



***COMMONWEALTH of VIRGINIA***  
***Office of the Attorney General***  
***Richmond 23219***

Kenneth T. Cuccinelli, II

900 East Main Street  
Richmond, Virginia 23219  
804-786-2071  
804-371-8947 TDD

**TO: KARIN CLARK**  
Virginia Department of Social Services

**FROM: MICHELLE A. L'HOMMEDIEU**  
Assistant Attorney General

**DATE: April 16, 2013**

**SUBJECT: Exempt Regulations for Submission of Financial Information for Licensure;  
22VAC40-131 (3954/6551)**

I am in receipt of the attached regulations reflecting the changes in Virginia statutory law made by Chapters 182 and 545 of the *2013 Acts of the Assembly* regarding the submission of financial information for licensure. You have asked the Office of the Attorney General to review and determine if the State Board of Social Services ("State Board") has the statutory authority to promulgate the proposed regulations and if the proposed regulations comport 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. *2013 Acts of the Assembly*, Chapters 182 and 545, change Virginia Code § 63.2-1702 and 63.2-1707 regarding the submission of financial information for licensure, which statutory went into force upon passage. It is my opinion that the State Board has the authority to promulgate these regulations, subject to compliance with the provisions of Article 2 of the Administrative Process Act ("APA") and has not exceeded that authority. To date, the Board has not yet acted on these regulations; and the Agency Background Document available on Town Hall reflects the as yet unknown date of Board action.

Based on the foregoing, it is my view that these regulations are exempt from the procedures of Article 2 of the APA pursuant to Virginia Code § 2.2-4006(A)(4)(a) provided the regulations are filed with the Registrar within 90 days of the law's effective date and the

Karin Clark  
April 16, 2013  
Page 2

requirements of Virginia Code § 2.2-4006(B) and (C) are met. If you have any questions or need additional information about these regulations, please contact me at 786-6005.

cc: Kim F. Piner, Esquire

Attachment

**Project 3663 - Final**

**DEPARTMENT OF SOCIAL SERVICES**

**Information for Licensure-CPAs**

**22VAC40-131-40. Licensee.**

A. The licensee shall ensure compliance with all regulations for licensed child-placing agencies and terms of the current license issued by the department; and with relevant federal, state, or local laws and relevant regulations.

B. The licensee shall comply with its own policies and procedures.

~~C. The licensee shall give evidence of financial responsibility.~~

~~D. C. The licensee shall be of good character and reputation as defined in 22VAC40-80-10.~~

~~E. D. The licensee shall meet the requirements specified in 22VAC40-191, Background Checks for Child Welfare Agencies.~~

~~F. E. The licensee shall meet the requirements specified in 22VAC40-80, General Procedures and Information for Licensure.~~

~~G. F. The licensee shall maintain sufficient funds to ensure operation in compliance with this chapter. The licensee shall develop a budget for a period of 12 months of operation.~~

~~H. G. The licensee shall ensure that the child-placing agency makes and maintains such records and other information as required by this chapter. The licensee shall submit, or make available for inspection to the department's representative, records, reports, and other information as necessary to assist the department in determining the licensee's compliance with this chapter and applicable law.~~

~~I.~~ H. The licensee shall allow the department's representative to interview the licensee's employees and individuals under its custody, control, direction, or supervision.

~~J.~~ I. The licensee shall at all times allow the department's representative reasonable opportunities to conduct announced and unannounced inspections of the licensee's approved homes.

~~K.~~ J. The licensee shall:

1. Correct any areas of noncompliance found during inspections;
2. Take necessary actions to prevent reoccurrence of noncompliance; and
3. Make and implement necessary revisions to its policies and procedures.

~~L.~~ K. The licensee shall not disseminate, or cause directly or indirectly to be disseminated, statements regarding services that are untrue, deceptive, or misleading.

~~M.~~ L. The licensee shall ensure that information, brochures, and materials distributed or available to the public contain accurate and updated information.

~~N.~~ M. The licensee shall maintain ultimate responsibility for the health, safety, and well-being of children under its custody, control, and direction and shall ensure that an on-call licensee representative is available 24 hours a day 7 days each week to receive contacts from foster parents, children, and other staff of placement settings in which children have been placed by the licensee. The licensee shall provide interventions and follow-up services, as necessary.