



COMMONWEALTH of VIRGINIA

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MEMORANDUM

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

FROM: ALLEN T. WILSON
Assistant Attorney General

DATE: March 26, 2009

SUBJECT: Final Regulation 22 VAC 40-72-10 et seq.
Standards for Licensed Assisted Living Facilities

I have reviewed the above-referenced 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 changes to the regulation are necessary to reflect the changes in Code by the adoption of Chapter 133 of the 2009 Acts of Assembly, which amended Virginia Code § 54.1-3042, which relates to the registration of medication aides, requiring the State Board to amend this regulation. 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 786-0095.