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Proposed Regulation Agency Background Document

Agency name	Virginia Department of Health
Virginia Administrative Code (VAC) citation(s)	12 VAC 5-525
Regulation title(s)	Regulations for General Assembly Physician Assistant Scholarships
Action title	Implement Regulations for Physician Assistant Scholarships
Date this document prepared	March 15, 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 (preferably no more than 2 or 3 paragraphs) of the proposed new regulation, proposed amendments to the existing regulation, or the regulation proposed to be repealed.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.

The proposed new regulations will bring the Board of Health into compliance with § 32.1-122.6:03 of the Code of Virginia, which requires the establishment of an annual physician assistant scholarship program for students who intend to enter an accredited physician assistant program. Currently no implementing regulations exist. The substantive elements are modeled after similar regulatory incentive programs administered by the Agency.

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.

No acronyms are used in this Agency Background Document. No technical terms are utilized in this document.

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.

The regulation is promulgated under the authority of § 32.1-122.6:03 of the Code of Virginia. Section 32.1-122.6:03 of the Code of Virginia requires the Board to establish an annual physician assistant scholarship program and mandates that the Board promulgate regulations in order to administer the program.

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.

This regulation establishes administrative guidance for increasing the availability of health care providers in medically underserved areas of the Commonwealth. Chapter 806 of the 1997 Virginia Acts of Assembly amended and reenacted § 32.1-122.6:03 of the Code of Virginia to require the establishment of an annual physician assistant scholarship program for students who intend to enter an accredited physician assistant program and mandated the Board of Health to adopt regulations governing the implementation of such a scholarship program. There is no record within the Agency of any past regulatory action to implement the required regulations. Permanent regulations are necessary to support the implementation of § 32.1-122.6:03. The intent of this regulatory action is to implement the regulatory action required by § 32.1-122.6:03 and address the shortage of trained medical professionals in the Commonwealth.

Substance

Please briefly identify and explain the new substantive provisions, the substantive changes to existing sections, or both. A more detailed discussion is provided in the "Detail of changes" section below.

This regulatory action will implement a new regulatory chapter which will create a physician assistant scholarship program. The substantive elements of this program will be modeled after similar regulatory programs administered by the Agency. Substantive elements that will be created include:

Definitions – Will provide clarification on key or frequently use terms in the regulatory text.

Advisory Committee – Will establish that an Advisory Committee as appointed by the Board of Health shall make all scholarship recommendations.

Eligibility for scholarships – Will provide eligibility requirements including acceptance in or enrollment in an approved education program, a 2.5 cumulative GPA if already enrolled in a program, application, financial need and no active military obligation.

Conditions of scholarships – Will provide guidance and provisions on the contract requirements, calculations of the service obligation, employment requirements, transfer of practice site, default, waiver, partial, hardship, and default payments.

Number of applications, Amounts of scholarships & How to apply- Will provide information and provisions regarding applicant renewals, minimum and maximum award amounts, location of application form and deadline dates for submission of applications.

Selection criteria – Will provide information regarding preferential consideration of applications, including Virginia residents, residents of medically underserved areas and minority students.

Scholarship contract – Will provide information regarding the required elements of the scholarship contract.

Practice site selection – Will provide information regarding where a participant in the program will be able to perform his service obligation.

Functional elements of the repayment program – Will provide program information regarding reporting requirements, breach of contract, and deferments and waivers.

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 primary advantage of the proposed regulatory action to the public will be an increase in the availability of primary care providers in medically underserved communities within the Commonwealth. Additionally, these medically underserved communities will be better positioned to retain qualified primary care providers because of the obligation created by accepting the scholarship funds. The Virginia Department of Health sees no disadvantage to the public, the agency or the Commonwealth associated with the proposed regulatory action.

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.

N/A

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.

No locality will 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 of Health 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 for the public comment file may do so by mail, email or fax to Dr. Adrienne McFadden, 109 Governor Street, Richmond, VA, phone (804) 864-7435, fax (804) 864-7440, or email adrienne.mcfadden@vdh.virginia.gov. Comments may also be submitted through the Public Forum feature of the Virginia Regulatory Town Hall web site at: <http://www.townhall.virginia.gov>. Written comments must include the name and address of the commenter. 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 not be held following the publication of this stage of this regulatory action.

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 requirement creates the anticipated economic impact.

Projected cost to the state to implement and enforce the proposed regulation, including: a) fund source / fund detail; and b) a delineation of one-time versus on-going expenditures	Projected cost to the state is negligible
Projected cost of the new regulations or changes to existing regulations on localities.	No foreseeable projected cost to implement and enforce this regulatory proposal
Description of the individuals, businesses, or other entities likely to be affected by the new regulations or changes to existing regulations.	Physician assistant students desiring to work in medically underserved areas, patients and facilities within medically underserved areas within the commonwealth
Agency's best estimate of the number of such entities that will be affected. Please include an	According to the Health Resources and Services Administration there are currently 241 Health

<p>estimate of the number of small businesses affected. Small business means a business entity, including its affiliates, that:</p> <p>a) is independently owned and operated and;</p> <p>b) employs fewer than 500 full-time employees or has gross annual sales of less than \$6 million.</p>	<p>Professional Shortage Areas (HPSA) within the Commonwealth of Virginia. In counties where HPSA's are located, there are approximately 784 non-hospital facilities providing primary care services in Virginia's primary care HPSAs, including 606 Physician Offices and 178 independent Outpatient Clinics. Of these, 647 physician office and outpatient clinics have fewer than 50 employees. There are 1,151,170 Virginia residents who live in primary care HPSAs</p>
<p>All projected costs of the new regulations or changes to existing regulations for affected individuals, businesses, or other entities. Please be specific and include all costs including:</p> <p>a) the projected reporting, recordkeeping, and other administrative costs required for compliance by small businesses; and</p> <p>b) 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.</p>	<p>None.</p>
<p>Beneficial impact the regulation is designed to produce.</p>	<p>Fulfillment of statutory requirement to establish the Physician Assistant Scholarship Program in the Virginia Administrative Code.</p>

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.

There are no other viable alternatives other than the intended regulatory action to carry out the board's statutory mandate to establish a physician assistant scholarship program. The regulations are mandated by § 32.1-122.6:03 of the Code. This statutory requirement provides little regulatory flexibility.

Regulatory flexibility analysis

Pursuant to § 2.2-4007.1B of the Code of Virginia, 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. The regulations are mandated by law and there is no other method than by the proposed amendments to carry out the board’s mandate to establish a physician assistant scholarship program. The regulatory chapter is not anticipated to be intrusive or bring a cost to small businesses.

Periodic review and small business impact review report of findings

If you are using this form to report the result of a periodic review/small business impact review that was announced during the NOIRA stage, please indicate whether the regulation meets the criteria set out in Executive Order 17 (2014), e.g., is necessary for the protection of public health, safety, and welfare, and is clearly written and easily understandable. In addition, as required by 2.2-4007.1 E and F, please include a discussion of the agency’s consideration of: (1) the continued need for the regulation; (2) the nature of complaints or comments received concerning the regulation from the public; (3) the complexity of the regulation; (4) the extent to which the regulation overlaps, duplicates, or conflicts with federal or state law or regulation; and (5) 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.

N/A

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
David Falkenstein, PA-C, Virginia Academy of Physician Assistants	The Virginia Academy of Physician Assistants (VAPA) is supportive of implementation of permanent regulations as required by §32.1-122.6:03. for the Physician Assistant Scholarships as a means to address the shortage of trained medical professionals in the Commonwealth. In addition the VAPA encourages the Department of Health to introduce a budget amendment for funding of the scholarship at the 2016 legislature.	

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 board has assessed the impact the proposed amendments will have on the institution of the family and family stability. The board anticipates no impact to the family or family stability.

Detail of changes

Please list all changes that are being proposed and the consequences of the proposed changes; explain the new requirements and what they mean rather than merely quoting the proposed text of the regulation. If the proposed regulation is a new chapter, describe the intent of the language and the expected impact. Please describe the difference between existing regulation(s) and/or agency practice(s) and what is being proposed in this regulatory action. If the proposed regulation is intended to replace an emergency regulation, please list separately: (1) all differences between the pre-emergency regulation and this proposed regulation; and 2) only changes made since the publication of the emergency regulation.

If a new regulation is being promulgated, use this chart:

Section number	Proposed requirements	Other regulations and law that apply	Intent and likely impact of proposed requirements
10	Definition of terms		Defines terms used in this regulatory chapter to assist readers in understanding regulations
20	Establishes the Physician Assistant Scholarship Committee		The 8 member scholarship committee will determine scholarship awards
30	Outlines eligibility criteria for scholarships		To assist readers in understanding how to qualify for the scholarship program
40 –	Outlines the conditions of receiving and participating in the scholarship program		Section 40 describes the conditions including requirement for a signed contract with commissioner, minimum requirements for service obligation and terms for failure of completing condition of scholarship.
50	Number of applications per student		Delineates maximum number of scholarship that each applicant is eligible to receive.
60	Establishes scholarship amount at \$5000		Provides clarity to reader about the dollar amount of the scholarship awards
70	Establishes application process		Provides clarity on the

			process for applicants to apply for the scholarship
80	Provides selection criteria		Establishes selection standards which will serve as guidance to scholarship committee in selecting the scholarship recipients
90	Provides content of the scholarship contracts		Establishes elements of the scholarship contract that is to be signed by recipient and commissioner.
100	Provides standards to use for practice site selection		Establishes minimal criteria which the practice site must meet to serve as an eligible practice site to repay service obligation
105	Establishes process by which an applicant can change practice sites		Provides direction to reader about how to change a practice site once a participant begins his service obligation
110	Provides the reporting requirements that must be fulfilled by each recipient.		Establishes reporting requirements that each recipient must fulfill during their participation in the scholarship program
120	Provides clarity on what constitutes a breach of contract		Establishes those conditions which constitute a breach of contract and provide for the terms of reimbursement of the Commonwealth by the recipient in the case of a breach of contract or default.
130	Establishes a deferment and waiver process		Provides clarity to the reader about the process by which a deferment may be considered
140	Establishes a process for repayment if service obligation is fulfilled after default payments		Establishes a process by which a participant may be reimbursed by the Commonwealth upon fulfilling service obligation after repaying the Commonwealth for default.