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Exempt Action Final Regulation Agency Background Document

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| Agency name | State Board of Social Services |
| Virginia Administrative Code (VAC) citation(s) | 22VAC40-151 |
| Regulation title(s) | Standards for Licensed Children's Residential Facilities |
| Action title | Amend Standards for Licensed Children's Residential to Comply with Code Requirements |
| Final agency action date | 08/21/2019 |
| Date this document prepared | 08/21/2019 |

While a regulatory action may be exempt from executive branch review pursuant to § 2.2-4002 or § 2.2-4006 of the *Code of Virginia*, the agency is still encouraged to provide information to the public on the Regulatory Town Hall using this form. However, the agency may still be required to comply with the Virginia Register Act, Executive Order 14 (as amended, July 16, 2018), the Regulations for Filing and Publishing Agency Regulations (1 VAC7-10), and the *Virginia Register Form, Style, and Procedure Manual for Publication of Virginia Regulations*.

Brief Summary

Please provide a brief summary (preferably no more than 2 or 3 paragraphs) of this regulatory change (i.e., new regulation, amendments to an existing regulation, or repeal of an existing regulation). Alert the reader to all substantive matters. If applicable, generally describe the existing regulation.

This regulatory action will change two sections of the Standards for Licensed Children's Residential Facilities, 22VAC40-151. The first change will repeal 22VAC40-151-90, Summary Suspension, because it is inconsistent with 22VAC40-80-345, Summary suspension procedures, in General Procedures and Information for Licensure, 22VAC40-80, a regulation of general applicability to all entities licensed by the Virginia Department of Social Services. These changes are needed as a result of Chapter 449 of the 2019 Acts of the Assembly, §§ 63.2-1737, 63.2-1709.1, and 63.2-1710.1 of the Code of Virginia (Code). Chapter 449 added summary suspension procedures for all child welfare agencies, which include children's residential facilities. Summary Suspension, 22VAC40-151-90, will be repealed in its entirety because these

requirements will be added to General Procedures and Information for Licensure, 22VAC40-80 and are no longer needed in Standards for Licensed Children’s Residential Facilities, 22VAC40-151.

The second change will make Standards for Licensed Children’s Residential Facilities consistent with § 63.2-904 of the Code, as amended by Chapter 446 of the 2019 Acts of the Assembly. Chapter 446 has an effective date of July 1, 2019. Relationship to Regulatory Authority, 22VAC40-151-170, will be amended by adding subsections specifying that the commissioner shall (i) have the authority to place, remove, or direct the placement or removal of any child who is under the supervision and control of a local board or licensed child-placing agency; and (ii) remove or direct the removal of any child placed by a local board or licensed child-placing agency in a children’s residential facility that fails to comply with any state or federal requirements intended to protect the child’s health, safety, or well-being.

Mandate and Impetus

Please identify the mandate for this regulatory change, and any other impetus that specifically prompted its initiation (e.g., new or modified mandate, internal staff review, petition for rulemaking, periodic review, board decision, etc.). “Mandate” is defined as “a directive from the General Assembly, the federal government, or a court that requires that a regulation be promulgated, amended, or repealed in whole or part.”

This regulatory action will make the Standards for Licensed Children’s Residential Facilities consistent with the standards applicable to other entities licensed by the Department of Social Services by repealing 22VAC40-151-90, Summary Suspension, in its entirety. Summary suspension procedures for all child welfare agencies licensed by the Department of Social Services will be covered in 22VAC40-80-345. These changes are necessary to comply with Chapter 449 of the 2019 Acts of the Assembly, §§ 63.2-1709.1, 63.2-1710, and 63.2-1737 of the Code.

Additionally, this regulatory action will make the Standards for Licensed Children’s Residential Facilities consistent with Chapter 446 of the 2019 Acts of the Assembly, § 63.2-904 of the Code. Chapter 449 has an effective date of July 1, 2019.

Statement of Final Agency Action

Please provide a statement of the final action taken by the agency including: 1) the date the action was taken; 2) the name of the agency taking the action; and 3) the title of the regulation.

On August 21, 2019, the State Board of Social Services approved the exempt action to amend the Standards for Licensed Children’s Residential Facilities.

**Periodic Review
Small Business Impact Review Report of Findings**

If you are using this form to report the result of a periodic review/small business impact review that is being conducted as part of this regulatory action, and was announced during the proposed stage, please indicate whether the regulatory change meets the criteria set out in Executive Order 14 (as amended, July 16, 2018), e.g., is necessary for the protection of public health, safety, and welfare; minimizes the economic impact on small businesses consistent with the stated objectives of applicable law; and is clearly written and easily understandable.

In addition, as required by § 2.2-4007.1 E and F of the Code of Virginia, include a discussion of the agency's consideration of: (1) the continued need for the regulation; (2) the nature of complaints or comments received concerning the regulation from the public; (3) the complexity of the regulation; (4) the extent to which the regulation overlaps, duplicates, or conflicts with federal or state law or regulation; and (5) the length of time since the regulation has been evaluated or the degree to which technology, economic conditions, or other factors have changed in the area affected by the regulation.

This action is not the result of a periodic review/small business impact review.