



COMMONWEALTH of VIRGINIA

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MEMORANDUM

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

FROM: ALLEN T. WILSON
Assistant Attorney General

DATE: August 5, 2008

SUBJECT: Proposed Fast Track Regulation 22 VAC 40-72-10 et seq.
Standards for Licensed Assisted Living Facilities

I have reviewed the above-referenced proposed fast track regulation to determine if the State Board of Social Services ("State Board") has the statutory authority to promulgate the proposed regulation and if the proposed regulation comports with applicable state law.

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 Administrative Process Act and Executive Order 36 (2006), and has not exceeded that authority. It should be noted that if an objection to the use of the fast-track process is received within the public comment period from 10 or more persons, any member of the applicable standing committee of either house of the General Assembly or of the Joint Commission on Administrative Rules, the Department shall (i) file notice of the objection with the Registrar of Regulations for publication in the Virginia Register, and (ii) proceed with the normal promulgation process set out in the APA.

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