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Notice of Intended Regulatory Action (NOIRA) Agency Background Document

Agency name	Board for Contractors
Virginia Administrative Code (VAC) Chapter citation(s)	18 VAC 50-22
VAC Chapter title(s)	Board for Contractor Regulations
Action title	General Regulatory Reduction Initiative
Date this document prepared	October 5, 2022

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), Executive Order 19 (2022) (EO 19), any instructions or procedures issued by the Office of Regulatory Management (ORM) or the Department of Planning and Budget (DPB) pursuant to EO 19, the Regulations for Filing and Publishing Agency Regulations (1 VAC 7-10), and the *Form and Style Requirements for the Virginia Register of Regulations and Virginia Administrative Code*.

Brief Summary

Provide a brief summary (preferably no more than 2 or 3 paragraphs) of the subject matter, intent, and goals of this regulatory change (i.e., new regulation, amendments to an existing regulation, or repeal of an existing regulation).

The Board for Contractors seeks to amend regulations that are determined to be overly burdensome or no longer applicable and provide clarity and/or combine other regulations.

Acronyms and Definitions

Define all acronyms or technical definitions used in this form.

There are no acronyms, abbreviations, or technical definitions.

Mandate and Impetus

Identify the mandate for this regulatory change and any other impetus that specifically prompted its initiation, (e.g., new or modified mandate, petition for rulemaking, periodic review, or board decision). For purposes of executive branch review, "mandate" has the same meaning as defined in the ORM procedures, "a directive from the General Assembly, the federal government, or a court that requires that a regulation be promulgated, amended, or repealed in whole or part."

On September 20, 2022, the Board approved a Notice of Intended Regulatory Action to review each of its regulations to potentially amend any overly burdensome requirements, remove any obsolete information and provide more clarity with clear direct regulations.

The Board is conducting a review of its Regulations in accordance with Governor Youngkin's Executive Directive 1.

Legal Basis

Identify (1) the promulgating agency, and (2) the state and/or federal legal authority for the regulatory change, including the most relevant citations to the Code of Virginia and Acts of Assembly chapter number(s), if applicable. Your citation must include a specific provision, if any, authorizing the promulgating agency to regulate this specific subject or program, as well as a reference to the agency's overall regulatory authority.

§ 54.1-1102 A of the Code of Virginia provides the Board for Contractors with the authority to promulgate regulations not inconsistent with the statute necessary for the licensure of contractors and tradesman.

§ 54.1-201 A 5 to promulgate regulations in accordance with the Administrative Process Act (§ 2.2-4000 et seq.) necessary to assure continued competency, to prevent deceptive or misleading practices by practitioners and to effectively administer the regulatory system administered by the regulatory board. The regulations shall not be in conflict with the purposes and intent of this chapter or of Chapters 1 (§ 54.1-100 et seq.) and 3 (§ 54.1-300 et seq.) of this title.

Purpose

Describe the specific reasons why the agency has determined that this regulation is essential to protect the health, safety, or welfare of citizens. In addition, explain any potential issues that may need to be addressed as the regulation is developed.

The Board will be conducting a general review of their regulations in accordance to the provisions of Executive Directive 1, the Board identified areas they could provide clarity to and combine and areas that were no longer applicable.

Substance

Briefly identify and explain the new substantive provisions that are being considered, the substantive changes to existing sections that are being considered, or both.

18 VAC 50-22-10 of the regulations defines terms used in the regulations. There are definitions that are in the statute and simply repeated verbatim in the regulations that could potentially be removed, definitions that potentially need greater detail and definitions that no longer apply.

18 VAC 50-22-20 of the regulations defines the license classifications. There definitions potentially need greater detail and clarity.

18 VAC 50-22-30 of the regulations defines the license specialty services. These definitions potentially need greater detail and clarity.

18 VAC 50-22-90 of the regulations discusses past due recovery fund assessments and was last revised in 1995.

18 VAC 50-22-100 of the regulations provides the fees for licensure. While the fees will not change, the language around the fees could potentially be amended.

18 VAC 50-22-110 of the regulations states when a renewal is required. The language could potentially be amended.

18 VAC 50-22-120 of the regulations are the procedures for renewal. This section could potentially be more clear and direct.

18 VAC 50-22-130 of the regulations are the qualifications for renewal. This section could potentially be more clear and direct.

18 VAC 50-22-140 of the regulations are the renewal fees. While the fees will not change, the language around the fees could potentially be amended.

18 VAC 50-22-150 of the regulations is the Board's discretion to deny renewal. This section could potentially be more clear and direct. It was last updated in 2001.

18 VAC 50-22-160 of the regulations states when a reinstatement is required. This section could potentially be more clear and direct.

18 VAC 50-22-170 of the regulations provides the fees for reinstatement. While the fees will not change, the language around the fees could potentially be amended.

18 VAC 50-22-180 of the regulations provides information about the license status during the period prior to reinstatement. This section could potentially be consolidated and more clear and direct.

18 VAC 50-22-190 of the regulations is the Board's discretion to deny reinstatement. This section could be potentially be more clear and direct. It was last updated in 2001.

18 VAC 50-22-200 of the regulations lists actions the Board may take when a licensee has been found to have violated Chapter 11 of Title 54.1 of the Code of Virginia or any regulation of the Board. This section will be reviewed and potentially amended for clarity.

18 VAC 50-22-210 of the regulations states that contractor licenses are issued to business entities and are non-transferrable. This section will be reviewed and potentially amended to be more clear and direct.

18 VAC 50-22-220 of the regulations provides details on the timeframe the company has to notify and replace the Responsible Management, Designated Employee or Qualified Individual. These time frames will be reviewed and potentially amended.

18 VAC 50-22-230 of the regulations states licensee must notify the board of any name change or change of address within thirty days. This section could potentially be more clear and direct.

18 VAC 50-22-240 of the regulations discusses adding or deleting classifications and specialties. This section could potentially be amended to be more clear and direct.

18 VAC 50-22-250 of the regulations lists the fees associated with changing the Designate Employee or Qualified Individual and additional a classification or specialty. While the fees will not change, the language around the fees could potentially be amended.

18 VAC 50-22-260 of the regulations lists the Board’s prohibited acts. While there is a regulatory package in the proposed stages to amend 18 VAC 50-22-260 B9, the remaining prohibited acts could potentially be amended to provide for clarity.

18 VAC 50-22-300 of the regulations lists the requirements of a pre-license education course. This section may be amended for clarity as this requirement is statutorily required.

18 VAC 50-22-310 of the regulations lists the requirements of the education providers offering the pre-license course. This section may be amended for clarity.

18 VAC 50-22-320 of the regulations provides a timeframe the education providers are required to submit rosters of their course. This section will be amended for clarity and to remove the requirement that the education provider obtain an individual’s social security number as it is no longer required.

18 VAC 50-22-330 of the regulations requires that the education provider have a copy of their pre-license education course certificate of approval at the location the course is offered. This is no longer applicable and could potentially be repealed.

18 VAC 50-22-340 of the regulations states that if anything changes with the education provider that was reported in 18 VAC 50-22-310 A they must update the Board within 30 days. This section could be amended for clarity.

18 VAC 50-22-350 of the regulations permits the Board to deny or withdraw approval of any pre-license education provider for various reasons. This section may be amended for clarity.

Alternatives to Regulation

Describe any viable alternatives to the regulatory change that were considered, and the rationale used by the agency to select the least burdensome or intrusive alternative that meets the essential purpose of the regulatory change. Also, include discussion of less intrusive or less costly alternatives for small businesses, as defined in § 2.2-4007.1 of the Code of Virginia, of achieving the purpose of the regulatory change.

No viable alternatives have been identified.

Periodic Review and Small Business Impact Review Announcement

If you wish to use this regulatory action to conduct, and this NOIRA to announce, a periodic review (pursuant to § 2.2-4017 of the Code of Virginia and the ORM procedures), and a small business impact review (§ 2.2-4007.1 of the Code of Virginia) of this regulation, keep the following text. Modify it as

necessary for your agency. Otherwise, delete the paragraph below and insert “This NOIRA is not being used to announce a periodic review or a small business impact review.”

This NOIRA is not being used to announce a periodic review or a small business impact review.

Public Participation

Indicate how the public should contact the agency to submit comments on this regulation, and whether a public hearing will be held, by completing the text below. In addition, as required by § 2.2-4007.02 of the Code of Virginia, describe any other means that will be used to identify and notify interested parties and seek their input, such as regulatory advisory panels or general notices.

The Board for Contractors is providing an opportunity for comments on this regulatory proposal, including but not limited to (i) the costs and benefits of the regulatory proposal, (ii) any alternative approaches, and (iii) the potential impacts of the regulation.

Anyone wishing to submit written comments for the public comment file may do so through the Public Comment Forums feature of the Virginia Regulatory Town Hall web site at: <https://townhall.virginia.gov>. Comments may also be submitted by mail, email or fax to Marjorie King c/o Board for Contractors, 9960 Mayland Drive, Suite 400, Richmond, Virginia 23233, telephone (804) 367-2785, fax (866) 430-1033, email: contractor@dpor.virginia.gov. In order to be considered, comments must be received by 11:59 pm on the last day of the public comment period.

A public hearing will be held following the publication of the proposed stage of this regulatory action.