

**COMMONWEALTH OF VIRGINIA**  
**STATE BOARD OF SOCIAL SERVICES**

**BYLAWS**

**ARTICLE I**

**Name and Location** – The name of this Board shall be the State Board of Social Services, hereinafter referred to as the "State Board." The principal office of the State Board shall be located in Richmond, Virginia. Meetings of the State Board may be held at other places within the Commonwealth of Virginia, as may be scheduled by the State Board. (Article III)

**ARTICLE II**

**Board Composition and Term of Office** – The State Board shall consist of eleven (11) members, one (1) of which shall be a health care professional, one (1) of which shall be a representative of stand-alone licensed child care centers that meet the accountability standards for state recognized accreditation pursuant to § 22.1-19, and one (1) of which shall be a representative of religiously exempt child care centers, pursuant to the *Code of Virginia*. Members are appointed by the Governor, and shall include a member from each of the welfare regions of the State established by the Commissioner of the Department of Social Services. The term of office shall be for four (4) years. No member shall be eligible to serve more than two (2) successive full terms. Each member of the State Board shall take the usual oath of office before entering upon the discharge of his/her duties.

**Orientation** – All new members appointed to the State Board shall receive an orientation that includes information about the roles and responsibilities of the Board (See Appendix A); the committee structure and bylaws of State Board; roles and responsibilities of the Department of Social Services, hereinafter referred to as the Department; Title 63.2 of the *Code of Virginia*, which governs the operations of the Board and Department; the Virginia Freedom of Information Act and the State and Local Government Conflict of Interest Act.

**Officers** – In April of each year, the State Board Chair shall appoint an ad hoc Nominating Committee of three members. In June of each year, the Nominating Committee will offer its slate of candidates and the State Board shall elect from its membership three (3) officers: chair, vice-chair, and secretary. The term of each office shall be one (1) year (July 1 through 30 June). A member may succeed himself/herself in the same office but for no more than 2 consecutive terms.

**Duties of Officers** – The chair shall preside over all meetings of the State Board, shall preside over all hearings conducted by the State Board and shall perform other duties as may be prescribed by the State Board. In the absence of the chair, the vice-chair shall preside. The secretary shall certify the minutes and the other official documents for the State Board and in the absence of both the chair and vice-chair shall assume their functions.

**Committees** – The State Board may utilize a committee system for the purpose of work sessions and technical considerations. No final action can be taken by a committee unless it is authorized by the State Board. If committees are utilized, they shall be appointed by the chair at the first meeting following his/her election. The chairs and membership of the committees shall

serve at the pleasure of the chair. Committees may include, but not be limited to: Child Welfare and Self-Sufficiency. If committees are utilized each member shall be assigned to at least one (1) committee. The chair of the committee will determine the meeting schedule of the committee and must report any activity of the committee to the full State Board at its next scheduled meeting. For purposes of continuity, the chair of the State Board may serve as chair of one (1) committee. The Department shall provide staff support as needed. A quorum for the conduct of committee business shall be two (2) members of the State Board. A committee may subdivide itself for gathering information.

**Advisory Groups** – The State Board may, from time-to-time, seek the advice of individuals other than members of the State Board on issues of concern to the State Board and may form a group of such individuals for such purpose. Any member of the State Board, a standing committee, or the Commissioner of the Department may request that such advice be sought or that such a group be formed. Selection of individuals to serve in such capacity shall be made by the State Board of Social Services with the advice of the Commissioner of the Department.

Each individual asked to serve shall receive the following instructions:

1. The length of time each member is asked to serve;
2. The work assignment as well as the extent and limitations of the responsibilities of such individual and/or group;
3. The resources which the State Board and the Department will provide;
4. The time frame for reports to the State Board; and
5. The responsibilities for the release of information.

Since the State Board possesses legal powers that cannot be delegated or surrendered, all recommendations for action by such individual or group must be submitted to the State Board for a decision. The State Board shall have sole power to terminate the service of any such individual or group so established.

### ARTICLE III

**Meetings** – A meeting of the State Board occurs when as many as three (3) members sit as a body or as an informal assemblage, wherever held, whether or not minutes are taken, whether or not votes are cast, when public business is discussed or transacted.

**Schedule of Regular Meetings** – In October of each year the State Board shall adopt its meeting schedule for the next calendar year. Ordinarily, these regular meetings shall be held as follows: two day meetings shall be held on the third Thursday and the preceding Wednesday of the month while one day meetings shall be held on the Wednesday preceding the third Thursday. These meetings may be held in the various welfare regions of the state as well as at the principal office, as may be decided by the State Board. Specific meeting sites shall be identified at least two (2) months prior to that meeting. Meetings shall not be held on major religious holy days.

**Special Meetings** – Special meetings of the State Board may be called by the chair or by any three (3) members of the State Board on seven (7) days' notice given to each member of the State Board. Meetings may be held with less than seven (7) days' notice if all members of the State Board are present or if those not present waive notice thereof before the meeting.

**Work Session** – The State Board may hold work sessions preceding, or following regular or special meetings. A work session agenda with time and place specified shall be included with the agenda for the regular or special meeting.

**Quorum** – A majority of the current membership of the Board shall constitute a quorum for conducting business. Less than a quorum may gather information, listen to testimony, etc.

**Order of Business** – At least 14 days prior to each regular meeting, the Chair and Vice-Chair of the State Board, with the advice of the Commissioner of the Department of Social Services, shall set the agenda for that meeting. No amendments shall be made to the agenda after it is set, without the consent of the Chair or Vice-Chair. If the Chair and Vice-Chair are unavailable, the Secretary has the authority to consent to changing the agenda. To the extent possible, meeting materials will be mailed to members the next business day following the setting of the agenda.

The order of business of regular meetings of the State Board of Social Services shall include a time to receive comment from the public and interested parties pursuant to the State Board's Public Participation Guidelines (22 VAC 40-12).

**Conduct of Business** - All meetings shall be conducted in accordance with the rules contained in Robert's Rules of Order Newly Revised, except as otherwise stated in these bylaws.

**Notice of Meetings and Public Hearings on Regulations -**

- (1) Notice of the date, time and place of all regular Board and committee meetings shall be announced in advance by posting the notice electronically on the Commonwealth Calendar, as required by § 2.2-3707 of the *Code of Virginia* and by written notice to the State Board at least three days in advance of the meeting.
- (2) When the Board determines that a public hearing on a regulatory action is appropriate, notice of the hearing shall be posted in accordance with the requirements of State Board's Public Participation Guidelines, 22VAC40-12-100.

## **ARTICLE IV**

### **Closed Meetings**

1. In order to conduct the public's business effectively and protect the privacy of individual citizens, the Board recognizes that certain information must be kept confidential and that closed meetings, as defined § 2.2-3701 of the *Code of Virginia*, may on occasion be required in order to protect this confidential information.
2. All closed meetings shall be conducted in accordance with the *Virginia Freedom of Information Act* § 2.2-3700 et seq. of the *Code of Virginia*.
3. Minutes shall be kept of all closed meetings of the State Board. The minutes of closed meetings shall be confidential and shall be kept separately from the regular minutes of the State Board. Minutes of closed meetings shall not be disclosed without a vote of a majority of members of the State Board. Minutes of closed meetings shall be retained for five years.

4. Non-members may attend a closed meeting if a majority of members present at the meeting determines by voting prior to entering closed meeting that such persons are necessary or their presence will reasonably aid the State Board in its consideration of a topic which is a subject of the meeting. The Clerk to the State Board is exempt from this vote to take minutes.
5. All State Board members shall abide by all confidentiality provisions of the *Code of Virginia* and safeguard the confidentiality of records of the Department of Social Services as provided for in §§ 63.2-101 through 63.2-105 of the *Code of Virginia*.
6. All information discussed during a closed meeting and all records recorded in or compiled exclusively for use in a closed meeting shall not be released by any member of the State Board without the approval of a majority of the members of the State Board.

#### **ARTICLE V**

**Powers and Duties** – The State Board shall possess the powers, duties, and responsibilities as set forth in the *Code of Virginia*, the official compilation of the laws and statutes enacted by the Virginia General Assembly.

Individual members of the State Board shall represent official positions of the State Board only upon action of the State Board. When the State Board is requested to appear before the General Assembly, legislative committees, study committees, etc., the State Board is ordinarily represented by three (3) members who are nominated by the chair and, when practicable, confirmed by the State Board.

#### **ARTICLE VI**

**Official Papers** – All official records of the State Board shall be kept on file at the Department of Social Services and shall be open to inspection. All files, except minutes, will be maintained for five (5) years. All minutes of State Board meetings shall be permanently retained, with the exception of closed meeting minutes (retained for 5 years).

#### **ARTICLE VII**

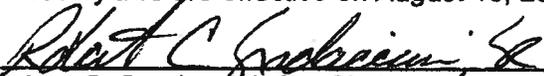
**Public Participation** – Citizens may attend all State Board meetings, except closed meetings as defined by the Freedom of Information Act, and may record the proceedings in writing or by using a recording device. The State Board may make and enforce reasonable rules regarding the conduct of persons attending its meetings. It is the intent of the State Board to hold a public comment period during every regular meeting.

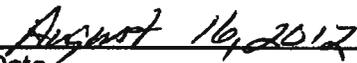
#### **ARTICLE VIII**

**Review and Amendments to Bylaws** – The State Board shall review and amend the bylaws as necessary. The State Board shall, at a minimum, review its bylaws every four years in the fall of the first year of the Governor's term. The Bylaws may be amended at any regular meeting of the State Board by an affirmative vote of a majority of the State Board members, provided that the proposed amendment was included in the notice of the meeting.

These bylaws are effective June 15, 1999  
Revised October 15, 1986  
Revised February 15, 1990  
Revised March 22, 1999  
Revised October 15, 1999  
Revised June 14, 2000  
Revised April 2002  
Revised October 2003  
Revised October 2004  
Revised October 2009  
Revised October 2011  
Revised August 2012

These bylaws are effective on August 16, 2012, and until subsequently amended.

  
\_\_\_\_\_  
Robert C. Spadacini, Sr., Chair  
State Board of Social Services

  
\_\_\_\_\_  
Date

**Commonwealth of Virginia**  
**State Board of Social Services**

**A Summary of the  
Principal Powers, Duties,  
& Responsibilities of the  
State Board of Social Services  
as Set Forth in the  
Code of Virginia**

revised August 2012

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## **Introduction**

The following is a listing of the principal powers, duties, and responsibilities of the State Board of Social Services (Board) as set forth in the Code of Virginia (Code). The Code is the official compilation of the laws and statutes enacted by the Virginia General Assembly. It specifically identifies the officers, agents, and official bodies responsible for the administration of state government and its various functions and activities.

**Title 2.2.**  
**Administration of the Government.**

**1. General Provisions.**

1.1. "...members of boards, commissions, committees, councils and other collegial bodies, who are appointed at the state level, shall be compensated at the rate of \$50 per day, unless a different rate of compensation is specified by statute for such members, plus expenses for each day or portion thereof in which the member is engaged in the business of that body." (§ 2.2-2813).

1.2. The members of the Board must attend training on the State and Local Government Conflict of Interests Act within two months of appointment and at least once during each consecutive period of two calendar years (§ 2.2-3130).

**Title 49**  
**Oaths, Affirmations and Bonds.**

**2. Oaths, Affirmations and Bonds.**

2.1. "Every person before entering upon the discharge of any function as an officer of this Commonwealth shall take and subscribe the following oath: 'I do solemnly swear (or affirm) that I will support the Constitution of the United States, and the Constitution of the Commonwealth of Virginia, and that I will faithfully and impartially discharge all the duties incumbent upon me as...according to the best of my ability, (so help me God).' (§ 49-1).

**Title 63.2**  
**Welfare (Social Services).**

**Subtitle I. General Provisions Relating to Social Services.**

**3. General Provisions.**

3.1. The Board shall adopt regulations regarding the release of information to parties involved in administrative proceedings pursuant to the child support enforcement statutes (§ 63.2-103).

3.2. "The records, information and statistical registries of the Department, local departments and of all child-welfare agencies concerning social services to or on behalf of individuals shall be confidential information, provided that the Commissioner, the Board and their agents shall have access to such records, information and statistical registries, and that such records, information and statistical registries may be disclosed to any person having a legitimate interest in accordance with state and federal law and regulation.

It shall be unlawful for any officer, agent or employee of any child-welfare agency; for the Commissioner, the State Board or their agents or employees; for any person who has held any such position; and for any other person to whom any such record or information is disclosed to disclose, directly or indirectly, any such confidential record or information, except as herein provided or pursuant to § 63.2-105. Every violation of this section shall constitute a Class 1 misdemeanor." (§ 63.2-104).

### State Social Services

3.3. “The Commissioner, subject to the regulations of the Board, shall have all of the powers and perform all the duties conferred upon him by law...The Commissioner shall enforce the regulations adopted by the Board.” (§ 63.2-203).

3.4. “The Commissioner shall enforce the minimum education, professional and training requirements and performance standards as determined by the Board for personnel employed in the administration of this title and remove each employee who does not meet such standards.” (§ 63.2-208).

3.5. “The Board shall adopt such rules and promulgate such regulations as may be necessary to implement programs developed pursuant to this section (pertaining to funding for marriage and family programs).” (§ 63.2-214.1).

### State Board of Social Services

3.6. “There shall be a State Board of Social Services consisting of eleven members appointed by the Governor. In making appointments the Governor shall endeavor to select appointees of such qualifications and experience that the membership of the Board shall include persons suitably qualified to consider and act upon the various problems that the Board may be required to consider and act upon. The Board shall include one representative of stand-alone child care centers that meet accountability standards for state recognized accreditation pursuant to § 22.1-19 and one representative of religiously exempt child care centers. The Board shall include a member from each of the social services regions of the state established by the Commissioner and one member shall be a licensed health care professional. The appointments shall be subject to confirmation by the General Assembly if in session and, if not, then at its next succeeding session.” (§ 63.2-215).

3.7. “The members of the Board shall be appointed for four-year terms, except that appointments to fill vacancies shall be for the unexpired term. No person shall be eligible to serve for or during more than two successive terms; however, any person appointed to fill a vacancy may be eligible for two additional successive terms after the term of the vacancy for which he was appointed has expired. Members of the Board may be suspended or removed by the Governor at his pleasure.” (§ 63.2-215).

3.8. “The Board shall select a chairman from its membership, and under rules adopted by itself may elect one of its members as vice-chairman. It shall elect one of its members as secretary. The Board shall meet at such times as it deems appropriate and on call of the chairman when in his opinion meetings are expedient or necessary; provided, however, that the Board shall meet at least six times each calendar year. A majority of the current membership of the Board shall constitute a quorum for all purposes. The main office of the Board shall be in the City of Richmond.” (§ 63.2-215).

3.9. “In addition to such other duties as are assigned to it, the Board shall act in a capacity advisory to the Commissioner, and when requested shall confer and advise with him upon such matters as may arise in the performance of his duties. When requested by the Commissioner, or by the Governor, the Board shall investigate such questions and consider such problems as they, or either of them, may submit and shall report their findings and conclusions. The Board may also initiate investigations and consider problems and make recommendations to the

Commissioner or to the Governor, of its own motion.” (§ 63.2-216).

3.10. “The Board shall adopt such regulations, not in conflict with this title, as may be necessary or desirable to carry out the purpose of this title. Before the Board acts on a regulation to be published in the Virginia Register of Regulations pursuant to § 2.2-4007.05, the Board shall examine the potential fiscal impact of such regulation on local boards. For regulations with potential fiscal impact, the Board shall share copies of the fiscal analysis with local boards prior to submission of the regulation to the Department of Planning and Budget for purposes of the economic impact analysis under § 2.2-4007.04. The fiscal impact analysis shall include the projected costs and savings to the local boards to implement or comply with such regulation and, where applicable, sources of potential funds to implement or comply with such regulation.” (§ 63.2-217).

3.11. “The Board also may adopt such regulations to authorize local boards to destroy or otherwise dispose of such records as the local boards in their discretion deem are no longer necessary in such offices and that serve no further administrative, historical or financial purpose.” (§ 63.2-217).

3.12. “The Board shall adopt regulations to effectuate the provisions of Chapter 5.1 (§ 32.1-162.16 et seq.) of Title 32.1 for human research, as defined in § 32.1-162.16, to be conducted or authorized by the Department, any agency or facility licensed by the Department, or any local department. The regulations shall require the human research committee to submit to the Governor, the General Assembly, and the Commissioner at least annually a report on the human research projects reviewed and approved by the committee and shall require the committee to report any significant deviations from the proposals as approved.” (§ 63.2-218).

3.13. “The Board shall establish minimum education, professional and training requirements and performance standards for the personnel employed by the Commissioner and local boards in the administration of this title and adopt regulations to maintain such education, professional and training requirements and performance standards, including such regulations as may be embraced in the development of a system of personnel administration meeting requirements of the Department of Health and Human Services under appropriate federal legislation relating to programs administered by the Board. The Board shall adopt minimum education, professional and training requirements and performance standards for personnel to provide public assistance or social services.” (§ 63.2-219).

3.14. “The Board shall provide that the Department and its local boards or local departments shall not employ any person in any social work position that provides direct client services unless that person holds at least a baccalaureate degree. Such requirement shall not be waived by the Department, Board, or any local director or local governing body, unless such person has been employed prior to January 1, 1999, by the Department or its local boards or local departments in a social work position that provides direct client services.” (§ 63.2-219).

3.15. “The Board in the exercise and performance of its functions, duties and powers under the provisions of this title is authorized to hold and conduct hearings, issue subpoenas requiring the attendance of witnesses and the production of records, memoranda, papers and other documents, to administer oaths and to take testimony thereunder.” (§ 63.2-220).

3.16. “Whenever the Governor considers it proper or necessary to investigate the management of any institution licensed by or required to be inspected by the Board under the provisions of this title, he may direct the Board, or any committee or agent thereof, to make the investigation. The Board, committee or agent designated by the Governor shall have power to

administer oaths and to summon officers, employees or other persons to attend as witnesses and to enforce their attendance and to compel them to produce documents and give evidence.” (§ 63.2-221).

### Local Social Services

3.17. “...the Board, with the prior consent of the Governor, may establish districts consisting of two or more counties or cities or combinations of cities and counties. Except as provided in § 63.2-307, there shall be one district board of not less than three nor more than nine members for each such district. There shall be at least one member of the district board from each county and city in the district. Additional representation from one or more counties or cities within the stipulated maximum may be determined by the Board, with population being the principal factor in such determination. Appointments to the district board shall be made by the governing body of each county and city in the district, upon certification of the establishment of such district by the Board. The Board shall designate the initial term of each district board member to be not less than one nor more than four years in duration, so as to provide for a balanced overlapping of terms. Subsequent appointments shall be for terms of four years each, except appointments to fill a vacancy, which shall be for the unexpired term. Appointments to fill unexpired terms shall not be considered full terms, and such persons shall be eligible to be appointed to two consecutive full terms. No member shall serve for more than two consecutive full terms. A member who serves two consecutive full terms shall be ineligible for reappointment to the district board until the end of an intervening one-year period dating from the expiration of the last of the two consecutive terms. Before requesting the Governor's approval for establishment of any such district, the Board shall consult with the governing body of each county or city that would be included in the district. No county or city shall be included in any such district served by one board unless the local governing body so elects. The district board of any district consisting of two or more counties or cities or combinations of counties and cities shall be considered to be a local board.” (§ 63.2-306).

3.18. “Members of any local board may be suspended or removed for cause by the Board or by the local governing body authorized to appoint the members of the local board.” (§ 63.2-308).

3.19. “The local boards shall, subject to the regulations of the Board, administer the applicable provisions of this title in their respective counties and cities.” (§ 63.2-313).

3.20. “Each local board shall provide, either directly or through the purchase of services subject to the supervision of the Commissioner and in accordance with regulations adopted by the Board, any or all child welfare services herein described when such services are not available through other agencies serving residents in the locality. Each local board is also authorized and, as may be provided by regulations of the Board, shall provide rehabilitation and other services to help individuals attain or retain self-care or self-support and such services as are likely to prevent or reduce dependency and, in the case of dependent children, to maintain and strengthen family life.” (§ 63.2-319).

3.21. “In emergency situations or in the event of delay or error in a state issuance of payments for public assistance and social services to eligible recipients, or expenditures for administration and services, emergency payments shall be issued by local boards as authorized by Board regulations. In emergency situations that result from lost or stolen checks, the Department shall assume liability for losses incurred by local boards due to fraudulent acts by recipients;

however, the local board shall make diligent efforts to recoup any such lost funds in accordance with Board regulations.” (§ 63.2-323).

#### Local Departments and Local Directors of Social Services

3.22. “Subject to the personnel standards and regulations of the Board, the local director shall be appointed by the local board, or, where the city charter or statutes relating to special forms of city or county government designate some other appointing authority, then by such other appointing authority, from a list of eligibles furnished by the Commissioner. Subject to the personnel standards, and regulations of the Board, the local boards or other appointing authority shall employ, or authorize the local director to employ, such other employees as may be required by the Commissioner to administer this title in the county or city.” (§ 63.2-325).

3.23. “Any local director and any such employee who does not meet the personnel standards established by the Board may be removed by the Commissioner. (§ 63.2-327).

3.24. “With the approval of the Board and the local governing body, the local board may provide that the local director and such other employees shall be paid compensation in excess of the maximums permitted in the compensation plan. Such excess compensation shall be paid wholly from the funds of such county or city and any federal funds that are available and appropriate for such use.” (§ 63.2-330).

3.25. “The records of the cases handled and business transacted by the local department shall be kept in such manner and form as may be prescribed by the Board.” (§ 63.2-335).

3.26. “At the request of the local governing body, the local director shall each year prepare and keep on file a full report of the local department’s work and proceedings during the year. If such request is made, one copy of such report shall be filed with the local governing body and another with the Board.” (§ 63.2-336).

#### Funding of Public Assistance and Social Services

3.27. “Administrative expenditures made by the localities in connection with the providing of public assistance grants, other benefits and related social services, including child welfare pursuant to § 63.2-319, shall be ascertained by the Board, and the Commissioner shall, within the limits of available federal funds and state appropriations, reimburse monthly each county, city or district fiscal officer therefore out of such federal and state funds in an amount to be determined by the Board not less than fifty percent of such administrative costs.” (§ 63.2-401).

3.28. “If any county or city through its appropriate authorities or officers fails or refuses to provide reimbursement of the Commonwealth, the Board shall authorize and direct the Commissioner to file at the end of each month with the State Comptroller and with the local governing body of such county or city a statement showing all disbursements and expenditures, including administrative expenditures, made for and on behalf of such county or city, and the Comptroller shall from time to time as such funds become available deduct from the funds appropriated by the Commonwealth, in excess of requirements of the Constitution of Virginia, for distribution to such county or city amounts required to reimburse the Commonwealth for expenditures incurred under the provisions of this section. All funds so deducted and transferred are hereby appropriated for the purposes set forth, and shall be expended and disbursed as provided in § 63.2-403. Any county or city may provide such other necessary or incidental social

or rehabilitative services as may be authorized by the Board in connection therewith.” (§ 63.2-402).

3.29. “In the event the Social Security Act or other statutes or regulations adopted by the Department of Health and Human Services are amended to change requirements to entitle the Commonwealth to federal grants or reimbursement for public assistance payments and expenditures for social services, the Board may by regulation adopt such standards, requirements and procedures that would bring the public assistance and social services programs into compliance with the federal requirements so as not to interfere with, diminish or jeopardize the Commonwealth's entitlement to federal grants or reimbursement for public assistance payments or expenditures for social services.

If federal statutes or regulations are amended to permit funds appropriated by Congress to be used for public assistance to or social services for any persons eligible for assistance under §§ 63.2-319 and 63.2-802, the Board may, pursuant to the provisions of § 63.2-217, make applicable such provisions of Subtitles II and III of this title as the Board finds necessary to enable the Commonwealth to receive reimbursement for such public assistance and social services. The Board may also by regulation define eligibility within the limitations of § 63.2-802 of persons to receive public assistance or social services under any amendments of the Social Security Act or other statutes. It is the purpose of this section to enable the Commonwealth to meet the requirements for federal reimbursement of public assistance or social services to persons who are eligible for public assistance or social services under Subtitles II and III of this title or who may be eligible under amendments of the Social Security Act.” (§ 63.2-406).

3.30. “With respect to general relief, foster care for children and auxiliary grants for the aged, disabled or blind, any county or city may provide such other necessary or incidental public assistance or social services as may be authorized by the Board.” (§ 63.2-407).

3.31. “If any county or city, through its appropriate authorities or officers fails or refuses to provide public assistance or social services in accordance with the provisions of Subtitles II and III of this title, the Board through appropriate proceedings shall require such authorities and officers to exercise the powers conferred and perform the duties imposed by Subtitles II and III. For so long as the failure or refusal to provide for the public assistance or social services continues, the Board shall authorize and direct the Commissioner under regulations of the Board to provide for the payment of public assistance or the furnishing of social services in such county or city out of funds appropriated for the purpose of carrying out the provisions of Subtitles II and III of this title...If at any time a locality fails to operate public assistance programs or social service programs in accordance with state laws or regulations or fails to provide the necessary staff for the implementation of such programs, the Board may authorize and direct the Commissioner, under regulations of the Board, to withhold from such locality the entire reimbursement for administrative expenditures or a part thereof for the period of time the locality fails to comply with state laws or regulations.” (§ 63.2-408).

3.32. “The General Assembly and the governing body of each county and city shall appropriate such sum or sums of money for use by the community policy and management teams through the state pool of funds established in Chapter 52 (§ 2.2-5200 et seq.) of Title 2.2 as shall be sufficient to provide basic foster care services for children who are identified as being at risk, as determined by policy developed by the Board, or who are under the custody and control of the local board. The local governing body of each county and city shall appropriate such sums of money as necessary for the purchase of such other essential social

services to children and adults under such conditions as may be prescribed by the Board in accordance with federally reimbursed public assistance and social service programs.” (§ 63.2-410).

3.33. “Subject to approval by the Governor, a local board is authorized and empowered (i) to operate, construct, purchase, renovate or enlarge children's residential facilities for children who are in the custody of such local board by reason of commitment, voluntary entrustment or temporary detention order or (ii) to contract for such services from other counties or cities operating such facilities or from individuals or private corporations whose facilities are licensed by the appropriate state agency. The cost of maintaining children in such facilities through purchase of service contracts shall be established in accordance with regulations of the Board. Any moneys paid by a local board of a county or city to another county or city for services purchased pursuant to this section shall be applied by that county or city to the establishment and operation of such children's residential facilities. Children's residential facilities established pursuant to the provisions of this section shall meet standards prescribed by the Board.” (§ 63.2-411).

3.34. “Notwithstanding any other provisions of law, the Commissioner is authorized, subject to the approval of the Board, to initiate and administer a program providing for payments to or in behalf of needy persons engaged in work or training programs. Such payments may be made by transfer of funds to an appropriate agency administering a work or training program. The Commissioner is also authorized to pay all costs incurred in the administration of such programs from funds appropriated for such purposes.” (§ 63.2-412).

3.35. “Unless otherwise prohibited by federal law or regulation, the Department and State Board of Social Services shall ensure that the current social services benefits structure in the Commonwealth does not provide economic or other incentives for the break-up of families. The Department and the State Board of Social Services shall, to the extent possible, eliminate such incentives from program regulations and policy.” (Chapter 388, 2005 Acts of Assembly).

## **Subtitle II. Public Assistance.**

### **4. General Provisions.**

4.1. “The Board may by regulation authorize the local directors to provide immediate and temporary assistance to persons pending action of the local boards.” (§ 63.2-503).

4.2. “If the local board does not act upon any such application within the period specified by Board regulation, or, if the circumstances require immediate public assistance to prevent hardship, the local director may provide necessary public assistance pending determination by the local board.” (§ 63.2-504).

4.3. “The Board shall adopt regulations governing the amount of public assistance persons receive under the provisions of this subtitle. In making such regulations, the Board shall consider significant differences in living costs in various counties and cities and, unless otherwise precluded by law, shall establish or approve such variations in monetary public assistance standards for shelter allowance on a regional or local basis, as may be appropriate. The amount of public assistance any person receives under the provisions of this subtitle shall be determined according to Board regulations with regard to (i) the property and income of the person and any support he receives from other sources, including from persons legally

responsible for his support, and (ii) the average cost of providing public assistance statewide. It shall be sufficient to provide public assistance that, when added to all other income and support of the recipient (exclusive of that not to be taken into account as hereinafter provided), provides such person with a reasonable subsistence. In determining the income of and support available to a person, the amount of income required to be exempted by federal statute, or if the federal statute makes such exemption permissive, then such portion thereof as may be determined by the Board shall not be considered in determining the amount of assistance any person may receive under this subtitle....

The State Board shall promulgate regulations permitting the withdrawal of funds from the account for purposes related to self-sufficiency, disregarding the funds withdrawn for such purposes in any calculation under any specified public assistance program, and establishing penalties for amounts withdrawn for any other purposes or other misuse of these funds.” (§ 63.2-505).

4.4. “Any assistance or part thereof erroneously paid to a recipient or former recipient may be recovered by the Board or local board from the recipient or former recipient as a debt. In accordance with Board regulations, the amount erroneously paid may also be recovered from the income, assets or other property of the recipient or former recipient or from the public assistance payable to the recipient.” (§ 63.2-512).

4.5. “All public assistance grants shall be reconsidered by the local board as frequently as may be required by Board regulations and at such other times as the local board may deem necessary. After such investigation as the local board deems necessary, or the Board requires, the amount of public assistance may be changed, or public assistance may be entirely withdrawn if the local board finds that the recipient's circumstances have altered sufficiently to warrant such action.” (§ 63.2-514).

4.6. “Public assistance shall be paid to or on behalf of the applicant monthly, or at such other time or times as the regulations of the Board may provide, by the treasurer, the district fiscal officer, or other disbursing officer of the county or city, upon order of the local board or local director, from funds appropriated or made available for such purpose by the local governing body of such county or city. Wherever two or more counties or cities have been combined to form a district pursuant to § 63.2-306, such public assistance payments shall be made by the district fiscal officer.

In the event, however, that the Board adopts regulations to provide for state issuance of public assistance payments, such public assistance shall be paid by the State Treasurer. In emergency situations or in the event of delay or error in a state issuance of public assistance payments, emergency payments may be issued by local boards as authorized by Board regulations.” (§ 63.2-520).

4.7. The Board is authorized to adopt regulations governing the conduct of administrative hearings for any individual applying for or receiving food stamps or TANF who is found by a court or administrative hearing to have committed intentional fraudulent acts in the application or receipt of such benefits (§ 63.2-524).

4.8. The Board shall adopt regulations by which the Department will establish a statewide fraud control program (§ 63.2-526).

## **5. Temporary Assistance for Needy Families Program.**

5.1. The Board shall specify conditions governing a person's eligibility for TANF, as related to the person's residence. The Board shall adopt regulations that provide for the suspension of the entire TANF grant or the adult portion of grant due to the caretaker relative's non-cooperation with paternity establishment (§ 63.2-602).

5.2. The Board shall revise the schedule of TANF financial assistance to be paid to a family by eliminating the increment in TANF benefits to which a family would otherwise be eligible as a result of the birth of a child during the period of TANF eligibility or the period in which the family or adult recipient is ineligible for TANF benefits pursuant to sanction. The Board shall provide that a recipient family in which the mother gives birth to an additional child during the eligibility or sanction period may receive additional financial assistance only in the case of a general increase in TANF assistance to all TANF recipients (§ 63.2-604).

5.3. The Board shall adopt regulations to require compliance with compulsory school attendance laws as a condition of TANF eligibility, to include procedures for local departments to receive notification from local school division of truant students and assistance noncompliant families to achieve compliance (§ 63.2-606).

5.4. The Board shall adopt regulations to address minor parent residency requirement as related to TANF eligibility. The Board regulations shall address conditions under which this requirement may be waived as a condition of TANF eligibility (§ 63.2-607).

5.5. The Board shall adopt regulations providing for the accrual of paid sick leave or other equivalent mechanism for community work experience participants (§ 63.2-608).

5.6. The Board shall determine conditions under which a TANF recipient is exempt from VIEW participation due to the recipient's being the sole caregiver of another household member who is incapacitated and whose presence is essential for the care of the other member (§ 63.2-609).

5.7. The Board shall adopt regulations authorizing local departments to provide services to VIEW families throughout the family's participation in VIEW. Services include child care for children of participants who are employed or in job placement or training or education services, transportation, job counseling and medical assistance (§ 63.2-611).

5.8. The Board shall adopt regulations providing exceptions to the time limit on receipt of TANF in cases of hardship. In adopting such regulations, the Board shall address circumstances where: a VIEW participant has actively sought employment and is unable to find it; factors relating to job availability are unfavorable; the participant loses his job due to factors not related to performance; and extension of benefits will enable the participant to complement employment-related activities (§ 63.2-613).

5.9. The Board shall adopt regulations governing financial eligibility for receipt of TANF (§ 63.2-614).

5.10. The Board may authorize payment of tuition fees, transportation costs or other necessary or incidental expenses for obtaining skills development training or retraining for

qualified public assistance recipients. The Board may, by regulation, prescribe necessary requisites and conditions under which such payments may be made (§ 63.2-615).

5.11. The Board shall adopt regulations to enable TANF-eligible applicants meeting certain criteria receive at one time the maximum TANF cash assistance the applicant would otherwise receive for a period up to 120 days (§ 63.2-617).

## **6. Other Grants of Public Assistance.**

6.1. The Board is authorized to prepare and implement a plan for a state and local funded auxiliary grants program to provide assistance to certain individuals ineligible for benefits under Title XVI of the Social Security Act and to certain other individuals. The plan shall be in effect in all political subdivisions of the Commonwealth and shall be administered in conformity with rules and regulations of the Board. The Board shall adopt regulations for the administration of the auxiliary grants program that shall include requirements for the Department to use in establishing auxiliary grant rates for licensed assisted living facilities and adult foster care homes. (§ 63.2-800).

6.2. The Board is authorized, in accordance with the federal Food Stamp Act, to implement a food stamp program in which each political subdivision in the Commonwealth shall participate. Such programs are to conform with Board regulations (§ 63.2-801).

6.3. The Board shall establish an amount for prepaid funeral expenses above which such expenses shall not be considered an asset in determining a person's eligibility for General Relief (§ 63.2-802).

6.4. The Commissioner shall establish an advocacy project to assist recipients of general relief or children entrusted or committed to foster care who may be eligible for federal SSI benefits in obtaining such benefits. This project shall provide for disbursements to any such attorney or advocate upon receipt of a favorable decision in such claim. The Board shall determine the amount of such disbursements which shall be sufficient to ensure prompt and adequate representation of recipients (§ 63.2-803).

6.5. The Department shall establish and operate the Home Energy Assistance Program. Subject to Board regulations, and availability of funds, the Department is authorized to receive state and private funds for such services and disburse funds to state agencies and vendors (§ 63.2-805).

### **Subtitle III. Social Services Programs.**

## **7. Foster Care**

7.1. A local board shall have the right to accept for placement, in accordance with regulations adopted by the Board, children entrusted to it, committed to it by a court of competent jurisdiction, or placed through an agreement between it and the parents. The Board shall adopt regulations for the provision of foster care services by local boards, directed toward the prevention of unnecessary foster care placements, and immediate care and permanent planning for children in the custody of local boards. Prior to the approving any family for placement of a

foster child, a home study shall be completed as in accordance with regulations adopted by the Board (§ 63.2-900).

7.2. The Board shall adopt regulations to determine if a foster child has a relative who is eligible to become a kinship foster parent (§ 63.2-900.1)

7.3. The Board shall adopt regulations requiring each local board and licensed child-placing agency to obtain and consider statewide criminal history record information and the results of a search of the child abuse and neglect central registry (§ 63.2-901.1)

7.4. The Board shall establish standards and policies which require every local board or licensed child-placing agency to maintain supervision over a foster home or independent living placement in which such agency has placed a child (§ 63.2-904).

7.5. The Board shall amend its home study regulations to allow homes to be dually approved as foster and adoptive homes (2005 Acts of Assembly, Chapter 653, clause #2).

7.6. Any person who was committed or entrusted to a local board or licensed child-placing agency may choose to discontinue receiving independent living services any time before his twenty-first birth in accordance with regulations adopted by the Board (§ 63.2-905.1).

7.7. Each local board shall, for children in foster care, establish and keep current a social services plan and provide the necessary services for achievement of permanency in accordance with regulations adopted by the Board. Each local board shall review the cases of children in care on a planned basis in accordance with policies of the Board. The Board shall establish as a goal that at any point in time the number of children who are in foster care for longer than 24 months shall not exceed 5,500 children (§ 63.2-907).

7.8. The Board shall establish minimum standards for the utilization, supervision and evaluation of permanent foster care placements. The rate of payment for permanent foster care placements by a local department shall be in accordance with standards and rates established by the Board (§ 63.2-908).

## **8. Interstate Compact on the Placement of Children.**

8.1. Any child-placing agency or court that brings or sends a nonresident child into Virginia for the purpose of an interstate placement shall comply with the regulations and procedures adopted by the Board for administration of the Interstate Compact on the Placement of Children. Intercountry placements made by licensed child-placing agencies, courts or others are subject to regulations prescribed by the Board (§ 63.2-1104).

8.2. The Board is authorized to adopt regulations for the placement of children of the Commonwealth by licensed child-placing agencies, local boards or courts as are reasonably conducive to the welfare of such children and as comply with the Interstate Compact on the Placement of Children (§ 63.2-1105).

## **9. Adoption.**

9.1. Prior to the consent hearing in juvenile and domestic relations court for a parental placement adoption, a home study of the adoptive parent(s) shall be completed by a licensed or

duly-authorized child-placing agency in accordance with regulations adopted by the Board (§ 63.2-1231).

9.2. The Board shall establish regulations and fee schedules for home studies, investigations, visits and reports provided by local departments of social services (§ 63.2-1248).

9.3. The Board shall adopt regulations for the local board or licensed child-placing agency to determine the qualification of adoptive parents for adoption subsidy payments (§ 63.2-1303).

## **10. Child Abuse and Neglect**

10.1. The Board shall adopt regulations by which each local department shall establish child protective services. The Board shall adopt regulations by which local departments shall request the Department to assist in conducting child protective services investigations at a private or state-operated hospital, institution or other facility, or public school (§ 63.2-1503).

10.2. The Board shall prescribe the form on which the child abuse coordinator of a local department shall make a report of child abuse or neglect (§ 63.2-1509).

10.3. The local department shall retain the records of all reports or complaints in accordance with regulations adopted by the Board (§ 63.2-1514).

10.4. The Board shall prescribe the information contained in the child abuse and neglect central registry. The Board shall promulgate regulations setting forth appropriate disclosure of information contained in the central registry (§ 63.2-1515).

10.5. The Board shall adopt regulations necessary for the conduct of administrative hearings to ascertain if a local department's determination of child abuse or neglect and the local department's records should be amended (§ 63.2-1526).

10.6. The Board shall be responsible for establishing standards for out-of-family investigations and for the implementation of the family assessment track of the differential response system. The Board chair shall appoint members to an advisory committee to advise the Board on the effectiveness of the policies and standards governing out-of-family investigations (§ 63.2-1527).

10.7. The Board shall promulgate regulations to implement the Virginia Child Protection Accountability System (§ 63.2-1530).

## **11. Adult Services.**

11.1. The Board shall adopt regulations for the delivery of homemaker, companion, or chore services by each local board which will allow individuals to attain or retain self-care and are likely to prevent or reduce dependency. The Board is to adopt regulations for determining eligibility for such services (§ 63.2-1600).

11.2. The Board shall adopt regulations for provision of adult foster care services provided by local each local board (§ 63.2-1601).

11.3. The Department shall establish and the Board shall approve a uniform training program for adult protective services workers in the Commonwealth (§ 63.2-1604).

11.4. To the extent that federal or state matching funds are made available to each locality, the Board shall adopt regulations by which local boards shall provide adult protective services for adults found to be abused, neglected or exploited and meet other specified criteria related to advanced age or incapacitation (§ 63.2-1605).

11.5. The Board shall establish by regulation a process for imposing and collecting civil penalties from persons required to report suspected abuse, neglect or exploitation of adults but who fail to make such reports. The Board shall establish by regulation a process for appeal of the imposition of such penalties (§ 63.2-1606).

## **12. Domestic Violence Prevention Services.**

12.1. The Board shall adopt and regulations enabling the department to receive state and federal funds for services to the victims of domestic violence, to disperse funds through matching grants to local, public or private non-profit agencies to provide service programs to such victims, and to develop and implement grant mechanisms for funding such local services (§ 63.2-1614).

### **Subtitle IV. Licensure.**

## **13. Licensure and Registration Procedures.**

### **General Provisions**

13.1. The regulations of the Child Day Care Council promulgated pursuant to §§ 63.2-1734 and 63.2-1735 of the Code of Virginia shall be administered by the State Board of Social Services and remain in effect until the State Board of Social Services promulgates regulations pursuant to this act (Chapters 803 and 835 of the 2012 Acts of Assembly).

13.2. The Board shall adopt or amend regulations, policies and procedures related to child day care in collaboration with the Virginia Recreation and Parks Society. The Board shall adopt or amend regulations related to therapeutic recreation programs in collaboration with the Virginia Park and Recreation Society and the Department of Behavioral Health and Developmental Services (§ 63.2-1734).

13.3. The Board is authorized to establish regulations and schedules for fees to be charged for processing applications for licenses to operate assisted living facilities, adult day care centers and child welfare agencies. The Board shall develop training programs for operators and staffs of licensed child day programs (§ 63.2-1700).

13.4. The Board shall adopt regulations to implement voluntary registration of family day homes. The Commissioner shall contract with qualified local agencies and community organizations to certify family day homes as eligible for registration, pursuant to Board regulations (§ 63.2-1704).

13.5. The Board shall adopt regulations for the Commissioner to use in determining when the imposition of administrative sanctions or initiation of court proceedings is appropriate in order to

ensure prompt correction of violations in assisted living facilities and adult day care centers (§ 63.2-1709).

13.6. The Board shall adopt regulations for the Commissioner to use in issuing special orders against assisted living facilities, adult day care centers and child welfare agencies. The Board shall develop criteria for the Commissioner to use in assessing and imposing civil penalties against assisted living facilities who are out of compliance with license terms and risking the health, safety and welfare of residents. (§ 63.2-1709.2).

#### Background Checks

13.7. Any person who seeks to operate or work at a child welfare agency and who is disqualified because of a criminal conviction or a criminal conviction in the background check of any other adult living in a family day home regulated by the Department may apply for a waiver from the Commissioner. The Board shall adopt regulations to implement this provision (§ 63.2-1723)

#### Regulations and Interdepartmental Cooperation

13.8. The Board shall have the authority to adopt and enforce regulations for assisted living facilities and to protect the health, safety, welfare and rights of residents of such facilities. Such regulations shall provide a procedure for a licensee or applicant to request and the Commissioner to grant an allowable variance. The Board shall adopt regulations on qualifications and training for employees of assisted living facilities in direct care positions. The Board, in consultation with the Boards of Nursing and Pharmacy, shall develop regulations for medication management plans in licensed assisted living facilities. Regulations for medical procedures in assisted living facilities shall be developed with the State Board of Health and adopted by the Board. In developing regulations determine the number of assisted living facility facilities for which an administrator may serve as administrator, the Board shall consider the number of residents in each facility, travel time between each facility and the qualifications of the on-site manager under the administrator's supervision (§ 63.2-1732).

13.9. The Board shall have the authority to adopt and enforce regulations for adult day care centers (§ 63.2-1733).

13.10. The Board shall adopt regulations for the activities, services and facilities to be employed by persons and agencies required to be licensed as child welfare agencies. The regulations shall be designed to ensure that such activities, services and facilities are conducive to the welfare of the children under the custody or control of such persons and agencies (§ 63.2-1734).

13.11. The Board may adopt regulations allowing the Department to assist and cooperate with other state agencies to develop and implement regulations. The Department is authorized to enter into interagency agreements with other state agencies for this purpose (§ 63.2-1736).

13.12. The Board may adopt regulations for the interdepartmental regulation of children's residential facilities. Notwithstanding any other provision, any facility licensed by the Commissioner as a child-caring institution as of January 1, 1987 and that receives no public funds shall be licensed under standards for licensed child-caring institutions adopted by the Board and in effect on January 1, 1987 (§ 63.2-1737).

## **14. Facilities and Programs**

### Assisted Living Facilities

14.1. The Commissioner may approve for licensure applicants who meet requisite experience criteria as established by the Board (§ 63.2-1800).

14.2. The Board's regulations for assisted living facilities shall address provision of services to residents with serious cognitive impairments due to a primary psychiatric diagnosis of dementia. Assisted living facilities may provide services for such residents, if they comply with the Board's regulation (§ 63.2-1802).

14.3. Board regulation shall determine the intervals at which a uniform assessment instrument is completed for an assisted living facility resident. The cost of administering the uniform assessment instrument shall be borne by the entity designated pursuant to the Board's regulation (§ 63.2-1804).

14.4. The Board shall adopt regulations governing assisted living facility admission, retention and discharge. The regulations shall include but not be limited to regulations shall include conditions or care needs under which individuals shall not be admitted or retained by assisted living facilities. The regulations shall provide certain exceptions to these prohibitive conditions or care needs, provided the conditions or care needs are addressed by individuals with specific qualifications. The Board shall adopt regulations to ensure that individuals providing services under these exceptions meet the specified qualifications. In adopting all regulations pursuant to this section, the Board shall consult with the Departments of Health and Mental Health, Mental Retardation and Substance Abuse Services (§ 63.2-1805).

14.5. The Board shall adopt regulations as necessary to ensure that assisted living facility residents are informed of their rights and responsibilities as such (§ 63.2-1808).

### Child Welfare Agencies

14.6. The Board shall adopt regulations requiring regulated child day programs to, upon enrollment of a child, obtain proof of the child's identity and age. If the person enrolling the child does not comply with the requirement, the regulated child day program must notify local law enforcement (§ 63.2-1809).

14.7. The Board may adopt policies, as permitted by state and federal law, to restrict the eligibility of a licensed child welfare agency to receive or continue to receive funds when such agency is in serious or persistent violation of regulations (§ 63.2-1814).

## **Subtitle V. Administrative Child Support.**

## **15. Child Support Enforcement.**

### General Provisions

15.1. The Board shall charge a fee of one dollar upon application for services by non-public assistance recipients who are provided services of support collection and paternity determination (§ 63.2-1904).

15.2. Child support enforcement field work functions and central office payment processing functions may be performed by private entities. The Board shall establish guidelines for the Department's implementation of such privatization (§ 63.2-1907).

#### Paternity

15.3. The Board shall determine by regulation the amount of payment paid by the Department to hospitals for acknowledgements of paternity signed by parents (§ 63.2-1914).

#### Administrative Appeal

15.4. The Board shall adopt procedures for the return of all money collected during the pendency of an appeal in the child support enforcement program when the hearing decision is in favor of the debtor (§ 63.2-1942).

#### Administrative Remedies

15.5. The Board shall have the authority to adopt regulations necessary, consistent with federal law and regulations, to administer the new hire reporting requirement for employers (§ 63.2-1946).

### **Related Statutes**

#### **Title 58.1 Taxation.**

#### **16. Tax Credits for Corporations.**

16.1. The Board shall promulgate regulations establishing procedures for claiming the tax credit for certain employers hiring TANF recipients (§ 58.1-439.9).

#### **17. Neighborhood Assistance Act Tax Credit.**

17.1. The Board is authorized to adopt regulations for the approval or disapproval of proposals submitted to the Commissioner by neighborhood organizations and for determining the value of such donations (§ 58.1-439.20).

#### **Title 37.2. Mental Health, Mental Retardation, and Substance Abuse Services.**

#### **18. Admissions and Dispositions in General.**

18.1. The Board shall approve policy by which a local department of social services provides social services to a patient who is granted convalescent status or is discharged from a state hospital and for whom the local department is responsible. (§ 37.2-837)