



COMMONWEALTH of VIRGINIA

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MEMORANDUM

TO: M. Norman Oliver, M.D., M.A.
Commissioner, Department of Health

FROM: Grant E. Kronenberg
Assistant Attorney General *GEK*

DATE: April 15, 2019

SUBJECT: Periodic Review of Regulations
Regulations for Bedding and Upholstered Furniture Inspection Program,
12VAC5-125-10 *et seq.*

In accordance with Code of Virginia § 2.2-4017 and Executive Order 17 (2014), I reviewed the Regulations for Bedding and Upholstered Furniture Inspection Program, 12VAC5-125-10 *et seq.* These regulations have undergone periodic review. I previously submitted a letter concerning certification on September 1, 2017. This letter serves as a replacement of the prior letter.

In my opinion, the Board of Health had the statutory authority under Code of Virginia § 32.1-12 and Title 32.1, Chapter 6, Article 7 (“Bedding and Upholstered Furniture”) of the Code of Virginia to adopt the current regulations, with the following exception.

The regulations at 12VAC5-125-40(2) state that they shall not apply to “[u]pholstered furniture and bedding products that are antiques as defined in 12VAC5-125-10.” Code of Virginia § 32.1-225 identifies items that are exempt from the coverage of Title 32.1, Chapter 6, Article 7, which addresses bedding and upholstered furniture. The Code does not exempt antiques from its requirements. Consequently, the regulations cannot exempt antiques from its requirements. I recommend that the regulation be amended to remove the exemption for antiques.