



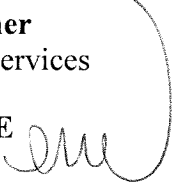
# COMMONWEALTH *of* VIRGINIA

*Office of the Attorney General*

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**TO:** DUKE STOREN, Commissioner  
Virginia Department of Social Services

**FROM:** ELLEN FULMER MALENKE  
Assistant Attorney General 

**DATE:** July 6, 2020

**SUBJECT:** Exempt Regulation Section - 22VAC40-665 (Amend First Aid training provisions for subsidy vendors)

I am in receipt of the attached regulation. You have asked the Office of the Attorney General to review and determine if the State Board of the Virginia Department of Social Services has the statutory authority to promulgate the proposed regulation and if the proposed regulation comports with applicable state and federal law.

This regulatory action is necessary to bring state Child Care Subsidy Program requirements into compliance with CFR Title 45 – Public Welfare and Human Services, Part 98 Child Care and Development Fund, Section 98.41(a)(1)(x) Pediatric First Aid and CPR. Changes to this regulation modify first aid training requirements for child care providers participating in the Subsidy Program to include “age appropriate” in the reference to first aid.

It is my opinion that the State Board of DSS has the authority to promulgate this regulation, subject to compliance with the provisions of Article 2 of the Administrative Process Act (“APA”) and has not exceeded that authority.

Further, it is my view that this regulation is exempt from the procedures of Article 2 of the APA pursuant to Virginia Code § 2.2-4006(A)(4)(c). If you have any questions or need additional information about these regulations, please contact me at 786-4856.

cc: Kim F. Piner, Esquire

Attachment