



COMMONWEALTH of VIRGINIA
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MEMORANDUM

FROM: Eric M. Lansing
Assistant Attorney General

TO: Karen Shelton, MD, State Health Commissioner
Virginia Department of Health

DATE: August 24, 2023

RE: Review of Amendment to 12VAC5-620 (State Budget Addition of Fees for Repairs,
Voluntary Upgrades, and Safe, Adequate, and Proper Evaluations)

Please note that this memorandum does not constitute an opinion, formal or informal, of the Attorney General. Rather, this memorandum contains the legal analysis of the individual staff member providing it.

In response to a request from the Department of Health, I have reviewed the above-referenced amendment to the regulations of the State Board of Health.

The State Board of Health has the authority to amend and reissue its regulations. Va. Code § 32.1-12. In particular, the State Board of Health has authority to conform its regulations to Item 294 of Chapter 2 of the 2022 Acts of Assembly, Special Session I (2022 Appropriation Act). After reviewing the proposed amendments, it is my opinion that the State Board of Health has the authority to amend and reissue 12 VAC 5 - 620 as provided. The regulations do not appear to conflict with the Constitution of the United States or the Constitution of the Commonwealth of Virginia, nor do they appear to conflict with any federal or state law currently in effect.

Furthermore, this amendment appears to be noncontroversial, and may therefore be promulgated in accordance with the process set out in Virginia Code § 2.2-4012.1.