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Final Regulation Agency Background Document

Agency name	Department for Aging and Rehabilitative Services
Virginia Administrative Code (VAC) citation(s)	__22__ VAC_30_-_50__
Regulation title(s)	Policies and Procedures for Administering the Commonwealth Neurotrauma Initiative Trust Fund
Action title	Amend CNI Regulations as Result of Periodic Review
Date this document prepared	March 11, 2016

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), Executive Orders 17 (2014) and 58 (1999), and the *Virginia Register Form, Style, and Procedure Manual*.

Brief summary

Please provide a brief summary of the proposed new regulation, proposed amendments to the existing regulation, or the regulation proposed to be repealed. Alert the reader to all substantive matters or changes. If applicable, generally describe the existing regulation.

A statement is added clarifying that requests for applications for grant moneys from the CNI trust fund shall be issued at the discretion of the advisory board and shall depend upon the availability of funds. This statement clarifies the conditions under which requests for applications will be made and informs the public that requests are not made on a regularly scheduled basis. Also added is a statement that applicants can now apply for grants to evaluate systems of services for people with traumatic brain injuries or traumatic spinal cord injuries. This addition allows applicants to apply for funding to conduct targeted evaluations of service systems or to determine the need for the development, expansion, or improvement of services. An existing statement in the regulation has been reworded to stress to applicants that grants are to be used to initiate research and programs but not to be used to maintain long-term funding. This is also emphasized by the addition of a statement that the advisory board shall accept applications that provide a plan for sustaining the proposed project following termination of a grant award. Applicants for grant funds must also include a description of efforts taken to ensure that the

proposed project does not duplicate existing programs or services for persons with neurotrauma already available in the community. Applicants must also demonstrate a commitment to community planning with consumer groups, service providers, employers, relevant state and local agencies, and other funding sources which may be available. Finally, in the event of a decline in moneys in the CNI fund, the advisory board shall attempt to distribute moneys in a manner that is as fair and equitable as possible to all projects.

In the past, this only applied to projects with an anticipated duration greater than one year

Acronyms and Definitions

Please define all acronyms used in the Agency Background Document. Also, please define any technical terms that are used in the document that are not also defined in the "Definition" section of the regulations.

CNI means Commonwealth Neurotrauma Initiative
RFP means a request for proposals

Statement of final agency action

Please provide a statement of the final action taken by the agency including: 1) the date the action was taken; 2) the name of the agency taking the action; and 3) the title of the regulation.

On March 11, 2016, the Commissioner of the Department for Aging and Rehabilitative Services approved these amendments to the regulations for Policies and Procedures for Administering the Commonwealth Neurotrauma Initiative Trust Fund.

Legal basis

Please identify the state and/or federal legal authority to promulgate this proposed regulation, including: 1) the most relevant citations to the Code of Virginia or General Assembly chapter number(s), if applicable; and 2) promulgating entity, i.e., agency, board, or person. Your citation should include a specific provision authorizing the promulgating entity to regulate this specific subject or program, as well as a reference to the agency/board/person's overall regulatory authority.

§ 51.5-181 of the Code of Virginia states:

The Commissioner shall promulgate regulations establishing procedures and policies for soliciting and receiving grant applications and criteria for reviewing and ranking such applications, including, but not limited to, goals, timelines, forms, eligibility, and mechanisms to ensure avoidance of any conflicts of interest or appearances thereof. The Commissioner shall receive the recommendations of the Commonwealth Neurotrauma Initiative Advisory Board prior to promulgating or revising any such regulations.

Purpose

Please explain the need for the new or amended regulation. Describe the rationale or justification of the proposed regulatory action. Describe the specific reasons the regulation is essential to protect the health, safety or welfare of citizens. Discuss the goals of the proposal and the problems the proposal is intended to solve.

The purpose of the proposed amendment to the CNI trust fund regulation is to ensure good stewardship and judicious use of moneys in the fund and distribute the moneys equitably for their intended purpose. The proposed amendment emphasizes that requests for applications for moneys from the fund shall be issued by the advisory board only when the board determines that funds are available. The proposed amendment allows grantees to use the fund for evaluating existing programs as well as expanding, developing, and improving programs. This proposed amendment emphasizes original Code language that grant funds are to be used for initiating research projects or community-based rehabilitative programs. They are not to be used for long-term funding of projects. To ensure that applicants understand and plan for this, applications must contain a plan for sustaining the project upon termination of grant funds. In an effort to conserve funds, applicants are required to demonstrate that the proposed project does not duplicate existing programs. In the event of a decline in moneys in the fund, the board shall attempt to distribute moneys in a manner as fair and equitable as possible.

Substance

Please briefly identify and explain the new substantive provisions, the substantive changes to existing sections, or both.

There are no substantive changes in this request. The changes provide clarification to the existing regulation.

Issues

Please identify the issues associated with the proposed regulatory action, including: 1) the primary advantages and disadvantages to the public, such as individual private citizens or businesses, of implementing the new or amended provisions; 2) the primary advantages and disadvantages to the agency or the Commonwealth; and 3) other pertinent matters of interest to the regulated community, government officials, and the public. If there are no disadvantages to the public or the Commonwealth, please indicate.

The proposed regulatory action poses no disadvantages to the public or the Commonwealth. The action's primary advantage is that it clarifies the existing regulation.

Requirements more restrictive than federal

Please identify and describe any requirement of the proposal which is more restrictive than applicable federal requirements. Include a rationale for the need for the more restrictive requirements. If there are no applicable federal requirements or no requirements that exceed applicable federal requirements, include a statement to that effect.

There are no applicable federal requirements.

Localities particularly affected

Please identify any locality particularly affected by the proposed regulation. Locality particularly affected means any locality which bears any identified disproportionate material impact which would not be experienced by other localities.

There are no localities in the Commonwealth that have an identified disproportionate impact.

Family impact

Please assess the impact of this regulatory action on the institution of the family and family stability including to what extent the regulatory action will: 1) strengthen or erode the authority and rights of parents in the education, nurturing, and supervision of their children; 2) encourage or discourage economic self-sufficiency, self-pride, and the assumption of responsibility for oneself, one's spouse, and one's children and/or elderly parents; 3) strengthen or erode the marital commitment; and 4) increase or decrease disposable family income.

The proposed amendment to the regulations will not have any negative impact on the institution of the family and family stability. The regulations to administer the CNI Trust Fund are essential to the integrity of this program and to protect the health and safety of Virginians. The CNI Trust Fund program is designed to promote medical research into traumatic brain and spinal cord injuries and to improve treatment and care through the provision of community-based services for Virginians who have sustained such injuries. Moneys in the CNI Trust Fund shall be used solely to support grants for Virginia-based organizations, institutions, and researchers for research on the mechanisms and treatment of neurotrauma as well as for community rehabilitative services. Virginians with brain injury or spinal cord injury and their families may benefit directly (if funds are awarded to a proposal for the establishment or expansion of an existing community-based brain injury program) or indirectly (if funds are awarded to research that will ultimately benefit a Virginian with brain injury or spinal cord injury and their family members).

Changes made since the proposed stage

*Please list all changes that made to the text of the proposed regulation and the rationale for the changes; explain the new requirements and what they mean rather than merely quoting the proposed text of the regulation. *Please put an asterisk next to any substantive changes.*

No changes have been made to the text since the proposed stage.

Public comment

Please summarize all comments received during the public comment period following the publication of the proposed stage, and provide the agency response. If no comment was received, please so indicate.

Please distinguish between comments received on Town Hall versus those made in a public hearing or submitted directly to the agency or board.

No public comments were received during the public comment period.

All changes made in this regulatory action

Please list all changes that are being proposed and the consequences of the proposed changes. Describe new provisions and/or all changes to existing sections. Explain the new requirements and what they mean rather than merely quoting the proposed text of the regulation

Current section number	Proposed new section number, if applicable	Current requirement	Proposed change and rationale
60		The advisory board will solicit applications	Verb “will” changed to “shall” Adds a statement that requests applications for grant moneys shall be issued at the discretion of the advisory board and shall depend upon the availability of funds. This statement clarifies the conditions under which requests for applications will be made and informs the public that requests are not made on a regularly scheduled basis.
80		Allows applications that state and demonstrate a clear intention to develop, expand, or improve community-based programs and services. States that no grant options are intended for long-term funding of research projects or programs.	Adds that an applicant can apply for grants to evaluate systems of services (i.e., community-based programs and supports) for people with traumatic brain injury or traumatic spinal cord injury. This allows applicants to apply for funding to conduct targeted evaluation of service systems or issues to determine the need for development, expansion, or improvement of services. Changes statement that no grants shall be used for long-term funding of research projects or community-based rehabilitative programs and services. This clarifies to applicants that grants are to be used to initiate research and programs, but not to be used to maintain their long-term funding.

<p>90</p>		<p>Present a convincing and persuasive discussion of how the proposed project will carry out its intention</p> <p>Describe efforts to ensure that the proposed project does not duplicate programs, services, or resources already available</p> <p>State and emphasize a commitment to collaborative community planning involving consumer groups, service providers, employers, relevant state and local agencies, and other funding sources, as available or anticipated to become available.</p>	<p>Present a <u>clear and</u> convincing discussion of how the proposed project <u>shall</u> carry out its intention. Changes terms to those used more commonly in regulations.</p> <p>Adds statement that advisory board will <u>shall</u> accept applications that provide a plan for sustaining the proposed project following termination of a grant award as relevant to the intended purpose of the project. This requirement requires applicants to plan in advance for the ongoing funding of their projects. In addition, the requirement allows the advisory committee to award grants only to applicants that have a plan for funding in place to sustain their project following termination of their CNI grant.</p> <p>Describe efforts to ensure that the proposed project does not duplicate <u>existing</u> programs, services, or resources already available <u>to targeted individuals and communities</u></p> <p>Change clarifies that the statement refers to existing programs available to targeted individuals and communities.</p> <p><u>Demonstrate</u> a commitment to collaborative community planning involving consumer groups, service providers, employers, relevant state and local agencies, and other funding sources, as available <u>and appropriate</u>;</p> <p>Intent is to clarify the statement and make it more succinct.</p>
<p>100</p>			<p>The verbs “will” have been changed to “shall” in order to express a duty to act.</p>
<p>110</p>		<p>In the event of a substantial decline in moneys in the fund, the advisory board will attempt to distribute moneys to projects of an anticipated duration greater than one year in a manner as fair and equitable as possible.</p>	<p>The verbs “will” have been changed to “shall” in order to express a duty to act.</p> <p>In the event of a decline in moneys in the fund, the advisory board <u>shall</u> attempt to distribute moneys in a manner as fair and equitable as possible.</p> <p>Emphasizes that any decline in moneys in the fund shall result in the board distributing moneys to all projects (not just those with an anticipated duration greater than one year) in a manner as fair and equitable as possible.</p>