individual's family, guardian, or regular care giver. Persons providing respite care are recruited, trained, and supervised by a licensed provider. These services may be provided in a variety of settings including residential, day support, in-home, or a sponsored residential home.

"Restraint" means the use of a mechanical device, medication, physical intervention, or hands-on hold to prevent an individual receiving services from moving his body to engage in a behavior that places him or others at imminent risk. There are three kinds of restraints:

1. Mechanical restraint means the use of a mechanical device that cannot be removed by the individual to restrict the individual's freedom of movement or functioning of a limb or portion of an individual's body when that behavior places him or others at imminent risk.

2. Pharmacological restraint means the use of a medication that is administered involuntarily for the emergency control of an individual's behavior when that individual's behavior places him or others at imminent risk and the administered medication is not a standard treatment for the individual's medical or psychiatric condition.

3. Physical restraint, also referred to as manual hold, means the use of a physical intervention or hands-on hold to prevent an individual from moving his body when that individual's behavior places him or others at imminent risk.

"Restraints for behavioral purposes" means using a physical hold, medication, or a mechanical device to control behavior or involuntary restrict the freedom of movement of an individual in an instance when all of the following conditions are met: (i) there is an emergency; (ii) nonphysical interventions are not viable; and (iii) safety issues require an immediate response.

"Restraints for medical purposes" means using a physical hold, medication, or mechanical device to limit the mobility of an individual for medical, diagnostic, or surgical purposes, such as routine dental care or radiological procedures and related post-procedure care processes, when use of the restraint is not the accepted clinical practice for treating the individual's condition.

"Restraints for protective purposes" means using a mechanical device to compensate for a physical or cognitive deficit when the individual does not have the option to remove the device. The device may limit an individual's movement, for example, bed rails or a gerichair, and prevent possible harm to the individual or it may create a passive barrier, such as a helmet to protect the individual.

"Restriction" means anything that limits or prevents an individual from freely exercising his rights and privileges.

"Screening" means the process or procedure for determining whether the individual meets the minimum criteria for admission.

"Seclusion" means the involuntary placement of an individual alone in an area secured by a door that is locked or held shut by a staff person, by physically blocking the door, or by any other physical means so that the individual cannot leave it.

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"Serious injury" means any injury resulting in bodily damage, harm, or loss that requires medical attention by a licensed physician, doctor of osteopathic medicine, physician assistant, or nurse practitioner while **the** individual is supervised by or involved in services, such as attempted suicides, medication overdoses, or reactions from medications administered or prescribed by **the** service.

"Service" ~~or "services"~~ means (i) planned individualized interventions intended to reduce or ameliorate mental illness, mental retardation (intellectual disability), or substance abuse (substance use disorders) through care, treatment, training, habilitation, or other supports that are delivered by a provider to individuals with mental illness, mental retardation (intellectual disability), or substance abuse (substance use disorders). Services include outpatient services, intensive in-home services, opioid treatment services, inpatient psychiatric hospitalization, community gero-psychiatric residential services, assertive community treatment and other clinical services; day support, day treatment, partial hospitalization, psychosocial rehabilitation, and habilitation services; case management services; and supportive residential, halfway house, and other residential services; (ii) day support, in-home support, and crisis stabilization services provided to individuals under **the** IFDDS Waiver; and (iii) planned individualized interventions intended to reduce or ameliorate **the** effects of brain injury through care, treatment, or other supports or in residential services for persons with brain injury.

"Shall" means an obligation to act is imposed.

"Shall not" means an obligation not to act is imposed.

"Skills training" means systematic skill building through curriculum-based psychoeducational and cognitive-behavioral interventions. These interventions break down complex objectives for role performance into simpler components, including basic cognitive skills such as attention, to facilitate learning and competency.

"Social detoxification service" means providing nonmedical supervised care for **the** individual's natural process of withdrawal from use of alcohol or other drugs.

"Sponsored residential home" means a service where providers arrange for, supervise, and provide programmatic, financial, and service support to families or persons (sponsors) providing care or treatment in their own homes for individuals receiving services.

"State board" means **the** State Board of Behavioral Health and Developmental Services. **The** board has statutory responsibility for adopting regulations that may be necessary to carry out **the** provisions of Title 37.2 of **the** Code of Virginia and other laws of **the** Commonwealth administered by **the** commissioner or **the** department.

"State methadone authority" means **the** Virginia Department of Behavioral Health and Developmental Services that is authorized by **the** federal Center for Substance Abuse Treatment to exercise **the** responsibility and authority for governing **the** treatment of opiate addiction with an opioid drug.

"Substance abuse (substance use disorders)" means **the** use of drugs enumerated in **the** Virginia Drug Control Act (§ 54.1-3400 et seq.) without a compelling medical reason or alcohol that (i) results in psychological or physiological dependence or danger to self or others as a function of continued and compulsive use or (ii) results in mental, emotional, or physical impairment that causes socially dysfunctional or socially disordering behavior; and (iii), because of such substance abuse, requires care and treatment for **the** health of **the** individual. This care and treatment may include counseling, rehabilitation, or medical or psychiatric care.

"Substance abuse intensive outpatient service" means treatment provided in a concentrated manner for two or more consecutive hours per day to groups of individuals in a nonresidential setting. This service is provided over a period of time for individuals requiring more intensive services than an outpatient service can provide. Substance abuse intensive outpatient services include multiple group therapy sessions during **the** week, individual and family therapy, individual monitoring, and case management.

"Substance abuse residential treatment for women with children service" means a 24-hour residential service providing an intensive and highly structured substance abuse service for women with children who live in **the** same facility.

"Supervised living residential service" means **the** provision of significant direct supervision and community support services to individuals living in apartments or other residential settings. These services differ from supportive in-home service because **the** provider assumes responsibility for management of **the** physical environment of **the** residence, and staff supervision and monitoring are daily and available on a 24-hour basis. Services are provided based on **the** needs of **the** individual in areas such as food preparation, housekeeping, medication administration, personal hygiene, treatment, counseling, and budgeting.

"Supportive in-home service" (formerly supportive residential) means **the** provision of community support services and other structured services to assist individuals, to strengthen individual skills, and that provide environmental supports necessary to attain and sustain independent community residential living. Services include drop-in or friendly-visitor support and counseling to more intensive support, monitoring, training, in-home support, respite care, and family support services. Services are based on **the** needs of **the** individual and include training and assistance. These services normally do not involve overnight care by **the**

provider; however, due to **the** flexible nature of these services, overnight care may be provided on an occasional basis.

"Therapeutic day treatment for children and adolescents" means a treatment program that serves (i) children and adolescents from birth through age 17 and under certain circumstances up to 21 with serious emotional disturbances, substance use, or co-occurring disorders or (ii) children from birth through age seven who are at risk of serious emotional disturbance, in order to combine psychotherapeutic interventions with education and mental health or substance abuse treatment. Services include: evaluation; medication education and management; opportunities to learn and use daily living skills and to enhance social and interpersonal skills; and individual, group, and family counseling.

"Time out" means **the** involuntary removal of an individual by a staff person from a source of reinforcement to a different, open location for a specified period of time or until **the** problem behavior has subsided to discontinue or reduce **the** frequency of problematic behavior.

"Volunteer" means a person who, without financial remuneration, provides services to individuals on behalf of **the** provider.

12VAC35-105-590. Provider staffing plan.

A. **The** provider shall implement a written staffing plan that includes **the** types, roles, and numbers of employees and contractors that are required to provide **the** service. This staffing plan shall reflect **the**:

1. Needs of **the** individuals served;
2. Types of services offered;
3. **The** service description; and
4. Number of people to be served at a given time.

B. **The** provider shall develop a written transition staffing plan for new services, added locations, and changes in capacity.

C. **The** provider shall meet **the** following staffing requirements related to supervision.

1. **The** provider shall describe how employees, volunteers, contractors, and student interns will be supervised in **the** staffing plan and how that supervision will be documented.
2. Supervision of employees, volunteers, contractors, and student interns shall be provided by persons who have experience in working with individuals receiving services and in providing **the** services outlined in **the** service description.
3. Supervision shall be appropriate to **the** services provided and **the** needs of **the** individual. Supervision shall be documented.

4. Supervision shall include responsibility for approving assessments and individualized services plans, as appropriate. This responsibility may be delegated to an employee or contractor who meets **the** qualification for supervision as defined in this section.

5. Supervision of mental health, substance abuse, or co-occurring services that are of an acute or clinical nature such as outpatient, inpatient, intensive in-home, or day treatment shall be provided by a licensed mental health professional or a mental health professional who is license-eligible and registered with a board of **the** Department of Health Professions.

6. Supervision of mental health, substance abuse, or co-occurring services that are of a supportive or maintenance nature, such as psychosocial rehabilitation, or mental health supports, shall be provided by a QMHP-A, a licensed mental health professional, or a mental health professional who is license-eligible and registered with a board of **the** Department of Health Professions. An individual who is a QMHP-E may not provide this type of supervision.

7. Supervision of mental retardation (intellectual disability) services shall be provided by a person with at least one year of documented experience working directly with individuals who have mental retardation (intellectual disability) or other developmental disabilities and holds at least a bachelor's degree in a human services field such as sociology, social work, special education, rehabilitation counseling, nursing, or psychology. Experience may be substituted for **the** education requirement.

8. Supervision of individual and family developmental disabilities support (IFDDS) services shall be provided by a person possessing at least one year of documented experience working directly with individuals who have developmental disabilities and is one of **the** following: a doctor of medicine or osteopathy licensed in Virginia; a registered nurse licensed in Virginia; or a person holding at least a bachelor's degree in a human services field such as sociology, social work, special education, rehabilitation counseling, or psychology. Experience may be substituted for **the** education requirement.

9. Supervision of brain injury services shall be provided at a minimum by a clinician in **the** health professions field who is trained and experienced in providing brain injury services to individuals who have a brain injury diagnosis including: (i) a doctor of medicine or osteopathy licensed in Virginia; (ii) a psychiatrist who is a doctor of medicine or osteopathy specializing in psychiatry and licensed in Virginia; (iii) a psychologist who has a master's degree in psychology from a college or university with at least one year of clinical experience; (iv) a social worker who has a bachelor's degree in human services or a related field (social work, psychology, psychiatric evaluation,

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sociology, counseling, vocational rehabilitation, human services counseling, or other degree deemed equivalent to those described) from an accredited college or university with at least two years of clinical experience providing direct services to individuals with a diagnosis of brain injury; (v) a Certified Brain Injury Specialist; (vi) a registered nurse licensed in Virginia with at least one year of clinical experience; or (vii) any other licensed rehabilitation professional with one year of clinical experience.

D. The provider shall employ or contract with persons with appropriate training, as necessary, to meet the specialized needs of and to ensure the safety of individuals being served in residential services with medical or nursing needs; speech, language, or hearing problems; or other needs where specialized training is necessary.

E. Providers of brain injury services shall employ or contract with a neuropsychologist or licensed clinical psychologist specializing in brain injury to assist, as appropriate, with initial assessments, development of individualized services plans, crises, staff training, and service design.

F. Direct care staff who provide brain injury services shall have at least a high school diploma and two years of experience working with individuals with disabilities or shall have successfully completed an approved training curriculum on brain injuries within six months of employment.

12VAC35-105-1370. Treatment team and staffing plan.

A. Services are delivered by interdisciplinary teams.

1. PACT and ICT teams shall include the following positions:

a. Team Leader - one ~~full-time QMHP-Adult~~ full-time QMHP-A with at least three years experience in the provision of mental health services to adults with serious mental illness. The team leader shall oversee all aspects of team operations and shall routinely provide direct services to individuals in the community.

b. Nurses - PACT and ICT nurses shall be full-time employees or contractors with the following minimum qualifications: A registered nurse (RN) shall have one year of experience in the provision of mental health services to adults with serious mental illness. A licensed practical nurse (LPN) shall have three years of experience in the provision of mental health services to adults with serious mental illness. ICT teams shall have at least one qualified full-time nurse. PACT teams shall have at least three qualified full-time nurses at least one of whom shall be a qualified RN.

c. One full-time vocational specialist and one full-time substance abuse specialist. These staff members shall provide direct services to individuals in their area of specialty and provide leadership to other team members

to also assist individuals with their self identified employment or substance abuse recovery goals.

d. Peer specialists - one or more full-time equivalent QPPMH or ~~QMHP-Adult~~ QMHP-A who is or has been a recipient of mental health services for severe and persistent mental illness. The peer specialist shall be a fully integrated team member who provides peer support directly to individuals and provides leadership to other team members in understanding and supporting individuals' recovery goals.

e. Program assistant - one full-time person with skills and abilities in medical records management shall operate and coordinate the management information system, maintain accounts and budget records for individual and program expenditures, and provide receptionist activities.

f. Psychiatrist - one physician who is board certified in psychiatry or who is board eligible in psychiatry and is licensed to practice medicine in Virginia. An equivalent ratio to 20 minutes (.008 FTE) of psychiatric time for each individual served must be maintained. The psychiatrist shall be a fully integrated team member who attends team meetings and actively participates in developing and implementing each individual ISP.

2. ~~QMHP-Adult~~ QMHP-A and mental health professional standards:

a. At least 80% of the clinical employees or contractors, not including the program assistant or psychiatrist, shall ~~meet QMHP-Adult standards and shall be QMHP-As~~ qualified to provide the services described in 12VAC35-105-1410.

b. Mental health professionals - At least half of the clinical employees or contractors, not including the team leader or nurses and including the peer specialist if that person holds such a degree, shall hold a master's degree in a human service field.

3. Staffing capacity:

a. An ICT team shall have at least five full-time equivalent clinical employees or contractors. A PACT team shall have at least 10 full-time equivalent clinical employees or contractors.

b. ICT and PACT teams shall include a minimum number of employees (counting contractors but not counting the psychiatrist and program assistant) to maintain an employee to individual ratio of at least 1:10.

c. ICT teams may serve no more than 80 individuals. PACT teams may serve no more than 120 individuals.

d. A transition plan shall be required of PACT teams that will allow for "start-up" when newly forming teams are not in full compliance with the PACT model relative to

staffing patterns and individuals receiving services capacity.

B. ICT and PACT teams shall meet daily Monday through Friday or at least four days per week to review and plan routine services and to address or prevent emergency and crisis situations.

C. ICT teams shall operate a minimum of 8 eight hours per day, 5 five days per week and shall provide services on a case-by-case basis in the evenings and on weekends. PACT teams shall be available to individuals 24 hours per day and shall operate a minimum of 12 hours each weekday and 8 eight hours each weekend day and each holiday.

D. The ICT or PACT team shall make crisis services directly available 24 hours a day but may arrange coverage through another crisis services provider if the team coordinates with the crisis services provider daily. The PACT team shall operate an after-hours on-call system and be available to individuals by telephone or in person.

VA.R. Doc. No. R18-5245; Filed November 21, 2018, 2:38 p.m.

TITLE 20. PUBLIC UTILITIES AND TELECOMMUNICATIONS

STATE CORPORATION COMMISSION

Final Regulation

REGISTRAR'S NOTICE: The following amendments are exempt from the Virginia Administrative Process Act pursuant to § 2.2-4002 C of the Code of Virginia, which provides that minor changes to regulations published in the Virginia Administrative Code under the Virginia Register Act, Chapter 41 (§ 2.2-4100 et seq.) of Title 2.2 of the Code of Virginia, made by the Virginia Code Commission pursuant to § 30-150 of the Code of Virginia, shall be exempt from the provisions of the Virginia Administrative Process Act.

Title of Regulation: **20VAC5-308. Rules Governing the Safety of Intrastate Hazardous Liquid Pipeline Systems (amending 20VAC5-308-10).**

Statutory Authority: §§ 12.1-13 and 56-555 of the Code of Virginia.

Effective Date: December 10, 2018.

Agency Contact: Aaron Campbell, Associate General Counsel, State Corporation Commission, P.O. Box 1197, Richmond, VA 23218, telephone (804) 371-9117, or email aaron.campbell@scc.virginia.gov.

Summary:

The amendments correct the name of the referenced division of the State Corporation Commission.

20VAC5-308-10. Safety of intrastate hazardous liquid pipeline systems.

A. These rules are adopted pursuant to § 56-555 of the Code of Virginia to establish safety and inspection requirements for intrastate hazardous liquid pipeline systems as defined by federal regulation promulgated under 49 USC § 60101.

B. Parts 195 and 199 of Title 49 of the Code of Federal Regulations are hereby adopted by reference as the minimum pipeline safety regulations applicable to intrastate hazardous liquid pipeline systems within the commission's jurisdiction.

C. Telephonic notices regarding incidents involving hazardous liquid pipeline systems shall be made, at the earliest practicable moment following discovery of the incident, to the commission's Division of ~~Energy Regulation~~ Utility and Railroad Safety during the division's daily hours and to the commission's Manager of Pipeline Safety (telephone number (804) 343-0863) during all other times. Such notices shall include the information listed in 49 CFR 195.52(b)(1) through (b)(6).

D. The commission's Division of ~~Energy Regulation~~ Utility and Railroad Safety may require certain written reports from the jurisdictional hazardous liquid pipeline systems to aid the commission staff in administering an effective pipeline safety program.

E. The commission's Division of ~~Energy Regulation~~ Utility and Railroad Safety shall be empowered to submit and sign on behalf of the commission, such forms and applications as necessary to assure participation in hazardous liquid pipeline safety programs, as deemed advisable by the commission to assure an effective safety program in Virginia, but that the commission comptroller shall be empowered to sign on behalf of the commission those applications and forms pertaining to grants or reimbursement of expenses incurred by the commission in conducting the pipeline safety program in Virginia.

VA.R. Doc. No. R19-5769; Filed November 29, 2018, 12:32 p.m.

GOVERNOR

EXECUTIVE ORDER NUMBER TWENTY-FIVE (2018)

Establishing the Governor's Affordable Housing Priorities to Address Virginia's Unmet Housing Needs

Importance of the Issue

The sustained welfare of Virginians and the communities in which they reside depends upon the quality, availability, and affordability of housing. In recent decades, Virginia has made substantial progress in improving the quality of housing and the living environment of Virginians. However, both our urban and rural communities face a shortage of affordable housing. The high cost burden of housing, especially for lower wage earners or those with special needs, is contributing to housing instability and homelessness.

In addition to these existing needs, communities across the Commonwealth must also produce substantial new affordable housing units in order to accommodate anticipated economic and workforce growth. As the Commonwealth continues to diversify and strengthen its economy, ensuring the availability of quality, affordable housing that is proximate to employment and educational opportunities will continue to be a critical measure of community vitality and readiness for new economic investment.

To address these needs, the Commonwealth's housing initiatives should focus on enhancing Virginia's economic growth and promoting education, health, and job opportunities for all Virginians. The Commonwealth must continue to work with public and private partners to address housing instability and homelessness, provide permanent supportive housing for vulnerable populations with special needs, and expand the supply of quality, affordable housing required to meet the needs of a growing and diverse workforce. The Commonwealth must also commit to fostering inclusive communities through the deconcentration of poverty and efforts to ensure fair housing is a priority.

Establishment of the Commonwealth's Housing Initiatives

Accordingly, by virtue of the power vested in me as Governor under Article V of the Constitution of Virginia and under the laws of the Commonwealth, and subject to my continuing and ultimate authority and responsibility to act in such matters, I hereby direct the Secretary of Commerce and Trade, with the assistance of the Director of the Department of Housing and Community Development and the Executive Director of the Virginia Housing Development Authority, to identify and implement actions to enable the development of quality, affordable housing with the goal of strengthening communities and fostering economic growth. I also direct the Secretary of Health and Human Resources and its agencies to partner in this effort and to identify personnel and resources to assist in the implementation of this Executive Order. The Secretary of Commerce and Trade and the Secretary of Health and Human Resources shall work with the Commonwealth's economic development and workforce development agencies on this effort.

The housing policies and actions developed pursuant to this Executive Order shall include the following:

1. Increase the supply of permanent supportive housing. This evidence-based housing model is critically important to address the most urgent areas of housing need, including programs to reduce homelessness and housing instability for vulnerable populations. The effort should bolster the ongoing inter-agency structures aimed at providing permanent supportive housing for individuals with developmental disabilities, serious mental illness, or substance use disorders, including pregnant and parenting women. The effort should also focus on individuals experiencing homelessness and individuals with other support service needs.
2. Address the shortage of quality affordable housing. The effort shall prioritize identifying and promoting policy solutions that reduce the cost of housing and provide additional affordable housing units, especially in proximity to existing and developing employment centers. The effort shall include engagement with local governments, the business community, nonprofit organizations, and other interested stakeholders. The effort should focus on coordinating economic development projects with housing production, supporting housing production technology, and supporting regional and local pilot projects that increase the supply of affordable housing units.
3. Reduce the rate of evictions across the Commonwealth. The effort shall include diversion and prevention programs that bolster housing stability for individuals and families, evaluating potential pilot programs that provide eviction relief, and counseling and education services. The Commonwealth should collaborate with stakeholders and researchers to ensure strong data collection and metrics are readily available to address this challenge, especially in communities with high eviction rates. The effort shall also prioritize policy solutions to address the underlying challenges of poverty that contribute to housing instability.

Staffing and Funding

Staffing shall be furnished by the Offices of the Secretary of Commerce and Trade and Secretary of Health and Human Resources, their agencies, and other agencies and offices as needed. Stakeholders consulted in the review and development of housing policy shall do so without compensation.

Effective Date of the Executive Order

This Executive Order shall be effective upon its signing and shall remain in 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 15th day of November 2018.

/s/ Ralph S. Northam
Governor

GENERAL NOTICES/ERRATA

DEPARTMENT FOR AGING AND REHABILITATIVE SERVICES

Notice of Periodic Review and Small Business Impact Review

Pursuant to Executive Order 14 (as amended July 16, 2018) 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 and small business impact review of 22VAC30-40, **Protections of Participants in Human Research**. The review of this regulation will be guided by the principles in Executive Order 14 (as amended July 16, 2018).

The purpose of this review is to determine whether this regulation should be repealed, amended, or retained in its current form. Public comment is sought on the review of any issue relating to this regulation, including whether 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 10, 2018, and ends December 31, 2018.

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 Charlotte Arbogast, Senior Policy Advisor, Department for Aging and Rehabilitative Services, 8004 Franklin Farms Drive, Henrico, VA 23229, telephone (804) 662-7093, FAX (804) 662-7663, or email charlotte.arbogast@dars.virginia.gov.

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

DEPARTMENT OF ENVIRONMENTAL QUALITY

Caden Energix Spout Spring LLC Notice of Intent for Small Renewable Energy Project (Solar) Permit by Rule - Appomattox County

Caden Energix Spout Spring LLC has provided the Department of Environmental Quality a notice of intent to submit the necessary documentation for a permit by rule for a small renewable energy project (solar) in Appomattox County. The project is located on three parcels totaling 375 acres off Route 460, approximately 3.5 miles west of Appomattox. Latitude: 37.354298°; Longitude: -78.886963°.

The project will have a rated capacity of 60 megawatts alternating current and include approximately 170,000 photovoltaic solar panels.

Contact Information: Mary E. Major, Department of Environmental Quality, 1111 East Main Street, Suite 1400, P.O. Box 1105, Richmond, VA 23218, telephone (804) 698-4423, or email mary.major@deq.virginia.gov.

Mt. Jackson Solar II LLC Notice of Intent for Small Renewable Energy Project (Solar) Permit by Rule - Shenandoah County

Mt. Jackson Solar II LLC has provided the Department of Environmental Quality a notice of intent to submit the necessary documentation for a permit by rule for a small renewable energy project (solar) in Shenandoah County. The proposed Mt. Jackson II Solar project will be an 18.9-megawatts alternating current photovoltaic solar facility on portions of two parcels, totaling 175 acres more or less, roughly positioned north of Wissler Road and west of Turkey Knob Road, near Mt. Jackson in Shenandoah County, Virginia. The project will be comprised of monocrystalline photovoltaic collectors and associated equipment.

Contact Information: Mary E. Major, Department of Environmental Quality, 1111 East Main Street, Suite 1400, P.O. Box 1105, Richmond, VA 23218, telephone (804) 698-4423, or email mary.major@deq.virginia.gov.

BOARD OF HEALTH PROFESSIONS

Notice of Periodic Review and Small Business Impact Review

Pursuant to Executive Order 14 (2018) and §§ 2.2-4007.1 and 2.2-4017 of the Code of Virginia, the Board of Health Professions is conducting a periodic review and small business impact review of each of the regulations listed below. The review of each regulation will be guided by the principles in Executive Order 14 (as amended July 16, 2018).

18VAC75-20, Regulations Governing Practitioner Self-Referral

18VAC75-40, Regulations Governing the Criteria for Certification of Dialysis Technicians

The purpose of this review is to determine whether each regulation should be repealed, 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.

General Notices/Errata

The comment period begins December 10, 2018, and ends January 9, 2019.

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 Yeatts, Agency Regulatory Coordinator, Department of Health Professions, 9960 Mayland Drive, Richmond, VA 23233, FAX (804) 527-4434, or email elaine.yeatts@dhp.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 both reviews will be posted on the Town Hall and a report of the small business impact review will be published in the Virginia Register of Regulations.

DEPARTMENT OF HEALTH PROFESSIONS

Notice of Periodic Review and Small Business Impact Review

Pursuant to Executive Order 14 (2018) and §§ 2.2-4007.1 and 2.2-4017 of the Code of Virginia, the Department of Health Professions is conducting a periodic review and small business impact review of each of the regulations listed below. The review of each regulation will be guided by the principles in Executive Order 14 (as amended July 16, 2018).

18VAC76-10, Regulations Governing the Health Practitioners' Monitoring Program for the Department of Health Professions

18VAC76-20, Regulations Governing the Prescription Monitoring Program

18VAC76-40, Regulations Governing Emergency Contact Information

The purpose of this review is to determine whether each regulation should be repealed, 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 10, 2018, and ends January 9, 2019.

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 Yeatts, Agency Regulatory Coordinator, Department of Health Professions, 9960

Mayland Drive, Richmond, VA 23233, FAX (804) 527-4434, or email elaine.yeatts@dhp.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 both reviews will be posted on the Town Hall and a report of the small business impact review will be published in the Virginia Register of Regulations.

BOARD OF HISTORIC RESOURCES

Notice of Periodic Review and Small Business Impact Review

Pursuant to Executive Order 14 (as amended July 16, 2018) and §§ 2.2-4007.1 and 2.2-4017 of the Code of Virginia, the Board of Historic Resources is conducting a periodic review and small business impact review of **17VAC5-30, Evaluation Criteria and Procedures for Designations by the Board of Historic Resources**. The review of this regulation will be guided by the principles in Executive Order 14 (as amended July 16, 2018).

The purpose of this review is to determine whether this regulation should be repealed, amended, or retained in its current form. Public comment is sought on the review of any issue relating to this regulation, including whether 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 10, 2018, and ends December 31, 2018.

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 Stephanie Williams, Deputy Director, Department of Historic Resources, 2801 Kensington Avenue, Richmond, VA 23221, telephone (804) 482-6082, FAX (804) 367-2391, or email stephanie.williams@dhr.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 both reviews will be posted on the Town Hall and a report of the small business impact review will be published in the Virginia Register of Regulations.

DEPARTMENT OF HISTORIC RESOURCES

Notice of Periodic Review and Small Business Impact Review

Pursuant to Executive Order 14 (as amended July 16, 2018) and §§ 2.2-4007.1 and 2.2-4017 of the Code of Virginia, the Department of Historic Resources is conducting a periodic review and small business impact review of **17VAC10-20, Evaluation Criteria and Procedures for Nominations of Property to the National Register or for Designation as a National Historic Landmark**. The review of this regulation will be guided by the principles in Executive Order 14 (as amended July 16, 2018).

The purpose of this review is to determine whether this regulation should be repealed, amended, or retained in its current form. Public comment is sought on the review of any issue relating to this regulation, including whether 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 10, 2018, and ends December 31, 2018.

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 Stephanie Williams, Deputy Director, Department of Historic Resources, 2801 Kensington Avenue, Richmond, VA 23221, telephone (804) 482-6082, FAX (804) 367-2391, or email stephanie.williams@dhr.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 both reviews will be posted on the Town Hall and a report of the small business impact review will be published in the Virginia Register of Regulations.

BOARD OF JUVENILE JUSTICE

Notice of Periodic Review and Small Business Impact Review

Pursuant to Executive Order 14 (as amended July 16, 2018) and §§ 2.2-4007.1 and 2.2-4017 of the Code of Virginia, the Board of Juvenile Justice is conducting a periodic review and small business impact review of **6VAC35-20, Regulation Governing the Monitoring, Approval, and Certification of Juvenile Justice Programs and Facilities**. The review of this regulation will be guided by the principles in Executive Order 14 (as amended July 16, 2018).

The purpose of this review is to determine whether this regulation should be repealed, amended, or retained in its current form. Public comment is sought on the review of any issue relating to this regulation, including whether 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 10, 2018, and ends January 8, 2019.

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 Kristen Peterson, Regulatory Coordinator, P.O. Box 1110, Richmond, VA 23218-1110, telephone (804) 588-3902, FAX (804) 371-6497, email kristen.peterson@djj.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 both reviews will be posted on the Town Hall and a report of the small business impact review will be published in the Virginia Register of Regulations.

DEPARTMENT OF MEDICAL ASSISTANCE SERVICES

Public Comment for Draft EPSDT Provider Manuals for Stakeholder Input

Comment period: November 14, 2018, to December 14, 2018.

Changes to the Early Periodic Screening Diagnosis and Treatment (EPSDT) Provider Manuals are now posted on the Department of Medical Assistance Service (DMAS) website at <http://www.dmas.virginia.gov/#/manualdraft> for public comment through December 14, 2018. The manuals will be finalized and officially posted by January 3, 2019.

Finalized DMAS provider manuals can be found at <https://www.virginiamedicaid.dmas.virginia.gov/wps/portal/ProviderManual>.

Contact Information: Emily McClellan, Regulatory Manager, Division of Policy and Research, Department of Medical Assistance Services, 600 East Broad Street, Suite 1300, Richmond, VA 23219, telephone (804) 371-4300, FAX (804) 786-1680, TDD (800) 343-0634, or email emily.mcclellan@dmas.virginia.gov.

General Notices/Errata

Public Comment for Draft Multiple Provider Manuals (Medicaid Expansion Updates) for Stakeholder Input

Comment period: November 14, 2018, to December 14, 2018.

Multiple DMAS provider manuals (Physician-Practitioner, GAP, Chapter 1, Chapter 3, and Appendix A of all provider manuals, and Service Authorization chapters and appendices) have been updated to reflect upcoming Medicaid expansion changes. The drafts are now posted on the Department of Medical Assistance Services website at <http://www.dmas.virginia.gov/#/manualdraft> for public comment through December 14, 2018. The manuals will be finalized and officially posted by January 2, 2019.

Finalized provider manuals can be found at <https://www.virginiamedicaid.dmas.virginia.gov/wps/portal/ProviderManual>.

Contact Information: Emily McClellan, Regulatory Manager, Division of Policy and Research, Department of Medical Assistance Services, 600 East Broad Street, Suite 1300, Richmond, VA 23219, telephone (804) 371-4300, FAX (804) 786-1680, TDD (800) 343-0634, or email emily.mcclellan@dmas.virginia.gov.

Public Comment for FAMIS MOMS and FAMIS Select HIFA § 1115 Demonstration Waiver Renewal Application

Comment period: November 13, 2018, to December 13, 2018.

Pursuant to 42 CFR 431.408, DMAS is providing notice of intent to submit to the federal Centers for Medicare and Medicaid Services (CMS) a request to extend for five years its Title XXI Health Insurance Flexibility and Accountability (HIFA) § 1115 Demonstration Waiver for the FAMIS MOMS and FAMIS Select programs.

Virginia is requesting the same waiver and expenditure authorities as those approved in the current demonstration period. For the FAMIS MOMS and FAMIS Select populations, all Virginia's Title XXI Children's Health Insurance Program (CHIP) and Medicaid rules not expressly waived or identified as not applicable shall apply.

CHIP covers children with family income from 143% to 200% of the federal poverty level (FPL) under a separate child health plan known as the Family Access to Medical Insurance Security (FAMIS) Plan. Virginia's Title XXI Health Insurance Flexibility and Accountability (HIFA) Demonstration has two components. First, it expands Title XXI coverage to uninsured pregnant women with family income up to 200% of the federal poverty level (FPL) who are not eligible for Medicaid, through a program known as FAMIS MOMS. Second, it uses Title XXI funds to support a health insurance premium assistance program known as FAMIS Select. Children must first be found eligible and enroll in FAMIS before electing to receive coverage through FAMIS Select.

The goals of Virginia's Title XXI HIFA Demonstration are as follows:

For FAMIS MOMS:

- Facilitate access to prenatal, obstetric, and postpartum care for a vulnerable population that does not otherwise qualify for public insurance;
- Improve selected birth outcomes of FAMIS MOMS participants and their newborns;
- Improve access to and use of health care services that promote inter-conception health for FAMIS MOMS participants;
- Facilitate access to recommended pediatric primary care for newborns of FAMIS MOMS participants.

For FAMIS Select:

- Facilitate access to affordable private and employer-sponsored health insurance for low-income families through premium assistance;
- Ensure that access to and use of health care services available to children participating in FAMIS Select is comparable to that of children participating in FAMIS;
- Assure the aggregate cost-effectiveness of the FAMIS Select program.

In June 2016, Virginia received approval to continue operating the FAMIS MOMS and FAMIS Select programs under this Demonstration Waiver. The extension, which expires on June 30, 2019, includes the following agreements:

- Virginia will continue to provide coverage with federal reimbursement at the CHIP rate for pregnant women without creditable insurance coverage in families with income through 200% FPL.
- Virginia will continue to use Medicaid methodology for determining income eligibility.
- Virginia will continue to provide coverage for FAMIS MOMS that is identical to coverage provided to pregnant women under the Medicaid State Plan.
- Virginia will continue to deem infants born to FAMIS or FAMIS MOMS enrollees eligible for CHIP or Medicaid coverage for the first year of life.

The DMAS website includes a detailed public notice with more information about the extension request as well as the draft waiver renewal application at <http://www.dmas.virginia.gov/#/hifawaiver>. Public comments may be submitted until midnight (Eastern Standard Time) on Thursday, December 13, 2018. Public comments may be submitted by email to hope.richardson@dmas.virginia.gov or by regular mail or in person at the address below.

Virginia Department of Medical Assistance Services, HIFA Waiver Renewal Application Public Comment, Attn: Hope Richardson, 600 East Broad Street, Richmond, VA 23219.

Public Hearings: DMAS will hold two public hearings at the times and locations below, where verbal or written public comments can also be submitted. To give verbal comments at public hearings, individuals will need to sign up in advance on a sign-up sheet available at the public hearing. All verbal public comments should be limited to two minutes each.

Public hearing 1: Friday, November 30, 2018, 10 a.m. - 11 a.m., Department of Medical Assistance Services, 600 East Broad Street, Seventh Floor, Room 7B, Richmond, VA.

If unable to attend in person, join by phone by calling 1-866-842-5779, then entering passcode 0961028985, followed by the pound sign (#).

Public hearing 2: Thursday, December 6, 2018, 1 p.m. - 4:30 p.m., Quarterly Children's Health Insurance Program Advisory Committee (CHIPAC) meeting, Virginia Community Healthcare Association, Westerre Conference Center, 3831 Westerre Parkway, Henrico, VA.

After considering public comments about the proposed waiver renewal application, DMAS will make final decisions about the waiver and submit a revised application to CMS. The summary of comments, as well as copies of written comments received, will be posted for public viewing on the DMAS website along with the waiver extension application when it is submitted to CMS.

For more information about the FAMIS MOMS and FAMIS Select Demonstration, which the Commonwealth is seeking to extend, please visit the CMS website at <https://www.medicaid.gov/medicaid/section-1115-demo/demonstration-and-waiver-list/?entry=8648>.

Contact Information: Hope Richardson, Policy Planning and Innovation Division, Department of Medical Assistance Services, 600 East Broad Street, Richmond, VA 23219, telephone (804) 786-7933, TDD (800) 343-0634, or email hope.richardson@dmass.virginia.gov.

STATE WATER CONTROL BOARD

Proposed Consent Order for LAN LLC

An enforcement action has been proposed for LAN LLC for violations at the Oxford Hills residential development in Greene County, Virginia. The State Water Control Board proposes to issue a penalty only consent order to LAN LLC to address noncompliance with State Water Control 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. Tiffany Severs will accept comments by email at tiffany.severs@deq.virginia.gov, FAX at (540) 574-7878, or postal mail at Department of

Environmental Quality, Valley Regional Office, 4411 Early Road, P.O. Box 3000, Harrisonburg, VA 22801, from December 10, 2018, to January 9, 2019.

Notice of Periodic Review and Small Business Impact Review

Pursuant to Executive Order 14 (2018) and §§ 2.2-4007.1 and 2.2-4017 of the Code of Virginia, the State Water Control Board is conducting a periodic review and small business impact review of each of the regulations listed below. The review of each regulation will be guided by the principles in Executive Order 14 (as amended July 16, 2018).

9VAC25-101, Tank Vessel Oil Discharge Contingency Plan and Financial Responsibility Regulation

9VAC25-580, Underground Storage Tanks: Technical Standards and Corrective Action Requirements

9VAC25-590, Petroleum Underground Storage Tank Financial Responsibility Requirements

9VAC25-650, Closure Plans and Demonstration of Financial Capability

The purpose of this review is to determine whether each regulation should be repealed, 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 10, 2018, and ends December 31, 2018.

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 Melissa Porterfield, Office of Regulatory Affairs, Department of Environmental Quality, P.O. Box 1105, Richmond, VA 23218, telephone (804) 698-4238, FAX (804) 698-4019, or email melissa.porterfield@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 both reviews will be posted on the Town Hall and a report of the small business impact review will be published in the Virginia Register of Regulations.

General Notices/Errata

VIRGINIA WASTE MANAGEMENT BOARD

Notice of Periodic Review and Small Business Impact Review

Pursuant to Executive Order 14 (as amended July 16, 2018) and §§ 2.2-4007.1 and 2.2-4017 of the Code of Virginia, the Department of Environmental Quality is conducting a periodic review and small business impact review of 9VAC20-60, **Virginia Hazardous Waste Management Regulations**. The review of this regulation will be guided by the principles in Executive Order 14 (as amended July 16, 2018).

The purpose of this review is to determine whether this regulation should be repealed, amended, or retained in its current form. Public comment is sought on the review of any issue relating to this regulation, including whether 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 10, 2018, and ends December 31, 2018.

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 Melissa Porterfield, Office of Regulatory Affairs, Department of Environmental Quality, P.O. Box 1105, Richmond, VA 23218, telephone (804) 698-4238, FAX (804) 698-4019, or email melissa.porterfield@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 both reviews will be posted on the Town Hall and a report of the small business impact review will be published in the Virginia Register of Regulations.

VIRGINIA CODE COMMISSION

Notice to State Agencies

Contact Information: *Mailing Address:* Virginia Code Commission, Pocahontas Building, 900 East Main Street, 8th Floor, Richmond, VA 23219; *Telephone:* (804) 698-1810; *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 <https://commonwealthcalendar.virginia.gov>.

Cumulative Table of Virginia Administrative Code Sections Adopted, Amended, or Repealed: A table listing regulation sections that have been amended, added, or repealed in the Virginia Register of Regulations since the regulations were originally published or last supplemented in the print version of the Virginia Administrative Code is available at <http://register.dls.virginia.gov/documents/cumultab.pdf>.

Filing Material for Publication in the Virginia Register of Regulations: Agencies use the Regulation Information System (RIS) to file regulations and related items for publication in the Virginia Register of Regulations. The Registrar's office works closely with the Department of Planning and Budget (DPB) to coordinate the system with the Virginia Regulatory Town Hall. RIS and Town Hall complement and enhance one another by sharing pertinent regulatory information.

ERRATA

OFFICE OF THE STATE INSPECTOR GENERAL

Title of Regulation: 1VAC42-30. **Fraud and Abuse Whistle Blower Reward Fund.**

Publication: 35:7 VA.R. 1014-1020 November 26, 2018

Correction to Agency Contact:

Page 1014, Replace "101 North 14th Street, 7th Floor" with "P.O. Box 1151" and replace "23219" with "23218"

VA.R. Doc. No. R16-4186; Filed November 27, 2018

STATE BOARD OF SOCIAL SERVICES

Title of Regulation: 22VAC40-665. **Child Care Program.**

Publication: 35:2 VA.R. 337-377 September 17, 2018

Corrections to Final Regulation:

Page 351, 22VAC40-665-180, column 2, beginning of third line, delete "d." insert "e."

Page 365, 22VAC40-665-530, column 1, subdivision 2, after "equivalent offense outside the Commonwealth." delete "c." insert "d."

Page 365, 22VAC40-665-530, column 2, beginning of first line, delete "d." insert "e."

VA.R. Doc. No. R16-4602; Filed November 26, 2018, 1:21 p.m.