



Virginia  
Regulatory  
Town Hall

[townhall.state.va.us](http://townhall.state.va.us)

## Proposed Regulation Agency Background Document

<b>Agency name</b>	State Board of Social Services
<b>Virginia Administrative Code (VAC) citation</b>	22 VAC 40 -170
<b>Regulation title</b>	Voluntary Registration of Family Day Homes – Requirements for Contracting Organizations
<b>Action title</b>	Amend Regulation as Result of Periodic Review
<b>Document preparation date</b>	April 14, 2004

This information is required for executive review ([www.townhall.state.va.us/dpbpages/apaintro.htm#execreview](http://www.townhall.state.va.us/dpbpages/apaintro.htm#execreview)) and the Virginia Registrar of Regulations ([legis.state.va.us/codecomm/register/regindex.htm](http://legis.state.va.us/codecomm/register/regindex.htm)), pursuant to the Virginia Administrative Process Act ([www.townhall.state.va.us/dpbpages/dpb\\_apa.htm](http://www.townhall.state.va.us/dpbpages/dpb_apa.htm)), Executive Orders 21 (2002) and 58 (1999) ([www.governor.state.va.us/Press\\_Policy/Executive\\_Orders/EOHome.html](http://www.governor.state.va.us/Press_Policy/Executive_Orders/EOHome.html)), and the *Virginia Register Form, Style and Procedure Manual* ([http://legis.state.va.us/codecomm/register/download/styl8\\_95.rtf](http://legis.state.va.us/codecomm/register/download/styl8_95.rtf)).

### Brief summary

*In a short paragraph, please summarize all substantive changes that are being proposed in this regulatory action.*

This regulatory action amends the Voluntary Registration of Family Day Homes – Requirements for Contracting Organizations. Statutory references are updated throughout the regulation to the new citations in the recodified licensing statute, Title 63.2, along with other revised statutory references since initial adoption. Requirements that have been found to be inefficient or burdensome, including but not limited to, the establishment and duties of the contracting organization's review committee are eliminated. Contracting organizations' responsibilities in areas including, but not limited to, training and complaint investigations are clarified. Requirements are added that establish time frames for submission of reports and for notification of the department of certain events and changes. Responsibility for providing certain information to parents and for processing all aspects of adverse enforcement actions is transferred from contracting organizations to the department.

### Basis

*Please identify the state and/or federal source of legal authority to promulgate this proposed regulation, including (1) the most relevant law and/or regulation, including Code of Virginia citation and General Assembly bill and chapter numbers, if applicable, and (2) promulgating entity, i.e., the agency, board, or person. Describe the legal authority and the extent to which the authority is mandatory or discretionary.*

Sections 63.2-100, 63.2-217, 63.2-1704 and 63.2-1734 of the *Code of Virginia* provide the legal authority for the State Board of Social Services to adopt regulations and to establish requirements and qualifications for local agencies and community organizations to which a contract may be issued for the certification of family day homes as eligible for registration. Section 63.2-1704 specifically mandates adoption of regulations by the State Board of Social Services to implement this section.

### Purpose

*Please explain the need for the new or amended regulation by (1) detailing the specific reasons why this regulatory action is essential to protect the health, safety, or welfare of citizens, and (2) discussing the goals of the proposal and the problems the proposal is intended to solve.*

Family day homes that care for fewer than 6 children may voluntarily register with the Department of Social Services. Community organizations contract with the Department of Social Services to certify family day homes as eligible for registration. This regulation establishes qualifications and requirements that agencies contracting with the department must meet and procedures that must be followed. There have been no significant changes to this regulation since it became effective in 1993. This amended regulation incorporates changes determined to be necessary after approximately ten years of operation of the voluntary registration program. The proposed changes are intended to update the regulation, to eliminate requirements that have been found to be inefficient, unenforceable or burdensome, to clarify certain requirements, and to add basic needed protections that are essential to the health, safety and welfare of children who receive care in homes certified as eligible for voluntary registration by contracting organizations.

### Substance

*Please briefly identify and explain the new substantive provisions, the substantive changes to existing sections, or both where appropriate. (More detail about these changes is requested in the "Detail of changes" section.)*

The amended regulation includes the following substantive changes and new provisions:

1. Eliminates the contracting organization's review committee;
2. Clarifies the contracting organization's responsibility to provide training to registered providers as a requirement rather than an option, in accordance with the statute;

3. Clarifies the contracting organization's responsibility to provide information about, rather than encourage participation in, the United States Department of Agriculture's (USDA's) food program;
4. Eliminates the requirement that contracting organizations report to the division and to the local health department in the provider's municipality the occurrence of a communicable disease by the next working day after the contracting organization learns of the occurrence;
5. Adds the requirement for written follow-up notification within five (5) working days after oral notification of the department of certain events and changes;
6. Establishes a time frame for submission of quarterly reports to the department;
7. Adds to the information to be submitted on quarterly reports the requirement to include the total number of registered providers;
8. Eliminates the requirement to make chronological lists of events about providers on compliance and enforcement matters available for public review;
9. Eliminates the requirement that the executive director or administrator ensure that each provider operates in compliance with all applicable requirements for providers;
10. Separates the qualifications of persons providing evaluation, monitoring, support and technical assistance to providers from the qualifications of persons providing training;
11. Adds first aid and CPR appropriate to the ages of children in care to the list of suggested training topics;
12. Allows contracting organizations to collect a nonrefundable fee not to exceed \$50 when a provider moves to a new address;
13. Increases the fee that contracting organizations may assess for additional home visits to confirm corrective action from a maximum \$10 to a maximum \$20;
14. Clarifies contracting organizations' responsibilities upon receipt of a complaint involving a registered provider;
15. Transfers from the contracting organization to the department the responsibility for assuring that registered providers and parents have access to and review the Information to Parents Statement;
16. Clearly establishes authority for both the contracting organization and the department to visit a registered home during the home's hours of operation;
17. Moves all responsibilities related to adverse actions (denials, revocations, refusals to renew), including issuance of notices and appeal hearings from the contracting organizations to the department.

**Issues**

*Please identify the issues associated with the proposed regulatory action, including:*

- 1) the primary advantages and disadvantages to the public, such as individual private citizens or businesses, of implementing the new or amended provisions;*
- 2) the primary advantages and disadvantages to the agency or the Commonwealth; and*
- 3) other pertinent matters of interest to the regulated community, government officials, and the public.*

*If the regulatory action poses no disadvantages to the public or the Commonwealth, please so indicate.*

Community organizations and agencies compete for the contract to certify family day homes as eligible for voluntary registration by the Department of Social Services. The proposed amendments, overall, are advantageous to competing organizations in that some requirements are being eliminated, and others have been identified as being more appropriately handled by the department.

The public benefits from the movement of activities related to adverse enforcement actions from the contracting organization to the department. This change eliminates steps and speeds up the process of removing a certificate of registration when necessary, by giving voluntarily registered providers the same rather than more opportunities for appeal than licensed providers.

There has been a modest increase in fees charged to providers for processing registration applications and making follow up visits to confirm compliance with the regulation for providers. The fee of up to \$50 assessed when a provider moves to a new location has been implemented in practice, but is now supported by the regulation. The fee for follow up visits has been increased from \$10 to a maximum \$20. Both of these changes are advantageous to contracting organizations.

The primary advantage to the agency of making the requirements less burdensome for contracting organizations is that the department does not have to assume the responsibility for implementing the program. The *Code of Virginia*, § 63.2-1704 B states that “if no qualified local agencies or community organizations are available, the Commissioner shall implement the provisions of this section.” There are financial incentives for community organizations that are also USDA food program sponsors to implement the program.

There are no disadvantages to the Commonwealth, the agency or the public as a result of this regulatory action.

**Economic impact**

*Please identify the anticipated economic impact of the proposed regulation.*

<p><b>Projected cost to the state to implement and enforce the proposed regulation, including (a) fund source / fund detail, and (b) a delineation of one-time versus on-going</b></p>	<p>There should be no increase in cost to the state to implement and enforce the amended regulation. Those tasks being transferred from the contracting organizations are currently being performed by staff</p>
--	--

<b>expenditures</b>	already assigned oversight responsibility for the voluntary registration program.
<b>Projected cost of the regulation on localities</b>	Implementation and enforcement of this regulation would have no cost impact on localities.
<b>Description of the individuals, businesses or other entities likely to be affected by the regulation</b>	The agency contracts with local community organizations to implement the voluntary registration program. Agencies compete for contracts to implement the program in response to Requests for Proposals. RFPs are issued every 3 to 4 years. In the past, agencies that were USDA food program sponsors competed for contracts, since the program had/has the potential to increase the number of providers the agency sponsored for the food program, thus increasing agency income.
<b>Agency's best estimate of the number of such entities that will be affected</b>	Currently there are 6 contracting organizations that will be affected by this regulation. However, the contracts must be renewed by October 2004, so the number of organizations affected may increase or decrease.
<b>Projected cost of the regulation for affected individuals, businesses, or other entities</b>	It is not anticipated that there would be any increased costs to contracting organizations.

**Alternatives**

*Please describe any viable alternatives to the proposal considered and the rationale used by the agency to select the least burdensome or intrusive alternative that meets the essential purpose of the action.*

---

One alternative to establishing a regulation for Contracting Organizations would be to include all of the requirements and procedures in the contract that the department enters into with these entities. However, the *Code of Virginia*, in addition to requiring that the department contract with local community organizations and agencies to implement the program, requires the adoption of regulations by the State Board of Social Services. There are, therefore, no alternatives available. The proposed amendments reflect the least burdensome or intrusive alternative available.

**Public comment**

*Please summarize all comments received during public comment period following the publication of the NOIRA, and provide the agency response.*

---

No comments were received following publication of the NOIRA.

**Family impact**

*Please assess the impact of the proposed regulatory action on the institution of the family and family stability.*

---

This proposed regulatory action will have no adverse impact on the institution of the family and family stability. Streamlining and simplification of the regulation has the potential to increase the availability of regulated care by making the operation of the voluntary registration program more appealing to community organizations and agencies.

**Detail of changes**

*Please detail all changes that are being proposed and the consequences of the proposed changes. Detail all new provisions and/or all changes to existing sections.*

*If the proposed regulation is intended to replace an emergency regulation, please list separately (1) all changes between the pre-emergency regulation and the proposed regulation, and (2) only changes made since the publication of the emergency regulation.*

For changes to existing regulations, use this chart:

Current section number	Proposed new section number, if applicable	Current requirement	Proposed change and rationale
22 VAC 40-170-10. Definitions		1. Term “Family day provider applicant” or provider applicant” defined as person at least 18 years of age who has applied for a certificate of registration, deleted.  2. Definition of “certificate of registration” – refers to providers having met the Requirements for Providers (22 VAC 40-180-10 et seq.) under the Voluntary Registration Program for Family Day Homes.  3. Definition of commissioner”-refers to Commissioner of Social Services.  4. Definition of “contract” - currently references contracting agency.  5. Definition of “contracting organization” – currently refers to agency which has been selected by the	1. Term “applicant” added with similar definition, for simplicity. Means “a person 18 years of age or older who has applied for an initial certificate of registration.” Term clearly distinguishes the applicant for registration from the “provider” or “registered family day provider,” terms that are also included and defined in this section.  2. Definition of “certificate of registration” – name of provider regulation revised for accuracy, and VAC number revised to reflect number of proposed regulation – “met the Voluntary Registration of Family Day Homes – Requirements for Providers (22 VAC 40-181-10 et seq.)  3. Definition of “commissioner” – “of the Virginia Department of” added to Social Services, for accuracy.  4. Definition of “contract” – term “agency” replaced with “organization” for consistency throughout regulation.  5. Definition of “contracting organization” – amended to read “agency which “has contracted with” the Department, for accuracy.  6. Definition of “cooperative agreement”

		<p>Department to administer the voluntary registration program.</p> <p>6. Definition of “cooperative agreement” – refers to an agreement between contractors.</p> <p>7. Definition of department representative” - refers to an employee carrying out the responsibilities and duties specified in Chapter 10 (§ 63.1-195 et seq.) of Title 63.1 of the Code of Virginia.</p> <p>8. “Definition of evaluate,” or “evaluation” – refers to review of family day-care provider.</p> <p>9. Definition of “family day home” – currently addresses subjectivity requirements from July 1, 1993 until July 1, 1996. refers to subjectivity.</p> <p>10. Definition of “good character and reputation”</p> <p>11. Definition of “monitor” or “monitoring visit”- currently refers only to visits to a registered provider.</p> <p>12. Definition of “parent”</p> <p>13. Definition of “provider” or “registered family day provider” – currently means a person who has received an initial or renewed certificate of registration.</p> <p>14. Definition of “provider assistant” – refers currently to person this person as assistant to provider.</p> <p>15. Definition of</p>	<p>– amended to read “agreement between or among”, for clarity.</p> <p>7. Definition of “department representative” – amended to delete inaccurate statutory reference – for simplicity states “an employee or designee of the Virginia Department of Social Services, acting as the authorized agent of the commissioner.”</p> <p>8. Definition of “evaluate or “evaluation” – amended to delete “care.” Care is no longer used in describing providers. Providers currently referred to has family day providers or family day home providers.</p> <p>9. Definition of family day home- amended to reflect current statutory definition. Reference to subjectivity from July 1, 1993 until July 1, 1996 deleted. Requirement in law added that states “provider of a licensed or registered home shall disclose to the parents or guardians of the children in care the percentage of time per week that persons other than the provider will care for children.”</p> <p>10. Definition of “good character and reputation” – amended to more closely mirror language used in other child day care regulations (licensed child day centers, family day homes, and family day systems).</p> <p>11. Definition of “monitor” or “monitoring visit” – amended to add “visit to the contracting organization to review the organization’s compliance with the Requirements for Contracting Organizations (22 VAC 40-170-10 et seq.) and any other applicable requirements.” Amendment made for accuracy and completeness.</p> <p>12. Definition of “parent” – amended to be consistent with language used in other regulations for family day homes.</p> <p>13. Definition of “provider” or “registered family day provider” - amended to delete “initial” or “renewed,” for simplicity.</p> <p>14. Definition of “provider assistant” – amended to add “or assistant,” which is</p>
--	--	---	--

		<p>“registered family day home”</p> <p>16. Definition of “Requirements for Contracting Organizations”</p> <p>17. Definition of “Requirements for Providers”</p> <p>18. Definition of “revocation of certificate of registration” – term currently refers to removal of the certificate of registration.</p> <p>19. Definition of “sponsoring organization”</p> <p>20. Definition of “substitute provider” – currently refers to person who meets Requirements for Providers and is available to provide substitute care in a registered provider’s home or in the substitute provider’s home.</p>	<p>the term that may also be used to refer to this person, and to add that this person may also assist the “substitute provider.”</p> <p>15. Definition of “registered family day home” – amended to change “which” to “that.”</p> <p>16. Definition of “Requirements for Contracting Organizations” – term and definition deleted as unnecessary.</p> <p>17. Definition of “Requirements for Providers” – term and definition deleted as unnecessary.</p> <p>18. Definition of “revocation of certificate of registration” – amended to add “by the commissioner”, in order to clarify who has authority for this action.</p> <p>19. Definition of “sponsoring organization” – technical edit, to accurately reference “ USDA Child and Adult Care Food Program.”</p> <p>20. Definition of “substitute provider” – amended to clarify that this person must be at least 18 years of age and must be approved by the department as a registered provider, in order to provide substitute care in the provider’s home or care in the substitute’s home.</p> <p>21. “Surrender of a certificate of registration” – newly adds term and definition; means “voluntary termination of a certificate of registration by a provider prior to expiration.” Information of surrendered certificates is necessary to accurately account for and monitor providers in the program.</p>
<p>22 VAC 40-170-20. Legal authority</p>		<p>Provides background information on voluntary registration, including when the provisions for the program were enacted into law.</p>	<p>Section deleted. Historical information will be included in a Forward to the regulation.</p>
<p>22 VAC 40-170-30. Eligibility and qualifications. B 5</p>		<p>Requires contracting organizations to provide training “or” educational information to providers.</p>	<p>Amendment requires contracting organizations to provide training “and” educational information. The contracting organization is required by statute at § 63.2-1704 C 4 to provide “technical assistance, training and consultation.” Amendment makes requirement consistent with the statute.</p>

<p>22 VAC 40-170-30. Eligibility and qualifications. B 6 e.</p>		<p>Reference made to Freedom of Information Act (§ 2.1-340 et seq.) of the Code of Virginia and Privacy Protection Act (§ 2.1-377 et seq. of the Code of Virginia).</p>	<p>Updated code citation for Freedom of Information Act to § 2.2-3700 et seq. Privacy Protection Act name changed to “Government Data Collection and Dissemination Practices Act” (§ 2.2-3800 et seq. of the Code of Virginia).</p>
<p>22 VAC 40-170-30. Eligibility and qualifications. B 7 a</p>		<p>Monitor family day providers for compliance with health and safety checklist (as described in 22 VAC 40-170-190)</p>	<p>Amended to require monitoring of family day home providers for compliance with “the Requirements for Providers” (as described in 22 VAC 40-170-190). All of the requirements providers must meet are not included on the health and safety checklist. Amendment clarifies that all of the requirements in the regulation for providers must be met.</p>
<p>22 VAC 40-170-30. Eligibility and qualifications. B 7 d</p>		<p>Encourage provider participation in the USDA food program.</p>	<p>Amended to “provide information about” the USDA food program. Change makes requirement measurable.</p>
<p>22 VAC 40-170-40. Administrative responsibility. D</p>		<p>Requires the governing board of a private contracting organization or the director of a public contracting organization to appoint a review committee of at least 3 people who are responsible for reviewing recommendations to the commissioner to deny, revoke, or refuse renewal of a certificate of registration, if requested by the provider. Persons responsible for making the recommendations are excluded from the committee. Findings of the review committee must be documented and maintained on file.</p>	<p>Deletes the requirement for a contracting organization review committee. This committee adds an unnecessary layer to the appeals process. Research indicates this requirement mirrors that of a state (New Jersey) where the contracting organization has authority to issue certificates of registration. Under these circumstances it is appropriate for the contracting organization to assure the due process rights of providers whose certificates are being revoked or denied. In Virginia, the authority for issuance or denial rests with the Commissioner, in accordance with the <i>Code of Virginia</i>. Therefore, a voluntarily registered provider has the same appeal rights as a licensed provider.</p> <p>See further discussion in 22 VAC 40-170-230.</p>
<p>22 VAC 40-170-40 E</p>	<p>22 VAC 40-170-40 D</p>		<p>Change in subsection number</p>
<p>22 VAC 40-170-50. Inspection and monitoring of contractors. E 2</p>		<p>Subdivision references “demonstrating of unfitness” or “inability to operate the program in accordance with the contract” as a reason for revocation or refusal to renew the contract.</p>	<p>Language changed to delete “of.” Change also made to add “or this regulation” – “Demonstrating unfitness or inability to operate ... in accordance with the contract or this regulation.” Change made in order to accurately reflect that both the requirements in the regulation and in the contract with the department must be met and maintained.</p>
<p>22 VAC 40-170-50.</p>		<p>Reference made to any policies, procedures or</p>	<p>“Which demonstrate” changed to “that demonstrates.” Technical correction to</p>

Inspection and monitoring of contractors. E 4		conduct “which demonstrate . . . .”	correct grammatical error.
22 VAC 40-170-60. Reporting requirements. A		Currently refers to Chapter 12 (§ 63.1-248.3 et seq.) of Title 63.1 of the <i>Code of Virginia</i> .	Changed to reflect new code citations – “Chapter 15 (§ 63.2-1509 et seq.) of Title 63.2 of the <i>Code of Virginia</i> .”
22 VAC 40-170-60. Reporting requirements. C		Requires the contracting organization to notify the local health department in the municipality where the provider is located and the division of the occurrence of a communicable disease by the next working day that the contracting organization learns of the occurrence.	Requirement deleted as burdensome and unnecessary. All diseases that are communicable do not require notification of the health department. The Virginia Department of Health’s regulations for Disease Reporting and Control list diseases that must be reported and specifies who is responsible for reporting. Reporters include direct care providers. This requirement places an unnecessary burden on the local health departments and on the agency to receive such calls, when in all likelihood, no action would be necessary as a result.
22 VAC 40-170-60. Reporting requirements. D	22 VAC 40-170-60. Reporting requirements. C	Requires notification of the “central office” of the division by the next working day after the contracting organization learns of certain events or changes.	Subsection is renumbered. “Central office” is deleted as unnecessary language. All contracting organizations are aware of the staff person assigned to work directly with them and the location and name of the contact person. Adds the requirement for written notification of changes within 5 work days. Written notification provides added follow-up documentation that certain changes and events have been communicated.
22 VAC 40-170-60. Reporting requirements. D 1	22 VAC 40-170-60. Reporting requirements. C 1	Requires reporting of an injury that results in admission of a child to a hospital.	Subsection renumbered. Adds “emergency medical treatment.” Addition recognizes the emergence of outpatient medical treatment facilities since the regulation was initially adopted. Revision reads as follows: “Injury that results in emergency medical treatment or the admission of a child to a hospital while in the care of a provider; . . . .”
22 VAC 40-170-60. Reporting requirements. D 5	22 VAC 40-170-60. Reporting requirements. C 5	Requires reporting of any criminal charge or charges and their disposition or dispositions, as specified in § 63.1-198.1.	Subsection renumbered. Updates code citation to § 63.2-1719.
22 VAC 40-170-60. Reporting requirements. E	22 VAC 40-170-60. Reporting requirements. D	Requires contracting organization to notify division orally within 3 working days of any change in office location or director.	Updates to new subsection number. Adds requirement for written notification within 5 work days. Written notification provides added follow-up documentation that certain changes and events have been communicated.
22 VAC 40-	22 VAC 40-		Updates subsection number.

170-60. Reporting requirements. F	170-60. Reporting requirements. E		
22 VAC 40-170-70. Contracting organization records. A 1 a and b.		Requires that contracting organization maintain in administrative records the "Requirements for Voluntary Registration of Family Day Homes" and "the document providing information to parents as specified in 22 VAC 40-170-210.	Requirements deleted. Not necessary to establish a standard that contracting organization maintain a copy of standards. The document providing information to parents should be maintained in individual provider records. The requirement for maintenance of provider records is located elsewhere in the regulation.
22 VAC 40-170 -70. Contracting organization records. A 1 c	22 VAC 40-170-70 A 1 a		Renumbers subdivision.
22 VAC 40-170-70. Contracting organization record. A 1 d	22 VAC 40-170-70. Contracting organization records. A 1 b	Requires contracting organization administrative records to include of copy of the organizations insurance policies as specified "here and by the contract."	Subdivision renumbered. Revision made to delete "here and by contract." Rewritten as follows: "A copy of the contracting organization's insurance policies as specified by the contract and in 22 VAC 40-170-30 B 3
22 VAC 40-170-70. Contracting organization records. A 1 e – k	22 VAC 40 -170-70. Contracting organization records. A 1 c – i		Subdivisions renumbered.
22 VAC 40-170-70. Contracting organization records. A 1 h	22 VAC 40-170-70. Contracting organization records. A 1 f	Requires maintenance of files documenting recommended denials and nonrenewals of certificates of registration and appeals as specified in 22 VAC 40-170-230.	Revised to add surrenders and revocations to the recommendations that must be documented and maintained on file by the contracting organization. In addition to nonrenewals, certificates may be revoked and surrendered. Since appeals will no longer be conducted by the contracting organization, maintenance of records of appeals would no longer be necessary. Reference to appeals is deleted. Amended standard reads as follows: "Files documenting recommended denials, surrenders, revocations and nonrenewals of certificates of registration as specified in 22 VAC 40-170-230."
22 VAC 40-170-70. Contracting organization records. B		Currently requires the contracting organization to submit quarterly narrative and statistical reports.	Amended to specify a time frame for submission of quarterly reports, which is consistent with what is required in the contract. Amended to read as follows: "The contracting organization shall, within 30 days after the end of each quarter, submit narrative and statistical reports ...

			”
22 VAC 40-170-70. Contracting organization records. B 1		Currently requires narrative and statistical reports to include the number of applications pending and withdrawn.	New item added that requires reporting of total number of registered providers on the narrative and statistical report. The numbers provide information necessary to monitor the program.
22 VAC 40-170-70. Contracting organization records. B 1 – 5	22 VAC 40-170-70. Contracting organization records. B 1 – 6		Subdivisions renumbered.
22 VAC 40-170-80. Complaints against a contracting organization. A		States complaints against a contracting organization shall be investigated; an investigation shall be conducted to determine compliance with the contract and the Requirements for Contracting Organizations; and the contracting organization shall be notified of the findings by the department.	“Shall” changed to “will.” Technical language correction. Amended standard reads as follows: “Complaints against a contracting organization will be investigated by the department. An investigation will be conducted to determine compliance with the contract and the Requirements for Contracting Organizations. The contracting organization will be notified of the findings by the department.”
22 VAC 40-170-80. Complaints against a contracting organization. B		States the contracting organization may use the informal appeal process outlined in General Procedures and Information for Licensure if it wishes to appeal a decision that does not result in revocation of the contract.	“May” changed to “shall.” “Current regulation” added to assure guidelines in the most recent version of General Procedures and Information for Licensure are followed. Amended standard reads as follows: “ If the contracting organization wishes to appeal an administrative decision that does not result in revocation of the contract by the department; the contractor shall follow an informal appeal process as outlined in the Department of Social Services, Division of Licensing Programs current regulation, General Procedures and Information for Licensure (22 VAC 40-80-10 et seq.).”
22 VAC 40-170-80. Complaints against a contracting organization. C		References an appeal in accordance with the Administrative Process Act (§ 9-6:14:1 et seq. of the Code of Virginia.)	New code citation for the Administrative Process Act added (§ 2.2-4000 A et seq. of the Code of Virginia).
22 VAC 40-170-90. Public access to records. A 8		Currently requires that the contracting organization make available for public review chronological lists of events about the provider on compliance and enforcement matters.	Requirement deleted. Chronological lists are not required anywhere else in the regulation. The Freedom of Information Act does not require the creation of documents for public release. This requirement creates an unnecessary burden for contracting organizations.
22 VAC 40-	22 VAC 40-	Currently references	Subdivision renumbered. Statutory

170-90. Public access to records. A 9	170-90. Public access to records A 8	information that is exempt from release in completed complaint investigations of abuse and neglect, based on the requirements of Chapter 12 (§ 63.1-248.1 et seq.) of Title 63.1 of the Code of Virginia or other state law.	reference updated to “Chapter 15 (§ 63.2-1500 et seq.) of Title 63.2 of the Code of Virginia or other state law ... .”
22 VAC 40-170-90. Public access to records. A 10.	22 VAC 40-170-90. Public access to records. A 9.		Subdivision renumbered.
22 VAC 40-170-90. Public access to records. B 1		Refers to records, reports or correspondence pertaining to child abuse and neglect investigations that must be kept confidential and not part of the public record, in accordance with the requirements of Chapter 12 (§ 63.1-248.1 et seq.) of Title 63.1 of the Code of Virginia or other state law	Statutory reference updated to “Chapter 15 (§ 63.2-1500 et seq.) of Title 63.2 of the Code of Virginia or other state law ... .”
22 VAC 40-170-90. Public access to records. D		Refers to charges for copies of information provided under the Freedom of Information Act (§ 2.1-340 et seq. of the Code of Virginia).	Statutory reference updated. Amended to read as follows: “Contractors may not charge more than provided under the Freedom of Information Act (§ 2.2-3700 et seq. of the Code of Virginia) for copies of public information.
22 VAC 40-170-90. Public access to records. E		Requires that contracting organizations maintain the information required in Part III (22 VAC 40-170-100 et seq.) of the regulation for the executive director or administrator and each staff person.	Requirement deleted as duplicative.
22 VAC 40-170-100. General staff requirements. B. 3		Currently references the requirement for criminal records checks and child protective services central registry checks for the applicant for executive director or administrator, and each staff applicant	Language updated consistent with changes in law and terms used. Amended section reads as follows: “Background checks in accordance with Chapter 63.2 of the Code of Virginia and the current regulation regarding background checks.”
22 VAC 40-170-100. General staff requirements. F		Currently states that with the exception of crimes specified in § 63.1-198.1 of the Code of Virginia, evidence of conviction of a crime by an individual serving as executive	Code section updated to § 63.2-1719.

		director or administrator, corporate officer, partner or staff shall not automatically result in cancellation of the contract.	
22 VAC 40-170-110. Types and responsibilities of staff. D 2		Requires that the executive director or administrator ensure that each provider operates in compliance with all applicable Requirements for Providers	Requirement deleted. Providers are responsible for ensuring compliance with applicable requirements. Unreasonable and unnecessary standard.
22 VAC 40-170-110. Types and responsibilities of staff. D 3 – 7.	22 VAC 40-170-110. Types and responsibilities of staff. D 2-6.		Subdivisions renumbered.
22 VAC 40-170-120. Staff qualifications. B		Requires staff members responsible for provider evaluation, monitoring, support, technical assistance and training possess certain qualifications.	Amended to delete training from the duties of persons with the qualifications specified. Qualifications for trainers defined in a separate standard, 22 VAC 40-170-150 D
22 VAC 40-170-130. Staff training. 2 g		Requires that executive director or administrator ensure that staff is trained in recruiting providers for registration and promoting the program through public relations as directed or approved by the division.	“Division” changed to “department.”
22 VAC 40-170-140. Evaluation of family day provider applicants. E		States renewal application packet will be sent no later than 90 days prior to expiration date of current certificate of registration.	Technical change made. “Will” changed to “shall.”
22 VAC 40-170-150. Training of family day providers. C 3		States training or educational materials shall include safety, first aid and emergency evacuation procedures	“First aid” deleted from this section and included as a separate training item.
22 VAC 40-170-150. Training of family day providers. C 10		States training or educational materials shall include special needs training.	Requirement reworded to require training or educational materials in “serving children with disabilities.”
	22 VAC 40-170-150. Training of		Newly adds “first aid and CPR, as appropriate to the ages of children in care” to the list of training or educational

	family day providers. C 11		materials to be supplied to each provider.
22 VAC 40-170-160. Issuance of the certificate of registration. C		Addresses the time frame for application for a certificate of registration after the certificate has been revoked, denied or refused renewal, in accordance with Chapter 10 (§63.1-195 et seq.) of Title 63.1 of the Code of Virginia.	Cross-reference updated to “Chapter 17 (§ 63.2 et seq.) of Title 63.2 of the Code of Virginia.”
	22 VAC 40-170-170. Collection of registration fees. C		Adds the requirement that contracting organizations may collect a nonrefundable fee not to exceed \$50 when a registered provider moves to a new address. Adds to the regulation an action that already occurs in practice among contracting organizations.
22 VAC 40-170-170. Collection of registration fees. C	22 VAC 40-170-170. Collection of registration fees. D	Allows the contracting organization to assess a fee not to exceed \$10 for an additional home visit if necessary to confirm corrective action.	Subsection renumbered. Increases fee from \$10 to “not to exceed \$20.” The increase is intended to encourage compliance to the extent that follow up visits to confirm corrective action will at a minimum. Amendment also generates a small amount of additional income for use by contracting organizations in administering the Voluntary Registration program.
22 VAC 40-170-170. Collection of registration fees. D - F	22 VAC 40-170-170. Collection of registration fees. E – G		Subsections renumbered.
22 VAC 40-170-180. Complaints and violations. A	22 VAC 40-170-180. Complaints and violations. A 1-2	Currently requires that complaints against a registered provider and alleged violations by a provider be referred to the appropriate agency within a timeframe specified by the division, to include referrals to Child Protective Services, health and safety officials, the appropriate sponsoring organization or USDA office, or the department’s regional licensing office if the complaint alleges the home is subject to licensure.	Subdivisions added. Clarifies contracting organization’s role and responsibility when a complaint is received alleging violations of the Requirements for Providers. Provides guidance on investigation of complaints alleging abuse or neglect. Specifies when referrals should be made to other agencies, including health, fire and USDA. Incorporates current practice into the regulation. Amendment reads as follows: “When the contracting organization receives a complaint of alleged violations of the Requirements for Providers, the contracting organization shall investigate the complaint and shall require the provider to correct any violations found. (1) Complaints of abuse or neglect of children in care shall be referred immediately to Child Protective Services and, where possible, shall be investigated

			jointly with the local department of social services protective services staff. (2) Issues not included in the Requirements for Providers, including but not limited to sanitation, fire safety and food service issues, shall immediately be referred to the appropriate agency, including health and safety officials or USDA.”
22 VAC 40-170-180. Complaints and violations. B		References complaints being received by or referred to the contracting organization with procedures developed under the direction of the department.	Requirement deleted. See 22 VAC 40-170-180. Complaints and violations. A 1-2 above.
22 VAC 40-170-180. Complaints and violations. C	22 VAC 40-170-180. Complaints and violations. B	Addresses actions to be taken if the commissioner determines during the course of a complaint investigation that the certificate of registration should be revoked.	Subsection renumbered.
22 VAC 40-170-190. Monitoring of family day providers. A		Addresses the frequency, number and type of registered provider to be monitored by the contracting organization. Also states frequency of monitoring of providers who participate in the USDA food program.	Statement referring to the frequency of monitoring by USDA deleted. Statement previously included for information purposes only. Frequency of monitoring by USDA falls outside the authority of DSS regulation.
22 VAC 40-170-200. Technical assistance. A		Requires contracting organizations to respond to providers’ and parents’ questions concerning family day-care.	Amended to delete hyphen in ‘family day-care.’
22 VAC 40-170-200. Technical assistance. C 6 a.		Requires that the contracting organization provide a list of services to providers, to include participation in training sessions offered by or through the contracting organization.	Amendment adds “the department” to those who offer training.
	22 VAC 40-170-200. Technical assistance. C 9		Adds the requirement that a copy of the Department of Health’s current schedule of children’s immunizations be made available to providers. Monitoring of providers has identified lack of documentation of children’s immunizations as a major area of noncompliance. The immunization schedule provides information on which immunizations are due based on the age of the child.

<p>22 VAC 40-170-210. Information to parents. A</p>	<p>22 VAC 40-170-210. Information to parents.</p>	<p>Requires that the contracting organization supply to providers sufficient copies of a written information to parents statement for the parents of all enrolled children.</p>	<p>Technical change made to delete “A” since there is no B. Section amended to state that the department will supply providers with a written information to parents statement that shall be posted in conspicuous location in the registered home. The information to parents statement is generated and issued by the department along with the certificate of registration. The department mails the certificate and statement to the provider with a copy to the contracting organization. Since the children in a registered home may change, there is no way to assure that each parent has received a copy of the statement. Distribution of copies results in costs to contracting organizations for copying and mailing. Posting increases the likelihood that parents of all enrolled children will be aware of the information included in the statement. Posting also allows for a determination of compliance with the requirement by observation. Amendment reads as follows: “The department will supply to providers a written information to parents statement which shall be posted in a conspicuous location in the registered home ... .”</p>
<p>22 VAC 40-170-210. Information to parents. A 6</p>	<p>22 VAC 40-170-210. Information to parents. 6</p>	<p>Requires reporting of abuse and neglect in accordance with 63.1-248.3 and 63.1-248.4</p>	<p>Subdivision renumbered. Statutory references updated to 63.2-1509 and 63.2-1510.</p>
<p>22 VAC 400-170-210. Information to parents. A 10.</p>	<p>22 VAC 40-170-210. Information to parents. 10.</p>	<p>Concludes list of information included in the information to parents statement by advising parents to ask their provider whether they carry liability insurance.</p>	<p>Technical change to delete period (“.”) and to add “; and”.</p>
	<p>22 VAC 40-170-210. Information to parents. 11.</p>		<p>Adds to the information to parents statement the requirement that providers must inform parents of the percentage of time someone other than the provider will be caring for children. This addition results from the requirement in the <i>Code of Virginia</i> to provide this notification to parents.</p>
<p>22 VAC 40-170-230. Denials, revocations, refusals to renew, provider appeals</p>		<p>States the contracting organization may recommend to the commissioner that a certificate of registration be revoked, denied or refused renewal for refusal to permit immediate</p>	<p>Amended to require admission to the home by a representative of the contracting organization or department “during the home’s hours of operation.” This amendment clarifies that admission of contracting organization or agency representatives to a registered home is not limited to when children are in care.</p>

<p>procedures. A 5</p>		<p>admission to the home by the parent of an enrolled child who is present in the home or to an authorized representative of the contracting organization or department when any enrolled child is present.</p>	<p>The hours the provider states the home is in operation determine when the requirements for voluntary registration are applicable, whether or not children are in care. During those times when children are not in care, inspections may be conducted to evaluate areas of the physical environment for health and safety.</p>
<p>22 VAC 40-170-230. Denials, revocations, refusals to renew, provider appeals procedures. D</p>		<p>Requires that the contracting organization provide written notification to the provider within five calendar days when it intends to recommend to the commissioner that a certificate of registration be denied, revoked or refused renewal. The notification must be either hand delivered or sent by certified mail with return receipt requested. The notification must give the provider the opportunity to request a hearing, in writing. The hearing before the review committee must be conducted within 15 calendar days after receipt of the notice.</p>	<p>This requirement is deleted as unnecessary and burdensome to contracting organizations. It provides voluntarily registered providers with additional levels of appeal not available to licensed providers. Voluntarily registered providers currently have access to the appeals procedures outlined in the Administrative Process Act, whether or not the contracting organization's review committee upholds the decision to deny, revoke or refuse renewal. Because the certificate of registration is issued by the department, in accordance with the statute, it can only be revoked, denied or refused renewal by the department. In instances where the basis for revocation, denial or refusal to renew is a substantiated case of child abuse or neglect, or a criminal conviction that is a barrier to registration, review by the contracting organization's review committee would only be a formality, since the committee could not change the outcome. A major concern in cases involving abuse or neglect, or barrier crimes is the potential for breaches of confidentiality, which must be maintained based on background clearance and child protective services statutes.</p>
<p>22 VAC 40-170-230. Denials, revocations, refusals to renew, provider appeals procedures. E</p>		<p>Requires the contracting organization's review committee to hear provider appeals of recommendations to deny, revoke or refuse renewal and to issue a written report of its findings to the provider and the commissioner's designee within five working days after completing its review.</p>	<p>Requirement deleted. Unnecessary paperwork for contracting organization. See explanation provided in 22 VAC 40-170-230 D.</p>
<p>22 VAC 40-170-230. Denials, revocations, refusals to</p>	<p>22 VAC 40-170-230. Denials, revocations, refusals to</p>		<p>Subsection renumbered.</p>

renew, provider appeals procedures. F	renew, provider appeals procedures. D		
22 VAC 40-170-230. Denials, revocations, refusals to renew, provider appeals procedures. G	22 VAC 40-170-230. Denials, revocations, refusals to renew, provider appeals procedures. E.	States the commissioner's designee shall notify the provider of the decision to deny, revoke or refuse renewal of a certificate of registration in accordance with the Administrative Process Act (§ 9-6.14:1 et seq. of the Code of Virginia).	Subsection renumbered. "Shall" changed to "will." Statutory reference to Administrative Process Act updated to § 2.2-4000 A et seq.
22 VAC 40-170-230. Denials, revocations, refusals to renew, provider appeals procedures. H	22 VAC 40-170-230. Denials, revocations, refusals to renew, provider appeals procedures. F	States the commissioner will issue the final order and that the order may be appealed in accordance with the Administrative Process Act (§ 9-6.14:1 et seq. of the Code of Virginia).	Subsection renumbered. Statutory reference to Administrative Process Act updated to § 2.2-4000 A et seq.
22 VAC 40-170-230. Denials, revocations, refusals to renew, provider appeals procedures. I		Requires that the contracting organization request that the provider notify the parent of each enrolled child in the family day home within 10 calendar days if a certificate of registration is revoked or refused renewal.	Requirement deleted as unenforceable. Since registration is voluntary, and care may be provided to fewer than 6 children without a license, neither the contracting organization nor the department would have any authority to confirm that this requirement has been met.