



COMMONWEALTH of VIRGINIA

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MEMORANDUM

TO: KARIN CLARK
Virginia Department of Social Services

FROM: ALLEN T. WILSON
Senior Assistant Attorney General

DATE: May 24, 2012

SUBJECT: Final Regulation 22 VAC 40-740-10 et seq.
Adult Protective Services

I have reviewed the above-referenced final regulation to determine if the State Board of Social Services ("State Board") has the statutory authority to promulgate the final regulation and if this action by the State Board is exempt from the Administrative Process Act (APA).

It appears that the State Board has the authority to promulgate the proposed regulation, subject to compliance with the provisions of Article 2 of the APA, and has not exceeded that authority. The changes to the regulations are necessary to reflect the changes in Code by the adoption of Chapters 476 and 507 of the 2012 Acts of Assembly, which changed the term "mental retardation" to "intellectual disability", as well as the statutory citations changed by Chapters 803 and 835. These changes require the State Board to amend this regulation to ensure that it is consistent with the statutory language. Pursuant to § 2.2-4006(A)(4)(a) of the Virginia Code, this action by the Board is exempt from the requirements of the APA.

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