



COMMONWEALTH of VIRGINIA

*Office of the Attorney General
Richmond 23219*

Jerry W. Kilgore
Attorney General
23219

900 East Main Street
Richmond, Virginia
804-786-2071

MEMORANDUM

TO: RICHARD MARTIN
Policy and Planning Manager
Department of Social Services

FROM: A. CAMERON O'BRION
Assistant Attorney General

DATE: November 24, 2004

SUBJECT: Proposed Changes to Adult Protective Services Regulation; 22 VAC 40-740

I have received the attached proposed changes to the regulations governing Adult Protective Services. You asked the Office of the Attorney General to review and determine if the State Board of Social Services has the legal authority to promulgate the attached proposed additions and to identify any federal or state mandates regarding this regulation.

The proposed regulatory changes conform the Virginia Administrative Code to reflect the General Assembly's recent changes to Virginia's Adult Protective Services statute. (Va. Code §§ 63.2-1603-1610). Based on my review, it is my view that the State Board of Social Services, acting pursuant to Va. Code § 63.2-217, has the authority to adopt this regulatory change subject to Va. Code § 2.2-4006 and has not exceeded that authority. The Code of Virginia (1950) as amended, section 63.2-217, grants to the Board the authority to adopt regulations that are necessary to carry out the purpose of the title. The State Board of Social Services is required to promulgate the attached changes in order comply with the General Assembly's changes to the Adult Protective Services statute. (Va. Code §§ 63.2-1603-1610).

If you have any questions, please contact me at (703) 277-3540.

Cc: Kim Piner, Esq.