



Proposed Regulation Agency Background Document

Agency name	Department of Health (State Board of)
Virginia Administrative Code (VAC) citation	12 VAC 5 - 507
Regulation title	Guidelines for General Assembly Nursing Scholarship and Loan Repayment Program Requiring Service in a Long-Term Care Facility in the Commonwealth of Virginia
Action title	Implement Regulations on Scholarships and Loans Requiring Service in a Long-Term Care Facility.
Date this document prepared	April 15, 2011

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), Executive Orders 14 (2010) and 58 (1999), and the *Virginia Register Form, Style, and Procedure Manual*.

Brief summary

In a short paragraph, please summarize all substantive provisions of new regulations or changes to existing regulations that are being proposed in this regulatory action.

The 2000 General Assembly amended Virginia Code section 32.1-122.6:01 to require the establishment of a program under which participants receive scholarship or educational loan repayment in exchange for a period of nursing service in a long-term care facility in the Commonwealth. By providing these scholarship or loan repayment funds to eligible recipients, Virginia hopes to reduce its nursing shortage, especially in long-term care facilities. Until now, regulations for this section of the Virginia Code have not been promulgated because no funding is available to implement this program.

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.

There are no acronyms used in the Agency Background Document. All technical terms used in the Agency Background Document are also defined in the "Definition" section of the regulation.

Legal basis

Please identify the state and/or federal legal authority to promulgate this proposed regulation, including (1) the most relevant law and/or regulation, including Code of Virginia citation and General Assembly chapter number(s), if applicable, and (2) promulgating entity, i.e., the agency, board or person. Describe the legal authority and the extent to which the authority is mandatory or discretionary.

Code of Virginia § 54.1-3011.2 establishes the Nursing Scholarship and Loan Repayment Fund, which the Board of Health and the Board of Nursing, pursuant to § 32.1-122.6:01.B, are to administer. Awarded funds are to be transmitted to the appropriate institution to be credited to the account of the recipient. The regulations are to establish a nursing scholarship and loan repayment program for registered nurses, licensed practical nurses, and certified nurse aides who agree to perform a period of service in a Commonwealth long-term care facility pursuant to regulations promulgated by the Board of Health in cooperation with the Board of Nursing.

Purpose

Please explain the need for the new or amended regulation by (1) detailing the specific reasons why this regulatory action is essential to protect the health, safety, or welfare of citizens, and (2) discussing the goals of the proposal, the environmental benefits, and the problems the proposal is intended to solve.

Regulations to implement the program are essential to addressing the shortage of trained medical professionals in the Commonwealth. The primary advantage will be the increase of availability of adequate, quality nursing care in long-term care facilities. Another advantage is that the long-term care facilities will be better positioned to retain qualified nurses because of the obligation created by accepting these scholarship or loan repayment funds.

Substance

Please briefly identify and explain new substantive provisions (for new regulations), substantive changes to existing sections or both where appropriate. (More detail about all provisions or changes is requested in the "Detail of changes" section.)

A nursing scholarship and loan repayment program requiring service in a long-term-care facility within the Commonwealth of Virginia is established. This program is for registered nurses, licensed practical nurses, and certified nurse aides. Scholarships will be given to qualifying nurses in exchange for service in the nursing profession in a long-term care facility in the Commonwealth. The loan repayment portion of the program will repay educational loans for qualifying applicants in exchange for service in the nursing profession in a long-term care facility in the Commonwealth. No funding has been appropriated to implement this program.

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 the regulatory action poses no disadvantages to the public or the Commonwealth, please indicate.

The Virginia Department of Health sees no viable alternative for achieving the purpose of the proposed regulation. The regulatory action poses no disadvantage to the public or the Commonwealth.

Requirements more restrictive than federal

Please identify and describe any requirements of the proposal, which are more restrictive than applicable federal requirements. Include a rationale 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 or no requirements that exceed 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 identifiable localities that would be particularly affected by the proposed regulation.

Public participation

Please include a statement that in addition to any other comments on the proposal, the agency is seeking comments on the costs and benefits of the proposal and the impacts of the regulated community.

In addition to any other comments, the board/agency is seeking comments on the costs and benefits of the proposal and the potential impacts of this regulatory proposal. Also, the agency/board is seeking information on impacts on small businesses as defined in § 2.2-4007.1 of the Code of Virginia. Information may include 1) projected reporting, recordkeeping and other administrative costs, 2) probable effect of the regulation on affected small businesses, and 3) description of less intrusive or costly alternative methods of achieving the purpose of the regulation.

Anyone wishing to submit written comments may do so via the Regulatory Townhall website, www.townhall.virginia.gov, or by mail, email or fax to **Kathy Wibberly, Virginia Department of Health, Office of Minority Health and Health Equity, 804-864-7426, fax number: 804-864-7440, email address: kathy.wibberly@vdh.virginia.gov** . Written comments must include the name and address of the commenter. In order to be considered, comments must be received by the last date of the public comment period.

Economic impact

Please identify the anticipated economic impact of the proposed new regulations or amendments to the existing regulation. When describing a particular economic impact, please specify which new requirement or change in requirements create the anticipated economic impact.

Projected cost to the state to implement and enforce the proposed regulation, including (a) fund source, and (b) a delineation of one-time versus on-going expenditures.	Projected cost to the state is negligible.
Projected cost of the <i>new regulations or changes to existing regulations</i> on localities.	None.
Description of the individuals, businesses or other entities likely to be affected by the <i>new regulations or changes to existing regulations</i>.	Scholarships and/or loan repayments will be given to qualifying nurses (certified nurse aide, licensed practical nurses and registered nurses) in exchange for service in the nursing profession in a long-term care facility in the Commonwealth.
Agency's best estimate of the number of such entities that will be affected. Please include an estimate of the number of small businesses affected. Small business means 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.	In 12 VAC 5-507, Long-Term-Care Facility (LTCF) is defined as a licensed facility in the Commonwealth traditionally known as a nursing home, including both skilled nursing facilities and intermediate care facilities depending on the extent of nursing and related medical care provided. The majority of these facilities could be small businesses. In Virginia, there are approximately 280 LTCFs in Virginia that could be affected.
All projected costs of the <i>new regulations or changes to existing regulations</i> for affected individuals, businesses, or other entities. Please be specific and include all costs. Be sure to include the projected reporting, recordkeeping, and other administrative costs required for compliance by small businesses. Specify any costs related to the development of real estate for commercial or residential purposes that are a consequence of the proposed regulatory changes or new regulations.	Awardees will receive scholarships and/or loan repayment. There will be no costs to them.
Beneficial impact the regulation is designed to produce.	The beneficial impact intended by this regulation is that more nurses would provide care in long-term care facilities. This would benefit the nurses, the facilities, and patients/residents of such facilities.

Alternatives

Please describe any viable alternatives to the proposal considered and the rationale used by the agency to select the least burdensome or intrusive alternative that meets the essential purpose of the action. 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 regulation.

The Virginia Department of Health sees no viable alternative for achieving the purpose of the proposed regulation.

Regulatory flexibility analysis

Please describe the agency’s analysis of alternative regulatory methods, consistent with health, safety, environmental, and economic welfare, that will accomplish the objectives of applicable law while minimizing the adverse impact on small business. Alternative regulatory methods include, at a minimum: 1) the establishment of less stringent compliance or reporting requirements; 2) the establishment of less stringent schedules or deadlines for compliance or reporting requirements; 3) the consolidation or simplification of compliance or reporting requirements; 4) the establishment of performance standards for small businesses to replace design or operational standards required in the proposed regulation; and 5) the exemption of small businesses from all or any part of the requirements contained in the proposed regulation.

The alternative regulatory methods are not applicable.

Public comment

Please summarize all comments received during the public comment period following the publication of the NOIRA, and provide the agency response.

Commenter	Comment	Agency response
Fidelia Emesue Nursing	I, Ms. Emesue, support the proposal on the action implement regulations on scholarships and loans requiring long term nursing care service. Thanks 8/16/10	
Sultana	I support nursing as nurses should be allowed to have registration as they were allow before 8/21/10	
Ken Sundheim, KAS Placement	I think more action needs to be taken to increase community awareness about the importance of passing the bill. 8/24/10	Currently, there is no funding to administer this program. However, when funding becomes available for this scholarship and loan repayment program, all relevant stakeholders (nursing associations, Board of Nursing, etc) will be notified.
Warren Spalter, Cheap Classic Cars Dealer LLC	We are your source for nursing home loans and assisted living facility loans. 9/8/10	
Mason Chandler	I’m definitely in agreement and support the aforementioned proposal for regulations and so forth. This is exactly what Virginia needs to move forward like other states have already done. Well done. 9/12/10	

Family impact

Please assess the impact of the proposed 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.

This regulation would have a direct positive impact on families by enhancing care for aging/infirm family members. The impact of assistance with the activities of daily living for those placed in a long-term care setting, can greatly improve family stability and enhance normal ongoing activities of family life. It would also provide nursing students with funding for their educational expenses, which would also positively impact their families by supporting a continued source of income.

Detail of changes

Please list all changes that are being proposed and the consequences of the proposed changes. If the proposed regulation is a new chapter, describe the intent of the language and the expected impact if implemented in each section. Please describe the difference between the requirements of the new provisions and the current practice or if applicable, the requirements of other existing regulations in place.

If the proposed regulation is intended to replace an emergency regulation, please list separately (1) all provisions of the new regulation or changes to existing regulations between the pre-emergency regulation and the proposed regulation, and (2) only changes made since the publication of the emergency regulation.

For changes to existing regulations, use this chart:

Current section number	Proposed new section number, if applicable	Current requirement	Proposed change, rationale, and consequences