



COMMONWEALTH of VIRGINIA
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MEMORANDUM

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

FROM: USHA KODURU
Assistant Attorney General

DATE: August 23, 2005

SUBJECT: Proposed Regulation 22 VAC 40-72
Standards and Regulations for Licensed Assisted Living Facilities

I have reviewed the attached proposed regulation to determine if the State Board of Social Services ("State Board") has the statutory authority to promulgate the attached proposed regulation and if the proposed regulation comports 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. Virginia Code §§ 63.2-1721, 63.2-1732, 63.2-1802 specifically authorize the State Board to promulgate regulations relating to assisted living facilities. 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 Orders 21 (2002) and 58 (1999), and has not exceeded that authority. Certain sections of the Virginia Code (Virginia Code §§ 37.1-67.1, 37.1-67.3) that are being repealed, as of October 1, 2005, shall be replaced with successor Code sections.

If you have any questions, please feel free to call me at 786-4905.

Attachment

L. Richard Martin, Jr.
August 23, 2005
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cc: Kim F. Piner, Esquire