

**LICENSING OF CERTAIN PRIVATELY OPERATED SCHOOLS**

**REPORT OF THE  
VIRGINIA ADVISORY LEGISLATIVE COUNCIL**

**To**

**THE GOVERNOR**

**And**

**THE GENERAL ASSEMBLY OF VIRGINIA**



HD 29,1970

**COMMONWEALTH OF VIRGINIA**  
*Department of Purchases and Supply*  
Richmond  
1970



MEMBERS OF COUNCIL

---

C. W. CLEATON, *Chairman*  
J. C. HUTCHESON, *Vice-Chairman*  
RUSSELL M. CARNEAL  
ROBERT C. FITZGERALD  
J. D. HAGOOD  
EDWARD E. LANE  
GARNET S. MOORE  
LEWIS A. McMURRAN, JR.  
SAM E. POPE  
ARTHUR H. RICHARDSON  
WILLIAM F. STONE  
JAMES M. THOMSON  
EDWARD E. WILLEY

---

STAFF

G. M. LAPSLEY  
WILDMAN S. KINCHELOE, JR.  
FRANK R. DUNHAM      SALLY WARTHEN  
MARY SPAIN            DAVID T. WALKER  
JOHN A. BANKS, JR.    KATHERINE GOOLSBY



# LICENSING OF CERTAIN PRIVATELY OPERATED SCHOOLS

## REPORT OF THE THE VIRGINIA ADVISORY LEGISLATIVE COUNCIL

Richmond, Virginia  
January 20, 1970

To: HONORABLE LINWOOD HOLTON, *Governor of Virginia*

and

THE GENERAL ASSEMBLY OF VIRGINIA

### I. INTRODUCTION

An excellent analysis of living in the United States during the past two decades is well expressed by Herbert George Wells in *The Outline of History*, "Human history becomes more and more a race between education and catastrophe". Today, with the rapid technological and scientific advances being made, "Reading, Riting and Rithmetic" are hardly enough to equip many persons to earn sufficient income to sustain themselves and their families. More special knowledge and know-how is necessary. As a result, college enrollments are at an all time high and professors and graduate students continually strive to attain knowledge hitherto believed either non-existent or nonattainable. In an attempt to relieve the demand on colleges and universities, the community two-year college system was instituted in Virginia to make special training and some part of a college education available to every State citizen within a radius of fifty miles of his home. It is to be noted that the community colleges and the four-year colleges and universities are either State-owned and operated or are heavily endowed.

A further significant contribution to post-high school education has been made by privately owned trade, technical, business and correspondence schools, to generally categorize them. These schools offer specialized training in a variety of different subjects primarily to provide expertise in one particular field of employment or in some particular phase thereof. Overall, these schools provide excellent training for their students. As was pointed out during this study "the number of private business, technical and correspondence schools has grown at such a rapid rate in recent years that the industry as a whole is now more exposed than ever to the public criticism and distrust that could develop . . .".

The 1968 General Assembly of Virginia being aware of the large role these trade, technical, business and correspondence schools play in educating and training its citizens and also conscious that these educational enterprises were operating with no State direction or supervision adopted House Joint Resolution No. 126 directing the Virginia Advisory Legislative Council to make a study and report concerning the advisability of licensing such schools. The resolution reads as follows:

#### HOUSE JOINT RESOLUTION NO. 126

*Directing the Virginia Advisory Legislative Council to make a study and report concerning the licensing of privately operated business, correspondence and technical schools, including data-processing schools.*

Whereas, there is in Virginia a number of young people and adults who are seeking to further their education by enrolling in privately operated business schools, correspondence schools, and technical schools (including data-processing schools); and

Whereas, as a result of technological developments in business and industry, the number of technical schools and data-processing schools is increasing in the State; and

Whereas, it is considered to be in the public interest that a study be made of the need for providing standards for registering and licensing private business, correspondence and technical schools, including data-processing schools offering educational programs or courses in Virginia; now, therefore, be it

Resolved by the House of Delegates, the Senate concurring, That the Virginia Advisory Legislative Council is hereby directed to make a study of the feasibility and desirability of establishing a uniform licensing program for such schools. The Council shall conclude its study and make a report of its findings and recommendations to the Governor and General Assembly not later than November one, nineteen hundred sixty-nine.

Pursuant to this resolution, the Virginia Advisory Legislative Council selected Honorable Samuel E. Pope, member of the House of Delegates, Drewryville, and of the Council, Chairman of a committee to make a preliminary study and report to Council. Selected to serve on this Committee with Mr. Pope were: Senator Hunter B. Andrews, Hampton; Mrs. Edward G. Brant, Staunton; George W. Burton, Richmond; Mrs. Nadine Clift, Arlington; Harry G. Green, Lynchburg; Miss Frances Jennette, Arlington; G. Hunter Jones, Rustburg; A. Lee Hall, Richmond; Luther M. Harrell, Jr., Blacksburg; Kenneth W. Sledd, Richmond; and Arthur L. Walker, Richmond.

At the organizational meeting of the Committee, Senator Hunter B. Andrews was elected Vice-Chairman. The office of the Secretary to the Virginia Advisory Legislative Council rendered the necessary secretarial assistance to the committee, Frank R. Dunham representing it.

During this study, statutes of several other states exercising regulation over the type of schools named in the study resolution were obtained and analyzed. Personal conferences were held with Mr. Gilmore W. Johnson of the North Carolina Department of Public Education (the licensing agency in North Carolina for these schools) and with Mr. Bernard H. Ehrlich, an attorney, who represents the national accrediting agency for trade and technical schools. In addition, copies of the proposed licensing bill were mailed to all schools in the State included within its purview soliciting their opinions and suggested changes. Generally, the comments received were favorable and supported the proposed legislation.

After completing its study, the committee gave its report to the Council, which in turn carefully reviewed the recommendations contained therein and submits this, its report to the Governor and General Assembly of Virginia recommending the enactment of legislation for the reasons indicated.

#### RECOMMENDATION

A statute should be enacted making compulsory the licensing by the State Department of Education of all privately owned and operated trade, technical, business and correspondence schools in this State and the registration of all solicitors for such schools and for similar schools located outside the State when soliciting students in the State.

#### REASONS FOR THIS RECOMMENDATION

The provisions of the proposed legislation contain the conclusions of the Council on all phases of the proposed licensing bill and a section by section analysis of the provisions of this legislation would best explain the thinking of the Council in making this recommendation. For the sake of brevity, an analysis of the principal provisions of the proposed bill will constitute the reasons for the recommendation section of the report. This follows.

1. *Definitions*—An effort was made to define and group the types of schools to be regulated. The three groups are (1) trade or technical schools, (2) business schools, and (3) correspondence schools. In group (1) are schools whose purpose is to prepare students for any skilled trade or occupation in such fields as electronics, data-processing, television, computers, cooking, bartending, civil service training and the like. Also included in this category are schools designed to train persons in the many technical occupations or to upgrade employees in the technical phases of their present occupations. Generally, this grouping includes schools teaching primarily manual, mechanical and technical skills.

In Group (2) are the schools which prepare persons to pursue a career in business in the popularly used sense as distinguished from a trade. In this sense, schools teaching bookkeeping, accounting, stenography, business administration, secretarial skills and the like were grouped.

In Group (3) were placed so-called correspondence or home study schools where students receive study materials from the school, and study these materials at home as distinguished from a classroom. The student controls his own pace of study and may or may not transmit his answers to tests or examinations to the site of the school for grading. Generally, these are the home-study courses.

The remainder of the definitions in *section one* of the proposed bill are self-explanatory. It might be pointed out that a definition of a solicitor is included because there have been many complaints to Better Business Bureaus, the newspapers, legislators and other public officials concerning unethical and unscrupulous practices engaged in by a small minority of people who solicit students for the schools defined in the bill. As a result, it was thought necessary to license such solicitors and this is the purpose of the definition being in this section.

2. *Exemptions*—This section exempts from coverage under the proposed legislation a group of educational institutions or enterprises which are either subject to State regulation in another manner or whose instruction and purpose are such that they are conducted for reasons other than profit making. Specifically, schools were exempted which were licensed by another State board or agency or whose instructors were so licensed, or both. Such schools are real estate schools, bar examination so-called “cram courses”, barbering schools and the like. Next are schools operated by a business to train its own employees. Examples are schools for bank employees, insurance agents, stock exchange employees, or those to update employees in new techniques, such as those conducted by General Electric, Chesapeake and Potomac Telephone Company and the like. Third, many fraternal organizations, civic clubs and benevolent orders conduct schools to indoctrinate members in their programs, origin or esoteric work. These schools are not educational in the sense that they prepare a person for commercial employment. Thus, they are exempted. Fourth, colleges, universities or high schools which are accredited either in this State or in other states which offer correspondence courses whereby the student studies wholly or partly at home and takes an examination either in this State for transmittal to the institution offering the course for grading or goes to such school’s campus for such an examination are exempted. These types of courses are offered by Virginia’s colleges, universities and some high schools, and by similar institutions in other states. The two features of courses offered by such institutions that call for the exemption are that these schools are controlled either by the State through control over educational generally and the tuition is collected by regular officers of the schools. Fifth, tutoring given elementary, secondary or college students by individuals as a supplement to regular classes. Often active teachers, retired teachers and sometimes students offer assistance outside the classroom to students who are having difficulty in a particular school course. Such classes are usually informal and afford great help to persons receiving the tutoring. As long as the size of the class is five or less, it was felt these were not commercial in nature and should be included in the exempted group. Sixth, special training schools for handicapped persons were

exempted. Such schools are highly specialized in curriculum and attempt to teach pupils to be self-sustaining, which, of course, is educational in nature, but they are geared to the individual involved and no standard of attainment is strived for. Seventh and last, schools catering to artistic achievement and appreciation, or the Arts used in its broadest sense. These schools include dancing schools, schools of arts and crafts, school teaching voice and musical instruments, and the like. In one sense, these schools do train a person for an occupation, but again the instruction given is highly individualistic both in the manner it is presented and the degree of achievement it is geared to produce.

Although it is apparent in the language of the entire bill, it should be specifically noted that it is not intended to include within the scope of the licensing provision any kindergarten or nursery school. No such school is conducted to prepare any child to pursue any occupation, profession or trade and such a school is in no way to be affected by the provisions of the proposed legislation.

### *3. Rules and Regulations; Advisory Committees*

The proposed statute sets forth the general guidelines for the licensing of the defined schools. However, there are many specific rules and regulations necessary to effectively implement the functioning of the statute. Minimal hours of required teaching of each course, the basic equipment required to teach each student effectively, the text books that can be used, the vacation periods, the length of each class and the like are examples of the type of regulation that will be required. These are matters to be left to the State Board of Education. However, in formulating these rules and regulations which, when finally adopted, will have the force and effect of law, the State Board of Education is required to appoint advisory committees of members representative of both the schools involved and the public. In this way, it is believed the rules and regulations adopted for the operation of these schools will be in the best interests of those to be involved, namely the schools and the public. The size of these committees was made intentionally small in order that they could function efficiently and quickly. Before any rule and regulation can become final, one public hearing must be held. This again is to permit suggestions for improving any proposed regulation from the public and the schools.

It might be pointed out that it is not intended to require a separate public hearing for each rule or regulation and it is anticipated that several will be proposed at one time and a single public hearing will serve for a package of rules and regulations or changes therein.

Further, certain groups of schools which are accredited by national accrediting agencies have urged that they be automatically granted a certificate of approval upon presentation of evidence of their national recognition. Some consideration was given to this suggestion but it was found that there are several accrediting agencies for various types of schools. It was felt that this was a matter to be thoroughly investigated by the Board of Education and by rule and regulation it could make whatever provisions it deemed best after a thorough study of the whole matter and accept in lieu of the required information and inspection any accreditation papers it deemed acceptable. However, every school must post the required bond. This was believed to be the best means to insure that the Virginia State Board of Education is the final agency to pass upon the qualification of the schools. This is a Virginia licensing procedure for Virginians and it was believed Virginia should have the final determination of schools it believes qualified to receive a certificate of approval.

### *Effective Date*

The date of January 31, 1971 was selected as the date required for all schools to be licensed for two reasons. First, the proposed legislation, if enacted, will not



become effective until about July 1, 1970, and it will take at least six months for the Board of Education to employ the staff, determine the procedure and guidelines to be followed, obtain a list of all schools included within the purview of the statute, inspect the schools and perform other administrative tasks required to make the statute operative. Dr. Woodrow Wilkerson, Superintendent of Public Instruction of the Department of Education agreed with this proposal.

The second reason this date was selected was that generally the largest enrollments and recruiting periods by the schools involved are between May and September of each year. January is not a particularly busy month for these schools and from September to January the schools would be better able to accommodate inspections and prepare the necessary forms to be submitted. Thus, the date on which all privately owned and operated schools under this legislation must obtain their first license is January 31, 1971.

In passing, it should be pointed out that the certificates are not transferable and must be prominently displayed on the school's premises at all times.

#### *4. Information Required in Application for a Certificate*

The data required to be filed for the issuance of a certificate is that which was deemed necessary to give the Board of Education an overall picture of the school's operation. Generally, what is required is information relating to the total operation of the school. Some of the information required is the name of the owners and managing employees, the courses of instruction and the purpose therefor, a description of all the physical facilities of the school including whether the property is owned or leased, the student enrollment and qualifications of the faculty, the finances available to operate the school, copies of all advertising, and a surety bond. The latter is deemed most important for it provides insurance to the students of the school's stability. It was believed that basing the amount of the required bond on the number of students was the fairest method that could be recommended. According to information received in the study, a surety bond would cost the institution bonded ten dollars per thousand dollars of the bond. Based on these figures, the cost to each school will amount to one dollar per student. This does not involve a large amount of money and it is hoped this expense can be absorbed by the schools. Certainly the protection afforded justifies the amount expended. The reason the amount of the bond is increased with the number of enrollees is that there are more people involved as well as more fees paid by students to be protected. The small schools are required to protect their students as well as the large ones but all at the same rate of one dollar per student. The term "student" refers to full-time students and the Board of Education is authorized to set and determine part-time equivalents for full-time students.

#### *Commitments*

On each application, for a certificate of approval each school must agree to conduct the school in accordance with all rules and regulations for such operation adopted from time to time by the State Board of Education, to furnish any and all information requested by this Board, to advertise honestly and without misrepresentation both through advertising media and by their solicitors, to maintain all premises in a safe and sanitary condition and to display the current certificate prominently. All these are methods all schools would agree to and impose no hardship on anyone.

One further comment is that the proposed § 22-330.24 restricts any certificate of approval to the courses specifically listed on the certificate. In the event additional courses are desired to be added a supplementary application must be filed. It is anticipated that the Board of Education will establish some routine procedure for this but it is believed best that the Board's approval be obtained to insure that

the quality of the course will be according to the Board's standards and also to keep the Board fully informed of all course offerings at the schools.

#### *Fees and Renewals*

The original application fee for a certificate of approval is fifty dollars and the yearly renewal fee twenty-five dollars. While these fees are modest in amount, it is hoped that they will pay all or at least defray the yearly cost of administering the Act after the first year. To put the program in operation initially will be expensive and the Board of Education will be compelled to use funds out of its State budget in order to get the program in operation. It is hoped that the renewal fees will pay for the bookkeeping records necessary to carry out the program including the issuance of renewal certificates. The number of schools to be included is estimated to be between seventy and ninety. Actually, this whole certification system is a service to the schools and to the public. As stated, the cost of originating the program will be the highest and this will be absorbed by the Department of Education's budget. Thereafter, it is hoped the program can be self-sustaining.

It is to be noted that the renewals are required by January thirty-first of each year, a time again selected as convenient for the schools and the Board of Education. No fee is to be charged for supplementary applications seeking approval of additional courses. If a certificate is not renewed an original application then must be filed and the original fee paid.

#### *Grounds for Refusal to Renew, Revoke or Suspend Certificate*

In the proposed legislation fourteen specific grounds are set forth as reasons why a license may be revoked, suspended or not renewed. Some relate to failure to obey the law and rules and regulations of the Board. Others relate to the use of misleading advertising or soliciting which make false claims about the schools or misleading promises about the opportunities the schools can give a student. It is one thing to promise a person adequate education or training in some field, but to promise a job at a large salary or college credit for the courses offered is something else. This type of false statement has resulted in many complaints to Better Business Bureaus and Chambers of Commerce. It is good business and ethical business to advertise what a school can do but to make false claims is not only unethical but casts aspersion on other schools of the same type. In this statute the school is held accountable for the acts of its staff and independent solicitors.

Two other causes for revocation, suspension or failure to renew certificates of approval are worthy of comment. One is using students in jobs where the school receives remuneration for training services performed by students for others. It was not established whether this practice is widespread in this State or not. However, several states have had problems with this type of thing. Thus, it was inserted in the legislation which is proposed. Schools are primarily to instruct and teach students. It is true students require practice in what they are taught, but it is hoped schools will greatly limit the use of students for practical training where the school derives anything more than the cost of supplying the students and of the necessary equipment to obtain this practical training. The tuition should be sufficient to pay for the student's course and the school should operate on these funds and require nothing else. Income from training students in industry should be nonexistent or, if charged, should be very minimal.

The second ground is attempting to confer any degree on any student in violation of Code § 23-9 of the Code of Virginia, which prohibits any educational institution from conferring any academic, professional or honorary college degree unless the State Council of Higher Education approves. With the creation of the two-year community colleges, there probably will be some effort by trade, technical

and business schools to be competitive. This is a problem in which the State Board of Education does not want to become involved. All this subsection is intended to accomplish is to place the problem, if there is a problem, in one central State agency, the Council of Higher Education.

In connection with this section, it might be noted that before proceeding to a hearing on the question of revoking, suspending or failing to renew a certificate of approval, the Board of Education may call to the school's attention some violation which could result in more serious action and grant a reasonable time to the school to cease whatever act is involved and if the school so does, the matter will be dropped. This provision is contained in proposed § 22-330.28. It is believed this, while not usually contained in licensing statutes, will create more good will and cooperation between the Board and the schools. It is not the intent of the proposed legislation to attempt to jeopardize the school's operation but instead to develop a system of operation for the schools that will improve their status and reputation.

Following the above-mentioned sections are those relating to the hearing procedure, court appeals and the criminal penalties for violations of the statute. These are self-explanatory.

Proposed § 22-330.23 requires the Board of Education to make available for public use, a list of schools holding valid certificates of approval. These lists will be of invaluable assistance to the schools in obtaining students and also will be invaluable to counsellors in the various high schools of the State who advise graduates and non-graduates of extra educational opportunities.

*Solicitors*—To make certain the solicitors of all schools both those in Virginia and those outside are of the most desirable and highest type, every solicitor for any school must obtain a permit to represent each school about which he is making representations. The procedure is very simple and all that is required is a statement of good reputation by three Virginia citizens. Not only will a higher type of representative be employed, but some control over his actions can be had. A card will be issued to each authorized representative containing inter alia his name, his picture and the names of the schools he is representing. These permits must be renewed annually, and can be revoked for misrepresentation or misconduct by the solicitor.

By the use of this process, it is hoped that unscrupulous agents can be eliminated, complaints curtailed and the schools can be upgraded and judged by the type of agent representing them.

A more practical result of requiring these permits is that any contract or negotiable instrument entered into with an unlicensed solicitor will be unenforceable and of no effect. This should also aid compliance with this provision.

### *Conclusion*

It is the hope of the Council that the proposed legislation will cause privately owned and operated trade, technical, business and correspondence schools to be substantially upgraded and will rid the industry of the very few who have caused it to be degraded and complained about. The idea of giving the State's approval to the operation of these schools appeared to have the approval of a majority of the schools covered as well as the public. The proposed legislation has been worked out carefully and thoughtfully and would seem to be simple in procedural aspects. The State Board of Education will be given the duty of approving the total overall operation of these schools and assisting them in upgrading their educational programs and reputation. Virginia has not maintained any control over this field of education, but both its neighbors, North Carolina and Maryland, have. This is one of many reasons why the legislation was recommended. We urge the schools to be cooperative with the State Board of Education in initiating this recommended

program and assure the schools this is not an effort to restrict their educational programs but instead to upgrade them and work them into their proper place in the various programs of education offered Virginia's citizens.

Appreciation is expressed to the Committee members who so carefully studied and worked out the details of the proposed legislation, to the schools who examined the proposed draft and offered suggested changes, many of which were incorporated and to the Superintendent of Public Instruction and members of his Department for offering their suggestions and working with the staff in drafting the legislation, which is attached following this report.

Respectfully submitted,

C. W. CLEATON, *Chairman*  
J. C. HUTCHESON, *Vice-Chairman*  
RUSSELL M. CARNEAL  
ROBERT C. FITZGERALD  
J. D. HAGOOD  
EDWARD E. LANE  
GARNETT S. MOORE  
LEWIS A. MCMURRAN, JR.  
SAM E. POPE  
ARTHUR H. RICHARDSON  
WILLIAM F. STONE  
JAMES M. THOMSON  
EDWARD E. WILLEY

*A BILL to amend the Code of Virginia by adding in Title 22 a chapter numbered 15.3, containing §§ 22-330.17 through 22-330.36, relating to the authority of the State Board of Education to license certain privately owned and operated trade, business and correspondence schools in the State; exemptions from licensing requirements; rules and regulations; date license required and information to be supplied; commitments by schools applying for license; fees and renewal fees; grounds and procedure for revocation or suspension of license; appeal; violations; lists to be furnished by the Board of Education; permits for solicitors and revocation and suspension procedure; and unenforceability of contracts.*

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia be amended by adding in Title 22 a chapter numbered 15.3 containing §§ 22-330-17 through 22-330.36, as follows:

§ 22-330.17. Definitions.—As used in this Chapter unless the context clearly requires otherwise, the following terms shall have meanings ascribed to them as follows:

(1) “Trade or technical school”. A privately owned and operated school, educational institution or educational organization maintained or conducting classes for the purpose of offering instruction for a consideration, profit or tuition, to prepare an individual to pursue any occupation for profit in any skilled trade, electronics, data processing or industry, or to give occupational training, or to give training in public or other service occupations, or to give vocational training designed to prepare an individual for, or to up-grade an individual in, technical occupations and technical phases of other occupations.

(2) “Business School”. A privately owned and operated school, educational institution or educational organization, no matter how titled, maintained or conducting classes for the purpose of offering instruction for a consideration, profit or tuition to prepare individuals to pursue any occupation for profit in business administration, bookkeeping, accounting, data processing, stenography, clerical, secretarial, receptionist or other office occupations.

(3) “Correspondence school”. A privately owned and operated school, educational institution or educational organization which for a consideration, profit, or tuition, provides by correspondence, instruction in any field or which teaches or instructs in any subject through the medium of correspondence between the pupil and the school by which the school transmits printed or typewritten matter to the pupil.

Any of the above defined schools shall be referred to in this Chapter as “school” or “schools”.

(4) “Superintendent”. Superintendent of Public Instruction.

(5) “Agent” or “Solicitor”. A person who is employed by any school defined in this section whether such school is located within or outside this State, to act as an agent, solicitor, procurer, broker or independent contractor to directly procure students or enrollees for any such school by solicitation in any form at any place in this State other than the office or principal location of such school.

(6) “Board”. The State Board of Education.

(7) “Owner”. Any individual, group of individuals, partnership, association, business trust, corporation, or other similar business entity.

§ 22-330.18. Exemptions.—This Chapter shall not apply to any of the following:

(a) Any trade or technical, business or correspondence school for which there is a legally existing licensing board in this State which issues licenses to either the school, the teachers, or both;

(b) Any trade or technical, business or correspondence school conducted by any person, firm, corporation, or other organization solely for training its own employees;

(c) Courses of instruction given by any fraternal organization, civic club, or benevolent order, for which courses no tuition or charge is made;

(d) Any established university, professional or liberal arts college accredited as such and permitted to award undergraduate or graduate degrees by the Virginia Council of Higher Education or similar agency of the State in which its campus is located, public high school, or private high school offering programs in secondary education similar to those offered by public high schools accredited by the State Department of Education, which has heretofore offered or which may hereinafter offer one or more courses covered in this Chapter, provided the tuition, fees and charges, if any, made by such university, college, high school or institution of higher education shall be collected by its regular officers in accordance with the rules and regulations prescribed by the board of trustees or governing body of such university, college, high school or institution of higher education.

(e) Tutorial instruction for five persons or less at one time given in a private home or elsewhere as a supplement to regular classes of education for students enrolled in any public or private school;

(f) Schools for deaf, blind, mentally retarded, visually, physically or emotionally handicapped or disturbed persons;

(g) Schools in dance, art, song, musical instruments or fine arts which are conducted solely to increase or further artistic appreciation, talent or development.

§ 22-330.19. On or before September one, nineteen hundred seventy, the Board shall make rules and regulations not inconsistent with law for the management and conduct of all schools as defined in this Chapter. Such rules and regulations shall have the force and effect of law until they are revised, amended or rescinded by the Board and any such revisions or amendments shall then have the force and effect of law.

Before the final adoption of the original rules and regulations and before the adoption of any amendments thereto, the Board shall hold a public hearing in Richmond after proper newspaper notice thereof has been given once a week for two consecutive weeks in a daily Richmond newspaper.

§ 22-330.20. In making rules and regulations for the management and conduct of schools and for the administration of this Chapter, the Board may, among other things, provide that certification by other accrediting agencies may justify the certification of a school without the submission of the information otherwise required in this Chapter, but in no event shall it dispense with the posting of the required bond. The Board shall appoint as many advisory committees as it may deem necessary, each to be composed of five persons who shall serve for terms of two years each, the majority of whom shall be representative of the types of schools subject to regulation under this Chapter, and the balance of whom shall be representative of the public and shall have no connection with any school. The advisory committees shall recommend to the Board the rules and regulations it deems necessary to carry out the purposes of this Chapter including the development of new or expanded programs of instruction to be included in the curricula of such schools. No member of any advisory committee shall serve for more than two consecutive terms.

§ 22-330.21. After January thirty-one, nineteen hundred seventy-one, it shall be unlawful for any school defined in this Chapter to be operated in this State without having applied for and been issued a certificate of approval by the Board. Any school shall be qualified to receive a certificate of approval when it has complied with the standards, rules and regulations of the Board pertaining to this Chapter, has paid the fee prescribed for such certificate, and, after an inspection of its facilities has been made by the State Department of Education and a report filed with the Board, such facilities have been approved by the Board. Any certificate issued hereunder is not transferable and must be prominently displayed on the premises of the school in a place open for inspection by any interested person during regular school hours.

§ 22-330.22. A school to obtain a certificate of approval hereunder shall first file a verified application with the Board upon forms prepared and furnished by it setting forth the following information:

(1) The title or name of the school together with the names of its owners, controlling officials, and managing employees;

(2) The specific fields, subjects, and courses of instruction which will be offered and the specific purpose of such instruction;

(3) The location or locations where such instruction will be given, a description of the physical, safety and sanitary facilities thereof, and a copy of the deed, lease or other legal instrument authorizing the school to occupy such location or locations for the purpose of operating a school;

(4) A specific listing of the equipment available for instruction in each field;

(5) The maximum anticipated enrollment to be accommodated with the equipment available in each specified field and the ratio of students to instructors, as of the date of application;

(6) The educational and teaching qualifications of instructors and supervisors in each specified field;

(7) The financial resources available to equip, maintain and operate the school;

(8) The form and contents of the student enrollment agreement and the method of collecting and refunding tuition;

(9) Copies of all advertising currently used by such school;

(10) A surety bond payable to the State of Virginia conditioned to protect the contractual rights of students, the amount of which shall be as follows: for a total maximum enrollment at any one time of fifty students or less, five thousand dollars; for a total enrollment at any one time of between fifty-one and one hundred students, ten thousand dollars; for a total enrollment at any one time, of between one hundred one and one hundred fifty students, fifteen thousand dollars; for a total enrollment at any one time, of between one hundred fifty-one and two hundred students, twenty thousand dollars; for a total enrollment at any one time of between one hundred fifty-one and two hundred and fifty students, twenty-five thousand dollars; for a total enrollment at any one time, of between two hundred fifty-one and three hundred students, thirty thousand dollars; for a total enrollment at any one time, of between three hundred one and three hundred and fifty students, thirty-five thousand dollars; for a total enrollment at any one time, of between three hundred fifty-one and four hundred students, forty thousand dollars; for a total enrollment at any one time, of between four hundred one and four hundred and fifty students, forty-five thousand dollars; and for a total enrollment at any one time, of over four hundred fifty students, fifty thousand dollars.

The word "students" as used herein shall mean "full-time students", but the Board may establish the method of determining part-time student equivalents in determining the total student enrollment of the schools; and

(11) Such additional information as the Board may deem necessary to carry out the provisions of this Chapter.

§ 22-330.23. In addition, each application for a certificate shall also contain the following commitments:

(1) To conduct the school in accordance with all standards, rules and regulations which may from time to time be established by the Board;

(2) To permit the Board to inspect the school or classes being conducted therein at any time, and to make available to the Board, when requested to do so, all information pertaining to the activities of the school required for the administration of this Chapter, including its financial condition;

(3) To advertise the school at all times in a form and manner that will be free from misrepresentation, deception or fraud and shall conform to the rules and regulations of the Board governing such advertising;

(4) To guarantee that all representations made by anyone authorized by the school to act as an agent or solicitor for prospective students shall be free from misrepresentation, deception or fraud and shall conform with the rules and regulations of the Board governing such representations;

(5) To prominently display the current certificate of approval where it may be inspected by students, visitors and the Board or its representatives; and

(6) To maintain all premises, equipment and facilities of the school in an adequate, safe and sanitary condition.

§ 22-330.24. Any certificate of approval issued shall be restricted to courses specifically indicated thereon. The holder of a certificate of approval may present a supplementary application in such form as may be prescribed by the Board for approval of additional fields or courses of instruction.

§ 22-330.25. Each original application for a certificate of approval shall be accompanied by a filing fee of fifty dollars, which fee shall not be returnable and shall apply toward the cost of investigation and issuance of the certificate of approval. There shall be an annual renewal fee of twenty-five dollars. No fee shall be charged for a supplementary application for the approval of additional fields or courses of instruction. All fees shall be paid on or before the thirty-first of January of each year. No fees shall be reimbursed in the event any certificate of approval is refused or revoked.

§ 22-330.26. Each school that continues to operate as such shall annually on or before the thirty-first of January renew its certificate of approval and shall pay the required annual renewal fee. Every certificate of approval which has not been renewed by the thirty-first of January of each year shall expire and a new certificate must be obtained from the Board before such school may continue to operate, for which an original application must be submitted, together with the fee therefor.

§ 22-330.27. The certificate of approval shall not be revoked, suspended, or refused to be renewed except upon the action and report in writing of the Board who shall preserve in writing its findings and recommendations in regard to every such revocation, suspension, or refusal to renew. The Board may refuse to renew or may revoke or suspend any certificate of approval for a school for any one or combination of the following causes:

(1) Willful violation of any provision of this Chapter or any rule and regulation made by the Board;



(2) Furnishing false, misleading or incomplete information to the Board or failure to furnish any information requested by the Board;

(3) Willful violation of any commitment made in an application for a certificate of approval.

(4) Presenting, either by the school or by any agent or solicitor employed by it, to prospective students information relating to the school which is false, misleading or fraudulent regarding employment opportunities, amount of starting salaries, or the possibility of receiving academic credit from any institution of higher learning for training offered by the school securing the enrollment;

(5) Failing to provide or maintain premises or equipment in a safe and sanitary condition as required by law, or the State or local regulations or ordinances applicable at the location of the school;

(6) Making any false promises through solicitors or by advertising or otherwise of a character likely to influence, persuade or include enrollments;

(7) Paying commission or valuable consideration to any person for any act of service performed in willful violation of this Chapter;

(8) Failing to maintain financial resources adequate for the satisfactory conduct of courses of instruction offered or to retain a sufficient or qualified instructional staff.

(9) Conducting instruction in a course or field which has not been approved by the Board for the particular school;

(10) Demonstrating unworthiness or incompetency to conduct a school in any manner not calculated to safeguard the interests of the public;

(11) Failing within a reasonable time to provide information requested by the Board as a result of a formal or informal complaint to or by the Board which would indicate a violation of this Chapter;

(12) Attempting to use or employ any enrolled students in any commercial activity whereby the school receives any compensation whatsoever without reasonable remuneration to the student, except to the extent that employment of students in such activities is necessary or essential to their training and is permitted and authorized by the Board;

(13) Engaging in or authorizing any other conduct whether of the same or of a different character from that herein specified which constitutes fraudulent or dishonest dealings; or

(14) Attempt to confer any degree on any student in violation of § 23-9 of the Code of Virginia.

§ 22-330.28. The Board may, upon its own motion, and shall, upon the verified complaint in writing of any person setting forth facts which, if proved, would constitute grounds for refusal, suspension or revocation under this Chapter, investigate the actions of any applicant or any person or persons holding or claiming to hold a certificate of approval.

Before proceeding to a hearing as provided for in this Chapter on the question of whether a certificate of approval or permit shall be refused, suspended or revoked for any cause, the Board may grant to the holder of, or applicant for, a certificate of approval such a period of time as it deems reasonable to correct any unsatisfactory condition. If within such time, the condition is corrected to the Board's satisfaction, no further action leading to refusal, suspension or revocation shall be taken by the Board on the matter.

§ 22-330.29. The Board shall, before refusing to issue or renew, or before suspending or revoking any certificate, conduct a hearing at such time and place

as it shall determine. At least twenty days prior to the date set for such hearing, the Board shall notify by certified mail the applicant for, or holder of a certificate, hereinafter called the respondent, that a hearing will be held on a date designated to determine whether the respondent is privileged to hold a certificate or whether a certificate should be suspended or revoked and shall afford the respondent an opportunity to be heard in person or by counsel in reference thereto. At the time and place fixed in the notice, the Board shall proceed to a hearing of the charges and both the respondent and the complainant shall be accorded ample opportunity to present in person or by counsel such statements, testimony, evidence and argument as may be pertinent to the charges or to any defense thereto. The Board may continue such hearing from time to time as it may deem practical. Following the hearing the Board shall issue a written opinion or order and send a copy by registered mail to the respondent and complainant.

§ 22-330.30. Any person aggrieved by any order issued by the Board shall have the right of appeal to the Circuit Court of the City of Richmond. Such appeal shall be filed within thirty days after the opinion is rendered. The filing of an appeal hereunder shall not automatically stay the effect of the opinion or order appealed from, but, if on application to the court, undue hardship is shown to result, the court in its discretion may suspend the execution thereof and fix the terms.

§ 22-330.31. Any owner who opens, operates or conducts any school defined in this Chapter without having first obtained a certificate of approval herein required shall be guilty of a misdemeanor and be punishable by a fine of not less than one hundred dollars nor more than five hundred dollars, or six months imprisonment, or both, at the discretion of the court, and each day the owner permits the school to be open and operate without such a certificate shall constitute a separate offense.

§ 22-330.32. The Board shall maintain a list of schools holding valid certificates under the provisions of this Chapter which shall be available for the information of the public.

§ 22-330.33. After January thirty-one, nineteen hundred seventy-one, every agent or solicitor representing any school, defined herein, whether the school is located in this State or outside the State, shall make application for a permit to the Board in writing upon forms prepared and furnished by it. Each application shall state the name of each school which the applicant will represent, shall be verified under oath by him, and shall be accompanied by the recommendation of three reputable persons in this State certifying that the applicant is truthful, honest and of good reputation and recommending that a permit as an agent or solicitor be granted to the applicant. The fee for an original permit as an agent shall be five dollars. A separate permit shall be obtained for each school represented by an agent who represents more than one school. No permit shall be required of an owner of a school or of any person soliciting students inside of and at the admission office of the school.

The Board, upon approval of an application for a permit, shall prepare and deliver to each agent a card which, among other things, shall contain the name and address and a picture of the agent, the name of the employing school and shall certify that the person whose name appears thereon is an authorized agent of the school or schools named thereon. The year for which a permit is issued shall be prominently displayed on the card.

Each agent or solicitor that continues as such shall annually on or before the thirty-first of January renew his permit and pay a renewal fee of one dollar. Every permit which has not been renewed on or before January thirty-first of each year

§ 22-330.34. The Board may suspend or revoke any permit issued to any agent or solicitor for any one or combination of the following causes:

(1) Willful violation of any provision of this Chapter or any rule or regulation of the Board;

(2) Presenting or giving to any prospective student his parent or guardian information concerning any school which is false, misleading or fraudulent or which makes false or misleading representations concerning employment opportunities, the possibility of receiving credit for any courses offered by the school at any institution of higher learning;

(3) Failing to display a current and valid permit upon request of any prospective student, his parent or guardian, or of any member of the Board or representative of the Department of Education; or

(4) Failing to provide any information requested by the Board as a result of any formal or informal complaint made to the Board.

§ 22-330.35. No permit shall be revoked, suspended or failed to be renewed by the Board until it has held a hearing. Such hearings and appeals therefrom shall be conducted in the same manner as are those relating to certificates of approval for schools prescribed in this Chapter.

§ 22-330.36. All contracts entered into by any student, his parent or guardian, solicited or given them by any agent or solicitor who does not possess and show a current and valid permit, and any promissory note or other evidence of indebtedness taken in lieu of cash by such agent or solicitor shall be null and void and unenforceable in any court of this State. In the event cash is given to an agent or solicitor who does not possess a valid current permit, it shall be recoverable from either the agent or solicitor or the school he purports to represent.

2. If any section, subsection, sentence, clause, phrase or requirement of this Act is for any reason held to be unconstitutional by any court of this State or of the United States, such decision shall not affect the validity of the remaining portions hereof.

