



COMMONWEALTH of VIRGINIA
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TO: KARIN CLARK
Virginia Department of Social Services

FROM: MICHELLE A. L'HOMMEDIEU
Assistant Attorney General

DATE: April 16, 2013

**SUBJECT: Exempt Regulations for Submission of Financial Information for Licensure;
22VAC40-151 (3955/6552)**

I am in receipt of the attached regulations reflecting the changes in Virginia statutory law made by Chapters 182 and 545 of the *2013 Acts of the Assembly* regarding the submission of financial information for licensure. You have asked the Office of the Attorney General to review and determine if the State Board of Social Services ("State Board") has the statutory authority to promulgate the proposed regulations and if the proposed regulations comport with applicable state law.

Virginia Code § 63.2-217 mandates that the State Board promulgate regulations that are necessary to carry out the provisions of Title 63.2. *2013 Acts of the Assembly*, Chapters 182 and 545, change Virginia Code § 63.2-1702 and 63.2-1707 regarding the submission of financial information for licensure, which statutory went into force upon passage. It is my opinion that the State Board has the authority to promulgate these regulations, subject to compliance with the provisions of Article 2 of the Administrative Process Act ("APA") and has not exceeded that authority. To date, the Board has not yet acted on these regulations; and the Agency Background Document available on Town Hall reflects the as yet unknown date of Board action.

Based on the foregoing, it is my view that these regulations are exempt from the procedures of Article 2 of the APA pursuant to Virginia Code § 2.2-4006(A)(4)(a) provided the regulations are filed with the Registrar within 90 days of the law's effective date and the

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requirements of Virginia Code § 2.2-4006(B) and (C) are met. If you have any questions or need additional information about these regulations, please contact me at 786-6005.

cc: Kim F. Piner, Esquire

Attachment

Project 3664 - Final

DEPARTMENT OF SOCIAL SERVICES

Information for Licensure-CRF

22VAC40-151-20. Investigation. (Repealed.)

~~The department will arrange and conduct an on-site inspection of the facility, a thorough review of the activities and services, and an investigation of the financial responsibility, character, and reputation of the applicant.~~

22VAC40-151-130. Fiscal accountability.

~~A. Facilities operated by corporations, unincorporated organizations or associations, individuals, or partnerships shall prepare at the end of each fiscal year:~~

- ~~1. An operating statement showing revenue and expenses for the fiscal year just ended;~~
- ~~2. A working budget showing projected revenue and expenses for the next fiscal year that gives evidence that there are sufficient funds to operate; and~~
- ~~3. A balance sheet showing assets and liabilities for the fiscal year just ended.~~

~~B. A. There shall be a system of financial recordkeeping that shows a separation of the facility's accounts from all other records.~~

~~C. B. The provider shall develop and implement written policies and procedures that address the day-to-day handling of facility funds to include:~~

- ~~1. Handling of deposits;~~
- ~~2. Writing of checks; and~~
- ~~3. Handling of petty cash.~~