



COMMONWEALTH of VIRGINIA
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TO: L. RICHARD MARTIN, JR.
Virginia Department of Social Services

FROM: USHA KODURU
Assistant Attorney General

DATE: June 9, 2006

SUBJECT: Exempt Final Regulation 22 VAC 40-90-10
Background Checks for Assisted Living Facilities and Adult Day Care Centers

I have reviewed the attached final regulation to determine if the State Board of Social Services (“State Board”) has the statutory authority to promulgate the final regulation and if this action by the State Board is exempt from the Administrative Process Act (APA).

It appears that the State Board has the authority to promulgate the proposed regulation, subject to compliance with the provisions of Article 2 of the APA, and has not exceeded that authority. The change to the regulation is necessary to reflect the changes in Code by the adoption of the 2006 Acts of Assembly, Chapters 701 and 764 and the 2005 Acts of the Assembly, Chapters 610 and 924. Pursuant to § 2.2-4006(A)(4)(a) of the Virginia Code, this action by the Board is exempt from the requirements of the APA.

If you have any questions, please feel free to call me at 786-4905.

cc: Kim F. Piner, Esquire

Attachment