

**Annotated Code of Virginia \_Title 63.2. Welfare (Social Services) \_Subtitle IV. Licensure \_Chapter 17.  
Licensure and Registration Procedures \_Article 1. General Provisions**

**VA Code Ann. T. 63.2, Subt. IV, Ch. 17, Art. 1, Refs & Annos**

**VA Code Ann. § 63.2-1700**

**Formerly cited as VA ST § 63.1-174.01; VA ST § 63.1-194.3; VA ST § 63.1-196.5**

**§ 63.2-1700. Application fees; regulations and schedules; use of fees; certain facilities, centers and agencies exempt**

**Effective: July 1, 2012**

The Board is authorized to adopt 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. Such schedules shall specify minimum and maximum fees and, where appropriate, gradations based on the capacity of such facilities, centers and agencies. Fees shall be used for the development and delivery of training for operators and staff of facilities, centers and agencies. Fees shall be expended for this purpose within two fiscal years following the fiscal year in which they are collected. These fees shall not be applicable to facilities, centers or agencies operated by federal entities.

The Board shall develop training programs for operators and staffs of licensed child day programs. Such programs shall include formal and informal training offered by institutions of higher education, state and national associations representing child care professionals, local and regional early childhood educational organizations and licensed child care providers. Training provided to operators and staffs of licensed child day programs shall include training and information regarding shaken baby syndrome, its effects, and resources for help and support for caretakers. To the maximum extent possible, the Board shall ensure that all provider interests are represented and that no single approach to training shall be given preference.

**VA Code Ann. § 63.2-1701**

**Formerly cited as VA ST § 63.1-175; VA ST § 63.1-194.5; VA ST § 63.1-196; VA ST § 63.1-197**

**§ 63.2-1701. Licenses required; issuance, expiration and renewal; maximum number of residents, participants or children; posting of licenses**

A. Every person who constitutes, or who operates or maintains, an assisted living facility, adult day care center or child welfare agency shall obtain the appropriate license from the Commissioner, which may be renewed. The Commissioner, upon request, shall consult with, advise, and assist any person interested in securing and maintaining any such license. Each application for a license shall be made to the Commissioner, in such form as he may prescribe. It shall contain the name and address of the applicant, and, if the applicant is an association, partnership, limited liability company or corporation, the names and addresses of its officers and agents. The application shall also contain a description of the activities proposed to be engaged in and the facilities and services to be employed, together with other pertinent information as the Commissioner may require.

B. The licenses shall be issued on forms prescribed by the Commissioner. Any two or more licenses may be issued for concurrent operation of more than one assisted living facility, adult day care center or child welfare agency, but each license shall be issued upon a separate form. Each license and renewals thereof for an assisted living facility, adult day care center or child welfare agency may be issued for periods of up to three successive years, unless sooner revoked or surrendered. Licenses issued to child day centers under this chapter shall have a duration of two years from date of issuance.

C. The length of each license or renewal thereof for an assisted living facility shall be based on the judgment of the

Current through the End of the 2014 Reg. Sess. and includes the 2014 Sp. S. I, c. 1.

**Annotated Code of Virginia \_Title 63.2. Welfare (Social Services) \_Subtitle IV. Licensure \_Chapter 17.  
Licensure and Registration Procedures \_Article 1. General Provisions**

Commissioner regarding the compliance history of the facility and the extent to which it meets or exceeds state licensing standards. Based on this judgment, the Commissioner may issue licenses or renewals thereof for periods of six months, one year, two years, or three years.

D. The Commissioner may extend or shorten the duration of licensure periods for a child welfare agency whenever, in his sole discretion, it is administratively necessary to redistribute the workload for greater efficiency in staff utilization.

E. Each license shall indicate the maximum number of persons who may be cared for in the assisted living facility, adult day care center or child welfare agency for which it is issued.

F. The license and any other documents required by the Commissioner shall be posted in a conspicuous place on the licensed premises.

G. Every person issued a license that has not been suspended or revoked shall renew such license prior to its expiration.

**VA Code Ann. § 63.2-1702**  
Formerly cited as VA ST § 63.1-176; VA ST § 63.1-194.6; VA ST § 63.1-197; VA ST § 63.1-198

**§ 63.2-1702. Investigation on receipt of application**

**Effective: March 18, 2013**

Upon receipt of the application the Commissioner shall cause an investigation to be made of the activities, services, and facilities of the applicant and of his character and reputation or, if the applicant is an association, partnership, limited liability company, or corporation, the character and reputation of its officers and agents, and upon receipt of the initial application, an investigation of the applicant's financial responsibility. The financial records of an applicant shall not be subject to inspection if the applicant submits an operating budget and at least one credit reference. In the case of child welfare agencies and assisted living facilities, the character and reputation investigation upon application shall include background checks pursuant to § 63.2-1721; however, a children's residential facility shall comply with the background check requirements contained in § 63.2-1726. Records that contain confidential proprietary information furnished to the Department pursuant to this section shall be exempt from disclosure pursuant to subdivision 4 of § 2.2-3705.5.

**VA Code Ann. § 63.2-1703**  
Formerly cited as VA ST § 63.1-196 D

**§ 63.2-1703. Variances**

The Commissioner may grant a variance to a regulation when the Commissioner determines that (i) a licensee or applicant for licensure as an assisted living facility, adult day center or child welfare agency has demonstrated that the implementation of a regulation would impose a substantial financial or programmatic hardship and (ii) the variance would not adversely affect the safety and well-being of residents, participants or children in care. The Commissioner shall review each allowable variance at least annually. At a minimum, this review shall address the impact of the allowable variance on persons in care, adherence by the licensee to any conditions attached, and the continuing need for the allowable variance.

Current through the End of the 2014 Reg. Sess. and includes the 2014 Sp. S. I, c. 1.

Annotated Code of Virginia \_Title 63.2. Welfare (Social Services) \_Subtitle IV. Licensure \_Chapter 17.  
Licensure and Registration Procedures \_Article 1. General Provisions

VA Code Ann. § 63.2-1704  
Formerly cited as VA ST § 63.1-196.04

§ 63.2-1704. Voluntary registration of family day homes; inspections; investigation upon receipt of complaint; revocation or suspension of registration

Effective: July 1, 2009

A. Any person who maintains a family day home serving fewer than six children, exclusive of the provider's own children and any children who reside in the home, may apply for voluntary registration. An applicant for voluntary registration shall file with the Commissioner, prior to beginning any such operation and thereafter biennially, an application which shall include, but not be limited to, the following:

1. The name, address, phone number, and social security number of the person maintaining the family day home;

2. The number and ages of the children to receive care;

3. A sworn statement or affirmation in which the applicant attests to the accuracy of the information submitted to the Commissioner; and

4. Documentation that the background check requirements for registered child welfare agencies in Article 3 (§ 63.2-1719 et seq.) of this chapter have been met.

B. The Board shall adopt regulations for voluntarily registered family day homes that include, but are not limited to:

1. The criteria and process for the approval of the certificate of registration;

2. Requirements for a self-administered health and safety guidelines evaluation checklist;

3. A schedule for fees to be paid by the providers to the contract organization or to the Department if it implements the provisions of this section for processing applications for the voluntary registration of family day homes. The charges collected shall be maintained for the purpose of recovering administrative costs incurred in processing applications and certifying such homes as eligible or registered;

4. The criteria and process for the renewal of the certificate of registration; and

5. The requirement that upon receipt of a complaint concerning a registered family day home, the Commissioner

Current through the End of the 2014 Reg. Sess. and includes the 2014 Sp. S. I, c. 1.

**Annotated Code of Virginia \_Title 63.2. Welfare (Social Services) \_Subtitle IV. Licensure \_Chapter 17.  
Licensure and Registration Procedures \_Article 1. General Provisions**

shall cause an investigation to be made, including on-site visits as he deems necessary, of the activities, services, and facilities. The person who maintains such home shall afford the Commissioner reasonable opportunity to inspect the operator's facilities and records and to interview any employees and any child or other person within his custody or control. Whenever a registered family day home is determined by the Commissioner to be in noncompliance with the regulations for voluntarily registered family day homes, the Commissioner shall give reasonable notice to the operator of the nature of the noncompliance and may thereafter revoke or suspend the registration.

C. Upon receiving the application on forms prescribed by the Commissioner, and after having determined that the home has satisfied the requirements of the regulations for voluntarily registered family day homes, the Commissioner shall issue a certificate of registration to the family day home.

D. The Commissioner shall contract in accordance with the requirements of the Virginia Public Procurement Act (§ 2.2-4300 et seq.) with qualified local agencies and community organizations to review applications and certify family day homes as eligible for registration, pursuant to the regulations for voluntarily registered family day homes. If no qualified local agencies or community organizations are available, the Commissioner shall implement the provisions of this section. "Qualified" means demonstrated ability to provide sound financial management and administrative services including application processing, maintenance of records and reports, technical assistance, consultation, training, monitoring, and random inspections.

E. The scope of services in contracts shall include:

1. The identification of family day homes which may meet the standards for voluntary registration provided in subsection A; and

2. A requirement that the contract organization shall provide administrative services, including, but not limited to, processing applications for the voluntary registration of family day homes; certifying such homes as eligible for registration; providing technical assistance, training and consultation with family day homes; ensuring providers' compliance with the regulations for voluntarily registered family day homes, including monitoring and random inspections; and maintaining permanent records regarding all family day homes which it may certify as eligible for registration.

F. The contract organization, upon determining that a family day home has satisfied the requirements of the regulations for voluntarily registered family day homes, shall certify the home as eligible for registration on forms prescribed by the Commissioner. The Commissioner, upon determining that certification has been properly issued, may register the family day home.

G. The provisions of this section shall not apply to any family day home located in a county, city, or town in which the governing body provides by ordinance for the regulation and licensing of persons who provide child-care services for compensation and for the regulation and licensing of child-care facilities pursuant to the provisions of § 15.2-914.

**VA Code Ann. § 63.2-1704.1**

Current through the End of the 2014 Reg. Sess. and includes the 2014 Sp. S. I, c. 1.

Annotated Code of Virginia \_Title 63.2. Welfare (Social Services) \_Subtitle IV. Licensure \_Chapter 17.  
Licensure and Registration Procedures \_Article 1. General Provisions

§§ 63.2-1704.1 to 63.2-1704.3. Not effective

Effective: July 1, 2008

VA Code Ann. § 63.2-1704.2

§§ 63.2-1704.1 to 63.2-1704.3. Not effective

Effective: July 1, 2008

VA Code Ann. § 63.2-1704.3

§§ 63.2-1704.1 to 63.2-1704.3. Not effective

Effective: July 1, 2008

VA Code Ann. § 63.2-1705

Formerly cited as VA ST § 63.1-174.1; VA ST § 63.1-194.4

**§ 63.2-1705. Compliance with Uniform Statewide Building Code**

A. Buildings licensed as assisted living facilities, adult day care centers and child welfare agencies shall be classified by and meet the specifications for the proper Use Group as required by the Virginia Uniform Statewide Building Code.

B. Buildings used for assisted living facilities or adult day care centers shall be licensed for ambulatory or nonambulatory residents or participants. Ambulatory means the condition of a resident or participant who is physically and mentally capable of self-preservation by evacuating in response to an emergency to a refuge area as defined by the Uniform Statewide Building Code without the assistance of another person, or from the structure itself without the assistance of another person if there is no such refuge area within the structure, even if such resident or participant may require the assistance of a wheelchair, walker, cane, prosthetic device, or a single verbal command to evacuate. Nonambulatory means the condition of a resident or participant who by reason of physical or mental impairment is not capable of self-preservation without the assistance of another person.

VA Code Ann. § 63.2-1706

Formerly cited as VA ST § 63.1-177; VA ST § 63.1-194.7; VA ST § 63.1-196.1; VA ST § 63.1-210

**§ 63.2-1706. Inspections and interviews**

Effective: July 1, 2012

A. Applicants for licensure and licensees shall at all times afford the Commissioner reasonable opportunity to inspect all of their facilities, books and records, and to interview their agents and employees and any person living or participating in such facilities, or under their custody, control, direction or supervision. Interviews conducted pursuant to this section with persons living or participating in a facility operated by or under the custody, control, direction, or supervision of an applicant for licensure or a licensee shall be (i) authorized by the person to be interviewed or his legally authorized representative and (ii) limited to discussion of issues related to the applicant's or licensee's compliance with applicable laws and regulations, including ascertaining if assessments and reassessments of residents' cognitive and physical needs are performed as required under regulations of the Board.

**Annotated Code of Virginia \_Title 63.2. Welfare (Social Services) \_Subtitle IV. Licensure \_Chapter 17.  
Licensure and Registration Procedures \_Article 1. General Provisions**

B. For any adult day care center issued a license or renewal thereof for a period of six months, the Commissioner shall make at least two inspections during the six-month period, one of which shall be unannounced. For any adult day care center issued a license or renewal thereof for a period of one year, the Commissioner shall make at least three inspections each year, at least two of which shall be unannounced. For any adult day care center issued a license or a renewal thereof for a period of two years, the Commissioner shall make at least two inspections each year, at least one of which shall be unannounced. For any adult day care center issued a three-year license, the Commissioner shall make at least one inspection each year, which shall be unannounced.

For any assisted living facility issued a license or renewal thereof for a period of six months, the Commissioner shall make at least two inspections during the six-month period, one of which shall be unannounced. For any assisted living facility issued a license or renewal thereof for a period of one, two, or three years, the Commissioner shall make at least one inspection each year, which shall be unannounced, and as needed based on compliance with applicable laws and regulations.

C. All licensed child welfare agencies shall be inspected not less than twice annually, and one of those inspections shall be unannounced.

D. The activities, services and facilities of each applicant for renewal of his license as an assisted living facility, adult day care center or child welfare agency shall be subject to an inspection or examination by the Commissioner to determine if he is in compliance with current regulations of the Board.

E. For any licensed assisted living facility, adult day care center or child welfare agency, the Commissioner may authorize such other announced or unannounced inspections as the Commissioner considers appropriate.

**VA Code Ann. § 63.2-1707**

**Formerly cited as VA ST § 63.1-178; VA ST § 63.1-194.8; VA ST § 63.1-199; VA ST § 63.1-201**

**§ 63.2-1707. Issuance or refusal of license; notification; provisional and conditional licenses**

**Effective: July 1, 2014**

Upon completion of his investigation, the Commissioner shall issue an appropriate license to the applicant if (i) the applicant has made adequate provision for such activities, services, and facilities as are reasonably conducive to the welfare of the residents, participants, or children over whom he may have custody or control; (ii) at the time of initial application, the applicant has submitted an operating budget and at least one credit reference; (iii) he is, or the officers and agents of the applicant if it is an association, partnership, limited liability company, or corporation are, of good character and reputation; and (iv) the applicant and agents comply with the provisions of this subtitle. Otherwise, the license shall be denied. Immediately upon taking final action, the Commissioner shall notify the applicant of such action.

Upon completion of the investigation for the renewal of a license, the Commissioner may issue a provisional license to any applicant if the applicant is temporarily unable to comply with all of the licensure requirements. The provisional license may be renewed, but the issuance of a provisional license and any renewals thereof shall be for no longer a period than six successive months. A copy of the provisional license shall be prominently displayed by the provider at each public entrance of the subject facility and shall be printed in a clear and legible size and style. In addition, the facility shall be required to prominently display next to the posted provisional license a notice that a description of specific violations of licensing standards to be corrected and the deadline for completion of such

**Annotated Code of Virginia \_Title 63.2. Welfare (Social Services) \_Subtitle IV. Licensure \_Chapter 17.  
Licensure and Registration Procedures \_Article 1. General Provisions**

corrections is available for inspection at the facility and on the facility's website, if applicable.

At the discretion of the Commissioner, a conditional license may be issued to an applicant to operate a new facility in order to permit the applicant to demonstrate compliance with licensure requirements. Such conditional license may be renewed, but the issuance of a conditional license and any renewals thereof shall be for no longer a period than six successive months.

**VA Code Ann. § 63.2-1708  
Formerly cited as VA ST § 63.1-203**

**§ 63.2-1708. Records and reports**

Every licensed assisted living facility, licensed adult day care center, licensed or registered child welfare agency, or family day home approved by a family day system shall keep such records and make such reports to the Commissioner as he may require. The forms to be used in the making of such reports shall be prescribed and furnished by the Commissioner.

**VA Code Ann. § 63.2-1709  
Formerly cited as VA ST § 63.1-179.1; VA ST § 63.1-194.9; VA ST § 63.1-211.3; VA ST § 63.1-212**

**§ 63.2-1709. Enforcement and sanctions; assisted living facilities and adult day care centers; interim administration; receivership, revocation, denial, summary suspension**

**Effective: July 1, 2009**

A. Upon receipt and verification by the Commissioner of information from any source indicating an imminent and substantial risk of harm to residents, the Commissioner may require an assisted living facility to contract with an individual licensed by the Board of Long-Term Care Administrators, to be either selected from a list created and maintained by the Department of Medical Assistance Services or selected from a pool of appropriately licensed administrators recommended by the owner of the assisted living facility, to administer, manage, or operate the assisted living facility on an interim basis, and to attempt to bring the facility into compliance with all relevant requirements of law, regulation, or any plan of correction approved by the Commissioner. Such contract shall require the interim administrator to comply with any and all requirements established by the Department to ensure the health, safety, and welfare of the residents. Prior to or upon conclusion of the period of interim administration, management, or operation, an inspection shall be conducted to determine whether operation of the assisted living facility shall be permitted to continue or should cease. Such interim administration, management, or operation shall not be permitted when defects in the conditions of the premises of the assisted living facility (i) present imminent and substantial risks to the health, safety, and welfare of residents, and (ii) may not be corrected within a reasonable period of time. Any decision by the Commissioner to require the employment of a person to administer, manage, or operate an assisted living facility shall be subject to the rights of judicial review and appeal as provided in the Administrative Process Act (§ 2.2-4000 et seq.). Actual and reasonable costs of such interim administration shall be the responsibility of and shall be borne by the owner of the assisted living facility.

B. The Board shall adopt regulations for the Commissioner to use in determining when the imposition of administrative sanctions or initiation of court proceedings, severally or jointly, is appropriate in order to ensure prompt correction of violations in assisted living facilities and adult day care centers involving noncompliance with state law or regulation as discovered through any inspection or investigation conducted by the Departments of Social Services, Health, or Behavioral Health and Developmental Services. The Commissioner may impose such sanctions or take such actions as are appropriate for violation of any of the provisions of this subtitle or any regulation adopted under any provision of this subtitle that adversely affects the health, safety or welfare of an assisted living facility

Current through the End of the 2014 Reg. Sess. and includes the 2014 Sp. S. I, c. 1.

**Annotated Code of Virginia \_Title 63.2. Welfare (Social Services) \_Subtitle IV. Licensure \_Chapter 17.  
Licensure and Registration Procedures \_Article 1. General Provisions**

resident or an adult day care participant. Such sanctions or actions may include (i) petitioning the court to appoint a receiver for any assisted living facility or adult day care center and (ii) revoking or denying renewal of the license for the assisted living facility or adult day care center for violation of any of the provisions of this subtitle, § 54.1-3408 or any regulation adopted under this subtitle that violation adversely affects, or is an imminent and substantial threat to, the health, safety or welfare of the person cared for therein, or for permitting, aiding or abetting the commission of any illegal act in an assisted living facility or adult day care center.

C. The Commissioner may issue a summary order of suspension of the license to operate the assisted living facility pursuant to the procedures hereinafter set forth in conjunction with any proceeding for revocation, denial, or other action when conditions or practices exist that pose an imminent and substantial threat to the health, safety, and welfare of the residents. Before a summary order of suspension shall take effect, the Commissioner shall issue to the assisted living facility a notice of summary order of suspension setting forth (i) the procedures for the summary order of suspension, (ii) hearing and appeal rights as provided under this subsection, and (iii) facts and evidence that formed the basis for which the summary order of suspension is sought. Such notice shall be served on the assisted living facility or its designee as soon as practicable thereafter by personal service or certified mail, return receipt requested, to the address of record of the assisted living facility. The order shall state the time, date, and location of a hearing to determine whether the suspension is appropriate. Such hearing shall be presided over by a hearing officer selected by the Commissioner from a list prepared by the Executive Secretary of the Supreme Court of Virginia and shall be held as soon as practicable, but in no event later than 15 business days following service of the notice of hearing; however, the hearing officer may grant a written request for a continuance, not to exceed an additional 10 business days, for good cause shown. After such hearing, the hearing officer shall provide to the Commissioner written findings and conclusions, together with a recommendation whether the license should be summarily suspended, whereupon the Commissioner shall adopt the hearing officer's recommended decision unless to do so would be an error of law or Department policy. Any final agency case decision in which the Commissioner rejects a hearing officer's recommended decision shall state with particularity the basis for rejection. The Commissioner shall issue: (a) a final order of summary suspension or (b) an order that summary suspension is not warranted by the facts and circumstances presented. A final order of summary suspension shall include notice that the assisted living facility may appeal the Commissioner's decision to the appropriate circuit court no later than 10 days following service of the order. A copy of any final order of summary suspension shall be prominently displayed by the provider at each public entrance of the facility, or in lieu thereof, the provider may display a written statement summarizing the terms of the order in a prominent location, printed in a clear and legible size and typeface, and identifying the location within the facility where the final order of summary suspension may be reviewed.

Upon appeal, the sole issue before the court shall be whether the Department had reasonable grounds to require the assisted living facility to cease operations during the pendency of the concurrent revocation, denial, or other proceeding. Any concurrent revocation, denial, or other proceeding shall not be affected by the outcome of any hearing on the appropriateness of the summary order of suspension. Failure to comply with the summary order of suspension shall constitute an offense under subdivision 1 of § 63.2-1712. All agencies and subdivisions of the Commonwealth shall cooperate with the Commissioner in the relocation of residents of an assisted living facility whose license has been summarily suspended pursuant to this section and in any other actions necessary to reduce the risk of further harm to residents.

D. Notice of the Commissioner's intent to revoke or deny renewal of the license for the assisted living facility shall be provided by the Department and a copy of such notice shall be posted in a prominent place at each public entrance of the licensed premises to advise consumers of serious or persistent violations. In determining whether to deny, revoke, or summarily suspend a license, the Commissioner may choose to deny, revoke, or summarily suspend only certain authority of the assisted living facility to operate, and may restrict or modify the assisted living facility's authority to provide certain services or perform certain functions that the Commissioner determines should be restricted or modified in order to protect the health, safety, or welfare of the residents. Such denial, revocation, or summary suspension of certain services or functions may be appealed as otherwise provided in this subtitle for any denial, revocation, or summary suspension.

**Annotated Code of Virginia \_Title 63.2. Welfare (Social Services) \_Subtitle IV. Licensure \_Chapter 17.  
Licensure and Registration Procedures \_Article 1. General Provisions**

**VA Code Ann. § 63.2-1709.1**

**§ 63.2-1709.1. Enforcement and sanctions; child welfare agencies; revocation and denial**

The Commissioner may revoke or deny the renewal of the license of any child welfare agency that violates any provision of this subtitle or fails to comply with the limitations and standards set forth in its license.

**VA Code Ann. § 63.2-1709.2**

**§ 63.2-1709.2. Enforcement and sanctions; special orders; civil penalties**

A. Notwithstanding any other provision of law, following a proceeding as provided in § 2.2-4019, the Commissioner may issue a special order (i) for violation of any of the provisions of this subtitle, § 54.1-3408, or any regulation adopted under any provision of this subtitle which violation adversely affects, or is an imminent and substantial threat to, the health, safety, or welfare of the person cared for therein, or (ii) for permitting, aiding, or abetting the commission of any illegal act in an assisted living facility, adult day care center, or child welfare agency. Notice of the Commissioner's intent to take any of the actions enumerated in subdivisions B 1 through B 7 shall be provided by the Department and a copy of such notice shall be posted in a prominent place at each public entrance of the licensed premises to advise consumers of serious or persistent violations. The issuance of a special order shall be considered a case decision as defined in § 2.2-4001. The Commissioner shall not delegate his authority to impose civil penalties in conjunction with the issuance of special orders.

B. The Commissioner may take the following actions regarding assisted living facilities, adult day care centers, and child welfare agencies through the issuance of a special order and may require a copy of the special order provided by the Department to be posted in a prominent place at each public entrance of the licensed premises to advise consumers of serious or persistent violations:

1. Place a licensee on probation upon finding that the licensee is substantially out of compliance with the terms of its license and that the health and safety of residents, participants, or children are at risk;

2. Reduce licensed capacity or prohibit new admissions when the Commissioner concludes that the licensee cannot make necessary corrections to achieve compliance with regulations except by a temporary restriction of its scope of service;

3. Mandate training for the licensee or licensee's employees, with any costs to be borne by the licensee, when the Commissioner concludes that the lack of such training has led directly to violations of regulations;

4. Assess civil penalties for each day the assisted living facility is or was out of compliance with the terms of its license and the health, safety, and welfare of residents are at risk, which shall be paid into the state treasury and credited to the Assisted Living Facility Education, Training, and Technical Assistance Fund created pursuant to § 63.2-1803.1. The aggregate amount of such civil penalties shall not exceed \$10,000 for assisted living facilities in

Current through the End of the 2014 Reg. Sess. and includes the 2014 Sp. S. I, c. 1.

**Annotated Code of Virginia \_Title 63.2. Welfare (Social Services) \_Subtitle IV. Licensure \_Chapter 17.  
Licensure and Registration Procedures \_Article 1. General Provisions**

any 24-month period. Criteria for imposition of civil penalties and amounts, expressed in ranges, shall be developed by the Board, and shall be based upon the severity, pervasiveness, duration, and degree of risk to the health, safety, or welfare of residents. Such civil penalties shall be applied by the Commissioner in a consistent manner. Such criteria shall also provide that (i) the Commissioner may accept a plan of correction, including a schedule of compliance, from an assisted living facility prior to setting a civil penalty, and (ii) the Commissioner may reduce or abate the penalty amount if the facility complies with the plan of correction within its terms.

A single act, omission, or incident shall not give rise to imposition of multiple civil penalties even though such act, omission, or incident may violate more than one statute or regulation. A civil penalty that is not appealed becomes due on the first day after the appeal period expires. The license of an assisted living facility that has failed to pay a civil penalty due under this section shall not be renewed until the civil penalty has been paid in full, with interest, provided that the Commissioner may renew a license when an unpaid civil penalty is the subject of a pending appeal;

5. Assess civil penalties of not more than \$500 per inspection upon finding that the adult day care center or child welfare agency is substantially out of compliance with the terms of its license and the health and safety of residents, participants, or children are at risk;

6. Require licensees to contact parents, guardians, or other responsible persons in writing regarding health and safety violations; and

7. Prevent licensees who are substantially out of compliance with the licensure terms or in violation of the regulations from receiving public funds.

C. The Board shall adopt regulations to implement the provisions of this section.

**VA Code Ann. § 63.2-1709.3**

**§ 63.2-1709.3. Child-placing agencies; conscience clause**

**Effective: July 1, 2012**

A. To the extent allowed by federal law, no private child-placing agency shall be required to perform, assist, counsel, recommend, consent to, refer, or participate in any placement of a child for foster care or adoption when the proposed placement would violate the agency's written religious or moral convictions or policies.

B. The Commissioner shall not deny an application for an initial license or renewal of a license or revoke the license of a private child-placing agency because of the agency's objection to performing, assisting, counseling, recommending, consenting to, referring, or participating in a placement that violates the agency's written religious or moral convictions or policies.

**Annotated Code of Virginia \_Title 63.2. Welfare (Social Services) \_Subtitle IV. Licensure \_Chapter 17.  
Licensure and Registration Procedures \_Article 1. General Provisions**

C. A state or local government entity may not deny a private child-placing agency any grant, contract, or participation in a government program because of the agency's objection to performing, assisting, counseling, recommending, consenting to, referring, or participating in a placement that violates the agency's written religious or moral convictions or policies.

D. Refusal of a private child-placing agency to perform, assist, counsel, recommend, consent to, refer, or participate in a placement that violates the agency's written religious or moral convictions or policies shall not form the basis of any claim for damages.

**VA Code Ann. § 63.2-1710  
Formerly cited as VA ST § 63.1-180; VA ST § 63.1-194.10; VA ST § 63.1-213**

**§ 63.2-1710. Appeal from refusal, denial of renewal or revocation of license**

A. Whenever the Commissioner refuses to issue a license or to renew a license, or revokes a license for an assisted living facility, adult day care center or child welfare agency, the provisions of the Administrative Process Act (§ 2.2-4000 et seq.) shall apply, except that all appeals from notice of the Commissioner's intent to refuse to issue or renew, or revoke a license shall be received in writing from the assisted living facility, adult day care center or child welfare agency operator within fifteen days of the date of receipt of the notice. Judicial review of a final review agency decision shall be in accordance with the provisions of the Administrative Process Act. No stay may be granted upon appeal to the Virginia Supreme Court.

B. In every appeal to a court of record, the Commissioner shall be named defendant.

C. An appeal, taken as provided in this section, shall operate to stay any criminal prosecution for operation without a license.

D. When issuance or renewal of a license as an assisted living facility or adult day care center has been refused by the Commissioner, the applicant shall not thereafter for a period of one year apply again for such license unless the Commissioner in his sole discretion believes that there has been such a change in the conditions on account of which he refused the prior application as to justify considering the new application. When an appeal is taken by the applicant pursuant to subsection A, the one-year period shall be extended until a final decision has been rendered on appeal.

E. When issuance or renewal of a license for a child welfare agency has been refused by the Commissioner, the applicant shall not thereafter for a period of six months apply again for such license unless the Commissioner in his sole discretion believes that there has been such a change in the conditions on account of which he refused the prior application as to justify considering the new application. When an appeal is taken by the applicant pursuant to subsection A, the six-month period shall be extended until a final decision has been rendered on appeal.

**VA Code Ann. § 63.2-1711  
Formerly cited as VA ST § 63.1-181; VA ST § 63.1-194.11; VA ST § 63.1-214**

**§ 63.2-1711. Injunction against operation without license**

Any circuit court having jurisdiction in the county or city where the principal office of any assisted living facility,

Current through the End of the 2014 Reg. Sess. and includes the 2014 Sp. S. I, c. 1.

**Annotated Code of Virginia \_Title 63.2. Welfare (Social Services) \_Subtitle IV. Licensure \_Chapter 17.  
Licensure and Registration Procedures \_Article 1. General Provisions**

adult day care center or child welfare agency is located shall, at the suit of the Commissioner, have jurisdiction to enjoin its operation without a license required by this subtitle.

**VA Code Ann. § 63.2-1712  
Formerly cited as VA ST § 63.1-182; VA ST § 63.1-194.12; VA ST § 63.1-214**

**§ 63.2-1712. Offenses; penalty**

Any person, and each officer and each member of the governing board of any association or corporation that operates an assisted living facility, adult day care center or child welfare agency, shall be guilty of a Class 1 misdemeanor if he:

1. Interferes with any representative of the Commissioner in the discharge of his duties under this subtitle;
2. Makes to the Commissioner or any representative of the Commissioner any report or statement, with respect to the operation of any assisted living facility, adult day care center or child welfare agency, that is known by such person to be false or untrue;
3. Operates or engages in the conduct of an assisted living facility, adult day care center or child welfare agency without first obtaining a license as required by this subtitle or after such license has been revoked or has expired and not been renewed. No violation shall occur if the facility, center or agency has applied to the Department for renewal prior to the expiration date of the license. Every day's violation of this subdivision shall constitute a separate offense; or
4. Operates or engages in the conduct of an assisted living facility, adult day care center or child welfare agency serving more persons than the maximum stipulated in the license.

**VA Code Ann. § 63.2-1713  
Formerly cited as VA ST § 63.1-201.1**

**§ 63.2-1713. Misleading advertising prohibited**

No assisted living facility, adult day care center or child welfare agency shall make, publish, disseminate, circulate, or place before the public or cause, directly or indirectly, to be made, published, disseminated, circulated or placed before the public in this Commonwealth, in a newspaper or other publication; in the form of a book, notice, handbill, poster, blueprint, map, bill, tag, label, circular, pamphlet, or letter; or via electronic mail, website, automatic mailing list services (listservs), newsgroups, facsimile, chat rooms; or in any other way an advertisement of any sort regarding services or anything so offered to the public, which advertisement contains any promise, assertion, representation or statement of fact that is untrue, deceptive or misleading.

**VA Code Ann. § 63.2-1714  
Formerly cited as VA ST § 63.1-182; VA ST § 63.1-194.12; VA ST § 63.1-216**

**§ 63.2-1714. Duty of attorneys for the Commonwealth**

**Annotated Code of Virginia \_Title 63.2. Welfare (Social Services) \_Subtitle IV. Licensure \_Chapter 17.  
Licensure and Registration Procedures \_Article 1. General Provisions**

It shall be the duty of the attorney for the Commonwealth of every county and city to prosecute all violations of this subtitle.