



COMMONWEALTH of VIRGINIA

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MEMORANDUM

TO: KARIN CLARK
Virginia Department of Social Services

FROM: ALLEN T. WILSON
Senior Assistant Attorney General

DATE: February 19, 2013

SUBJECT: Proposed Repeal of 22 VAC 40-72-10 *et seq.*
Standards for Licensed Assisted Living Facilities
Proposed Regulation 22 VAC 40-73-10 *et seq.*
Standards for Licensed Assisted Living Facilities

I have reviewed the above-referenced proposed regulatory actions to determine if the State Board of Social Services (“State Board”) has the statutory authority to carry them out.

Virginia Code § 63.2-1732 authorizes the State Board to promulgate regulations “to protect the health, safety, welfare and individual rights of residents of assisted living facilities and to promote their highest level of functioning.” It appears that the State Board has the authority to repeal the existing regulation and promulgate the proposed replacement regulation, subject to compliance with the provisions of Article 2 of the Administrative Process Act and Executive Order 14 (2010), and has not exceeded that authority.

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