



COMMONWEALTH of VIRGINIA


Office of the Attorney General

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MEMORANDUM

TO: KARIN CLARK
Virginia Department of Social Services

FROM: Jennifer C. Williamson 
Senior Assistant Attorney General

DATE: January 7, 2022

SUBJECT: Fast-Track Stage Review of 22 VAC 40-160-10
Amend Fee Requirements for Processing Applications

I have reviewed the attached regulation, which is being amended to allow licensed programs the option of paying required application fees by check or an online payment system. You have asked the Office of the Attorney General to review this action and determine if the State Board of Social Services ("State Board") has the statutory authority to promulgate this regulation and if it comports with applicable state law.

Pursuant to Virginia Code § 63.2-217, the State Board is required to promulgate regulations as may be necessary or desirable to carry out the purposes of Title 63.2 of the Virginia Code. Further, pursuant to Code § 63.2-1700, the State Board has authority to adopt regulations for the payment of fees for processing applications for licenses to operate assisted living facilities, adult day care centers and child welfare agencies. Accordingly, it is my opinion the State Board has the authority to promulgate this regulation and, in so doing, the State Board does not exceed that authority.

If you have any questions, please feel free to call me at 225-3197.

Project 7049 - Fast-Track

Department Of Social Services

Amend Fee Requirements for Processing Applications 2021

22VAC40-160-10. Fees.

By act of the General Assembly and effective February 1, 1984, the Department of Social Services is authorized to charge fees for processing applications for licenses (§ 63.2-1700 of the Code of Virginia).

Such fees are to be used for the development and delivery of training for operators and staff of facilities or agencies for adults or children subject to licensure solely by the Department of Social Services.

Each license and renewal of it may be issued for a period of up to three successive years. The required fee for each licensed facility or agency will be based upon its licensed capacity and the length of the total licensure period. However, the fee will be collected annually and licensees will be billed each year by the Department of Social Services for the appropriate portion of the fee. (Example: A facility with a capacity of 55 participants is issued a license for a period of 24 months. The fee for that facility for the two-year period would be \$210. The facility will be charged \$105 at the beginning of the licensure period and billed again for \$105 at the beginning of the second year of licensure.) No fee will be charged directly following the issuance of a conditional license.

Applicants shall use the following schedule of fees to determine the correct fee to pay for processing all applications.

Schedule of Fees			
Capacity	1 year	2 years	3 years
1-12	\$14	\$28	\$42

13-25	\$35	\$70	\$105
26-50	\$70	\$140	\$210
51-75	\$105	\$210	\$315
76-200	\$140	\$280	\$420
201 & up	\$200	\$400	\$600
Flat Fees			
Child Placing Agencies	\$70	\$140	\$210

The fee shall be paid by ~~personal check, money order, or certified check,~~ made payable to "Treasurer of Virginia," or through the online process determined by the Department.

A fee that is incorrect in amount or is made payable other than to the Treasurer of Virginia will be returned to the applicant. Otherwise, no fee will be returned or refunded for any reason.

Failure to submit the appropriate fee within the timeframe specified by the Department of Social Services may result in negative action against a facility's or agency's license.

A fee will be charged for checks that must be returned to the applicant because of insufficient funds.