



COMMONWEALTH of VIRGINIA

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MEMORANDUM

TO: KARIN CLARK
Virginia Department of Social Services

FROM: ALLEN T. WILSON
Senior Assistant Attorney General

DATE: August 15, 2011

SUBJECT: Proposed Regulation 22 VAC 40-740-10 et seq.
Adult Protective Services

I have reviewed the above-referenced proposed regulation to determine if the State Board of Social Services (“State Board”) has the statutory authority to promulgate the proposed regulation and if the proposed regulation comports with applicable state law.

Virginia Code § 63.2-217 mandates that the State Board promulgate regulations that are necessary to carry out the provisions of Title 63.2. Title 63.2, Chapter 16, Article 2 specifically addresses Adult Protective Services. Also, Virginia Code § 63.2-1606(H) requires the Board to establish by regulation a process for imposing and collecting civil penalties assessed by Commissioner against mandated reporters who fail to report adult abuse, neglect or exploitation. 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 Administrative Process Act and Executive Order 14 (2010), and has not exceeded that authority.

If you have any questions, please feel free to call me at 786-0095.