



## Notice of Intended Regulatory Action (NOIRA) Agency Background Document

<b>Agency name</b>	State Board of Social Services
<b>Virginia Administrative Code (VAC) citation</b>	22 VAC 40-775
<b>Regulation title</b>	Adult Services Standards
<b>Action title</b>	Establish Adult Services Standards
<b>Date this document prepared</b>	February 16, 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*.

### Purpose

*Please describe the subject matter and intent of the planned regulatory action. Also include a brief explanation of the need for and the goals of the new or amended regulation.*

The purpose of the proposed action is to adopt a new regulation addressing the provision of services to elderly individuals and adults with an impairment by local departments of social services (LDSS) Adult Services (AS) workers. 22 VAC 40-800, "Family-based Social Services," which is being repealed as part of another regulatory action, includes sections that address Adult Services. The new Adult Services regulation will incorporate that content from 22 VAC 40-800, including principles inherent in the provision of Adult Services, the process for client intake and service delivery, and descriptions of the types of services that may be provided.

### 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., agency, board, or person. Describe the legal authority and the extent to which the authority is mandatory or discretionary.*

Sections 63.2-217, 63.2-1600, and 63.2-1602 of the Code of Virginia provide the authority for this regulatory action. Section 63.2-217 of the Code of Virginia provides the general authority for the State Board of Social Services to promulgate regulations to operate social service programs. Section 63.2-1600

describes the provision of home-based services. Section 63.2-1602 describes other responsibilities of local AS workers such as conducting nursing home pre-admission screenings and assisted living facility assessments to determine the level of service needed by clients seeking long-term care.

**Need**

*Please detail the specific reasons why the agency has determined that the proposed regulatory action is essential to protect the health, safety, or welfare of citizens. In addition, delineate any potential issues that may need to be addressed as the regulation is developed.*

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This regulation will describe the provision of services to elderly individuals and adults who have an impairment. Many services provided by local AS workers ensure the safety of elderly individuals and adults with disabilities by helping prevent adult abuse, neglect and exploitation from occurring or recurring.

These services promote the well-being of adults by strengthening the support systems that enable them to live in community-based settings for as long as possible, including strengthening family supports. The regulation will outline the principles and philosophy of adult services and underscore the importance of an adult's right to self-determination and independence.

This regulatory action will ensure that the regulation content is clearly written. Clarity in regulation content is essential to ensuring that the individual's health and safety needs are most appropriately met.

**Substance**

*Please detail any changes that will be proposed. For new regulations, include a summary of the proposed regulatory action. Where provisions of an existing regulation are being amended, explain how the existing regulation will be changed.*

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This new regulation will include some regulatory language from 22 VAC 40-800, "Family Based Social Services," which is being repealed. These provisions include definitions of services; the principles inherent in the provision of Adult Services; intake services; individuals to be served; and types of services to be provided.

The proposed regulatory action also will add definitions of services; clarify the philosophy of adult services; and provide additional guidance on intake services. In addition, the new regulation will more thoroughly describe the targeted service population and clarify the descriptions of the type of services that may be offered to an adult. Additional revisions to the regulation content may be proposed based on public comments received.

**Alternatives**

*Please describe all viable alternatives to the proposed regulatory action that have been or will be considered to meet the essential purpose of the action. Also, please describe the process by which the agency has considered or will consider other alternatives for achieving the need in the most cost-effective manner.*

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No alternative to this regulatory action was considered, as establishing adult services standards will ensure there is consistency in the services that are provided to adults throughout the Commonwealth. A workgroup will be assembled to develop these regulations; to ensure that only pertinent content is included; and to see to it that information that is not appropriate for inclusion in the regulation is addressed in other guidance materials. The workgroup will include individuals from a variety of backgrounds, including stakeholders and partner agencies. This diversity will assist DSS in the careful consideration of proposed regulation content and its impact, including any potential costs.

### Public participation

*Please indicate whether the agency is seeking comments on the intended regulatory action, including ideas to assist the agency in the development of the proposal and the costs and benefits of the alternatives stated in this notice or other alternatives. Also, indicate whether a public hearing is to be held to receive comments on this notice.*

The agency is seeking comments on the intended regulatory action, including but not limited to 1) ideas to assist in the development of a proposal; 2) the costs and benefits of the alternatives stated in this background document or other alternatives; and 3) potential impacts of the regulation. The agency also is seeking information on impacts on small businesses as defined in § 2.2-4007.1 of the Code of Virginia. Such 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 comments may do so via the Regulatory Townhall website, [www.townhall.virginia.gov](http://www.townhall.virginia.gov), or by mail, email, or fax to **Paige McCleary, Adult Services Program Consultant, 801 East Main Street, Richmond, VA 23219; [paige.mccleary@dss.virginia.gov](mailto:paige.mccleary@dss.virginia.gov); or 804-726-7895 (fax)**. Written comments must include the name and address of the commenter. In order to be considered, comments must be received by the last day of the public comment period.

A public hearing will not be held at this stage.

### Participatory approach

*Please indicate, to the extent known, if advisers (e.g., ad hoc advisory committees, regulatory advisory panels) will be involved in the development of the proposed regulation. Indicate that 1) the agency is not using the participatory approach in the development of the proposal because the agency has authorized proceeding without using the participatory approach; 2) the agency is using the participatory approach in the development of the proposal; or 3) the agency is inviting comment on whether to use the participatory approach to assist the agency in the development of a proposal.*

DSS plans to use a participatory approach in the development of the proposal. Input on the development of regulation content will be sought from stakeholders, including local AS supervisors and workers; agencies and individuals that provide services to adults; and organizations advocating on behalf of elderly individuals and individuals with disabilities.

### Family impact

*Assess the potential 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.*

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The proposed amendments will have a positive impact on family stability by ensuring that family members who are elderly or disabled and who may need assistance and support receive prompt and appropriate interventions from LDSS AS workers. The regulation content will ensure that LDSS provide assistance in a manner that supports the adult's dignity, independence, sense of personal responsibility and his or her right to self-determination.

The proposed regulatory action will have no impact on the institution of the family. It will have no effect on the authority and rights of parents in the education, nurturing, and supervision of their children. The proposed regulatory action will not impact marital commitment or disposable family income.

### Small business impact review

*Pursuant to § 2.2-4007.1 E and F each existing regulation shall be reviewed **at least once every five years** to ensure that it minimizes the economic impact on small businesses.*

*If this NOIRA will include a review of the entire regulation for small business impact, please include, pursuant to § 2.2-4007.1 E and F, a discussion of the agency's consideration of: (1) the continued need for the regulation; (2) the complexity of the regulation; (3) the extent to which the regulation overlaps, duplicates, or conflicts with federal or state law or regulation; and (4) the length of time since the regulation has been evaluated or the degree to which technology, economic conditions, or other factors have changed in the area affected by the regulation. Also, include a discussion of the agency's determination whether the regulation should be amended or repealed, consistent with the stated objectives of applicable law, to minimize the economic impact of regulations on small businesses.*

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DSS believes that this regulation is needed to ensure that standards for the provision of services to adults are maintained. This regulation does not duplicate or conflict with any state or federal regulations.

This regulatory action will have little impact on small business. Regulation content addresses the role of local AS workers in providing services to adults.