



COMMONWEALTH of VIRGINIA

Office of the Attorney General

Robert F. McDonnell
Attorney General

900 East Main Street
Richmond, Virginia 23219
804-786-2071
FAX 804-786-1991
Virginia Relay Services
800-828-1120
7-1-1

MEMORANDUM

TO: L. RICHARD MARTIN, JR.
Virginia Department of Social Services

FROM: ALLEN T. WILSON
Assistant Attorney General

DATE: October 25, 2006

SUBJECT: Final Regulation 22 VAC 40-80-10 et seq.
General Procedures and Information for Licensure

I have reviewed the attached final regulation to determine if the changes made to the proposed regulation exceed the statutory authority of the State Board of Social Services ("State Board") to promulgate the final regulation and if the final regulation comports with applicable state law.

As noted in Usha Koduru's memoranda dated August 4, 2005, it is this Office's view that the State Board has the authority to promulgate the proposed regulation, subject to compliance with the provisions of Article 2 of the Administrative Process Act and Executive Order 21 (2002)(rescinded and replaced by Executive Order 36 (2006)), and has not exceeded that authority.

It appears that the one change to the final regulation is not a change with "substantial impact," and, therefore does not necessitate an additional comment period. The change is merely technical in nature.

Please note that Virginia Code § 2.2-4013(B) requires that all changes to the proposed regulations be highlighted in the final regulations, and it appears that this requirement has been fulfilled. Also, pursuant to § 2.2-4013(C), if the Governor finds that one or more changes with substantial impact have been made to the proposed regulation, he *may* (but is not required to) direct DSS to provide an additional thirty days to solicit additional public comment on the changes.

If you have any questions, please feel free to call me at 786-0095.