VIRGINIA REGISTER OF REGULATIONS

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THE VIRGINIA REGISTER INFORMATION PAGE

THE VIRGINIA REGISTER OF REGULATIONS is an official state publication issued every other week throughout the year. Indexes are published quarterly, and are cumulative for the year. The *Virginia Register* has several functions. The new and amended sections of regulations, both as proposed and as finally adopted, are required by law to be published in the *Virginia Register*. In addition, the *Virginia Register* is a source of other information about state government, including petitions for rulemaking, emergency regulations, executive orders issued by the Governor, and notices of public hearings on regulations.

ADOPTION, AMENDMENT, AND REPEAL OF REGULATIONS

Unless exempted by law, an agency wishing to adopt, amend, or repeal regulations must follow the procedures in the Administrative Process Act (§ 2.2-4000 et seq. of the Code of Virginia). Typically, this includes first publishing in the *Virginia Register* a notice of intended regulatory action; a basis, purpose, substance and issues statement; an economic impact analysis prepared by the Department of Planning and Budget; the agency's response to the economic impact analysis; a summary; a notice giving the public an opportunity to comment on the proposal; and the text of the proposed regulation.

Following publication of the proposed regulation in the *Virginia Register*, the promulgating agency receives public comments for a minimum of 60 days. The Governor reviews the proposed regulation to determine if it is necessary to protect the public health, safety, and welfare, and if it is clearly written and easily understandable. If the Governor chooses to comment on the proposed regulation, his comments must be transmitted to the agency and the Registrar of Regulations no later than 15 days following the completion of the 60-day public comment period. The Governor's comments, if any, will be published in the *Virginia Register*. Not less than 15 days following the completion of the 60-day public comment period, the agency may adopt the proposed regulation.

The Joint Commission on Administrative Rules or the appropriate standing committee of each house of the General Assembly may meet during the promulgation or final adoption process and file an objection with the Registrar and the promulgating agency. The objection will be published in the *Virginia Register*. Within 21 days after receipt by the agency of a legislative objection, the agency shall file a response with the Registrar, the objecting legislative body, and the Governor.

When final action is taken, the agency again publishes the text of the regulation as adopted, highlighting all changes made to the proposed regulation and explaining any substantial changes made since publication of the proposal. A 30-day final adoption period begins upon final publication in the *Virginia Register*.

The Governor may review the final regulation during this time and, if he objects, forward his objection to the Registrar and the agency. In addition to or in lieu of filing a formal objection, the Governor may suspend the effective date of a portion or all of a regulation until the end of the next regular General Assembly session by issuing a directive signed by a majority of the members of the appropriate legislative body and the Governor. The Governor's objection or suspension of the regulation, or both, will be published in the *Virginia Register*.

If the Governor finds that the final regulation contains changes made after publication of the proposed regulation that have substantial impact, he may require the agency to provide an additional 30-day public comment period on the changes. Notice of the additional public comment period required by the Governor will be published in the *Virginia Register*. Pursuant to § 2.2-4007.06 of the Code of Virginia, any person may request that the agency solicit additional public comment on certain changes made after publication of the proposed regulation. The agency shall suspend the regulatory process for 30 days upon such request from 25 or more individuals, unless the agency determines that the changes have minor or inconsequential impact.

A regulation becomes effective at the conclusion of the 30-day final adoption period, or at any other later date specified by the promulgating agency, unless (i) a legislative objection has been filed, in which event the regulation, unless withdrawn, becomes effective on the date specified, which shall be after the expiration of the 21-day objection period; (ii) the Governor exercises his authority to require the agency to provide for additional public comment, in which event the regulation, unless withdrawn, becomes effective on the date specified, which shall be after the expiration of the period for which the Governor has provided for additional public comment; (iii) the Governor and the General Assembly exercise their authority to suspend the effective date of a regulation until the end of the next regular legislative session; or (iv) the agency suspends the regulatory process, in which event the regulation, unless withdrawn, becomes effective on the date specified, which shall be after the expiration of the 30-day public comment period and no earlier than 15 days from publication of the readopted action.

A regulatory action may be withdrawn by the promulgating agency at any time before the regulation becomes final.

FAST-TRACK RULEMAKING PROCESS

Section 2.2-4012.1 of the Code of Virginia provides an alternative to the standard process set forth in the Administrative Process Act for regulations deemed by the Governor to be noncontroversial. To use this process, the Governor's concurrence is required and advance notice must be provided to certain legislative committees. Fast-track regulations become effective on the date noted in the regulatory action if fewer than 10 persons object to using the process in accordance with § 2.2-4012.1.

EMERGENCY REGULATIONS

Pursuant to § 2.2-4011 of the Code of Virginia, an agency may adopt emergency regulations if necessitated by an emergency situation or when Virginia statutory law or the appropriation act or federal law or federal regulation requires that a regulation be effective in 280 days or fewer from its enactment. In either situation, approval of the Governor is required. The emergency regulation is effective upon its filing with the Registrar of Regulations, unless a later date is specified per § 2.2-4012 of the Code of Virginia. Emergency regulations are limited to no more than 18 months in duration; however, may be extended for six months under the circumstances noted in § 2.2-4011 D. Emergency regulations are published as soon as possible in the *Virginia Register* and are on the Register of Regulations website at register.dls.virgina.gov.

During the time the emergency regulation is in effect, the agency may proceed with the adoption of permanent regulations in accordance with the Administrative Process Act. If the agency chooses not to adopt the regulations, the emergency status ends when the prescribed time limit expires.

STATEMENT

The foregoing constitutes a generalized statement of the procedures to be followed. For specific statutory language, it is suggested that Article 2 (§ 2.2-4006 et seq.) of Chapter 40 of Title 2.2 of the Code of Virginia be examined carefully.

CITATION TO THE *VIRGINIA REGISTER*

The *Virginia Register* is cited by volume, issue, page number, and date. **34:8 VA.R. 763-832 December 11, 2017,** refers to Volume 34, Issue 8, pages 763 through 832 of the *Virginia Register* issued on December 11, 2017.

The Virginia Register of Regulations is published pursuant to Article 6 (§ 2.2-4031 et seq.) of Chapter 40 of Title 2.2 of the Code of Virginia.

Members of the Virginia Code Commission: **John S. Edwards, Chair; Ward L. Armstrong; Nicole Cheuk; James A. Leftwich, Jr.; Richard E. Gardiner; Jennifer L. McClellan; Christopher R. Nolen; Steven Popps; Charles S. Sharp; Malfourd W. Trumbo; Amigo R. Wade; Wren M. Williams.**

Staff of the *Virginia Register:* **Holly Trice,** Registrar of Regulations; **Anne Bloomsburg,** Assistant Registrar; **Nikki Clemons,** Regulations Analyst; **Rhonda Dyer,** Publications Assistant; **Terri Edwards,** Senior Operations Staff Assistant.

PUBLICATION SCHEDULE AND DEADLINES

This schedule is available on the Virginia Register of Regulations website (http://register.dls.virginia.gov).

November 2022 through December 2023

Volume: Issue	Material Submitted By Noon*	Will Be Published On
39:7	November 2, 2022	November 21, 2022
39:8	November 14, 2022 **(Monday)**	December 5, 2022
39:9	November 30, 2022	December 19, 2022
39:10	December 13, 2022 **(Tuesday)**	January 2, 2023
39:11	December 27, 2022 **(Tuesday)**	January 16, 2023
39:12	January 11, 2023	January 30, 2023
39:13	January 25, 2023	February 13, 2023
39:14	February 8, 2023	February 27, 2023
39:15	February 22, 2023	March 13, 2023
39:16	March 8, 2023	March 27, 2023
39:17	March 22, 2023	April 10, 2023
39:18	April 5, 2023	April 24, 2023
39:19	April 19, 2023	May 8, 2023
39:20	May 3, 2023	May 22, 2023
39:21	May 17, 2023	June 5, 2023
39:22	May 31, 2023	June 19, 2023
39:23	June 14, 2023	July 3, 2023
39:24	June 28, 2023	July 17, 2023
39:25	July 12, 2023	July 31, 2023
39:26	July 26, 2023	August 14, 2023
40:1	August 9, 2023	August 28, 2023
40:2	August 23, 2023	September 11, 2023
40:3	September 6, 2023	September 25, 2023
40:4	September 20, 2023	October 9, 2023
40:5	October 4, 2023	October 23, 2023
40:6	October 18, 2023	November 6, 2023
40:7	November 1, 2023	November 20, 2023
40:8	November 14, 2023 **(Tuesday)**	December 4, 2023

*Filing deadlines are Wednesdays unless otherwise specified.

TITLE 18. PROFESSIONAL AND OCCUPATIONAL LICENSING

BOARD OF MEDICINE

Agency Decision

Title of Regulation: **18VAC85-21. Regulations Governing Prescribing of Opioids and Buprenorphine.**

Statutory Authority: §§ 54.1-2400 and 54.1-2928.2 of the Code of Virginia.

Name of Petitioner: Todd Lacksonen.

Nature of Petitioner's Request: The petitioner requests that the Board of Medicine amend 18VAC85-21-40 to replace the requirement to co-prescribe naloxone with certain medications or conditions with a requirement to co-prescribe a federal Food and Drug Administration opioid-reversal agent.

Agency Decision: Request denied.

Statement of Reason for Decision: The Board of Medicine considered the petition at its October 6, 2022, meeting and decided to take no action at this time. The board intends to review the entire chapter devoted to opioid and buprenorphine prescribing following the issuance of new guidance by the U.S. Food and Drug Administration. The board will include this issue as a revision to be considered along with any other changes to 18VAC85-21.

Agency Contact: William L. Harp, M.D., Executive Director, Board of Medicine, 9960 Mayland Drive, Suite 300, Henrico, VA 23233, telephone (804) 367-4558, or email william.harp@dhp.virginia.gov.

VA.R. Doc. No. PFR22-44; Filed October 6, 2022, 12:42 p.m.

BOARD OF VETERINARY MEDICINE

Agency Decision

Title of Regulation: **18VAC150-20. Regulations Governing the Practice of Veterinary Medicine.**

Statutory Authority: § 54.1-2400 of the Code of Virginia.

Name of Petitioner: Amber J. Lee.

Nature of Petitioner's Request: The petitioner requests that the Board of Veterinary Medicine amend 18VAC150-20-121, which provides requirements for licensure by endorsement of veterinary technicians, to remove subdivision 2 of 18VAC150-20-121 in order to accommodate technicians from other jurisdictions who may have been out of the workforce for an extended period of time.

Agency Decision: Request denied.

Statement of Reason for Decision: At its meeting on October 13, 2022, the Board of Veterinary Medicine voted to take no action on the petition. The board determined that subdivision 2 of 18VAC150-20-121 serves as a parallel requirement to clinical work performed in educational settings. Veterinary technicians can obtain licensure in other jurisdictions without the educational component Virginia requires; therefore, the board finds that the clinical component of required practice prior to issuing a license by endorsement to a veterinary technician is necessary for safety of the public.

Agency Contact: Leslie L. Knachel, Executive Director, Board of Veterinary Medicine, 9960 Mayland Drive, Suite 300, Richmond, VA 23233, telephone (804) 597-4130, or email leslie.knachel@dhp.virginia.gov.

VA.R. Doc. No. PFR22-29; Filed October 13, 2022, 12:13 p.m.

Agency Decision

Title of Regulation: **18VAC150-20. Regulations Governing the Practice of Veterinary Medicine.**

Statutory Authority: § 54.1-2400 of the Code of Virginia.

Name of Petitioner: Mark Cushing.

Nature of Petitioner's Request: The petitioner requests that the Board of Veterinary Medicine amend 18VAC150-20-120 to remove the requirement that applicants for licensure by endorsement have regularly engaged in clinical practice for at least two of the previous four years. The petitioner states that removing this requirement could help address veterinarian shortages and would put Virginia in line with 20 other states that do not require clinical practice for licensure by endorsement.

Agency Decision: Request denied.

Statement of Reason for Decision: At its meeting on October 13, 2022, the Board of Veterinary Medicine voted to take no action on the petition. The board recently underwent a periodic review of its regulations and determined that it would amend 18VAC150-20-121 during the implementation of the periodic review findings. The board will consider removal of the practice requirement and other license by endorsement requirements as it considers revisions for all of 18VAC150-20.

Agency Contact: Leslie L. Knachel, Executive Director, Board of Veterinary Medicine, 9960 Mayland Drive, Suite 300, Henrico, VA 23233, telephone (804) 597-4130, or email leslie.knachel@dhp.virginia.gov.

VA.R. Doc. No. PFR22-33; Filed October 13, 2022, 12:22 p.m.

TITLE 4. CONSERVATION AND NATURAL RESOURCES

MARINE RESOURCES COMMISSION

Agency Notice

Pursuant to Executive Order 19 (2022) and §§ 2.2-4007.1 and 2.2-4017 of the Code of Virginia, the following regulations are undergoing a periodic review and a small business impact review: **4VAC20-10, Pertaining to Fishing in Broad and Linkhorn Bays; 4VAC20-60, Pertaining to the Display of Licenses to Catch Finfish or Crabs; 4VAC20-670, Pertaining to Recreational Gear Licenses; 4VAC20-730, Pertaining to Nonresident Harvesters License Fee; 4VAC20-754, Pertaining to Importation of Fish, Shellfish or Crustacea into Virginia's Waters; 4VAC20-920, Pertaining to Landing Licenses; 4VAC20-1045, Pertaining to Establishment of Restricted Areas; 4VAC20-1050, Pertaining to Establishment of Restricted Area -- Huntington Ingalls Industries/Newport News Shipbuilding Company; 4VAC20-1060, Pertaining to Enlargement of Established Restricted Area -- Dominion Power/Nuclear Power Station; 4VAC20-1065, Pertaining to Establishment of Restricted Areas; 4VAC20-1170, Requirements Related to the Purchase of Fish from the Catcher; 4VAC20-1240, Fisherman Identification Program; 4VAC20-1280, Pertaining to Fishing License and Privilege Revocation;** and **4VAC20-1320, Pertaining to Establishment of Restricted Area - Maritime Administration James River Reserve Fleet.**

The review of each regulation will be guided by the principles in Executive Order 19 (2022). The purpose of a periodic review is to determine whether each regulation should be repealed, amended, or retained in its current form. Public comment is sought on the review of any issue relating to these regulations, including whether each regulation (i) is necessary for the protection of public health, safety, and welfare or for the economical performance of important governmental functions; (ii) minimizes the economic impact on small businesses in a manner consistent with the stated objectives of applicable law; and (iii) is clearly written and easily understandable.

Public comment period begins November 7, 2022, and ends November 28, 2022.

Comments must include the commenter's name and address (physical or email) information in order to receive a response to the comment from the agency. Following the close of the public comment period, a report of both reviews will be posted on the Virginia Regulatory Town Hall and published in the Virginia Register of Regulations.

Contact Information: Jennifer Farmer, Regulatory Coordinator, Marine Resources Commission, 380 Fenwick Road, Building 96, Fort Monroe, VA 23651, telephone (757) 247-2248.

TITLE 9. ENVIRONMENT

STATE WATER CONTROL BOARD

Agency Notice

Pursuant to Executive Order 19 (2022) and §§ 2.2-4007.1 and 2.2-4017 of the Code of Virginia, this regulation is undergoing a periodic review and a small business impact review: **9VAC25-600, Designated Groundwater Management Areas**. The review of this regulation will be guided by the principles in Executive Order 19 (2022). The purpose of a periodic review is to determine whether this regulation should be repealed, amended, or retained in its current form. Public comment is sought on the review of any issue relating to this regulation, including whether the regulation (i) is necessary for the protection of public health, safety, and welfare or for the economical performance of important governmental functions; (ii) minimizes the economic impact on small businesses in a manner consistent with the stated objectives of applicable law; and (iii) is clearly written and easily understandable.

Public comment period begins November 7, 2022, and ends November 28, 2022.

Comments must include the commenter's name and address (physical or email) information in order to receive a response to the comment from the agency. Following the close of the public comment period, a report of both reviews will be posted on the Virginia Regulatory Town Hall and published in the Virginia Register of Regulations.

Contact Information: Scott Kudlas, Department of Environmental Quality, 1111 East Main Street, Suite 1400, P.O. Box 1105, Richmond, VA 23218, telephone (804) 698-4456.

TITLE 12. HEALTH

STATE BOARD OF HEALTH

Report of Findings

Pursuant to §§ 2.2-4007.1 and 2.2-4017 of the Code of Virginia, the State Board of Health conducted a periodic review and a small business impact review of **12VAC5-20, Regulations for the Conduct of Human Research**, and determined that this regulation should be amended. The

department is publishing its report of findings dated August 4, 2022, to support this decision.

The regulation is necessary for the protection of public health, safety, and welfare of subjects in human subject research. The regulation is clearly written and understandable. The Virginia Department of Health (VDH) is recommending the regulation be amended to reflect current practices based on the amended federal regulations for the Protection of Human Subjects (45 CFR 46). There is continued need for the regulation for the protection of subjects involved in human subject research in the Commonwealth of Virginia.

The regulation establishes the requirements for human subject research conducted or authorized by VDH or any facilities or other entities operated, funded, or licensed by the department. No public comments were received during the public comment period. The regulation does not conflict with any known federal or state law or regulation. Regulations are evaluated on an ongoing basis and this regulation was last amended in January 2016 as a result of periodic review. VDH does not anticipate that amending the regulation will have an adverse economic impact on small businesses in the Commonwealth of Virginia.

Contact Information: Janice Hicks, PhD, Coordinator, Institutional Review Board, Virginia Department of Health, 109 Governor Street, Richmond, VA 23219, telephone (804) 864-7675.

Agency Notice

Pursuant to Executive Order 19 (2022) and §§ 2.2-4007.1 and 2.2-4017 of the Code of Virginia, this regulation is undergoing a periodic review and a small business impact review: **12VAC5-110, Regulations for the Immunization of School Children**. The review of this regulation will be guided by the principles in Executive Order 19 (2022). The purpose of a periodic review is to determine whether this regulation should be repealed, amended, or retained in its current form. Public comment is sought on the review of any issue relating to this regulation, including whether the regulation (i) is necessary for the protection of public health, safety, and welfare or for the economical performance of important governmental functions; (ii) minimizes the economic impact on small businesses in a manner consistent with the stated objectives of applicable law; and (iii) is clearly written and easily understandable.

Public comment period begins November 7, 2022, and ends November 28, 2022.

Comments must include the commenter's name and address (physical or email) information in order to receive a response to the comment from the agency. Following the close of the public comment period, a report of both reviews will be posted on the Virginia Regulatory Town Hall and published in the Virginia Register of Regulations.

Contact Information: Christy Gray, Director, Division of Immunization, Virginia Department of Health, James Madison Building, 109 Governor Street, Richmond, VA 23219, telephone (804) 864-7190.

Agency Notice

Pursuant to Executive Order 19 (2022) and §§ 2.2-4007.1 and 2.2-4017 of the Code of Virginia, this regulation is undergoing a periodic review and a small business impact review: **12VAC5-405, Rules Governing Private Review Agents**. The review of this regulation will be guided by the principles in Executive Order 19 (2022). The purpose of a periodic review is to determine whether this regulation should be repealed, amended, or retained in its current form. Public comment is sought on the review of any issue relating to this regulation, including whether the regulation (i) is necessary for the protection of public health, safety, and welfare or for the economical performance of important governmental functions; (ii) minimizes the economic impact on small businesses in a manner consistent with the stated objectives of applicable law; and (iii) is clearly written and easily understandable.

Public comment period begins November 7, 2022, and ends November 28, 2022.

Comments must include the commenter's name and address (physical or email) information in order to receive a response to the comment from the agency. Following the close of the public comment period, a report of both reviews will be posted on the Virginia Regulatory Town Hall and published in the Virginia Register of Regulations.

Contact Information: Erik Bodin, Division Director, Certificate of Public Need, Managed Care Health Insurance Plan and Cooperative Agreement, Virginia Department of Health, James Madison Building, 109 Governor Street, Richmond, VA 23219, telephone (804) 864-7190.

Report of Findings

Pursuant to §§ 2.2-4007.1 and 2.2-4017 of the Code of Virginia, the State Board of Health conducted a periodic review and a small business impact review of **12VAC5-508, Regulations Governing the Virginia Physician Loan Repayment Program**, and determined that this regulation should be amended. The department is publishing its report of findings dated August 23, 2022, to support this decision.

Pursuant to § 2.2-4017 of the Code of Virginia, the Regulations Governing the Virginia Physician Loan Repayment Program (12VAC5-508) is necessary for public health and welfare because it creates incentives for health care professionals to provide services in regions or to populations that may be particularly affected by the ongoing health care workforce challenges. As recommended, it is also necessary to ensure that it is more comprehensible, clear, and consistent.

The Virginia Department of Health (VDH) has decided to amend 12VAC5-508 to ensure that the language is readable, clear, consistent, and in the public's interest.

The regulation is required and there is a continued need for it. VDH received one favorable comment during the public comment period. The regulation is not complex and does not overlap, duplicate, or conflict with any state or federal laws or regulations. Technical amendments were made and effective in 2016. There has been no change in technology or other conditions since that regulatory action that would necessitate a substantive change to the physician loan repayment program or regulation. The program administered by the regulation promotes physician recruitment and retention, which is intended to address the primary care physician shortages throughout the Commonwealth. As such, facilities that provide primary care services and that qualify as a small business may benefit from the implementation of the regulation. The regulation has no adverse economic impact on small businesses.

Contact Information: Olivette Burroughs, Statewide Health Workforce Manager, Virginia Department of Health, 109 Governor Street, Richmond, VA 23219, telephone (804) 864-7431.

Report of Findings

Pursuant to §§ 2.2-4007.1 and 2.2-4017 of the Code of Virginia, the State Board of Health conducted a periodic review and a small business impact review of **12VAC5-510, Regulations for General Assembly Nursing Scholarships**, and determined that this regulation should be amended. The department is publishing its report of findings dated August 23, 2022, to support this decision.

Pursuant to § 2.2-4017 of the Code of Virginia, the Regulations for General Assembly Nursing Scholarships (12VAC5-510) are necessary for public health and welfare because it creates incentives for health care professionals to provide services in regions or to populations that may be particularly affected by the ongoing health care workforce challenges. As recommended, it is also necessary to ensure that it is more comprehensible, clear, and consistent. The Virginia Department of Health (VDH) has decided to amend 12VAC5-510 to ensure that the language is readable, clear, consistent, and in the public's interest.

The regulation is required and there is a continued need for it. VDH did not receive any comments or complaints during the public comment period. The regulation is not complex and does not overlap, duplicate, or conflict with any state or federal laws or regulations. Technical amendments were made and effective in 2016. There has been no change in technology or other conditions since that regulatory action that would necessitate a substantive change to scholarship program or regulation. The program administered by the regulation promotes nursing recruitment and retention, which is intended to address the nursing shortages throughout the Commonwealth. As such, facilities that provide nursing services and that qualify as a small business may benefit from the implementation of the regulation. The regulation has no adverse economic impact on small businesses.

Contact Information: Olivette Burroughs, Statewide Health Workforce Manager, Virginia Department of Health, 109 Governor Street, Richmond, VA 23219, telephone (804) 864-7431.

Agency Notice

Pursuant to Executive Order 19 (2022) and §§ 2.2-4007.1 and 2.2-4017 of the Code of Virginia, this regulation is undergoing a periodic review and a small business impact review: **12VAC5-530, Regulations Governing the Virginia Medical Scholarship Program**. The review of this regulation will be guided by the principles in Executive Order 19 (2022). The purpose of a periodic review is to determine whether this regulation should be repealed, amended, or retained in its current form. Public comment is sought on the review of any issue relating to this regulation, including whether the regulation (i) is necessary for the protection of public health, safety, and welfare or for the economical performance of important governmental functions; (ii) minimizes the economic impact on small businesses in a manner consistent with the stated objectives of applicable law; and (iii) is clearly written and easily understandable.

Public comment period begins November 7, 2022, and ends November 28, 2022.

Comments must include the commenter's name and address (physical or email) information in order to receive a response to the comment from the agency. Following the close of the public comment period, a report of both reviews will be posted on the Virginia Regulatory Town Hall and published in the Virginia Register of Regulations.

Contact Information: Olivette Buroughs, Statewide Health Workforce Manager, Virginia Department of Health, James Madison Building, 109 Governor Street, Richmond, VA 23219, telephone (804) 864-7190.

Report of Findings

Pursuant to §§ 2.2-4007.1 and 2.2-4017 of the Code of Virginia, the State Board of Health conducted a periodic review and a small business impact review of **12VAC5-540, Rules and Regulations for the Identification of Medically Underserved Areas in Virginia**, and determined that this regulation should be amended. The department is publishing its report of findings dated August 23, 2022, to support this decision.

Pursuant to § 2.2-4017 of the Code of Virginia, the Rules and Regulations for the Identification of Medically Underserved Areas In Virginia (12VAC5-540) are necessary for public

health and welfare as the proper identification of areas or populations in need of health care workforce support assists in organizing and providing that support to ensure equitable access to care among all Virginians. As recommended, it is also necessary to ensure that it is more comprehensible, clear, and consistent. The Virginia Department of Health (VDH) has decided to amend 12VAC5-540 to ensure that the language is readable, clear, consistent, and in the public's interest.

The regulation is required and there is a continued need for it. VDH received one favorable comment during the public comment period. The regulation is not complex and does not overlap, duplicate, or conflict with any state or federal laws and regulations. Technical amendments were made and effective in 2016. There has been no change in technology or other conditions since that regulatory action that would necessitate a substantive change to the regulation. This regulation is important for primary provider placement, which promotes recruitment and retention and is intended to address primary care provider shortages throughout the Commonwealth. As such, facilities that are located in medically underserved areas are eligible for primary care provider placement. Those facilities that qualify as small businesses may benefit from the implementation of the regulation. The regulation has no adverse economic impact on small businesses.

Contact Information: Olivette Burroughs, Statewide Health Workforce Manager, Virginia Department of Health, 109 Governor Street, Richmond, VA 23219, telephone (804) 864-7431.

Agency Notice

Pursuant to Executive Order 19 (2022) and §§ 2.2-4007.1 and 2.2-4017 of the Code of Virginia, this regulation is undergoing a periodic review and a small business impact review: **12VAC5-542, Rules and Regulations Governing the Virginia Nurse Practitioner/Nurse Midwife Scholarship Program**. The review of this regulation will be guided by the principles in Executive Order 19 (2022). The purpose of a periodic review is to determine whether this regulation should be repealed, amended, or retained in its current form. Public comment is sought on the review of any issue relating to this regulation, including whether the regulation (i) is necessary for the protection of public health, safety, and welfare or for the economical performance of important governmental functions; (ii) minimizes the economic impact on small businesses in a manner consistent with the stated objectives of applicable law; and (iii) is clearly written and easily understandable.

Public comment period begins November 7, 2022, and ends November 28, 2022.

Comments must include the commenter's name and address (physical or email) information in order to receive a response to the comment from the agency. Following the close of the public comment period, a report of both reviews will be posted on the Virginia Regulatory Town Hall and published in the Virginia Register of Regulations.

Contact Information: Michael Capps, Senior Policy Analyst, Virginia Department of Health, James Madison Building, 109 Governor Street, Richmond, VA 23219, telephone (804) 864-7190.

Agency Notice

Pursuant to Executive Order 19 (2022) and §§ 2.2-4007.1 and 2.2-4017 of the Code of Virginia, the following regulations are undergoing a periodic review and a small business impact review: **12VAC5-610, Sewage Handling and Disposal Regulations** and **12VAC5-620, Regulations Governing Fees for Onsite Sewage Disposal Systems, Alternative Discharge Systems, and Private Wells**. The review of each regulation will be guided by the principles in Executive Order 19 (2022). The purpose of a periodic review is to determine whether each regulation should be repealed, amended, or retained in its current form. Public comment is sought on the review of any issue relating to these regulations, including whether each regulation (i) is necessary for the protection of public health, safety, and welfare or for the economical performance of important governmental functions; (ii) minimizes the economic impact on small businesses in a manner consistent with the stated objectives of applicable law; and (iii) is clearly written and easily understandable.

Public comment period begins November 7, 2022, and ends December 7, 2022.

Comments must include the commenter's name and address (physical or email) information in order to receive a response to the comment from the agency. Following the close of the public comment period, a report of both reviews will be posted on the Virginia Regulatory Town Hall and published in the Virginia Register of Regulations.

Contact Information: Lance Gregory, Division Director, Virginia Department of Health, James Madison Building, 109 Governor Street, Richmond, VA 23219, telephone (804) 864-7491.

TITLE 13. HOUSING

VIRGINIA MANUFACTURED HOUSING BOARD

Agency Notice

Pursuant to Executive Order 19 (2022) and §§ 2.2-4007.1 and 2.2-4017 of the Code of Virginia, the following regulations are undergoing a periodic review and a small business impact review: **13VAC6-11, Public Participation Guidelines** and **13VAC6-20, Manufactured Housing Licensing and Transaction Recovery Fund Regulations**. The review of

each regulation will be guided by the principles in Executive Order 19 (2022). The purpose of a periodic review is to determine whether each regulation should be repealed, amended, or retained in its current form. Public comment is sought on the review of any issue relating to these regulations, including whether each regulation (i) is necessary for the protection of public health, safety, and welfare or for the economical performance of important governmental functions; (ii) minimizes the economic impact on small businesses in a manner consistent with the stated objectives of applicable law; and (iii) is clearly written and easily understandable.

Public comment period begins November 7, 2022, and ends November 28, 2022.

Comments must include the commenter's name and address (physical or email) information in order to receive a response to the comment from the agency. Following the close of the public comment period, a report of both reviews will be posted on the Virginia Regulatory Town Hall and published in the Virginia Register of Regulations.

Contact Information: Jeff Brown, Director of State Building Codes Office, Department of Housing and Community Development, Main Street Centre, 600 East Main Street, Richmond, VA 23219, telephone (804) 371-7161.

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TITLE 18. PROFESSIONAL AND OCCUPATIONAL LICENSING

BOARD OF ACCOUNTANCY

Agency Notice

Pursuant to Executive Order 19 (2022) and §§ 2.2-4007.1 and 2.2-4017 of the Code of Virginia, this regulation is undergoing a periodic review and a small business impact review: **18VAC5-22, Board of Accountancy Regulations**. The review of this regulation will be guided by the principles in Executive Order 19 (2022). The purpose of a periodic review is to determine whether this regulation should be repealed, amended, or retained in its current form. Public comment is sought on the review of any issue relating to this regulation, including whether the regulation (i) is necessary for the protection of public health, safety, and welfare or for the economical performance of important governmental functions; (ii) minimizes the economic impact on small businesses in a manner consistent with the stated objectives of applicable law; and (iii) is clearly written and easily understandable.

Public comment period begins November 7, 2022, and ends November 28, 2022.

Comments must include the commenter's name and address (physical or email) information in order to receive a response to the comment from the agency. Following the close of the public comment period, a report of both reviews will be posted on the Virginia Regulatory Town Hall and published in the Virginia Register of Regulations.

Contact Information: Vasa Clarke, Regulatory Coordinator, Board of Accountancy, 9960 Mayland Drive, Suite 402, Henrico, VA 23233, FAX (804) 527-4409, TDD (804) 367-9753, or email vasa.clarke@boa.virginia.gov.

BOARD OF MEDICINE

Report of Findings

Pursuant to §§ 2.2-4007.1 and 2.2-4017 of the Code of Virginia, the Board of Medicine conducted a periodic review and a small business impact review of **18VAC85-15, Regulations Governing Delegation to an Agency Subordinate**, and determined that this regulation should be amended. The department is publishing its report of findings dated October 6, 2022, to support this decision.

This regulation is necessary for the protection of public health, safety, and welfare because it sets the criteria by which certain disciplinary matters may be delegated for review by an agency subordinate. The Board of Medicine has reviewed this regulation and determined that it is clearly written and understandable. The Board of Medicine intends to retain this regulation with amendments.

The regulation is needed to clearly identify to practitioners and the public which disciplinary matters may be considered by an agency subordinate of the board. The board has received no complaints or comments regarding the regulation. The regulation is not complex and does not overlap or conflict with state or federal law. This chapter last underwent a periodic review in 2018, at which time the board decided to retain the regulation as is. This regulation is not affected by technology or economic considerations. This regulation does not regulate or impact small businesses.

Contact Information: William L. Harp, M.D., Executive Director, Board of Medicine, 9960 Mayland Drive, Suite 300, Henrico, VA 23233, telephone (804) 367-4558.

Report of Findings

Pursuant to §§ 2.2-4007.1 and 2.2-4017 of the Code of Virginia, the Board of Medicine conducted a periodic review and a small business impact review of **18VAC85-20, Regulations Governing the Practice of Medicine, Osteopathic Medicine, Podiatry, and Chiropractic**, and determined that this regulation should be amended. The department is publishing its report of findings dated October 6, 2022, to support this decision.

This regulation is necessary for the protection of public health, safety, and welfare because it sets for the requirements for licensure and standards of practice for medical doctors (MDs), doctors of osteopathic medicine (DOs), doctors of podiatric

medicine (DPMs), and doctors of chiropractic (DCs). The regulation is necessary to continue to renew licenses for and to issue new licenses for MDs, DOs, DPMs, and DCs, which the General Assembly determined is a necessary component of the provision of health care in the Commonwealth. The regulation is additionally necessary to protect public health, safety, and welfare by providing a basis for disciplinary actions against practitioners. The Board of Medicine has reviewed this regulation and determined that it is clearly written and understandable. The board decided to retain and amend 18VAC85-20.

The General Assembly requires these professions to be licensed and regulated by the board. The board cannot do that without regulations. The board has received no complaints or comments regarding this regulation. The regulation is not unnecessarily complex. The regulation does duplicate some state law; those provisions will be eliminated in the subsequent action. This regulation has been revised eight times since the last periodic review in 2018. Any changes in technology, economic conditions, or other factors would have been considered with each of the eight revisions. The regulation affects practitioners, not businesses, so there is no impact on small businesses.

Contact Information: William L. Harp, M.D., Executive Director, Board of Medicine, 9960 Mayland Drive, Suite 300, Henrico, VA 23233, telephone (804) 367-4558.

Report of Findings

Pursuant to §§ 2.2-4007.1 and 2.2-4017 of the Code of Virginia, the Board of Medicine conducted a periodic review and a small business impact review of **18VAC85-40, Regulations Governing the Practice of Respiratory Therapists**, and determined that this regulation should be amended. The department is publishing its report of findings dated October 6, 2022, to support this decision.

This regulation is necessary for the protection of public health, safety, and welfare because it sets the requirements for licensure and standards of practice for respiratory therapists. The regulation is necessary to continue to renew licenses for respiratory therapists and to issue new licenses for respiratory therapists, which the General Assembly determined is a necessary component of the provision of health care in the Commonwealth. This regulation is additionally necessary to protect public health, safety, and welfare by providing a basis for disciplinary actions against practitioners. The Board of Medicine has reviewed this regulation and determined that it is clearly written and understandable. The board decided to retain and amend 18VAC85-40.

The regulation is needed to continue protection of the public by licensing and regulating health professions. The board has received no complaints regarding the regulation. The regulation is not complex. The regulation does, in places, overlap or duplicate state law and will be amended to address that. The regulation has been amended four times in the last four years. Any changes in technology, economic conditions, or other factors would have been considered with each of the previous revisions. The regulation affects practitioners, not businesses, so there is no impact on small businesses.

Contact Information: William L. Harp, M.D., Executive Director, Board of Medicine, 9960 Mayland Drive, Suite 300, Henrico, VA 23233, telephone (804) 367-4558.

Report of Findings

Pursuant to §§ 2.2-4007.1 and 2.2-4017 of the Code of Virginia, the Board of Medicine conducted a periodic review and a small business impact review of **18VAC85-50, Regulations Governing the Practice of Physician Assistants**, and determined that this regulation should be amended. The department is publishing its report of findings dated October 6, 2022, to support this decision.

This regulation is necessary for the protection of public health, safety, and welfare because it sets the requirements for licensure and standards of practice for physician assistants. The regulation is necessary to continue to renew licenses for physician assistants and to issue new licenses for physician assistants, which the General Assembly determined is a necessary component of the provision of health care in the Commonwealth. The regulation is additionally necessary to protect public health, safety, and welfare by providing a basis for disciplinary actions against practitioners. The Board of Medicine has reviewed this regulation and determined that it is clearly written and understandable. The board decided to retain and amend 18VAC85-50.

The regulation is needed to continue protection of the public by licensing and regulating health professions. The board has received no complaints regarding the regulation. The regulation is not unnecessarily complex. The regulation does, in places, overlap or duplicate state law and will be amended to address that. The regulation has been amended 10 times in the last four years. Any changes in technology, economic conditions, or other factors would have been considered with each of the previous revisions. The regulation affects practitioners, not businesses, so there is no impact on small businesses.

Contact Information: William L. Harp, M.D., Executive Director, Board of Medicine, 9960 Mayland Drive, Suite 300, Henrico, VA 23233, telephone (804) 367-4558.

Report of Findings

Pursuant to §§ 2.2-4007.1 and 2.2-4017 of the Code of Virginia, the Board of Medicine conducted a periodic review and a small business impact review of **18VAC85-80, Regulations Governing the Practice of Occupational Therapy**, and determined that this regulation should be

amended. The department is publishing its report of findings dated October 6, 2022, to support this decision.

This regulation is necessary for the protection of public health, safety, and welfare because it sets the requirements for licensure and standards of practice for occupational therapists and occupational therapy assistants. The regulation is necessary to continue to renew licenses for occupational therapists and occupational therapy assistants and to issue new licenses for those professions, which the General Assembly determined is a necessary component of the provision of health care in the Commonwealth. The regulation is additionally necessary to protect public health, safety, and welfare by providing a basis for disciplinary actions against practitioners. The Board of Medicine has reviewed this regulation and determined that it is clearly written and understandable. The board decided to retain and amend 18VAC85-80.

The General Assembly requires these professions to be licensed and regulated by the board. The board cannot do that without regulations. The board has received no complaints or comments regarding 18VAC85-80. The chapter is not unnecessarily complex. The regulation does duplicate some state law; those provisions will be eliminated in the subsequent action. This regulation has been revised four times since the last periodic review in 2018. Any changes in technology, economic conditions, or other factors would have been considered with each of the four revisions. The regulation affects practitioners, not businesses, so there is no impact on small businesses.

Contact Information: William L. Harp, M.D., Executive Director, Board of Medicine, 9960 Mayland Drive, Suite 300, Henrico, VA 23233, telephone (804) 367-4558.

Report of Findings

Pursuant to §§ 2.2-4007.1 and 2.2-4017 of the Code of Virginia, the Board of Medicine conducted a periodic review and a small business impact review of **18VAC85-101, Regulations Governing the Practice of Radiologic Technology**, and determined that this regulation should be amended. The department is publishing its report of findings dated October 6, 2022, to support this decision.

This regulation is necessary for the protection of public health, safety, and welfare because it sets the requirements for licensure and standards of practice for radiologic assistants, radiologic technologists, and radiologic technologists, limited. The regulation is necessary to continue to renew licenses for radiologic assistants, radiologic technologists, and radiologic technologists, limited and to issue new licenses for those professions, which the General Assembly determined are a necessary component of the provision of health care in the Commonwealth. The regulation is additionally necessary to protect public health, safety, and welfare by providing a basis for disciplinary actions against practitioners. The Board of Medicine has reviewed this regulation and determined that it is clearly written and understandable. The board decided to retain and amend 18VAC85-101.

The General Assembly requires these professions to be licensed and regulated by the board. The board cannot do that without regulations. The board has received no complaints or comments regarding 18VAC85-80. The regulation is not unnecessarily complex. The regulation does duplicate some state law; those provisions will be eliminated in the subsequent action. This regulation has been revised four times since the last periodic review in 2018. Any changes in technology, economic conditions, or other factors would have been considered with each of the four revisions. The regulation affects practitioners, not businesses, so there is no impact on small businesses.

Contact Information: William L. Harp, M.D., Executive Director, Board of Medicine, 9960 Mayland Drive, Suite 300, Henrico, VA 23233, telephone (804) 367-4558.

Report of Findings

Pursuant to §§ 2.2-4007.1 and 2.2-4017 of the Code of Virginia, the Board of Medicine conducted a periodic review and a small business impact review of **18VAC85-110, Regulations Governing the Practice of Licensed Acupuncturists**, and determined that this regulation should be amended. The department is publishing its report of findings dated October 6, 2022, to support this decision.

This regulation is necessary for the protection of public health, safety, and welfare because it sets the requirements for licensure and standards of practice for acupuncture. The regulation is necessary to continue to renew licenses for acupuncturists and to issue new licenses for acupuncturists, which the General Assembly determined is a necessary component of the provision of health care in the Commonwealth. The regulation is additionally necessary to protect public health, safety, and welfare by providing a basis for disciplinary actions against practitioners. The Board of Medicine has reviewed this regulation and determined that it is clearly written and understandable. The board decided to retain and amend Chapter 18VAC85-110.

The General Assembly requires these professions to be licensed and regulated by the board. The board cannot do that without regulations. The board has received no complaints or comments regarding 18VAC85-80. The chapter is not unnecessarily complex. The regulation does duplicate some state law; those provisions will be eliminated in the subsequent action. This chapter has been revised five times since the last periodic review in 2018. Any changes in technology, economic conditions, or other factors would have been considered with each of the five revisions. The regulation affects practitioners, not businesses, so there is no impact on small businesses.

Contact Information: William L. Harp, M.D., Executive Director, Board of Medicine, 9960 Mayland Drive, Suite 300, Henrico, VA 23233, telephone (804) 367-4558.

Report of Findings

Pursuant to §§ 2.2-4007.1 and 2.2-4017 of the Code of Virginia, the Board of Medicine conducted a periodic review and a small business impact review of **18VAC85-120, Regulations Governing the Licensure of Athletic Trainers**, and determined that this regulation should be amended. The department is publishing its report of findings dated October 6, 2022, to support this decision.

This regulation is necessary for the protection of public health, safety, and welfare because it sets the requirements for licensure and standards of practice for athletic trainers. The regulation is necessary to continue to renew licenses for athletic trainers and to issue new licenses for athletic trainers, which the General Assembly determined is a necessary component of the provision of health care in the Commonwealth. The regulation is additionally necessary to protect public health, safety, and welfare by providing a basis for disciplinary actions against practitioners. The Board of Medicine has reviewed this regulation and determined that it is clearly written and understandable. The board decided to retain and amend 18VAC85-120.

The General Assembly requires these professions to be licensed and regulated by the board. The board cannot do that without regulations. The board has received no complaints or comments regarding 18VAC85-80. The regulation is not unnecessarily complex. The regulation does duplicate some state law; those provisions will be eliminated in the subsequent action. This regulation has been revised four times since the last periodic review in 2018. Any changes in technology, economic conditions, or other factors would have been considered with each of the four revisions. The regulation affects practitioners, not businesses, so there is no impact on small businesses.

Contact Information: William L. Harp, M.D., Executive Director, Board of Medicine, 9960 Mayland Drive, Suite 300, Henrico, VA 23233, telephone (804) 367-4558.

Report of Findings

Pursuant to §§ 2.2-4007.1 and 2.2-4017 of the Code of Virginia, the Board of Medicine conducted a periodic review and a small business impact review of **18VAC85-130, Regulations Governing the Practice of Licensed Midwives**, and determined that this regulation should be amended. The department is publishing its report of findings dated October 6, 2022, to support this decision.

This regulation is necessary for the protection of public health, safety, and welfare because it sets the requirements for licensure and standards of practice for professional midwives. The regulation is necessary to continue to renew licenses for professional midwives and to issue new licenses for professional midwives, which the General Assembly determined is a necessary component of the provision of health care in the Commonwealth. The regulation is additionally necessary to protect public health, safety, and welfare by providing a basis for disciplinary actions against practitioners. The Board of Medicine has reviewed this regulation and determined that it is clearly written and understandable. The board decided to retain and amend 18VAC85-130.

The General Assembly requires these professions to be licensed and regulated by the board. The board cannot do that without regulations. The board has received no complaints or comments regarding 18VAC85-80. The regulation is not unnecessarily complex. The regulation does duplicate some state law; those provisions will be eliminated in the subsequent action. This regulation has been revised four times since the last periodic review in 2018. Any changes in technology, economic conditions, or other factors would have been considered with each of the four revisions. The regulation affects practitioners, not businesses, so there is no impact on small businesses.

Contact Information: William L. Harp, M.D., Executive Director, Board of Medicine, 9960 Mayland Drive, Suite 300, Henrico, VA 23233, telephone (804) 367-4558.

Report of Findings

Pursuant to §§ 2.2-4007.1 and 2.2-4017 of the Code of Virginia, the Board of Medicine conducted a periodic review and a small business impact review of **18VAC85-140, Regulations Governing the Practice of Polysomnographic Technologists**, and determined that this regulation should be amended. The department is publishing its report of findings dated October 6, 2022, to support this decision.

This regulation is necessary for the protection of public health, safety, and welfare because it sets the requirements for licensure and standards of practice for polysomnographic technologists. The regulation is necessary to continue to renew licenses for polysomnographic technologists and to issue new licenses for polysomnographic technologists, which the General Assembly determined is a necessary component of the provision of health care in the Commonwealth. The regulation is additionally necessary to protect public health, safety, and welfare by providing a basis for disciplinary actions against practitioners. The Board of Medicine has reviewed this regulation and determined that it is clearly written and understandable. The board decided to retain and amend 18VAC85-140.

The General Assembly requires these professions to be licensed and regulated by the board. The board cannot do that without regulations. The board has received no complaints or comments regarding 18VAC85-80. The regulation is not unnecessarily complex. The regulation does duplicate some

state law; those provisions will be eliminated in the subsequent action. This regulation has been revised eight times since the initial regulation became effective. Any changes in technology, economic conditions, or other factors would have been considered with each of the eight revisions. The regulation affects practitioners, not businesses, so there is no impact on small businesses.

Contact Information: William L. Harp, M.D., Executive Director, Board of Medicine, 9960 Mayland Drive, Suite 300, Henrico, VA 23233, telephone (804) 367-4558.

Report of Findings

Pursuant to §§ 2.2-4007.1 and 2.2-4017 of the Code of Virginia, the Board of Medicine conducted a periodic review and a small business impact review of **18VAC85-150, Regulations Governing the Practice of Behavior Analysis**, and determined that this regulation should be amended. The department is publishing its report of findings dated October 6, 2022, to support this decision.

This regulation is necessary for the protection of public health, safety, and welfare because it sets the requirements for licensure and standards of practice for behavior analysts and assistant behavior analysts. The regulation is necessary to continue to renew licenses for behavior analysts and assistant behavior analysts and to issue new licenses for these professions, which the General Assembly determined is a necessary component of the provision of health care in the Commonwealth. The regulation is additionally necessary to protect public health, safety, and welfare by providing a basis for disciplinary actions against practitioners. The Board of Medicine has reviewed this chapter and determined that it is clearly written and understandable. The board decided to retain and amend 18VAC85-150.

The General Assembly requires these professions to be licensed and regulated by the board. The board cannot do that without regulations. The board has received no complaints or comments regarding 18VAC85-80. The regulation is not unnecessarily complex. The regulation does duplicate some state law; those provisions will be eliminated in the subsequent action. This regulation has been revised three times since the last periodic review in 2018. Any changes in technology, economic conditions, or other factors would have been considered with each of the three revisions. The regulation affects practitioners, not businesses, so there is no impact on small businesses.

Contact Information: William L. Harp, M.D., Executive Director, Board of Medicine, 9960 Mayland Drive, Suite 300, Henrico, VA 23233, telephone (804) 367-4558.

Report of Findings

Pursuant to §§ 2.2-4007.1 and 2.2-4017 of the Code of Virginia, the Board of Medicine conducted a periodic review and a small business impact review of **18VAC85-170, Regulations Governing the Practice of Genetic Counselors**, and determined that this regulation should be amended. The department is publishing its report of findings dated October 6, 2022, to support this decision.

This regulation is necessary for the protection of public health, safety, and welfare because it sets the requirements for licensure and standards of practice for genetic counselors. The regulation is necessary to continue to renew licenses for genetic counselors and to issue new licenses for genetic counselors, which the General Assembly determined is a necessary component of the provision of health care in the Commonwealth. The regulation is additionally necessary to protect public health, safety, and welfare by providing a basis for disciplinary actions against practitioners. The Board of Medicine has reviewed this regulation and determined that it is clearly written and understandable. The board decided to retain and amend 18VAC85-170.

The General Assembly requires these professions to be licensed and regulated by the board. The board cannot do that without regulations. The board has received no complaints or comments regarding 18VAC85-80. The regulation is not unnecessarily complex. The regulation does duplicate some state law; those provisions will be eliminated in the subsequent action. This chapter has been revised seven times since the initial regulation for licensure became effective in 2017. Any changes in technology, economic conditions, or other factors would have been considered with each of the seven revisions. The regulation affects practitioners, not businesses, so there is no impact on small businesses.

Contact Information: William L. Harp, M.D., Executive Director, Board of Medicine, 9960 Mayland Drive, Suite 300, Henrico, VA 23233, telephone (804) 367-4558.

TITLE 24. TRANSPORTATION AND MOTOR VEHICLES

DEPARTMENT OF MOTOR VEHICLES

Agency Notice

Pursuant to Executive Order 19 (2022) and §§ 2.2-4007.1 and 2.2-4017 of the Code of Virginia, this regulation is undergoing a periodic review and a small business impact review: **24VAC20-11, Public Participation Guidelines**. The review of this regulation will be guided by the principles in Executive Order 19 (2022). The purpose of a periodic review is to determine whether this regulation should be repealed, amended, or retained in its current form. Public comment is sought on the review of any issue relating to this regulation, including whether the regulation (i) is necessary for the protection of public health, safety, and welfare or for the economical performance of important governmental functions; (ii) minimizes the economic impact on small businesses in a

manner consistent with the stated objectives of applicable law; and (iii) is clearly written and easily understandable.

Public comment period begins November 7, 2022, and ends November 28, 2022.

Comments must include the commenter's name and address (physical or email) information in order to receive a response to the comment from the agency. Following the close of the public comment period, a report of both reviews will be posted on the Virginia Regulatory Town Hall and published in the Virginia Register of Regulations.

Contact Information: Melissa Velazquez, Legislative Services Manager, Department of Motor Vehicles, Post Office Box 27412, Richmond, VA 23269-0001, telephone (804) 367-1844.

TITLE 18. PROFESSIONAL AND OCCUPATIONAL LICENSING

BOARD OF PHARMACY

Notice of Intended Regulatory Action

Notice is hereby given in accordance with § 2.2-4007.01 of the Code of Virginia that the Board of Pharmacy intends to consider amending **18VAC110-20, Regulations Governing the Practice of Pharmacy**. The purpose of the proposed action is to exempt an automated dispensing device (ADD) from the pharmacist review requirements of 18VAC110-20-555 when that ADD is exclusively stocked with drugs solely administered for stat or emergency use. This action is in response to a petition for rulemaking.

The agency intends to hold a public hearing on the proposed action after publication in the Virginia Register.

Statutory Authority: §§ 54.1-2400 and 54.1-3307 of the Code of Virginia.

Public Comment Deadline: December 7, 2022.

Agency Contact: Caroline Juran, RPh, Executive Director, Board of Pharmacy, 9960 Mayland Drive, Suite 300, Richmond, VA 23233-1463, telephone (804) 367-4456, FAX (804) 527-4472, or email caroline.juran@dhp.virginia.gov.

VA.R. Doc. No. PFR22-23; Filed October 15, 2022, 12:31 p.m.

TITLE 4. CONSERVATION AND NATURAL RESOURCES

MARINE RESOURCES COMMISSION

Final Regulation

REGISTRAR'S NOTICE: The Marine Resources Commission is claiming an exemption from the Administrative Process Act in accordance with § 2.2-4006 A 11 of the Code of Virginia; however, the commission is required to publish the full text of final regulations.

Title of Regulation: **4VAC20-490. Pertaining to Sharks (amending 4VAC20-490-20, 4VAC20-490-40).**

Statutory Authority: § 28.2-201 of the Code of Virginia.

Effective Date: November 1, 2022.

Agency Contact: Jennifer Farmer, Regulatory Coordinator, Marine Resources Commission, 380 Fenwick Road, Building 96, Fort Monroe, VA 23651, telephone (757) 247-2248, FAX (757) 247-2002, or email jennifer.farmer@mrc.virginia.gov.

Summary:

The amendments prohibit the retention of shortfin mako shark within Virginia state waters in order to align Virginia regulation with the National Oceanic and Atmospheric Administration Fisheries final rule that no shortfin mako sharks may be landed or retained in any U.S. Atlantic highly migratory species fishery until further notice.

4VAC20-490-20. Definitions.

The following words and terms when used in this chapter shall have the following meanings unless the context clearly indicates otherwise.

"Agent" means any person who possesses the Commercial Fisherman Registration License, fishing gear license, or fishing permit of a registered commercial fisherman in order to fish that commercial fisherman's gear or sell that commercial fisherman's harvest.

"Annual quota" means Virginia's 10.795% share of the annual coastwide commercial spiny dogfish quota managed by the Atlantic States Marine Fisheries Commission.

"Carcass length" means that length measured in a straight line from the anterior edge of the first dorsal fin to the posterior end of the shark carcass.

"Circle Hook" means a non-offset, non-stainless steel hook with the point turned sharply and straight back toward the shank.

"COLREGS Line" means the COLREGS Demarcation Line, as defined in the Code of Federal Regulations (33 CFR 80.510 Chesapeake Bay Entrance, VA).

"Commercial shark fisherman" means any commercial fisherman permitted to land or possess sharks (excluding spiny dogfish) that has landed and sold one pound of shark or more (excludes spiny dogfish) in that calendar year (January 1 through December 31).

"Commercially permitted aggregated large coastal shark" means any of the following species:

Blacktip, Carcharhinus limbatus

Bull, Carcharhinus leucas

Lemon, Negaprion brevirostris

Nurse, Ginglymostoma cirratum

Silky, Carcharhinus falciformis

Spinner, Carcharhinus brevipinna

Tiger, Galeocerdo cuvier

"Commercially permitted hammerhead shark" means any of the following species:

Great hammerhead, Sphyrna mokarran

Scalloped hammerhead, Sphyrna lewini

Smooth hammerhead, Sphyrna zygaena

"Commercially permitted nonblacknose small coastal shark" means any of the following species:

Atlantic sharpnose, Rhizoprionodon terraenovae

Bonnethead, Sphyrna tiburo

Finetooth, Carcharhinus isodon

"Commercially permitted pelagic shark" means any of the following species:

Blue, Prionace glauca

Oceanic whitetip, Carcharhinus longimanus

Porbeagle, Lamna nasus

~~Shortfin mako, Isurus oxyrinchus~~

Thresher, Alopias vulpinus

"Commercially prohibited shark" means any of the following species:

Atlantic angel, Squatina dumeril

Basking, Cetorhinus maximus

Bigeye sand tiger, Odontaspis noronhai

Bigeye sixgill, Hexanchus nakamurai

Bigeye thresher, Alopias superciliosus

Bignose, Carcharhinus altimus

Blacknose, Carcharhinus acronotus

Caribbean reef, Carcharhinus perezii

Caribbean sharpnose, Rhizoprionodon porosus

Dusky, Carcharhinus obscurus

Galapagos, Carcharhinus galapagensis

Longfin mako, Isurus paucus

Narrowtooth, Carcharhinus brachyurus

Night, Carcharhinus signatus

Sand tiger, Carcharias taurus

Sevengill, Heptranchias perlo

Shortfin mako, Isurus oxyrinchus

Sixgill, Hexanchus griseus

Smalltail, Carcharhinus porosus

Whale, Rhincodon typus

White, Carcharodon carcharias

"Control rule" means a time-certain date, past, present, or future, used to establish participation in a limited entry fishery and may or may not include specific past harvest amounts.

"Dressed weight" means the result from processing a fish by removal of head, viscera, and fins, but does not include removal of the backbone, halving, quartering, or otherwise further reducing the carcass.

"Finning" means removing the fins and returning the remainder of the shark to the sea.

"Fork length" means the length of a fish measured from the most forward projection of the snout, with the mouth closed, to the fork of the tail along the midline, using a straight-line measure, not measured over the curve of the body.

"Large mesh gill net" means any gill net with a stretched mesh of greater than five inches.

"Longline" means any fishing gear that is set horizontally, either anchored, floating or attached to a vessel, and that consists of a mainline or groundline, greater than 1,000 feet in length, with multiple leaders (gangions) and hooks, whether retrieved by hand or mechanical means.

"Movable gill net" means any gill net other than a staked gill net.

"Permitted commercial gear" means rod and reel, handlines, shark shortlines, small mesh gill nets, large mesh gill nets, pound nets, and weirs.

"Recreational shore angler" means a person neither fishing from a vessel nor transported to or from a fishing location by a vessel.

"Recreational vessel angler" means a person fishing from a vessel or transported to or from a fishing location by a vessel.

"Recreationally permitted shark" means any of the following species:

Atlantic sharpnose, Rhizoprionodon terraenovae

Blacknose, Carcharhinus acronotus

Blacktip, Carcharhinus limbatus

Blue, Prionace glauca

Bonnethead, Sphyrna tiburo

Bull, Carcharhinus leucas

Finetooth, Carcharhinus isodon

Great hammerhead, Sphyrna mokarran

Lemon, Negaprion brevirostris

Nurse, Ginglymostoma cirratum

Oceanic whitetip, Carcharhinus longimanus

Porbeagle, Lamna nasus

Scalloped hammerhead, Sphyrna lewini

~~Shortfin mako, Isurus oxyrinchus~~

Smooth dogfish, Mustelus canis

Smooth hammerhead, Sphyrna zygaena

Spinner, Carcharhinus brevipinna

Thresher, Alopias vulpinus

Tiger, Galeocerdo cuvier

"Recreationally prohibited shark" means any of the following species:

Atlantic angel, Squatina dumeril

Basking, Cetorhinus maximus

Bigeye sand tiger, Odontaspis noronhai

Bigeye sixgill, Hexanchus nakamurai

Bigeye thresher, Alopias superciliosus

Bignose, Carcharhinus altimus

Caribbean reef, Carcharhinus perezii

Caribbean sharpnose, Rhizoprionodon porosus

Dusky, Carcharhinus obscurus

Galapagos, Carcharhinus galapagensis

Longfin mako, Isurus paucus

Narrowtooth, Carcharhinus brachyurus

Night, Carcharhinus signatus

Sand tiger, Carcharias taurus

Sandbar, Carcharhinus plumbeus

Sevengill, Heptranchias perlo

Shortfin mako, Isurus oxyrinchus

Silky, Carcharhinus falciformis

Sixgill, Hexanchus griseus

Smalltail, Carcharhinus porosus

Whale, Rhincodon typus

White, Carcharodon carcharias

"Research only shark" means any of the following species:

Sandbar, Carcharhinus plumbeus

"Shark shortline" means a fish trotline that is set horizontally, either anchored, floating or attached to a vessel, and that consists of a mainline or groundline, 1,000 feet in length or less, with multiple leaders (gangions) and no more than 50 corrodible circle hooks, whether retrieved by hand or mechanical means.

"Small mesh gill net" means any gill net with a stretched mesh of equal to or less than five inches.

"Smooth dogfish" means any shark of the species Mustelus canis. Smooth dogfish are also known as "smoothhound shark."

"Snout" means the most forward projection from a fish's head that includes the upper and lower jaw.

"Spiny dogfish" means any shark of the species Squalus acanthias.

4VAC20-490-40. Recreational harvest limitations and gear restrictions.

A. Recreational fishing vessels are allowed a maximum possession limit of one recreationally permitted shark, excluding smooth dogfish, per trip, regardless of the number of people on board the vessel. In addition, each recreational vessel angler may possess one bonnethead and one Atlantic sharpnose per trip. The possession aboard a vessel of more than one recreationally permitted shark, excluding smooth dogfish, or the possession of more than one Atlantic sharpnose shark or one bonnethead shark, per person, shall constitute a violation of this regulation. When fishing from any boat or vessel where the entire catch is held in a common hold or container, the possession limits for Atlantic sharpnose shark or bonnethead shark shall be for the boat or vessel and shall be equal to the number of persons on board legally eligible to fish, plus one additional recreationally permitted shark. The captain or operator of the boat or vessel shall be responsible for any boat or vessel possession limits.

B. A recreational shore angler is allowed a maximum possession limit of one recreationally permitted shark, excluding smooth dogfish, per calendar day. In addition, a recreational shore angler may harvest one additional bonnethead and one additional Atlantic sharpnose per calendar day. The possession of more than one recreationally permitted shark, excluding smooth dogfish, or the possession of more than one bonnethead and one Atlantic sharpnose, by any person, shall constitute a violation of this regulation.

C. It shall be unlawful for any person to possess any recreationally prohibited shark.

D. It shall be unlawful for any person to possess any recreationally permitted shark landed under the recreational harvest limitations described in this section that is less than 54 inches in fork length except as described in subdivisions 1~~,~~ and 2~~, and 3~~ of this subsection:

~~1. It shall be unlawful for any person to possess any recreationally caught female shortfin mako shark that is less than 83 inches in fork length or any male shortfin mako shark that is less than 71 inches in fork length.~~

~~2.~~ 1. It shall be unlawful for any person to possess any recreationally caught great hammerhead, scalloped hammerhead, or smooth hammerhead shark that is less than 78 inches in fork length.

~~3.~~ 2. Atlantic sharpnose, bonnethead, finetooth, blacknose, and smooth dogfish sharks are exempt from the recreational size limit described in this subsection.

E. It shall be unlawful for any person to take, harvest, land, or possess any blacktip, bull, great hammerhead, lemon, nurse, scalloped hammerhead, smooth hammerhead, spinner or tiger shark from May 15 through July 15 of any calendar year.

F. All sharks must have heads, tails and fins attached naturally to the carcass. Anglers may gut and bleed the carcass as long as the head and tail are not removed. Filleting any shark is prohibited until that shark is offloaded at the dock or on shore.

G. It shall be unlawful for any person fishing recreationally to take any shark using any gear other than handline or rod and reel.

H. Any person fishing recreationally for sharks shall use non-offset, corrodible, non-stainless steel circle hooks except when fishing with flies or artificial lures.

VA.R. Doc. No. R23-7368; Filed October 25, 2022, 2:40 p.m.

TITLE 6. CRIMINAL JUSTICE AND CORRECTIONS

BOARD OF JUVENILE JUSTICE

Forms

REGISTRAR'S NOTICE: Forms used in administering the regulation have been filed by the agency. The forms are not being published; however, online users of this issue of the Virginia Register of Regulations may click on the name of a form with a hyperlink to access it. The forms are also available from the agency contact or may be viewed at the Office of the Registrar of Regulations, 900 East Main Street, 11th Floor, Richmond, Virginia 23219.

Title of Regulation: **6VAC35-170. Regulation Governing Juvenile Data Requests and Research Involving Human Subjects.**

Agency Contact: Kristen Peterson, Regulatory Coordinator, Department of Juvenile Justice, Main Street Centre, 600 East Main Street, 20th Floor Richmond, VA 23219, telephone (804) 371-0700, or email kristen.peterson@djj.virginia.gov.

FORMS (6VAC35-170)

~~Research Agreement Form (rev. 4/2021)~~

Research Agreement Form (rev. 9/2022)

Research Proposal Summary (rev. 4/2021)

Confidentiality Agreement (eff. 4/2021)

VA.R. Doc. No. R23-7416; Filed October 18, 2022, 8:43 a.m.

TITLE 8. EDUCATION

STATE COUNCIL OF HIGHER EDUCATION FOR VIRGINIA

Final Regulation

Title of Regulation: **8VAC40-31. Regulations Governing Certification of Certain Institutions to Confer Degrees, Diplomas and Certificates (adding 8VAC40-31-125).**

Statutory Authority: § 23.1-215 of the Code of Virginia.

Effective Date: December 7, 2022.

Agency Contact: Beverly Rebar, Senior Associate for Academic and Legislative Affairs, State Council of Higher Education for Virginia, 101 North 14 Street, 9th Floor, Richmond, VA 23219, telephone (804) 371-0571, FAX (804) 225-2604, or email beverlyrebar@schev.edu.

Summary:

Pursuant to Chapter 380 of the 2020 Acts of Assembly, the amendments require out-of-state postsecondary schools offering distance education to Virginia citizens to be certified by the State Council of Higher Education for Virginia or be participants in a reciprocity agreement to which the Commonwealth belongs. This action establishes certification requirements for schools that do not participate in a reciprocity agreement. A change to the proposed regulation provides a delayed applicability for institutions that currently enroll Virginia residents.

Summary of Public Comments and Agency's Response: No public comments were received by the promulgating agency.

8VAC40-31-125. Certification required for schools offering distance learning in Virginia.

A. Any degree-granting postsecondary school providing distance learning to residents of the Commonwealth from a location outside of the Commonwealth shall be certified to operate in the Commonwealth or shall be a participant in a reciprocity agreement to which the Commonwealth belongs, in accordance with council's authority pursuant to § 23.1-211 of the Code of Virginia, for the purpose of consumer protection.

B. Any degree-granting postsecondary institution seeking initial or renewal authorization to offer distance education programs or courses to residents of the Commonwealth from a location outside of the Commonwealth that is not a participant in a reciprocity agreement to which the Commonwealth belongs must demonstrate that it meets the following eligibility criteria:

1. The institution is properly authorized to operate by and in good standing with the appropriate entity in the state where the institution has legal domicile.

2. The institution is a United States degree-granting institution that is accredited by an accrediting agency that is recognized by the U.S. Department of Education with a scope of authority, as specified by the U.S. Department of Education that includes distance education.

3. The institution is in good standing, including having no current or pending show cause or probation actions against it.

4. The institution demonstrates minimum financial stability to qualify for certification defined as a federal Financial Responsibility Composite Score of 1.5 or better.

C. An institution certified pursuant to this section shall provide proof of the following disclosures to Virginia residents:

1. A notification that the school is certified to operate by council.

2. A notification outlining the procedures a student may follow to file a complaint against the school. The disclosure must include a statement that if the complaint is not resolved to the student's satisfaction, the student may contact the council as a last resort. The school must provide contact information for council and must ensure that the student will not be retaliated against for filing a complaint.

3. A notification stating that the transferability of credits earned at the school is at the sole discretion of the receiving institution.

4. For institutions offering programs or courses leading to or advertised as leading to professional licensure, a notification regarding whether completion of the program is sufficient to meet licensure requirements in Virginia. If the institution is unable to determine whether a program will meet the professional licensure requirements in Virginia, the notification shall provide current contact information for any applicable licensing boards and advise the student or applicant to determine whether the program meets requirements for licensure in Virginia prior to enrollment.

D. An institution certified pursuant to this section shall pay a nonrefundable initial and renewal authorization fee as provided in 8VAC40-31-260.

E. An institution certified pursuant to this section shall immediately inform the council and current enrolled students who are residents of the Commonwealth of any adverse action by the U.S. Department of Education or by its accrediting agency that threatens a disruption of the operation of the institution or exposes students to a loss of course or degree credit or financial loss.

F. The certificate of authorization for an institution certified pursuant to this section shall expire on the stated expiration date. Applications for annual renewals must be submitted to council at least 90 days prior to the expiration date of the current authorization.

[G. In the case of an institution that has enrolled students who are residents of the Commonwealth prior to July 1, 2022, the institution may instruct only such students through the completion of their program without being certified to operate in the Commonwealth or being a participant in a reciprocity agreement to which the Commonwealth belongs.]

VA.R. Doc. No. R21-5770; Filed October 5, 2022, 12:08 p.m.

Final Regulation

Title of Regulation: **8VAC40-31. Regulations Governing Certification of Certain Institutions to Confer Degrees, Diplomas and Certificates (amending 8VAC40-31-260).**

Statutory Authority: §§ 23.1-215 and 23.1-224 of the Code of Virginia.

Effective Date: December 7, 2022.

Agency Contact: Beverly Rebar, Senior Associate for Academic and Legislative Affairs, State Council of Higher Education for Virginia, 101 North 14 Street, 9th Floor, Richmond, VA 23219, telephone (804) 371-0571, FAX (804) 225-2604, or email beverlyrebar@schev.edu.

Summary:

The amendments increase fees to cover the essential functions of the Private Postsecondary Education unit of the Academic Affairs division of the State Council of Higher Education for Virginia.

Summary of Public Comments and Agency's Response: No public comments were received by the promulgating agency.

8VAC40-31-260. Fees.

A. All fees collected by council staff will be deposited in the State Treasury.

B. All fees are nonrefundable with the exception of withdrawal of an application in which case all fees will be refunded minus a nonrefundable administrative fee noted in subsection D of this section.

C. Fees must be paid with a company check and made payable to the Treasurer of Virginia.

D. The annual fee is based on the annual gross tuition received by each administrative branch of institutions certified to operate in Virginia. For out-of-state institutions certified to operate in Virginia, annual gross tuition means income generated from students enrolled at Virginia locations. The flat fee schedule is as follows:

New school orientation session, per person	$150
Initial fee for all new institutions of higher education	~~$6,000~~ $10,000
Initial fee for all new ~~career-technical~~ non-degree postsecondary schools	$2,500
Annual fee for all unaccredited institutions of higher education	~~$6,000~~ $10,000
Initial fee for out-of-state online institutions of higher education that are not members of NC-SARA	$10,000
Renewal fee for out-of-state online institutions of higher education that are not members of NC-SARA	$10,000
Renewal fee for all postsecondary schools with an annual gross tuition collected less than $50,000, as recorded on most recent financial statement	$250

Renewal fee for all postsecondary schools with an annual gross tuition collected greater than or equal to $50,000 but less than $100,000, as recorded on most recent financial statement	~~$1,000~~ $1,200
Renewal fee for all postsecondary schools with an annual gross tuition collected greater than or equal to $100,000 but less than $500,000, as recorded on most recent financial statement	~~$2,500~~ $3,000
Renewal fee for all postsecondary schools with an annual gross tuition collected greater than or equal to $500,000 but less than $1,000,000, as recorded on most recent financial statement	~~$4,000~~ $6,000
Renewal fee for all postsecondary schools with an annual gross tuition collected greater than or equal to $1,000,000, but less than $5,000,000, as recorded on most recent financial statement	~~$5,000~~ $7,500
Renewal fee for all postsecondary schools with an annual gross tuition collected greater than or equal to $5 million, as recorded on most recent financial statement	$10,000
Returned check fee	$35
Initial or renewed exemption ~~application/request~~ application or request for name ~~acknowledgement/agent~~ acknowledgment or agent registration	~~$300~~ $350
Nonrefundable administrative fee (withdrawal of application)	$500 ~~career-technical,~~ non-degree ~~$1000~~ $2,000 institutions of higher education
Request for change in degree level authorization	$1,000
Request duplicate certificate to operate due to school name or address change	$100
Request duplicate agent permit, to replace ~~lost/stolen/misplaced~~ lost, stolen, or misplaced permit	$100
Application fee for each additional ~~site~~ instructional location	~~$100~~ $300
Application fee for each additional program, ~~or~~ modification to an existing program, or program deletion	$100

E. A school that submits a payment that is returned for any reason must resubmit the required payment, any applicable late fee, and the assessed returned check fee of $35 via a money order or certified bank check only.

VA.R. Doc. No. R21-6185; Filed October 5, 2022, 12:07 p.m.

TITLE 16. LABOR AND EMPLOYMENT

VIRGINIA WORKERS' COMPENSATION COMMISSION

Fast-Track Regulation

Titles of Regulations: **16VAC30-60. Procedural Regulations Governing the Administration of Medical Costs Peer Review by the Regional Peer Review Committees under the Virginia Workers' Compensation Act (repealing 16VAC30-60-10 through 16VAC30-60-100).**

16VAC30-70. Plan of Operation for the Medical Costs Peer Review Statewide Coordinating Committee under the Virginia Workers' Compensation Act (repealing 16VAC30-70-10 through 16VAC30-70-120).

Statutory Authority: § 60.2-111 of the Code of Virginia.

Public Hearing Information: No public hearing is currently scheduled.

Public Comment Deadline: December 8, 2022.

Effective Date: December 23, 2022.

Agency Contact: Evelyn V. McGill, Executive Director, Virginia Workers' Compensation Commission, 333 East Franklin Street, Richmond, VA 23219, telephone (804) 205-3603, or email evelyn.mcgill@workcomp.virginia.gov.

Basis: The Virginia Workers' Compensation Commission administers the Virginia Workers' Compensation Act (§ 65.2-100 et seq. of the Code of Virginia). Sections 65.2-1300 through 65.2-1310 of the Code of Virginia, repealed by Chapters 279 and 290 of the 2016 Acts of Assembly, established the basic parameters for peer review regulations and gave the commission the authority to enact peer review regulations. The repeal removed the commission's authority to continue the peer review program.

Purpose: The rationale for the repeal of these regulations is that there is no longer statutory authority for the regulations. In addition, a repeal of these regulations would benefit the welfare of the citizens of Virginia because these regulations no longer have statutory authority. The repeal would solve the problem of existing regulations that are no longer authorized by statute.

Rationale: In 2016, the General Assembly removed the peer review program from the Virginia Workers' Compensation Act. Because of the repeal of the statutory provisions that authorized these regulations, this rulemaking is expected to be noncontroversial and appropriate for the fast-track rulemaking process.

Substance: The regulations will be completely repealed.

Issues: The primary advantage to the public of implementing this regulatory action is that the end result will be to bring the Virginia Administrative Code into agreement with the Code of Virginia. There are no disadvantages to the public in implementing this regulatory action.

The primary advantages to the Virginia Workers' Compensation Commission and the Commonwealth of implementing this regulatory action is that the end result will be to bring the Virginia Administrative Code into agreement with the Code of Virginia. There are no disadvantages to the commission or to the Commonwealth in implementing this regulatory action.

Department of Planning and Budget's Economic Impact Analysis: The Department of Planning and Budget (DPB) has analyzed the economic impact of this proposed regulation in accordance with § 2.2-4007.04 of the Code of Virginia (Code) and Executive Order 19. The analysis presented represents DPB's best estimate of these economic impacts.[1]

Summary of the Proposed Amendments to Regulation. The Virginia Workers' Compensation Commission (Commission) proposes to repeal 16VAC30-60 Procedural Regulations Governing the Administration of Medical Costs Peer Review by the Regional Peer Review Committees under the Virginia Workers' Compensation Act and 16 VAC 30-70 Plan of Operation for the Medical Costs Peer Review Statewide Coordinating Committee under the Virginia Workers' Compensation Act.

Background. The two regulations proposed for repeal were authorized by §§ 65.2-1300 through 65.2-1310 of the Code of Virginia. These Code sections were repealed by Chapters 279 and 290 of the 2016 Acts of Assembly.[2] With the repeal, the Commission no longer had jurisdiction to continue the medical costs peer review program. Hence, the peer review program was disbanded in 2016.

In place of the medical costs peer review program, the legislation mandated that the Commission adopt regulations establishing fee schedules setting the maximum pecuniary liability of the employer for medical services provided to an injured person pursuant to the Virginia Workers' Compensation Act, in the absence of a contract under which the provider has agreed to accept a specified amount for the medical service. Such regulation was adopted via an exempt action in 2018.[3]

Estimated Benefits and Costs. The two regulations are obsolete in that they pertain to a program that no longer has statutory authority and no longer exists. Repealing the regulations would be beneficial in that people who read regulations would not be misled into believing the program still exists.

Businesses and Other Entities Affected. The proposal affects readers of Virginia Workers' Compensation Commission regulations.

The Code of Virginia requires DPB to assess whether an adverse impact may result from the proposed regulation.[4] An adverse impact is indicated if there is any increase in net cost or reduction in net revenue for any entity, even if the benefits exceed the costs for all entities combined. Since the repeal of the regulations would not increase net costs or affect revenues, no adverse impact is indicated.

Small Businesses[5] Affected:[6] The proposed repeal of the regulations would not adversely affect small businesses.

Localities[7] Affected[8] The proposed repeal of the regulations would not disproportionally affect any particular localities and would not introduce costs for local governments.

Projected Impact on Employment. The proposed repeal of the regulations would not affect employment.

Effects on the Use and Value of Private Property. The proposed repeal of the regulations would not affect the use and value of private property or real estate development costs.

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[1]Section 2.2-4007.04 of the Code of Virginia requires that such economic impact analyses determine the public benefits and costs of the proposed amendments. Further the analysis should include but not be limited to: (1) the projected number of businesses or other entities to whom the proposed regulatory action would apply, (2) the identity of any localities and types of businesses or other entities particularly affected, (3) the projected number of persons and employment positions to be affected, (4) the projected costs to affected businesses or entities to implement or comply with the regulation, and (5) the impact on the use and value of private property.

[2]See third enactment clause of https://lis.virginia.gov/cgi-bin/legp604.exe?161+ful+CHAP0279 and https://lis.virginia.gov/cgi-bin/legp604.exe?161+ful+CHAP0290.

[3]See https://townhall.virginia.gov/L/ViewAction.cfm?actionid=4963.

[4]Pursuant to § 2.2-4007.04 D: In the event this economic impact analysis reveals that the proposed regulation would have an adverse economic impact on businesses or would impose a significant adverse economic impact on a locality, business, or entity particularly affected, the Department of Planning and Budget shall advise the Joint Commission on Administrative Rules, the House Committee on Appropriations, and the Senate Committee on Finance. Statute does not define "adverse impact," state whether only Virginia entities should be considered, nor indicate whether an adverse impact results from regulatory requirements mandated by legislation.

[5]Pursuant to § 2.2-4007.04, small business is defined as "a business entity, including its affiliates, that (i) is independently owned and operated and (ii) employs fewer than 500 full-time employees or has gross annual sales of less than $6 million."

[6]If the proposed regulatory action may have an adverse effect on small businesses, § 2.2-4007.04 requires that such economic impact analyses include: (1) an identification and estimate of the number of small businesses subject to the proposed regulation, (2) the projected reporting, recordkeeping, and other administrative costs required for small businesses to comply with the proposed regulation, including the type of professional skills necessary for preparing required reports and other documents, (3) a statement of the probable effect of the proposed regulation on affected small businesses, and (4) a description of any less intrusive or less costly alternative methods of achieving the purpose of the proposed regulation. Additionally, pursuant to Code § 2.2-4007.1 of the Code of Virginia, if there is a finding that a proposed regulation may have an adverse impact on small business, the Joint Commission on Administrative Rules shall be notified.

[7]"Locality" can refer to either local governments or the locations in the Commonwealth where the activities relevant to the regulatory change are most likely to occur.

[8]Section 2.2-4007.04 defines "particularly affected" as bearing disproportionate material impact.

Agency Response to the Department of Planning and Budget's Economic Impact Analysis: The Virginia Workers' Compensation Commission is in agreement with the economic impact analysis completed by the Virginia Department of Planning and Budget.

Summary:

The action repeals Procedural Regulations Governing the Administration of Medical Costs Peer Review by the Regional Peer Review Committees under the Virginia Workers' Compensation Act (16VAC30-60) and Plan of Operation for the Medical Costs Peer Review Statewide Coordinating Committee under the Virginia Workers' Compensation Act (16VAC30-70).

VA.R. Doc. No. R23-7346; Filed October 12, 2022, 2:42 p.m.

TITLE 18. PROFESSIONAL AND OCCUPATIONAL LICENSING

BOARD OF FUNERAL DIRECTORS AND EMBALMERS

Final Regulation

Titles of Regulations: **18VAC65-20. Regulations Governing the Practice of Funeral Services (amending 18VAC65-20-140, 18VAC65-20-151, 18VAC65-20-154, 18VAC65-20-235, 18VAC65-20-350, 18VAC65-20-500, 18VAC65-20-630; adding 18VAC65-20-231, 18VAC65-20-232).**

18VAC65-30. Regulations for Preneed Funeral Planning (amending 18VAC65-30-10, 18VAC65-30-50).

18VAC65-40. Regulations for the Funeral Service Internship Program (amending 18VAC65-40-10, 18VAC65-40-40, 18VAC65-40-90, 18VAC65-40-110, 18VAC65-40-130, 18VAC65-40-180, 18VAC65-40-220, 18VAC65-40-250, 18VAC65-40-280, 18VAC65-40-320, 18VAC65-40-340; adding 18VAC65-40-185).

Statutory Authority: § 54.1-2400 of the Code of Virginia.

Effective Date: December 7, 2022.

Agency Contact: Corie Tillman Wolf, Executive Director, Board of Funeral Directors and Embalmers, 9960 Mayland Drive, Suite 300, Henrico, VA 23233, telephone (804) 367-4479, FAX (804) 527-4471, or email fanbd@dhp.virginia.gov.

Summary:

Pursuant to Chapter 943 of the 2020 Acts of Assembly, the amendments establish education, examination, and experience for licensure as a funeral director or an embalmer, including that (i) applicants will be required to obtain an associate's degree in an accredited mortuary science program or complete a program approved by the Board of Funeral Directors and Embalmers specific to the licensure category sought (that is, funeral director or embalmer), and (ii) all funeral interns will be required to complete 2,000 hours of supervised experience in the area of funeral practice for which they are seeking licensure. Amendments also insert the three types of licenses and scopes of practice throughout board regulations.

Changes to the proposed regulation update the text pursuant to an action that became effective March 3, 2022. Those changes are not bracketed because they are currently effective in the Virginia Administrative Code. All of the provisions published in the proposed regulation for 18VAC65-40-640 became effective on March 3, 2022; therefore that section has no changes and is not being published.

Summary of Public Comments and Agency's Response: No public comments were received by the promulgating agency.

18VAC65-20-140. Reinstatement of expired license or registration.

A. The board may consider reinstatement of an expired license or registration that has not been renewed within one year of expiration for up to three years following expiration. An application request for reinstatement shall be submitted to the board and shall include payment of the reinstatement fee prescribed in 18VAC65-20-70.

B. If the Virginia license of a funeral service ~~provider~~ licensee, a funeral director ~~and~~, or an embalmer is lapsed three years or less and the applicant is seeking reinstatement, ~~he~~ the applicant shall provide evidence of having completing the number of continuing competency hours required for the period in which the license has been lapsed.

C. When a license is not reinstated within three years of its expiration date, an applicant shall reapply for licensure and pass the state examination.

18VAC65-20-151. Continued competency requirements for renewal of an active license.

A. Funeral service licensees, funeral directors, or ~~funeral~~ embalmers shall be required to have completed a minimum of five hours per year of continuing education offered by a board-approved sponsor for licensure renewal in courses that emphasize the ethics, standards of practice, preneed contracts~~,~~ and funding, or federal or state laws and regulations governing the profession of funeral service.

1. One hour per year shall cover compliance with laws and regulations governing the profession or preneed funeral arrangements. At least one hour of continuing education in preneed funeral arrangements must be completed every three years. The one-hour requirement on compliance with laws and regulations may be met once every two years by attendance at a meeting of the board or at a committee of the board or an informal conference or formal hearing.

2. One hour of the five hours required for annual renewal may be satisfied through delivery of professional services, without compensation, to low-income individuals receiving health services through a local health department or a free clinic organized in whole or primarily for the delivery of those services. One hour of continuing education may be credited for one hour of providing such volunteer services, as documented by the health department or free clinic. For the purposes of continuing education credit for volunteer service, an approved sponsor shall be a local health department or free clinic.

B. Courses must be directly related to the scope of practice of funeral service. Courses for which the principal purpose is to promote, sell, or offer goods, products, or services to funeral homes are not acceptable for the purpose of credit toward renewal.

C. The board may grant an extension for good cause of up to one year for the completion of continuing education requirements upon written request from the licensee prior to the renewal date. Such extension shall not relieve the licensee of the continuing education requirement.

D. The board may grant an exemption for all or part of the continuing education requirements for one renewal cycle due to circumstances determined by the board to be beyond the control of the licensee.

E. A licensee shall be exempt from the continuing education requirements for the first renewal following the date of initial licensure by examination in Virginia.

18VAC65-20-154. Inactive license.

A. A funeral service licensee, a funeral director, or an embalmer who holds a current, unrestricted license in Virginia shall, upon a request for inactive status on the renewal application and submission of the required renewal fee, be issued an inactive license.

1. An inactive licensee shall not be entitled to perform any act requiring a license to practice funeral service, funeral directing, or embalming in Virginia.

2. The holder of an inactive license shall not be required to meet continuing education requirements, except as may be required for reactivation in subsection B of this section.

B. A funeral service licensee, a funeral director, or an embalmer who holds an inactive license may reactivate his license by:

1. Paying the difference between the renewal fee for an inactive license and that of an active license for the year in which the license is being reactivated; and

2. Providing proof of completion of the number of continuing competency hours required for the period in which the license has been inactive, not to exceed three years.

18VAC65-20-231. Requirements for a funeral director license by examination.

A. To qualify for licensure as a funeral director, a person shall:

1. Be at least 18 years of age and hold a high school diploma or its equivalent;

2. Have completed a funeral service or funeral directing internship as prescribed by the board in regulation;

3. Have graduated from a school of mortuary science or funeral service accredited by the American Board of Funeral Service Education, Incorporated or have completed an associate's degree or its equivalent, which consists of at least 60 credit hours of coursework, of which at least 30 hours shall be from a funeral directing program approved by the board;

4. Have successfully completed coursework in the area of pathology as approved by the board;

5. Have passed the National Board Examination in Arts or State Board Examination in Arts of the International Conference of Funeral Service Examining Boards; and

6. Have passed the Virginia State Board Examination on the laws, rules, and regulations for funeral practice.

B. Applicants shall submit school transcripts and National Board Examination or State Board Examination scores as part of an application package, including the required fee and any additional documentation as may be required to determine eligibility.

C. The board, in its discretion, may license an individual convicted of a felony if such individual has successfully fulfilled all conditions of sentencing, been pardoned, or has had his civil rights restored. The board may refuse to license an

individual who has a criminal or disciplinary proceeding pending against him in any jurisdiction in the United States.

18VAC65-20-232. Requirements for an embalmer license by examination.

A. To qualify for licensure as an embalmer, a person shall:

1. Be at least 18 years of age and hold a high school diploma or its equivalent;

2. Have completed a funeral service or an embalming internship as prescribed by the board in regulation;

3. Have graduated from a school of mortuary science or funeral service accredited by the American Board of Funeral Service Education, Incorporated or have completed an embalming program approved by the board;

4. Have passed the National Board Examination in Sciences or State Board Examination in Sciences of the International Conference of Funeral Service Examining Boards; and

5. Have passed the Virginia State Board Examination on the laws, rules, and regulations for funeral practice.

B. Applicants shall submit school transcripts and National Board Examination or State Board Examination scores as part of an application package, including the required fee and any additional documentation as may be required to determine eligibility.

C. The board, in its discretion, may license an individual convicted of a felony if such individual has successfully fulfilled all conditions of sentencing, been pardoned, or has had his civil rights restored. The board may refuse to license an individual who has a criminal or disciplinary proceeding pending against him in any jurisdiction in the United States.

18VAC65-20-235. Approval of educational programs.

All applicants for ~~funeral service~~ licensure as a funeral service licensee are required to have graduated from a funeral service program offered by a school of mortuary science or funeral service accredited by the American Board of Funeral Service Education, Incorporated.

18VAC65-20-350. Requirements for licensure by reciprocity or endorsement.

A. Licenses for the practice of funeral service, funeral directing, embalming, or ~~its~~ an equivalent license issued by other states, territories, or the District of Columbia may be recognized by the board and the holder of such license ~~or licenses~~ may be granted a license to practice funeral service, funeral directing, or embalming within the Commonwealth.

Licenses may be granted to applicants by the board on a case-by-case basis if the applicant holds a valid license for the practice of funeral service, funeral directing, embalming, or ~~its~~ an equivalent license in another state, territory, or the District of Columbia and possesses credentials ~~which~~ that are substantially similar to or more stringent than required by the Commonwealth for initial licensure at the time the applicant was initially licensed.

B. An applicant for licensure by reciprocity or endorsement shall pass the Virginia State Board Examination.

18VAC65-20-500. Disciplinary action.

In accordance with the provisions of § 54.1-2806 of the Code of Virginia, the following practices are considered unprofessional conduct and may subject the licensee to disciplinary action by the board:

1. Breach of confidence. The unnecessary or unwarranted disclosure of confidences by the funeral licensee.

2. Unfair competition.

a. Interference by a funeral service licensee, funeral director, or registered surface transportation and removal service when another has been called to take charge of a dead human body and the caller or agent of the caller has the legal right to the body's disposition.

b. Consent by a funeral service licensee or funeral director to take charge of a body unless authorized by the person or his agent having the legal right to disposition.

3. False advertising.

a. No licensee or registrant shall make, publish, disseminate, circulate, or place before the public, or cause directly or indirectly to be made, an advertisement of any sort regarding services or anything so offered to the public that contains any promise, assertion, representation, or statement of fact which is untrue, deceptive, or misleading.

b. The following practices, both written and verbal, shall constitute false, deceptive, or misleading advertisement within the meaning of subdivision 4 of § 54.1-2806 of the Code of Virginia:

(1) Advertising containing inaccurate statements; and

(2) Advertisement which gives a false impression as to ability, care, and cost of conducting a funeral, or that creates an impression of things not likely to be true.

c. The following practices are among those that shall constitute an untrue, deceptive, and misleading representation or statement of fact:

(1) Representing that funeral goods or services will delay the natural decomposition of human remains for a long term or indefinite time; and

(2) Representing that funeral goods have protective features or will protect the body from gravesite substances over or beyond that offered by the written warranty of the manufacturer.

4. Inappropriate handling and storage of dead human bodies, consistent with § 54.1-2811.1 of the Code of Virginia and regulations of the board. Transportation and removal

vehicles shall be of such nature as to eliminate exposure of the deceased to the public during transportation. During the transporting of a human body, consideration shall be taken to avoid unnecessary delays or stops during travel.

5. Failure to furnish price information disclosing the cost to the purchaser for each of the specific funeral goods and funeral services used in connection with the disposition of deceased human bodies.

6. Conducting the practice of funeral services, funeral directing, or embalming in such a manner as to constitute a danger to the health, safety, and well-being of the staff or the public.

7. Inability to practice with skill or safety because of physical, mental, or emotional illness, or substance abuse.

8. Failure to register as a supervisor for ~~a funeral service~~ an intern or failure to provide reports to the board as required by the Code of Virginia and 18VAC65-40-320.

9. Failure to comply with applicable federal and state laws and regulations, including requirements for continuing education.

10. Inappropriate sexual contact between a supervisor and a funeral service intern if the sexual contact is a result of the exploitation of trust, knowledge, or influence derived from the professional relationship or if the contact has had or is likely to have an adverse effect on the practice of funeral services or on intern training.

11. Conducting activities or performing services that are outside the scope of a licensee's practice or for which the licensee is not trained and individually competent.

18VAC65-20-630. Disclosures.

Funeral ~~providers~~ licensees shall make all required disclosures and provide accurate information from price lists pursuant to the rules of the Federal Trade Commission. Price lists shall comply with requirements of the FTC and shall contain the information included in:

APPENDIX I - General Price List;

APPENDIX II - Casket Price List, Outer Burial Container Price List; and

APPENDIX III - Itemized Statement of Funeral Goods and Services Selected.

18VAC65-30-10. Definitions.

In addition to those defined in § 54.1-2800 of the Code of Virginia, the following words and terms when used in this chapter shall have the following meanings unless the context clearly indicates otherwise:

"Appointee" means the individual selected by the contract beneficiary to arrange a preneed funeral plan on behalf of the contract beneficiary.

"Cash advance item" means any item of service or merchandise described to a purchaser as a "cash advance," "accommodation," "cash disbursement," or similar term. A cash advance item is also any item obtained from a third party and paid for by the funeral provider on the behalf of the contract buyer. Cash advance items may include cemetery or crematory services, pallbearers, public transportation, clergy honoraria, flowers, musicians or singers, nurses, obituary notices, gratuities, and death certificates.

"Consideration," "contract price," or "funds" means money, property, or any other thing of value provided to be compensation to a contract seller or contract provider for the funeral services and funeral goods to be performed or furnished under a preneed funeral contract. Consideration does not include late payment penalties and payments required to be made to a governmental agency at the time the contract is entered into.

"Contract" means a written, preneed funeral contract and all documents pertinent to the terms of the contract under which for consideration paid to a contract seller or a contract provider by or on behalf of a contract buyer prior to the death of the contract beneficiary, a person promises to furnish, make available, or provide funeral services or funeral goods after the death of a contract beneficiary.

"Contract beneficiary" means the individual for whom the funeral services and supplies are being arranged.

"Contract buyer" means the purchaser of the preneed contract.

"Contract provider" means the funeral establishment designated by the contract buyer and contracting with the contract buyer to provide for funeral services and supplies in the preneed funeral contract.

"Contract seller" means the funeral service licensee or funeral director who makes the preneed arrangements with the contract buyer for the funeral service and who makes the financial arrangements for the service and the goods and supplies to be provided.

"Designee" means the individual designated to make arrangements for burial or final disposition of the remains pursuant to § 54.1-2825 of the Code of Virginia.

"Funding source" means the trust agreement, insurance policy, annuity, personal property, or real estate used to fund the preneed plan.

"Funeral supplies and services" means the items of merchandise sold or offered for sale or lease to consumers that will be used in connection with a funeral or an alternative to a funeral or final disposition of human remains including caskets, combination units, and catafalques. Funeral goods does not mean land or interests in land, crypts, lawn crypts, mausoleum crypts, or niches that are sold by a cemetery that complies with Chapter 23.1 (§ 54.1-2310 et seq.) of Title 54.1 of the Code of Virginia. In addition, "funeral supplies and

services" does not mean cemetery burial vaults or other outside containers, markers, monuments, urns, and merchandise items used for the purpose of memorializing a decedent and placed on or in proximity to a place of interment or entombment of a casket, catafalque, or vault or to a place of inurnment that are sold by a cemetery operating in accordance with Chapter 23.1 of Title 54.1 of the Code of Virginia.

"Guaranteed contract price" means (i) the amount paid by the contract buyer on a preneed funeral contract, and income derived from that amount, or (ii) the amount paid by a contract buyer for a life insurance policy or annuity as the funding source and its increasing death benefit. These amounts shall be accepted as payment in full for the preselected funeral goods and services.

"Income" means the amount of gain received in a period of time from investment of consideration paid for a preneed contract.

"Nonguaranteed contract price" means the costs of items on a preneed funeral contract that are not fixed for the specified funeral goods or funeral services selected and nonguaranteed costs may increase from the date of the contract to the death of the contract beneficiary and the family or estate will be responsible for paying at the time of need for the services and supplies that were nonguaranteed. Cash advance items are not guaranteed.

18VAC65-30-50. Solicitation.

A. In accordance with provisions of § 54.1-2806 of the Code of Virginia, a licensee shall not initiate any preneed solicitation using in-person communication by the licensee or his agents, assistants, or employees.

B. After a request to discuss preneed planning is initiated by the contract buyer or interested consumer, any contact and in-person communication shall take place only with a funeral service licensee or a licensed funeral director. Funeral ~~service~~ interns shall not engage in preneed planning or sales.

18VAC65-40-10. Definitions.

In addition to words and terms defined in § 54.1-2800 of the Code of Virginia, the following words and terms when used in this chapter shall have the following meanings unless the context clearly indicates otherwise:

"Direct supervision" means that a person licensed for the practice of funeral service ~~professional~~, funeral directing, or embalming is present and on the premises of the facility.

"Supervisor" means a licensed employee at the training site who has been approved by the board to provide supervision for the funeral intern.

"Training site" means the licensed funeral establishment, facility, or institution that has agreed to serve as a location for a funeral service internship and has been approved by the board.

18VAC65-40-40. Fees.

A. The following fees shall be paid as applicable for registration:

1. Funeral service, funeral directing, or embalming intern registration	$150
2. Funeral service, funeral directing, or embalming intern renewal	$125
3. Late fee for renewal up to one year after expiration	$45
4. Duplicate copy of intern registration	$25
5. Handling fee for returned check or dishonored credit card or debit card	$50
6. Registration of supervisor	$35
7. Change of supervisor	$35
8. Reinstatement fee	$195

B. Fees shall be made payable to the Treasurer of Virginia and shall not be refundable once submitted.

18VAC65-40-90. Renewal of registration.

A. The funeral service, funeral directing, or embalming intern registration shall expire on March 31 of each calendar year and may be renewed by submission of the renewal notice and prescribed fee.

B. A person who fails to renew a registration by the expiration date shall be deemed to have an invalid registration. No credit will be allowed for an internship period served under an expired registration.

C. The funeral service, funeral directing, or embalming intern is responsible for notifying the board within 14 days of any changes in name, address, employment, or supervisor. Any notices shall be validly given when mailed to the address on record with the board. Renewal notices may be mailed or sent electronically.

18VAC65-40-110. Renewal or reinstatement of expired registration.

A. A funeral service, a funeral directing, or an embalming intern whose registration has expired may be renewed within one year following expiration by payment of the current renewal fee and the late renewal fee.

B. A funeral service, a funeral directing, or an embalming intern whose registration has been expired for more than one year shall apply for reinstatement by submission of an application and payment of a reinstatement fee. The board may consider reinstatement of an expired registration for up to three years following expiration.

C. When a registration is not reinstated within three years of its expiration date, a new application for registration shall be filed and a new internship begun.

18VAC65-40-130. Funeral service, funeral directing, or embalming internship.

A. ~~The~~ An internship for funeral service, funeral directing, or embalming shall consist of at least 2,000 hours of training to be completed within no less than 12 months and no more than 48 months. The board may grant an extension of time for completion of an internship only for extenuating circumstances.

B. The ~~funeral service~~ intern shall be assigned a work schedule of not less than 20 hours nor more than 60 hours per week in order to receive credit for such training. For good cause shown, the board may waive the limitation on an intern's work schedule.

C. A funeral service intern shall receive training in all areas of funeral service.

D. A funeral service intern shall be identified to the public as a funeral service intern in a title used, name tag worn, and any correspondence or communication in which the intern's name is used.

A funeral directing intern shall receive training in all areas of funeral directing, including assisting in at least 25 funerals, 25 arrangement conferences, as well as visitations and financing of funeral services.

E. An embalming intern shall receive training in all aspects of embalming practice, including assisting in at least 25 embalmings, as well as treatment, restorative art, safety and sanitation, and organ, tissue, or anatomical donation.

F. An intern registration shall expire upon issuance by the board of a license to practice as a funeral service licensee, a funeral director, or an embalmer. When an internship has been completed for licensure as a funeral director or as an embalmer, the approval of an additional internship to meet the requirements for licensure as a funeral service licensee may be approved by the board in accordance with § 54.1-2817 of the Code of Virginia and the regulations of the board. Any additional internship granted shall be limited in duration to the time required for completion of hours and cases required for licensure. An internship may not be used to expand the scope of practice of a licensee.

G. An intern shall be identified to the public as a funeral service intern, a funeral directing intern, or an embalming intern in a title used, name tag worn, and any correspondence or communication in which the intern's name is used.

18VAC65-40-180. Intern application ~~package~~ for funeral service licensure.

A. Any person who meets the qualifications of § 54.1-2817 of the Code of Virginia may seek registration with the board as a funeral service intern by submission of an application package, which shall include documentation of the qualifications and signatures of any supervising licensees.

B. Applicants shall submit school transcripts as part of an application package, including the required fee and any additional documentation as may be required to determine eligibility.

18VAC65-40-185. Intern application for funeral directing or embalming licensure.

A. An applicant who attests to holding a high school diploma or its equivalent may seek registration with the board as a funeral directing or an embalming intern by submission of an application package, which shall include documentation of the qualifications and signatures of any supervising licensees.

B. Applicants shall submit school transcripts as part of an application package, including the required fee and any additional documentation as may be required to determine eligibility.

C. The board, in its discretion, may approve an application to be a funeral directing or an embalming intern for an individual convicted of a felony, if the applicant has successfully fulfilled all conditions of sentencing, been pardoned, or has had civil rights restored. The board shall not, however, approve an application to be an intern for any person convicted of embezzlement or of violating subsection B of § 18.2-126 of the Code of Virginia. The board, in its discretion, may refuse to approve an application to be a funeral directing or an embalming intern for an individual who has a criminal or disciplinary proceeding pending against him in any jurisdiction in the United States.

18VAC65-40-220. Qualifications of training site.

A. The board shall approve only an establishment or two combined establishments to serve as the training site or sites that:

1. Have a full and unrestricted Virginia license;

2. Have complied in all respects with the provisions of the regulations of the Board of Funeral Directors and Embalmers; and

3. ~~Have~~ For a funeral service internship, have 50 or more funerals and 50 or more bodies for embalming over a 12-month period for each person to be trained. This total must be maintained throughout the period of training. If the establishment does not meet the required number of funerals or embalmings, the funeral service intern may seek approval for an additional training site~~.~~; or

4. For a funeral directing internship, have 50 or more funerals over a 12-month period for each person to be trained. This total must be maintained throughout the period of training. If the establishment does not meet the required

number of funerals, the funeral directing intern may seek approval for an additional training site; or

5. For an embalming internship, have 50 or more bodies for embalming over a 12-month period for each person to be trained. This total must be maintained throughout the period of training. If the establishment does not meet the required number of embalmings, the embalming intern may seek approval for an additional training site.

B. The board may grant approval for an intern funeral service or an embalming intern to receive all or a portion of the embalming training at a facility of state or federal government or an accredited educational institution.

18VAC65-40-250. Requirements for supervision.

A. Training shall be conducted under the direct supervision of a licensee approved by the board. Credit shall only be allowed for training under direct supervision.

B. The board shall approve only funeral service licensees, licensed funeral directors, or licensed embalmers to give funeral training who have a full and unrestricted Virginia funeral license, have at least two consecutive years in practice as a funeral service licensee, funeral director, or embalmer and are employed full time in or under contract with the establishment, facility, or institution where training occurs. The board will not approve registration of a supervisor who has been subject to board disciplinary action within the most recent two years.

C. A supervisor licensed as an embalmer or a funeral director shall provide supervision only in the areas of funeral practice for which he is licensed. A supervisor shall ensure that an intern receives training under the direct supervision of a licensee who has a current license in good standing.

D. A supervisor shall register with the board for each intern for whom the supervisor is providing supervision. Such registration shall expire 48 months after registration or at the completion of the intern's training, whichever occurs first. If the intern has been granted an extension beyond 48 months for extenuating circumstances, the supervisor may continue to provide supervision for a time period specified by the board.

E. Failure to register as a supervisor may subject the licensee to disciplinary action by the board.

F. If a supervisor is unable or unwilling to continue providing supervision, the ~~funeral service~~ intern shall obtain a new supervisor. Credit for training shall resume when a new supervisor is approved by the board and the intern has paid the prescribed fee for the change of supervisor.

G. No more than a combined total of two funeral service, funeral directing, or embalming interns shall be concurrently registered under any one person licensed for the practice of funeral service, funeral directing, or embalming. Each supervisor for a registered funeral directing intern or a registered embalming intern must be actively employed by or under contract with a funeral establishment.

18VAC65-40-280. Supervisor application package.

A. A licensee seeking approval by the board as a supervisor of an intern shall submit a completed application and any additional documentation as may be required to determine eligibility for each intern to be supervised.

B. The application for supervision of a funeral service, a funeral directing, or an embalming intern shall be signed by the establishment manager and by the persons who will be providing supervision for embalming ~~and~~, for funeral directing, or for ~~the~~ funeral services.

18VAC65-40-320. Reports to the board.

A. The intern, the supervisor or supervisors, and the establishment shall submit a written report to the board at the end of every 1,000 hours of training. The report shall:

1. Specify the period of time in which the 1,000 hours has been completed and verify that the intern has actually served in the required capacity during the preceding period; and

2. Be received in the board office no later than 14 days following the end of the completion of 1,000 hours.

B. If the internship is terminated or interrupted prior to completion of 1,000 hours or if the intern is changing supervisors or training sites, the intern and the supervisor shall submit a partial report to the board with a written explanation of the cause of program termination or interruption or of the change in training or supervision.

1. The partial report shall provide the amount of time served and the dates since the last reporting period. Credit for partial reports shall be given for the number of hours of training completed.

2. Partial reports shall be received in the board office no later than 14 days after the interruption or termination of the internship or after the change in supervisors or training sites.

C. An intern shall not receive credit for training hours on a new 1,000-hour report until the previous 1,000-hour report has been approved by the board.

D. Credit shall not be allowed for any period of internship that has been completed more than three years prior to application for license or more than five years prior to examination for license. If all requirements for licensure are not completed within five years of initial application, the board may deny an additional internship. A funeral directing or an embalming intern may continue to practice for up to 90 days from the completion of internship hours or until the intern has taken and received the results of all examinations required by the board. However, the board may waive such limitation for any person in the armed service of the United States when application for the waiver is made in writing within six months of leaving

service or if the board determines that enforcement of the limitation will create an unreasonable hardship.

Part III
Internship: ~~Funeral~~ Supervisors' Responsibilities

18VAC65-40-340. Supervisors' responsibilities.

A. The supervisor shall provide the intern with all applicable laws and regulations or sections of regulations relating to the funeral industry.

B. The supervisor shall provide the intern with copies of and instruction in the use of all forms and price lists employed by the funeral establishment.

C. The supervisor shall provide the funeral service or funeral directing intern with instruction in all aspects of funeral services and shall allow the intern under direct supervision to assist in conducting a minimum of 25 funerals.

D. The embalming supervisor shall provide instruction on all necessary precautions, embalming functions, and reporting forms and shall allow the funeral service or embalming intern under direct supervision to assist in the performance of a minimum of 25 embalmings.

E. The supervisor shall provide the funeral service or funeral directing intern with instruction in making preneed funeral arrangements and instruction on the laws and regulations pertaining to preneed funeral contracts and disclosures.

F. The supervisor shall provide the funeral service or funeral directing intern instruction on cremation and on the laws and regulations pertaining to cremation.

G. If a training site does not offer preneed funeral planning or cremation services, the supervisor shall arrange for such training at another licensed funeral establishment that does.

VA.R. Doc. No. R21-6539; Filed October 15, 2022, 12:27 p.m.

BOARD OF PHARMACY

Final Regulation

Title of Regulation: **18VAC110-20. Regulations Governing the Practice of Pharmacy (amending 18VAC110-20-425, 18VAC110-20-500; adding 18VAC110-20-505).**

Statutory Authority: §§ 54.1-2400 and 54.1-3307 of the Code of Virginia.

Effective Date: December 7, 2022.

Agency Contact: Caroline Juran, RPh, Executive Director, Board of Pharmacy, 9960 Mayland Drive, Suite 300, Richmond, VA 23233-1463, telephone (804) 367-4456, FAX (804) 527-4472, or email caroline.juran@dhp.virginia.gov.

Summary:

The amendments for 18VAC110-20-425 allow any interested hospital to use technology commonly referred to as medication carousels to store and guide the selection of drugs to be dispensed or removed from the pharmacy. A pharmacist will not be required to manually check the accuracy of a drug removed from the carousel by a pharmacy technician when the technology is used in compliance with the regulation to verify accuracy. Because medication carousels rely on the use of barcode scanning to verify drug accuracy, certain safeguards are included in the proposed amendments regarding a verification check by a pharmacist for the accuracy of the barcode assignment to an individual drug.

The amendments also add a new section, 18VAC110-20-505, to incorporate another technology already approved for innovative pilot programs: the use of radio-frequency identification (RFID) to verify the accuracy of drugs placed into a kit for licensed emergency medical services personnel or other kits used as floor stock throughout a hospital. The responsibilities of a pharmacist and the duties of a pharmacy technician in the use of RFID technology are included in the amendments.

Changes to the proposed regulation include (i) waiving the requirement for scanning by a nurse or person authorized to administer in an emergent event when a delay would cause imminent harm and (ii) allowing a hospital that does not have the capacity for the drug to be verified for accuracy by scanning each unit, to allow a patient-specific drug to first be verified by two pharmacy technicians and after such verification, requiring a nurse or other person authorized to administer to scan each drug unit prior to administration.

Summary of Public Comments and Agency's Response: A summary of comments made by the public and the agency's response may be obtained from the promulgating agency or viewed at the office of the Registrar of Regulations.

18VAC110-20-425. Robotic pharmacy systems.

A. Consistent with 18VAC110-20-420, a pharmacy providing services to a hospital or a long-term care facility and operating a robotic pharmacy system that dispenses drugs in barcoded unit dose or compliance packaging is exempted from 18VAC110-20-270 C, provided the accuracy of the final dispensed prescription product complies with a written quality assurance plan and requirements of this chapter. The following requirements for operation of a robotic pharmacy system shall apply:

1. Pharmacists shall review for accuracy and appropriateness of therapy all data entry of prescription orders into the computer operating the system.

2. The packaging, repackaging, stocking, and restocking of the robotic pharmacy system shall be performed by pharmacy technicians or pharmacists.

3. Pharmacists shall verify and check for the accuracy of all drugs packaged or repackaged for use by the robot by a visual check of both labeling and contents prior to stocking the drugs in the robotic pharmacy system. A repackaging

record shall be maintained in accordance with 18VAC110-20-355 A, and the verifying pharmacist shall initial the record. Packaging and labeling, including the appropriate beyond-use date, shall conform to requirements of this chapter and current USP-NF standards.

4. A written policy and procedure must be maintained and complied with and shall include at a minimum procedures for ensuring:

a. Accurate packaging and repackaging of all drugs for use in the robotic pharmacy system, to include properly labeled barcodes, and method for ensuring pharmacist verification of all packaged and repacked drugs compliant with this chapter and assigned barcodes;

b. Accurate stocking and restocking of the robotic pharmacy system;

c. Removing expired drugs;

d. Proper handling of drugs that may be dropped by the robotic pharmacy system;

e. Performing routine maintenance of robotic pharmacy system as indicated by manufacturer's schedules and recommendations;

f. Accurate dispensing of drugs via robotic pharmacy system for cart fills, first doses, and cart fill updates during normal operation and during any scheduled or unscheduled downtime;

g. Accurate recording of any scheduled or unanticipated downtime with an explanation of the problem to include the time span of the downtime and the resolution;

h. Appropriately performing an analysis to investigate, identify, and correct sources of discrepancies or errors associated with the robotic pharmacy system; and

i. Maintaining quality assurance reports.

5. All manual picks shall be checked by pharmacists.

6. If it is identified that the robot selected an incorrect medication, the pharmacy shall identify and correct the source of discrepancy or error in compliance with the pharmacy's policies and procedures prior to resuming full operations of the robot. An investigation of the cause of the event shall be completed, and the outcome of the corrective action plan shall be summarized and documented in a readily retrievable format.

7. Quarterly quality assurance reports demonstrating the accuracy of the robot shall be maintained. At a minimum, these reports shall include a summary indicating the date and description of all discrepancies that include discrepancies involving the packaging, repackaging, and dispensing of drugs via the robotic pharmacy system found during that quarter plus a cumulative summary since initiation of the robotic pharmacy system.

~~8. All records required by this section shall be maintained at the address of the pharmacy for a minimum of two years. Records may be maintained in offsite storage or as an electronic image that provides an exact image of the document that is clearly legible provided such offsite or electronic storage is retrievable and made available for inspection or audit within 48 hours of a request by the board or an authorized agent.~~

B. Intravenous admixture robotics may be utilized to compound drugs in compliance with § 54.1-3410.2 of the Code of Virginia and 18VAC110-20-321; however, a pharmacist shall verify the accuracy of all compounded drugs pursuant to 18VAC110-20-270 B.

C. Medication carousels functioning with or without a robotic pharmacy system in a hospital may be utilized to store and guide the selection of drugs to be dispensed or removed from the pharmacy under the following conditions:

1. The entry of drug information into the barcode database for assignment of a barcode to an individual drug shall be performed by a pharmacist who shall verify the accuracy of the barcode assignment.

2. A pharmacist is not required to verify the accuracy of a patient-specific drug removed from a medication carousel if:

a. The entry of the order for a patient-specific drug into the pharmacy's dispensing software is verified by a pharmacist for accuracy and is electronically transmitted to the medication carousel; and

b. The patient-specific drug removed from the medication carousel by a pharmacy technician is verified for accuracy by the pharmacy technician who shall scan each drug unit removed from the medication carousel prior to dispensing, and a nurse or other person authorized to administer the drug scans each drug unit using barcode technology to verify the accuracy of the drug prior to administration of the drug to the patient. [The requirement for scanning by a nurse or other person authorized to administer is waived in an emergent event when a delay would cause imminent harm to the patient; or

c. The patient-specific drug is checked by two pharmacy technicians if a hospital does not have the capability for the drug to be verified for accuracy by scanning each drug unit. The first pharmacy technician removing the patient-specific drug from the medication carousel shall perform a visual inspection of each drug unit for accuracy and then double check the accuracy by scanning an individual unit of each drug. A second, different pharmacy technician shall perform a separate visual inspection of each drug unit and scan an individual unit of each drug for final verification. A nurse or other person authorized to administer the drug shall scan each drug unit prior to administration, unless the drug is being administered to treat an emergent event when a delay would cause imminent harm to the patient].

3. A pharmacist is not required to verify the accuracy of the drug removed from the medication carousel by a pharmacy technician if that drug is intended to be placed into an automated drug dispensing system as defined in § 54.1-3401 of the Code of Virginia or distributed to another entity legally authorized to possess the drug if:

a. The list of drugs to be removed from the medication carousel for loading or replenishing an individual automated dispensing system is electronically transmitted to the medication carousel; and

b. The drug removed from the medication carousel is verified for accuracy by the pharmacy technician by scanning each drug unit removed from the medication carousel prior to leaving the pharmacy and delivering the drug to the automated drug dispensing system or distributed to another entity, and a nurse or other person authorized to administer the drug scans each drug unit using barcode technology to verify the accuracy of the drug prior to administration of the drug to the patient. If the drug is placed into an automated drug dispensing system located within a hospital, or the entity receiving the distributed drug, wherein a nurse or other person authorized to administer the drug will not be able to scan each drug unit using barcode technology to verify the accuracy of the drug prior to patient administration, then a second verification for accuracy shall be performed by a pharmacy technician by scanning each drug unit at the time of placing the drugs into the automated dispensing system [; or

c. The drug intended for restocking an automated dispensing device is checked by two pharmacy technicians if the hospital does not have the capability for scanning each drug unit. The first pharmacy technician removing the drug for restocking from the medication carousel shall perform a visual inspection of each drug unit for accuracy and then double check the accuracy by scanning an individual unit of each drug of the automated dispensing device restock order prior to leaving the pharmacy. A second, different pharmacy technician shall perform a separate visual inspection of each drug unit and scan an individual unit for each drug of the restock order for final verification at the time of placing the drug into the automated dispensing device. A nurse or other person authorized to administer the drug shall scan each drug unit prior to administration, unless the drug is being administered to treat an emergent event where a delay would cause imminent harm to the patient].

4. A pharmacist shall verify the accuracy of all drugs that are manually removed from the medication carousel by a pharmacy technician without the use of barcode scanning technology to verify the accuracy of the selection of the drug product prior to dispensing those drugs or those drugs leaving the pharmacy.

5. A pharmacist shall perform a daily random check for verification of the accuracy of 5.0% of drugs prepared that day utilizing the medication carousel technology. A manual or electronic record, from which information can be readily retrieved, shall be maintained and shall include:

a. The date of verification;

b. A description of all discrepancies identified, if any; and

c. The initials of the pharmacist verifying the accuracy of the process.

D. All records required by this section shall be maintained at the address of the pharmacy for a minimum of two years. Records may be maintained in offsite storage or as an electronic image that provides an exact image of the document that is clearly legible, provided such offsite or electronic storage is retrievable and made available for inspection or audit within 48 hours of a request by the board or an authorized agent of the board.

18VAC110-20-500. Licensed emergency medical services (EMS) agencies ~~program~~.

A. The pharmacy may prepare a kit for a licensed EMS agency provided:

1. The PIC of the hospital pharmacy shall be responsible for all prescription drugs and Schedule VI controlled devices contained in this kit. ~~A~~ Except as authorized in 18VAC110-20-505, a pharmacist shall check each kit after filling and initial the filling record certifying the accuracy and integrity of the contents of the kit.

2. The kit is sealed, secured, and stored in such a manner that it will deter theft or loss of drugs and devices and aid in detection of theft or loss.

a. The hospital pharmacy shall have a method of sealing the kits such that once the seal is broken, it cannot be reasonably resealed without the breach being detected.

b. If a seal is used, it shall have a unique numeric or alphanumeric identifier to preclude replication or resealing. The pharmacy shall maintain a record of the seal identifiers when placed on a kit and maintain the record for a period of one year.

c. In lieu of a seal, a kit with a built-in mechanism preventing resealing or relocking once opened except by the provider pharmacy may be used.

3. Drugs and devices may be administered by an EMS provider upon an oral or written order or standing protocol of an authorized medical practitioner in accordance with § 54.1-3408 of the Code of Virginia. Oral orders shall be reduced to writing by the EMS provider and shall be signed by a medical practitioner. Written standing protocols shall be signed by the operational medical director for the EMS agency. A current copy of the signed standing protocol shall be maintained by the pharmacy participating in the kit

exchange. The EMS provider shall make a record of all drugs and devices administered to a patient.

4. When the drug kit has been opened, the kit shall be returned to the pharmacy and exchanged for an unopened kit. The record of the drugs administered shall accompany the opened kit when exchanged. An accurate record shall be maintained by the pharmacy on the exchange of the drug kit for a period of one year. A pharmacist, pharmacy technician, or nurse shall reconcile the Schedule II, III, IV, or V drugs in the kit at the time the opened kit is returned. A record of the reconciliation, to include any noted discrepancies, shall be maintained by the pharmacy for a period of two years from the time of exchange. The theft or any other unusual loss of any Schedule II, III, IV, or V controlled substance shall be reported in accordance with § 54.1-3404 of the Code of Virginia.

5. Accurate records of the following shall be maintained by the pharmacy on the exchange of the drug kit for a period of one year:

a. The record of filling and verifying the kit to include the drug contents of the kit, the initials of the pharmacist verifying the contents, the date of verification, a record of an identifier if a seal is used, and the assigned expiration date for the kit, which shall be no later than the expiration date associated with the first drug or device scheduled to expire.

b. The record of the exchange of the kit to include the date of exchange and the name of EMS agency and EMS provider receiving the kit.

6. Destruction of partially used Schedules II, III, IV, and V drugs shall be accomplished by two persons, one of whom shall be the EMS provider and the other shall be a pharmacist, nurse, prescriber, pharmacy technician, or a second EMS provider. Documentation shall be maintained in the pharmacy for a period of two years from the date of destruction.

7. The record of the drugs and devices administered shall be maintained as a part of the pharmacy records pursuant to state and federal regulations for a period of not less than two years.

8. Intravenous and irrigation solutions provided by a hospital pharmacy to an emergency medical services agency may be stored separately outside the kit.

9. Any drug or device showing evidence of damage or tampering shall be immediately removed from the kit and replaced.

10. In lieu of exchange by the hospital pharmacy, the PIC of the hospital pharmacy may authorize the exchange of the kit by the emergency department. Exchange of the kit in the emergency department shall only be performed by a pharmacist, nurse, or prescriber if the kit contents include Schedule II, III, IV, or V drugs.

B. A licensed EMS agency may obtain a controlled substances registration pursuant to § 54.1-3423 D of the Code of Virginia for the purpose of performing a one-to-one exchange of Schedule VI drugs or devices.

1. The controlled substances registration may be issued to a single agency or to multiple agencies within a single jurisdiction.

2. The controlled substances registration issued solely for this intended purpose does not authorize the storage of drugs within the agency facility.

3. Pursuant to § 54.1-3434.02 of the Code of Virginia, the EMS provider may directly obtain Schedule VI drugs and devices from an automated drug dispensing device.

4. If such drugs or devices are obtained from a nurse, pharmacist, or prescriber, it shall be in accordance with the procedures established by the pharmacist-in-charge, which shall include a requirement to record the date of exchange, name of licensed person providing drug or device, name of the EMS agency and provider receiving the drug or device, and assigned expiration date. Such record shall be maintained by the pharmacy for one year from the date of exchange.

5. If an EMS agency is performing a one-to-one exchange of Schedule VI drugs or devices, Schedule II, III, IV, or V drugs shall remain in a separate, sealed container and shall only be exchanged in accordance with provisions of subsection A of this section.

18VAC110-20-505. Use of radio-frequency identification.

A hospital pharmacy may use radio-frequency identification (RFID) to verify the accuracy of drugs placed into a kit for licensed emergency medical services pursuant to 18VAC110-20-500 or other kits used as floor stock throughout the hospital under the following conditions:

1. A pharmacist shall be responsible for performing and verifying the accuracy of the following tasks:

a. The addition, modification, or deletion of drug information into the RFID database for assignment of a RFID tag to an individual drug; and

b. The development of the contents of the kit in the RFID database and the associated drug-specific RFID tags.

2. A pharmacy technician may place the RFID tag on the drugs, and a pharmacist shall verify that all drugs have been accurately tagged prior to storing the drugs in the pharmacy's inventory.

3. A pharmacy technician may remove RFID-tagged drugs from the pharmacy's inventory whose RFID tags have been previously verified for accuracy by a pharmacist and place

the drugs into the kit's container. A pharmacy technician may then place the container into the pharmacy's device that reads the RFID tags to verify if the correct drugs have been placed into the container as compared to the list of the kit's contents in the RFID database.

4. A pharmacist shall perform a daily random check for verification of the accuracy of 5.0% of all kits prepared that day utilizing the RFID technology. A manual or electronic record from which information can be readily retrieved, shall be maintained that includes:

a. The date of verification;

b. A description of all discrepancies identified, if any; and

c. The initials of pharmacist verifying the accuracy of the process.

5. Pharmacies engaged in RFID tagging of drugs shall be exempt from the requirements in subsection C of 18VAC110-20-490, subsection A of 18VAC110-20-460, and subsection A of 18VAC110-20-355.

6. All records required by this subsection shall be maintained for a period of one year from the date of verification by the pharmacist.

VA.R. Doc. No. R21-6271; Filed October 15, 2022, 12:43 p.m.

GUIDANCE DOCUMENTS

PUBLIC COMMENT OPPORTUNITY

Pursuant to § 2.2-4002.1 of the Code of Virginia, a certified guidance document is subject to a 30-day public comment period after publication in the Virginia Register of Regulations and prior to the guidance document's effective date. During the public comment period, comments may be made through the Virginia Regulatory Town Hall website (http://www.townhall.virginia.gov) or sent to the agency contact. Under subsection C of § 2.2-4002.1, the effective date of the guidance document may be delayed for an additional period. The guidance document may also be withdrawn.

The following guidance documents have been submitted for publication by the listed agencies for a public comment period. Online users of this issue of the Virginia Register of Regulations may click on the name of a guidance document to access it. Guidance documents are also available on the Virginia Regulatory Town Hall (http://www.townhall.virginia.gov) or from the agency contact or may be viewed at the Office of the Registrar of Regulations, 900 East Main Street, Richmond, Virginia 23219.

STATE AIR POLLUTION CONTROL BOARD

DEPARTMENT OF ENVIRONMENTAL QUALITY

VIRGINIA WASTE MANAGEMENT BOARD

STATE WATER CONTROL BOARD

Title of Document: Manual for Processing Requests Pursuant to the Virginia Freedom of Information Act.

Public Comment Deadline: December 7, 2022.

Effective Date: December 19, 2022.

Agency Contact: Natalie Driver Womack, Freedom of Information Officer, Department of Environmental Quality, P.O. Box 1105, Richmond, VA 23218, telephone (804) 774-1224, or email natalie.womack@deq.virginia.gov.

BOARD OF AUDIOLOGY AND SPEECH-LANGUAGE PATHOLOGY

BOARD OF COUNSELING

BOARD OF DENTISTRY

BOARD OF FUNERAL DIRECTORS AND EMBALMERS

BOARD OF HEALTH PROFESSIONS

BOARD OF LONG-TERM CARE ADMINISTRATORS

BOARD OF MEDICINE

BOARD OF NURSING

BOARD OF OPTOMETRY

BOARD OF PHARMACY

BOARD OF PHYSICAL THERAPY

BOARD OF PSYCHOLOGY

BOARD OF SOCIAL WORK

BOARD OF VETERINARY MEDICINE

DEPARTMENT OF HEALTH PROFESSIONS

Title of Document: Foreign Applicants and Social Security Numbers.

Public Comment Deadline: December 7, 2022.

Effective Date: December 8, 2022.

Agency Contact: Erin Barrett, Senior Policy Analyst, Department of Health Professions, Perimeter Center, 9960 Mayland Drive, Suite 300, Henrico, VA 23233, telephone (804) 367-4688, or email erin.barrett@dhp.virginia.gov.

BOARD FOR BARBERS AND COSMETOLOGY

Titles of Documents: Frequency of Providing School Rosters.

Substantial Equivalence.

Public Comment Deadline: December 7, 2022.

Effective Date: December 8, 2022.

Agency Contact: Steve Kirschner, Board Executive Director, Department of Professional and Occupational Regulation, Perimeter Center, 9960 Mayland Drive, Suite 400, Richmond, VA 23233, telephone (804) 367-8590, or email steve.kirschner@dpor.virginia.gov.

BOARD FOR HEARING AID SPECIALISTS AND OPTICIANS

Title of Document: Approved Related Technical Instruction Curricula for Optician Apprenticeships.

Public Comment Deadline: December 7, 2022.

Effective Date: December 8, 2022.

Agency Contact: Steve Kirschner, Board Executive Director, Department of Professional and Occupational Regulation, Perimeter Center, 9960 Mayland Drive, Suite 400, Richmond, VA 23233, telephone (804) 367-8590, or email steve.kirschner@dpor.virginia.gov.

DEPARTMENT OF MEDICAL ASSISTANCE SERVICES

Title of Document: Increased Reimbursement of Medications for the Treatment of Opioid Use Disorder.

Public Comment Deadline: December 7, 2022.

Effective Date: December 8, 2022.

Agency Contact: Meredith Lee, Policy, Regulations, and Manuals Supervisor, Department of Medical Assistance Services, 600 East Broad Street, Suite 1300, Richmond, VA 23219, telephone (804) 371-0552, or email meredith.lee@dmas.virginia.gov.

BOARD OF MEDICINE

Titles of Documents: Attorney General Opinion on Employment of Physician by For-Profit Corporation.

Attorney General Opinion on Employment of Surgeon by Nonprofit Corporation.

Approved Continuing Education Providers for Chiropractors.

Assistant Attorney General Opinion on Who Can Do a School Physical Examination.

Authority of Physician Assistants to Write Do Not Resuscitate Orders.

Competency Assessment for Three Paid Claims.

Guidelines Concerning the Ethical Practice of Attending Physicians, Fellows, Residents, and Interns.

Guidelines on Performing Procedures on the Newly Deceased for Training Purposes.

Questions and Answers on Continuing Competency Requirements.

Use of Confidential Consent Agreements.

Virginia Board of Medicine Bylaws, Part I: The Board.

Public Comment Deadline: December 7, 2022.

Effective Date: December 8, 2022.

Agency Contact: Erin Barrett, Senior Policy Analyst, Department of Health Professions, Perimeter Center, 9960 Mayland Drive, Suite 300, Henrico, VA 23233, telephone (804) 367-4688, or email erin.barrett@dhp.virginia.gov.

BOARD OF VETERINARY MEDICINE

Titles of Documents: Disposition of Cases Involving Practicing on an Expired License or Registration.

Guidance on Medical Recordkeeping.

Public Comment Deadline: December 7, 2022.

Effective Date: December 8, 2022.

Agency Contact: Erin Barrett, Senior Policy Analyst, Department of Health Professions, Perimeter Center, 9960 Mayland Drive, Suite 300, Henrico, VA 23233, telephone (804) 367-4688, or email erin.barrett@dhp.virginia.gov.

STATE AIR POLLUTION CONTROL BOARD

Revision to the State Implementation Plan: Proposed Permit to Limit Air Pollution Emitted by a Facility in Bedford County, Virginia.

Purpose of notice: The Department of Environmental Quality (DEQ) is announcing a public comment period on a proposed permit to limit air pollution emitted by a facility in Bedford County, Virginia. This public comment period is being held in order to satisfy state public notice requirements under 9VAC5-80-1020. If adopted, the Commonwealth also intends to submit the plan as a revision to the Commonwealth of Virginia State Implementation Plan (SIP) in accordance with the requirements of § 110(a) of the federal Clean Air Act. The SIP is the plan developed by the Commonwealth in order to fulfill its responsibilities under the federal Clean Air Act to attain and maintain the ambient air quality standards promulgated by the U.S. Environmental Protection Agency (EPA) under the Act.

Public comment period: November 7, 2022, to December 7, 2022.

Public hearing: A public hearing will be conducted if a request is made in writing to the contact listed at the end of this notice. In order to be considered, the request must include the full name, address, and telephone number of the person requesting the hearing and be received by DEQ by the last day of the comment period. Notice of the date, time, and location of any requested public hearing will be announced in a separate notice, and another 30-day comment period will be conducted.

Permit name: State Operating Permit issued by DEQ pursuant to applicable air laws and regulations.

Applicant name, address, and registration number: Georgia Pacific (GP) Big Island LLC, 9909 Lee Jackson Highway, Big Island, VA 24526; Registration No. 30389.

Description of proposal: GP Big Island LLC has applied for an amendment to a Best Available Retrofit Technology State Operating Permit for the Number 5 Power Boiler at GP Big Island LLC. The amendment to the permit removes conditions in the permit that allow for the use of coal in the boiler and lowers the permitted emission limits for PM_{10}, sulfur dioxide, and nitrogen oxides. No emissions increases are anticipated as a result of this amendment.

Federal information: This notice is being given to satisfy the public participation requirements of federal regulations (40 CFR 51.102). The proposal will be submitted as a revision to the Commonwealth of Virginia SIP under § 110(a) of the federal Clean Air Act in accordance with 40 CFR 51.104. It is planned to submit all provisions of the proposal as a revision to the SIP.

Consultation with federal land managers (FLMs): As provided in 40 CFR 51.302(b)(2), the FLMs were given the opportunity to comment on this permit on July 13, 2022. DEQ received the FLM response and approval on August 24, 2022.

How to comment: DEQ accepts comments and requests for public hearing by hand-delivery, email, fax, or postal mail. All comments and requests must be in writing and be received by DEQ during the comment period. Submittals must include the names, mailing addresses, and email addresses of the commenter or requester and of all persons represented by the commenter or requester. All faxes must have a cover page that lists the intended recipient. All materials received are part of the public record.

To review proposal: The proposal and any supporting documents are available on the DEQ Air Public Notices website at https://www.deq.virginia.gov/permits-regulations/public-notices/air. The documents may also be obtained by contacting the DEQ representative named in this notice. The public may schedule an appointment to review the documents between 8:30 a.m. and 4:30 p.m. of each business day until the close of the public comment period at the following DEQ locations:

(1) Main Street Office, 1111 East Main Street, 22nd Floor, Richmond, VA, telephone (804) 698-4000; and

(2) Blue Ridge Regional Office, 901 Russell Drive, Salem, VA 24153, telephone (540) 562-6700.

Please see contact listed for public comments, document requests, and additional information.

Contact Information: Erin Rau, Senior Air Permit Writer, Department of Environmental Quality, Blue Ridge Regional Office, 901 Russell Drive, Salem, VA 24153, telephone (540) 759-9501, FAX (804) 698-4178, or email erin.rau@deq.virginia.gov.

DEPARTMENT OF ENVIRONMENTAL QUALITY

Proposed Enforcement Action for Clarke County Sanitary Authority

An enforcement action has been proposed for Clarke County Sanitary Authority for alleged violations in Clarke County, Virginia. The Department of Environmental Quality (DEQ) proposes to issue a consent order with penalty to Clarke County Sanitary Authority to address noncompliance with State Water Control Law. A description of the proposed action is available at the DEQ office listed or online at www.deq.virginia.gov. The staff contact will accept comments by email, fax, or postal mail from November 7, 2022, to December 7, 2022.

Contact Information: Celeste Horton, Regional Enforcement Specialist, Department of Environmental Quality, 4411 Early Road, P.O. Box 3000, Harrisonburg, VA 22801, FAX (804) 698-4178, or email celeste.horton@deq.virginia.gov.

Proposed Enforcement Action for East Gate Village II VA LLC

An enforcement action has been proposed for East Gate Village II VA LLC for violations of State Water Control Law and regulations and applicable permit at the East Gate Village II facility located in Gordonsville, Virginia. The proposed consent order is available from the Department of Environmental Quality (DEQ) contact or at www.deq.virginia.gov/permits-regulations/public-notices. The DEQ contact will accept written comments from November 8, 2022, to December 8, 2022.

Contact Information: Holly Shupe, Department of Environmental Quality, Northern Regional Office, 13901 Crown Court, Woodbridge, VA 22193, or email holly.shupe@deq.virgnia.gov.

Proposed Enforcement Action for Mr. Gurcharan Lail

An enforcement action has been proposed for Mr. Gurcharan Lail for violations of State Water Control Law and regulations and applicable permit at the One Stop Trailer Park sewage treatment plant located in Leesburg, Virginia. The proposed consent order amendment is available from the Department of Environmental Quality (DEQ) contact listed or at www.deq.virginia.gov/permits-regulations/public-notices. The DEQ contact will accept written comments from November 8, 2022, to December 8, 2022.

Contact Information: Jim Datko, Department of Environmental Quality, Northern Regional Office, 13901 Crown Court, Woodbridge, VA 22193, or email james.datko@deq.virgnia.gov.

Proposed Enforcement Action for Bindraban Lila

An enforcement action has been proposed for Bindraban Lila for alleged violations in Hampton, Virginia. The Department of Environmental Quality (DEQ) proposes to issue a consent order with penalty to Bindraban Lila to address noncompliance with State Water Control Law. A description of the proposed action is available at the DEQ office listed or online at www.deq.virginia.gov. The staff contact will accept comments by email, fax, or postal mail from November 7, 2022, to December 7, 2022.

Contact Information: Russell Deppe, Enforcement Specialist, Department of Environmental Quality, 5636 Southern Boulevard, Virginia Beach, Virginia 23462, telephone (757) 647-8060, FAX (804) 698-4178, or email russell.deppe@deq.virginia.gov.

Proposed Enforcement Action for Tripp's Pressure Washing LLC

An enforcement action has been proposed for Tripp's Pressure Washing LLC for alleged violations in Albemarle County, Virginia. The Department of Environmental Quality (DEQ) proposes to issue a consent order with penalty to Tripp's Pressure Washing LLC to address noncompliance with State Water Control Law. A description of the proposed action is available at the DEQ office listed or online at www.deq.virginia.gov. The staff contact will accept comments by email, fax, or postal mail from November 7, 2022, to December 7, 2022.

Contact Information: Celeste Horton, Regional Enforcement Specialist, Department of Environmental Quality, 4411 Early Road, P.O. Box 3000, Harrisonburg, VA 22801, FAX (804) 698-4178, or email celeste.horton@deq.virginia.gov.

Proposed Enforcement Action for Robert D. Walk and Angela S. Walk

An enforcement action has been proposed for Robert D. Walk and Angela S. Walk for violations of State Water Control Law and regulations and applicable permit at the Walk residence sewage treatment plant located in Stafford, Virginia. The proposed consent order amendment is available from the Department of Environmental Quality (DEQ) contact or at www.deq.virginia.gov/permits-regulations/public-notices. The DEQ contact will accept written comments from November 8, 2022, to December 8, 2022.

Contact Information: Jim Datko, Department of Environmental Quality, Northern Regional Office, 13901 Crown Court, Woodbridge, VA 22193, or email james.datko@deq.virgnia.gov.

Proposed Enforcement Action for Robert L. Yeatman and John B. Yeatman

An enforcement action has been proposed for Robert L. Yeatman and John B. Yeatman for violations of State Water Control Law and regulations and applicable permit at the Hard Rock Concrete facility located in Haymarket, Virginia. The proposed consent order is available from the Department of Environmental Quality (DEQ) contact or at www.deq.virginia.gov/permits-regulations/public-notices. The DEQ contact will accept written comments from November 8, 2022, to December 8, 2022.

Contact Information: Jim Datko, Department of Environmental Quality, Northern Regional Office, 13901 Crown Court, Woodbridge, VA 22193, or email james.datko@deq.virgnia.gov.

Public Meeting and Opportunity for Public Comment for a Cleanup Plan for portions of the South Fork Holston River, Slemp Creek, Bishop Branch, Grosses Creek, and Beaverdam Creek

Purpose of notice: The Department of Environmental Quality (DEQ) seeks public comment on the development of a cleanup plan for impaired waters, also known as an implementation

plan (IP), in the South Fork Holston River watershed in Washington and Smyth Counties. These streams are listed as impaired since monitoring data does not meet Virginia's water quality standards for bacteria (E. coli). Section 303(d) of the Clean Water Act and § 62.1-44.19:7 C of the State Water Control Law requires DEQ to develop cleanup studies to address pollutants responsible for causing waters to be on Virginia's § 303(d) list of impaired waters. Once a cleanup study is developed, § 62.1-44.19:7 of the State Water Control Law outlines the requirements needed in a cleanup plan to address the pollutants contained in the study. DEQ is developing a cleanup plan to identify the actions necessary to address the water quality impairment in the South Fork Holston River, Slemp Creek, Bishop Branch, Grosses Creek, and Beaverdam Creek. The plan will explain the pollutant reductions needed to meet the targets contained in the 2016 TMDL report prepared for the watershed and recommend a specific set of voluntary best management practices (BMPs) for agricultural lands, residential septic systems, and developed lands to reduce bacteria entering area streams. It will also include associated costs and a timeline of expected achievement of water quality objectives. DEQ will introduce the community to the process used to develop the plan and invite the public to contribute to the plan by participating in Working Group Meetings. Persons interested in participating should notify the DEQ contact person listed and provide name, address, phone number, email address, and the organization they represent (if any). Meeting participants will learn how to contribute to the plan development and support restoration of the impaired waters within the watershed.

Cleanup plan location: The cleanup plan addresses the following impaired stream segments: Bishop Branch from the Parker Branch tributary downstream to the South Fork Holston River confluence (0.41 stream miles); Grosses Creek from its headwaters downstream to its confluence with the South Fork Holston River (3.99 stream miles); the South Fork Holston River from its confluence with Barton Creek South Lake Holston Reservoir backwaters (42.01 miles); Slemp Creek from its headwaters downstream to its confluence with the South Fork Holston River (3.99 stream miles); and Beaverdam Creek mainstem from the Tennessee state line, upstream to its confluence with South Fork Holston River in Damascus.

Public meeting: The first public meeting will be held on November 10, 2022, at 6 p.m. at the Damascus Public Library, 310 Water Street, Damascus, VA 24236.

Public comment period: November 10, 2022, to December 12, 2022.

How to comment: DEQ accepts comments orally or by email, fax, or postal mail. All comments must be received by DEQ during the comment period. Submittals must include the name, organization they represent (if any), mailing addresses, and telephone numbers of the commenter or requester.

Contact Information: Stephanie Kreps, Department of Environmental Quality, Southwest Regional Office, 355A Deadmore Street, Abingdon, VA 24210, telephone (276) 608-8811, FAX (804) 698-4178, or email stephanie.kreps@deq.virginia.gov.

DEPARTMENT OF MEDICAL ASSISTANCE SERVICES

Draft Early Intervention Services Provider Manual

The draft Chapter 1 of all provider manuals is now available on the Department of Medical Assistance Services website at https://www.dmas.virginia.gov/for-providers/general-information/medicaid-provider-manual-drafts/ for public comment until November 17, 2022.

Contact Information: Emily McClellan, Regulatory Manager, Division of Policy and Research, Department of Medical Assistance Services, 600 East Broad Street, Suite 1300, Richmond, VA 23219, telephone (804) 371-4300, FAX (804) 786-1680, or email emily.mcclellan@dmas.virginia.gov.

Draft Physician or Practitioner Provider Manual

The draft Physician or Practitioner Provider Manual Appendix D is now available on the Department of Medical Assistance Services website at https://www.dmas.virginia.gov/for-providers/general-information/medicaid-provider-manual-drafts/ for public comment until November 17, 2022.

Contact Information: Meredith Lee, Policy, Regulations, and Manuals Supervisor, Department of Medical Assistance Services, 600 East Broad Street, Suite 1300, Richmond, VA 23219, telephone (804) 371-0552, FAX (804) 786-1680, or email meredith.lee@dmas.virginia.gov.

Draft Provider Manual Chapter 1

The draft chapter 1 of all provider manuals is now available on the Department of Medical Assistance Services website at https://www.dmas.virginia.gov/for-providers/general-information/medicaid-provider-manual-drafts/ for public comment until November 17, 2022.

Contact Information: Meredith Lee, Policy, Regulations, and Manuals Supervisor, Department of Medical Assistance Services, 600 East Broad Street, Suite 1300, Richmond, VA 23219, telephone (804) 371-0552, FAX (804) 786-1680, or email meredith.lee@dmas.virginia.gov.

Draft Provider Manual Chapter 3

The draft Chapter 3 of all provider manuals is now available on the Department of Medical Assistance Services website at https://www.dmas.virginia.gov/for-providers/general-information/medicaid-provider-manual-drafts/ for public comment until November 17, 2022.

Contact Information: Meredith Lee, Policy, Regulations, and Manuals Supervisor, Department of Medical Assistance Services, 600 East Broad Street, Suite 1300, Richmond, VA 23219, telephone (804) 371-0552, FAX (804) 786-1680, or email meredith.lee@dmas.virginia.gov.

Draft Telehealth Services Provider Manual Supplement

The draft Telehealth Services Provider Manual Supplement and the draft DMAS P-268 form are now available on the Department of Medical Assistance Services website at https://www.dmas.virginia.gov/for-providers/general-information/medicaid-provider-manual-drafts/ for public comment until November 16, 2022.

Contact Information: Meredith Lee, Policy, Regulations, and Manuals Supervisor, Department of Medical Assistance Services, 600 East Broad Street, Suite 1300, Richmond, VA 23219, telephone (804) 371-0552, FAX (804) 786-1680, or email meredith.lee@dmas.virginia.gov.

Draft Transportation Provider Manual

The draft Transportation Provider Manual Chapter II is now available on the Department of Medical Assistance Services website at https://www.dmas.virginia.gov/for-providers/general-information/medicaid-provider-manual-drafts/ for public comment until November 16, 2022.

Contact Information: Emily McClellan, Regulatory Manager, Division of Policy and Research, Department of Medical Assistance Services, 600 East Broad Street, Suite 1300, Richmond, VA 23219, telephone (804) 371-4300, FAX (804) 786-1680, or email emily.mcclellan@dmas.virginia.gov.

BOARD OF PHARMACY

Notice for Scheduling Chemicals in Schedule I

Pursuant to § 54.1-3443 D of the Code of Virginia, the Board of Pharmacy is giving notice of a public hearing to consider placement of chemical substances in Schedule I of the Drug Control Act (§ 54.1-3400 et seq. of the Code of Virginia). The virtual public hearing will be conducted at 9:05 a.m. on December 6, 2022. Instructions will be included in the agenda for the board meeting, also on December 6, 2022. Public comment may also be submitted electronically or in writing prior to December 6, 2022, to Caroline Juran, Executive Director of the Board of Pharmacy, at caroline.juran@dhp.virginia.gov.

Pursuant to § 54.1-3443 D, The Virginia Department of Forensic Science (DFS) has identified five compounds for recommended inclusion into Schedule I of the Drug Control Act.

The following compound is classified as a synthetic opioid. Compounds of this type have been placed in Schedule I pursuant to subdivision 1 of § 54.1-3446 of the Code of Virginia in previous legislative sessions.

2-methyl-N-phenyl-N-[1-(2-phenylethyl)piperidin-4-yl]butanamide (other name: 2-methyl butyryl butyryl fentanyl), its isomers, esters, ethers, salts, and salts of isomers, esters, and ethers, unless specifically excepted, whenever the existence of these isomers, esters, ethers, and salts is possible within the specific chemical designation.

Based on their chemical structures, the following compounds are expected to have hallucinogenic properties. Compounds of this type have been placed in Schedule I pursuant to subdivision 3 of § 54.1-3446 in previous legislative sessions.

1-(7-methoxy-1,3-benzodioxol-5-yl)propan-2-amine (other names: 5-methoxy-3,4-methylenedioxyamphetamine, 3-methoxy MDA, MMDA), its salts, isomers (optical, position, and geometric), and salts of isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation.

1-[1-(3-chlorophenyl)cyclohexyl]-piperidine (other names: 3-Chloro Phencyclidine, 3Cl-PCP, 3-chloro PCP), its salts, isomers, and salts of isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation.

Based on its chemical structure, the following compound is expected to have depressant properties. Compounds of this type have been placed in Schedule I pursuant to subdivision 4 of § 54.1-3446 in previous legislative sessions.

7-bromo-5-phenyl-1,3-dihydro-1,4-benzodiazepin-2-one (other names: Desalkylgidazepam, Bromonordiazepam), its salts, isomers (optical, position, and geometric), and salts of isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation.

The following compound is classified as a cannabimimetic agent. Compounds of this type have been placed in Schedule I pursuant to subdivision 6 of § 54.1-3446 in previous legislative sessions.

Methyl N-[(5-bromo-1H-indazol-3-yl)carbonyl]-3-methyl-valinate (other name: MDMB-5Br-INACA), its salts, isomers, and salts of isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation.

Contact Information: Caroline Juran, RPh, Executive Director, Board of Pharmacy, 9960 Mayland Drive, Suite 300, Henrico, VA 23233, telephone (804) 367-4456, FAX (804) 527-4472.

VIRGINIA CODE COMMISSION

Notice to State Agencies

Contact Information: *Mailing Address:* Virginia Code Commission, Pocahontas Building, 900 East Main Street, 8th

Floor, Richmond, VA 23219; *Telephone:* (804) 698-1810; *Email:* varegs@dls.virginia.gov.

Meeting Notices: Section 2.2-3707 C of the Code of Virginia requires state agencies to post meeting notices on their websites and on the Commonwealth Calendar at https://commonwealthcalendar.virginia.gov.

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STATE BOARD OF HEALTH

Title of Regulation: **12VAC5-610. Sewage Handling and Disposal Regulations.**

Publication: 39:4 VA.R. 334-351 October 10, 2022.

Correction to Fast-Track Regulation:

Page 350, column 1, 12VAC5-610-960 C 4, line 3, after "~~secondary~~" add "~~quality~~"

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