Virginia Regulatory Town Hall

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Fast Track Proposed Regulation
Agency Background Document

Agency name	Virginia Department of Health
Virginia Administrative Code (VAC) citation	12VAC5-407
Regulation title	Procedures for the Submission of Health Maintenance Organization Quality of Care Performance Information
Action title	Amend regulation for clarity, efficiency and effectiveness following periodic review
Date this document prepared	July 8, 2014

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

Please provide a brief summary (no more than 2 short 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of the proposed new regulation, proposed amendments to the existing regulation, or the regulation proposed to be repealed.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.

The State Board of Health (board) proposes to amend 12VAC5-407, Procedures for the Submission of Health Maintenance Organization Quality of Care Performance following a periodic review of the regulatory chapter. The proposed amendments make corrections to the regulations, for example: updating the correct definition of the acronym "HEDIS"; more accurately describing the process between the board and the nonprofit organization with regard to data submission; and updating the title of the Commissioner of Behavioral Health and Developmental Services. The proposed amendments also remove unnecessary sections, including sections 12VAC5-407-30 and 12VAC5-407-40, in order to make the regulation less lengthy and burdensome without having a great impact. Lastly, the proposed amendments include rearranging, editing, and rewording various language in order to bring greater clarity to the regulations.

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.

The following acronyms are used in this Agency Background Document and have the following meanings:
"HMO" means "Health maintenance organization"

"HEDIS" means the "Health Employer Data and Information Set" also known as the "Healthcare Effectiveness Data and Information Set"

"NCQA" mean the National Committee for Quality Assurance

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.

The Fast Track action for the Procedures for the Submission of Health Maintenance Organization Quality of Care Performance Information was approved by the Board of Health on December 4, 2014.

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 §32.1-12 and §32.1-276.5 of Chapter 7.2 of Title 32.1 of the Code of Virginia (Code). Section 32.1-12 grants the board the legal authority "to make, adopt, promulgate, and enforce such regulations necessary to carry out the provisions of Title 32.1 of the Code. Section 32.1-276.5 (B) requires health maintenance organizations (HMOs) to submit annually to the Commissioner audited data consistent with the latest version of HEDIS as collected by NCQA. Section 32.1-276.5 (B) requires that the Board promulgate regulations to implement this requirement.

Purpose

Please explain the need for the new or amended regulation. Describe the rationale or justification of the proposed regulatory action. Detail 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.

To fulfill the statutory mandate to review regulations and to protect the citizens of the Commonwealth**,** the Department conducted a periodic review of 12 VAC 5-407 *et seq*. "Procedures for the Submission of Health Maintenance Organization Quality of Care Performance Information" pursuant to Executive Order 14 (2010). As a result of this review, the Department determined it was necessary to use the regulatory process to amend these regulations. The amendments are essential to protect the health, safety and welfare of citizens because they enhance the clarity of the regulations in order to achieve improvements

that will be reasonable, prudent and will not impose an unnecessary burden on the Virginia Department of Health or the public.

Rationale for using fast track process

Please explain the rationale for using the fast track process in promulgating this regulation. Why do you expect this rulemaking to be noncontroversial?

Please note: If an objection to the use of the fast-track process is received within the 30-day public comment period from 10 or more persons, any member of the applicable standing committee of either house of the General Assembly or of the Joint Commission on Administrative Rules, the agency shall (i) file notice of the objections with the Registrar of Regulations for publication in the Virginia Register, and (ii) proceed with the normal promulgation process with the initial publication of the fast-track regulation serving as the Notice of Intended Regulatory Action.

These amendments simply clarify confusing language, eliminate unnecessary sections within the existing regulations and correct the Statutory Authority of the Regulatory Chapter. This regulatory action does not propose any substantive changes. These amendments have also been created with input from stakeholders. Therefore, the Department does not expect that this regulatory action will be controversial.

Substance

Please briefly identify and explain the new substantive provisions, the substantive changes to existing sections, or both where appropriate. (Provide more detail about these changes in the "Detail of changes" section.) Please be sure to define any acronyms.

12VAC5-407-10. Definitions -- Remove the unnecessary definition of Code. Correct the definitions of HEDIS and Nonprofit Organization.

12VAC5-407-20. Applicability -- Correct the Statutory Authority.

12VAC5-407-30 Reporting requirements for HMO -- Removal of an unnecessary section

12VAC5-407-40 Exceptions to HEDIS reporting -- Removal of an unnecessary section

12VAC5-407-50 Reporting methods and exemption from reporting -- Restructuring of the section for greater clarity.

12VAC5-407-60 Audited data required -- Changed the section into active voice. Removed unnecessary language from the section.

12VAC5-407-70 Process for data submission -- Clarifying language.

12VAC-407-80 Fees -- Clarifying language. Updating of terminology.

12VAC5-407-90 Late charge -- Change of terminology for consistency across the regulations.

12VAC5-407-100 Duties of the nonprofit organization. Clarifying language.

12VAC5-407-110 Biennial evaluation -- Correct the Statutory Authority.

12VAC5-407-120 Other duties of the board -- Removal of an unnecessary section.

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 to the agency, the Commonwealth and the public of the proposed regulatory action will be clearer and less burdensome regulations. There are no known disadvantages to the agency, the Commonwealth or the public.

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 requirements in this proposal that exceed 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.

No locality will be particularly affected by the proposed regulatory action.

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 required by the Code and the proposed amendments are attempting to clarify and simplify the existing requirements.

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. Please keep in mind that we are looking at the impact of the proposed changes to the status quo.

Description of the individuals, businesses or other entities likely to be affected (positively or negatively) by this regulatory proposal. Think broadly, e.g., these entities may or may not be regulated by this board	HMOs with an active license to operate in the Commonwealth of Virginia, Virginia Health Information and the Virginia Department of Health.
Agency's best estimate of the number of (1) entities that will be affected, including (2) small businesses affected. Small business means a business, including affiliates, that is independently owned and operated, employs fewer than 500 full-time employees, or has gross annual sales of less than $6 million.	There are ten HMOs with an active license to operate in the Commonwealth of Virginia. None of these HMOs are small businesses.
Benefits expected as a result of this regulatory proposal.	Greater clarity of the regulations
Projected cost to the state to implement and enforce this regulatory proposal.	Negligible.
Projected cost to localities to implement and enforce this regulatory proposal.	None
All projected costs of this regulatory proposal for affected individuals, businesses, or other entities. Please be specific and include all costs, including projected reporting, recordkeeping, and other administrative costs required for compliance by small businesses, and costs related to real estate development.	These amendments will simply clarify the regulations to current practice and therefore will not have an economic impact on affected entities.

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 viable alternatives other than the proposed amendments to clarify the current regulations to be clearer and less burdensome, while also continuing to fulfill the board's statutory mandate to regulate to implement the provisions of Section 32.1-276.5 (B) of the Code.

Periodic review and small business impact review report of findings

If this fast-track regulation is not the result of a periodic review and/or small business impact review report of the regulation, please delete this entire section.

If this fast-track regulation is the result of a periodic review, please (1) summarize all comments received during the public comment period following the publication of the Notice of Periodic Review, and (2) indicate whether the regulation meets the criteria set out in Executive Order 14 (2010), e.g., is necessary for the protection of public health, safety, and welfare, and is clearly written and easily understandable.

If this fast-track regulation is also a small business impact review report of the regulation, 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 nature of complaints or comments received concerning the regulation from the public; (3) the complexity of the regulation; (4) the extent to the 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 is required.

No comments were received from the public during the recent periodic review. There is a continued need for the regulation as it is mandated by law. The Department has not received any complaints or comments concerning the regulation from the public. With the proposed amendments in this regulatory action, the regulation is clearly written and easily understandable and the Department is confident based on this most recent review that the regulation does not overlap, duplicate or conflict with federal or state law or regulation.

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.

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. 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.*

For changes to existing regulation(s) or regulations that are being repealed and replaced, use this chart:

Throughout the regulatory action the Statutory Authority of the Regulations has been corrected. Previously Section 32.1-276.6 of the Code was listed as the Statutory Authority of the Regulatory Chapter. The correct Statutory Authority of Section 32.1-276.5 has been noted throughout.

Current section number	Proposed new section number, if applicable	Current requirement	Proposed change, intent, rationale, and likely impact of proposed requirements
12VAC5-407-10 - Definitions		The following words and terms when used in this chapter shall have the following meanings unless the context clearly indicates otherwise: "Board" means State Board of Health. "Code" means the Code of Virginia. "Commissioner" means the State Health Commissioner. "Consumer" means any person (i) whose occupation is other than the administration of health activities or the provision of health services, (ii) who has no fiduciary obligation to a health care institution or other health agency or to any organization, public or private, whose principal activity is an adjunct to the provision of health services, or (iii) who has no material financial interest in the rendering of health services. "Department" means the State Department of Health. "Health maintenance organization" or "HMO" means any person who undertakes to provide or to arrange for one or more health care plans pursuant to Chapter 43 (§ 38.2-4300 et seq.) of Title 38.2 of the Code of Virginia.	The following words and terms when used in this chapter shall have the following meanings unless the context clearly indicates otherwise: "Board" means State Board of Health. ~~"Code" means the Code of Virginia.~~ "Commissioner" means the State Health Commissioner. "Consumer" means any person (i) whose occupation is other than the administration of health activities or the provision of health services, (ii) who has no fiduciary obligation to a health care institution or other health agency or to any organization, public or private, whose principal activity is an adjunct to the provision of health services, or (iii) who has no material financial interest in the rendering of health services. "Department" means the State Department of Health. "Health maintenance organization" or "HMO" means any person who undertakes to provide or to arrange for one or more health care plans pursuant to Chapter 43 (§ 38.2-4300 et seq.) of Title 38.2 of the Code of Virginia. "HEDIS" means the Health ~~Plan~~ Employer Data and Information Set also known as the Healthcare Effectiveness Data and Information Set, a set of standardized performance measures ~~sponsored, supported~~collected and maintained by the National Committee for Quality Assurance. "NCQA" means the National Committee for Quality Assurance.

Current section number	Proposed new section number, if applicable	Current requirement	Proposed change, intent, rationale, and likely impact of proposed requirements
		"HEDIS" means the Health Plan Employer Data and Information Set, a set of standardized performance measures sponsored, supported and maintained by the National Committee for Quality Assurance. "NCQA" means the National Committee for Quality Assurance. "Nonprofit organization" means a nonprofit, tax-exempt health data organization with the characteristics, expertise, and capacity to execute the powers and duties set forth for such entity in this chapter.	"Nonprofit organization" means a nonprofit, tax-exempt health data organization with the characteristics, expertise, and capacity to execute the powers and duties set forth for such entity in Chapter 7.2 of Title 32.1 of the Code of Virginia~~this chapter~~. Intent: Remove an unnecessary definition. Update the definition of HEDIS to reflect the current terminology utilized by NCQA. Update the definition of nonprofit organization to reflect the Code of Virginia. Rationale: Greater clarity. No impact.
12VAC5-407-30- Reporting requirements for HMO data.		A. Every HMO shall make available to the commissioner those HEDIS or any other quality of care or performance information set, or a subset thereof. B. The board may contract directly with NCQA to purchase the selected HEDIS measures on behalf of the HMOs.	~~A. Every HMO shall make available to the commissioner those HEDIS or any other quality of care or performance information set, or a subset thereof.~~ ~~B. The board may contract directly with NCQA to purchase the selected HEDIS measures on behalf of the HMOs.~~ Intent: Repeal an unnecessary section. Rationale: Less burdensome and lengthy regulation. Greater clarity. No impact.
12VAC5-407-40 - Exception to HEDIS reporting.		A. The board may approve and require quality of care data other than the HEDIS measures provided that reasonable notice is given to the HMOs in writing.	~~A. The board may approve and require quality of care data other than the HEDIS measures provided that reasonable notice is given to the HMOs in writing.~~ Intent: Repeal an unnecessary section. Rationale: Less burdensome and lengthy regulation. Greater clarity. No impact.

Current section number	Proposed new section number, if applicable	Current requirement	Proposed change, intent, rationale, and likely impact of proposed requirements
12VAC5-407-50. Reporting methods and exemption from reporting.		A. Every HMO with an active license in the Commonwealth shall be required to submit the HEDIS or any other quality of care or performance information set approved by the board unless granted a written exemption by the commissioner. B. An HMO may, in writing, petition the commissioner for an exemption. The commissioner, at his discretion, may grant a waiver from reporting the HEDIS or any other approved quality of care or performance information set. In considering a petition for waiver, the commissioner may give due consideration to the HMO's (i) sample size; (ii) number of covered lives; (iii) length of operating experience in Virginia; (iv) accreditation status with respect to NCQA or other national accrediting organizations; or (v) any other relevant factors he deems appropriate. C. An HMO that can demonstrate that it does not meet NCQA's minimum sample size requirements to collect statistically valid information on at least 50% of the HEDIS effectiveness of care measures or performance information sets approved by the board shall be exempt from reporting the HEDIS quality of care or performance sets during the reporting period. The HMO shall submit documentation to the commissioner each reporting period to	A. Every HMO with an active license in the Commonwealth shall be required to submit the HEDIS or any other quality of care or performance information set approved by the board unless granted a written exemption by the commissioner. B. The following methods shall be used for data submission. 1. If the HMO submits data to NCQA, the commissioner may purchase HEDIS data or any other quality of care or performance information set from NCQA. 2. If the HMO does not submit data to NCQA, or the commissioner elects not to purchase HEDIS data from the NCQA, then the HMO shall submit the performance information sets approved by the board to the nonprofit organization in accordance with the timeframes established in 12VAC5-407-70. ~~B~~C. An HMO may, in writing, petition the commissioner for an exemption. The commissioner, at his discretion, may grant a waiver from reporting the HEDIS or any other approved quality of care or performance information set. In considering a petition for waiver, the commissioner may give due consideration to the HMO's (i) sample size; (ii) number of covered lives; (iii) length of operating experience in Virginia; (iv) accreditation status with respect to NCQA or other national accrediting organizations; or (v) any other relevant factors he deems appropriate. ~~C~~D. An HMO that can demonstrate that it does not meet NCQA's minimum sample size requirements to collect statistically valid information on at least 50% of the HEDIS effectiveness of care measures or performance information sets

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		demonstrate that it meets the criteria for obtaining an exemption from reporting. D. Options for data submission. 1. The commissioner may purchase HEDIS data or any other quality of care or performance information set from NCQA that includes all HMOs operating in the Commonwealth that submit HEDIS data to NCQA. 2. HMOs that do not submit data directly to NCQA must submit the performance information sets approved by the board to the nonprofit organization in accordance with the timeframes established in 12VAC5-407-70. 3. If the budget pursuant to 12VAC5-407-100 E includes a cost benefit for direct submission of HEDIS data or any other quality of care or performance information set, the commissioner may thereafter require direct submission.	approved by the board shall be exempt from reporting the HEDIS quality of care or performance sets during the reporting period. The HMO shall submit documentation to the commissioner each reporting period to demonstrate that it meets the criteria for obtaining an exemption from reporting. ~~D. Options for data submission.~~ ~~1. The commissioner may purchase HEDIS data or any other quality of care or performance information set from NCQA that includes all HMOs operating in the Commonwealth that submit HEDIS data to NCQA.~~ ~~2. HMOs that do not submit data directly to NCQA must submit the performance information sets approved by the board to the nonprofit organization in accordance with the timeframes established in 12VAC5-407-70.~~ ~~3. If the budget pursuant to 12VAC5-407-100 E includes a cost benefit for direct submission of HEDIS data or any other quality of care or performance information set, the commissioner may thereafter require direct submission.~~ Intent Greater clarity of the regulations. Rationale: Grouping the reporting requirement and the method of submission leads to greater clarity. No impact.

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12VAC5-407-60 Audited data required		A. Data submitted by HMOs is required to be verified by an independent auditing organization with no financial interest in or managerial association with the HMO. B. HMOs whose performance information set is audited by an NCQA-certified HEDIS compliance auditor will have a notice to that effect published with their HEDIS data. C. HMOs whose performance information set is not audited by NCQA-certified auditors will have a notice to that effect published with their HEDIS data.	~~A. Data submitted by~~ HMOs ~~is required to~~shall submit data that has been verified by an independent auditing organization with no financial interest in or managerial association with the HMO. The HMO shall submit an audit report with the data. ~~B. HMOs whose performance information set is audited by an NCQA-certified HEDIS compliance auditor will have a notice to that effect published with their HEDIS data.~~ ~~C. HMOs whose performance information set is not audited by NCQA-certified auditors will have a notice to that effect published with their HEDIS data.~~ Intent: Remove unnecessary language and more clearly identify the auditing requirement. Rationale: Greater clarity. No impact.
12VAC5-407-70 Process for data submission		A. Before January 1 of each year, the commissioner shall submit to each HMO in writing the process required for data submission, obtaining a waiver from reporting and the amount of the fee to be paid. HMOs providing HEDIS or any other quality of care or performance information set directly to the commissioner shall submit the data by September 15 of each year. B. The nonprofit organization shall publish annually the quality information data before December 31.	A. Before January 1 of each year, the commissioner shall submit to each HMO in writing the process required for data submission, the fee associated with data submission, and the process for obtaining a waiver.~~obtaining a waiver from reporting and the amount of the fee to be paid.~~ HMOs providing HEDIS or any other quality of care or performance information set directly to the ~~commissioner~~nonprofit organization shall submit the data by September 15 of each year. B. The ~~nonprofit organization~~board shall direct the nonprofit organization to publish annually the quality information data before December 31. Intent: Clarifying confusing language. Rationale: Greater clarity. No impact.
12VAC5-407-80- Fees		A. For each HMO required to provide information pursuant to this chapter, the board shall prescribe a reasonable fee to cover the cost of collecting and making available such data. The commissioner may purchase	A. For each HMO required to provide information pursuant to this chapter, the board shall prescribe a reasonable fee to cover the cost of collecting and making available such data. The commissioner may purchase HEDIS data or other quality of care or performance information set on behalf of all the

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		HEDIS data or other quality of care or performance information set on behalf of all the actively licensed HMOs in the Commonwealth that are participating in HEDIS and divide the cost among the HMOs. Each HMO shall pay an equal share of the cost to the board for purchase of the HEDIS data directly from NCQA. The remainder of the cost associated with making the data available shall be divided among the participating HMOs in a tiered format based on the number of enrollees per HMO. B. Fees described in subsection A of this section shall not exceed $3,000 per HMO per year. C. The payment of such fees shall be on September 15 of each year. The nonprofit organization providing services pursuant to an agreement or contract as provided in § 32.1-276.4 of the Code of Virginia shall be authorized to charge and collect the fees prescribed by the board in this section when the data are provided directly to the nonprofit organization. Such fees shall not exceed the amount authorized by the board. D. The nonprofit organization providing services pursuant to an agreement or contract as provided in § 32.1-276.4 of the Code of Virginia shall be authorized to charge and collect reasonable fees approved by the board for	actively licensed HMOs in the Commonwealth that are participating in HEDIS and divide the cost among the HMOs. Each HMO shall pay an equal share of the cost to the board for purchase of the HEDIS data directly from NCQA. The remainder of the cost associated with making the data available shall be divided among the participating HMOs in a tiered format based on the number of enrollees per HMO. B. Fees described in subsection A of this section shall not exceed $3,000 per HMO per year. C. The payment of such fees shall be on September 15 of each year or later if determined by the nonprofit. The nonprofit organization ~~providing services pursuant to an agreement or contract as provided in § 32.1-276.4 of the Code of Virginia~~ shall be authorized to charge and collect the fees prescribed by the board in ~~this~~ subsection A when the data are provided directly to the nonprofit organization. Such fees shall not exceed the amount authorized by the board. D. The nonprofit organization ~~providing services pursuant to an agreement or contract as provided in § 32.1-276.4 of the Code of Virginia~~ shall be authorized to charge and collect reasonable fees approved by the board for making available to any individual or entity who requests the HEDIS data or other approved quality of care data; however, the commissioner, the State Corporation Commission, and the Commissioner of Behavioral Health and Developmental Services ~~Mental Health, Mental Retardation and Substance Abuse Services~~ shall be entitled to receive relevant and appropriate data from the nonprofit organization at no charge. E. ~~HMOs shall be entitled to receive relevant and appropriate HMO data as defined by and from the nonprofit~~

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		making available the HEDIS data or other approved quality of care data; however, the commissioner, the State Corporation Commission, and the Commissioner of Mental Health, Mental Retardation and Substance Abuse Services shall be entitled to receive relevant and appropriate data from the nonprofit organization at no charge. E. HMOs shall be entitled to receive relevant and appropriate HMO data as defined by and from the nonprofit organization, with input from the HMO industry at no charge.	~~organization, with input from the HMO industry at no charge.~~ The board shall direct the nonprofit organization to solicit input from the HMO industry to determine relevant and appropriate data that the industry shall receive at no charge. Intent: Removal of unnecessary language due to the update of the definition of nonprofit organization. Insertion of clarifying language to clarify the nature of the different fees. Update the title of the Commissioner of Behavioral Health and Developmental Services. Provide clarifying language. Rationale: Greater clarity of the regulations. No impact.
12VAC5-207-90- Late Charge		A. A late charge of $25 per working day shall be paid to the board by an HMO that has not received an exemption from the commissioner as provided for in 12VAC5-407-50 and that has not paid the assessed fees by September 15. The late fee may not be assessed until completion of a 30-day grace period for submitting the data. B. Late charges may be waived by the board, in its discretion, if an HMO can show that an extenuating circumstance exists. Examples of an extenuating circumstance may include, but are not limited to, the installation of a new computerized system, a bankruptcy proceeding, or change of ownership in the HMO.	A. A late charge of $25 per working day shall be paid to the board by an HMO that has not received an exemption from the commissioner as provided for in 12VAC5-407-50 and that has not paid the assessed fees by September 15 or later if determined by an agreement between the board and the nonprofit. The late ~~fee~~charge may not be assessed until completion of a 30-day grace period for submitting the data. B. Late charges may be waived by the board, in its discretion, if an HMO can show that an extenuating circumstance exists. Examples of an extenuating circumstance may include, but are not limited to, the installation of a new computerized system, a bankruptcy proceeding, or change of ownership in the HMO. Intent: Consistency of terminology and of date fees are due. Rationale: Greater clarity of the regulations. No impact.

Current section number	Proposed new section number, if applicable	Current requirement	Proposed change, intent, rationale, and likely impact of proposed requirements
12VAC5-407-100. ~~Contract with~~ Duties of the nonprofit organization.		A. The commissioner shall negotiate and contract with a nonprofit organization pursuant to § 32.1-276.4 of the Code of Virginia for compiling, storing, and making available to consumers the data submitted by HMOs pursuant to 12VAC5-407-30 and 12VAC5-407-40. B. The nonprofit organization shall assist the board in developing a summary plan and budget to collect and make available HMO HEDIS or any other quality of care performance information set results for consumers. The nonprofit organization shall present the summary plan and budget on a biennial basis to the board for approval. The commissioner, at his discretion, shall also review the summary plan on a periodic basis to determine its effectiveness. C. The nonprofit organization shall collect the HEDIS data in the most cost-effective manner available. D. The nonprofit organization will prepare a biennial summary plan in identifying the measures selected for reporting. The summary plan shall include: 1. The rationale for selecting each measure to be made available to consumers; 2. The goal of reporting each measure; 3. The cost and benefit of	The contract entered into by the board and the nonprofit organization pursuant to Chapter 7.2 of Title 32.1 of the Code of Virginia shall provide: A. ~~The commissioner shall negotiate and contract with a nonprofit organization pursuant to § 32.1-276.4 of the Code of Virginia for compiling, storing, and making~~The nonprofit organization shall compile, store and make available to consumers the data submitted by HMOs pursuant to 12VAC5-407-30 and 12VAC5-407-40. B. The nonprofit organization shall assist the board in developing a summary plan and budget to collect and make available HMO HEDIS or any other quality of care performance information set results for consumers. The nonprofit organization shall present the summary plan and budget on a biennial basis to the board for approval. The commissioner, at his discretion, shall also review the summary plan on a periodic basis to determine its effectiveness. C. The nonprofit organization shall collect the HEDIS data in the most cost-effective manner available. D. The nonprofit organization shall~~will~~ prepare a biennial summary plan in identifying the measures selected for reporting. The summary plan shall include: 1. The rationale for selecting each measure to be made available to consumers; 2. The goal of reporting each measure; 3. The cost and benefit of collecting the measures and making them available to consumers; and 4. The scope of dissemination of information in paper or electronic format and the target audience.

Current section number	Proposed new section number, if applicable	Current requirement	Proposed change, intent, rationale, and likely impact of proposed requirements
		collecting the measures and making them available to consumers; and 4. The scope of dissemination of information in paper or electronic format and the target audience. E. The nonprofit organization shall prepare a biennial budget that includes a cost-benefit analysis of purchasing HEDIS data from NCQA or obtaining the information performance sets directly from the HMOs. F. The nonprofit organization will present the summary plan and budget to the board for review and approval on a biennial basis. G. The nonprofit organization shall organize, present and make available to consumers all data required by the board to be reported to the commissioner.	E. The nonprofit organization shall prepare a biennial budget that includes a cost-benefit analysis of purchasing HEDIS data from NCQA or obtaining the information performance sets directly from the HMOs. F. The nonprofit organization shall~~will~~ present the summary plan and budget to the board for review and approval on a biennial basis. G. The nonprofit organization shall organize, present and make available to consumers on its website all data required by the board to be reported to the commissioner. Intent: Add clarifying language. Rationale: Greater clarity of the regulations. No impact.
12VAC5-407-120 Other duties of the board.		The board shall (i) maintain records of its activities relating to the dissemination of data reported by HMOs and (ii) collect and account for all fees, as described in this chapter, and deposit the moneys so collected into a special fund from which the expenses attributed to this chapter shall be paid.	~~The board shall (i) maintain records of its activities relating to the dissemination of data reported by HMOs and (ii) collect and account for all fees, as described in this chapter, and deposit the moneys so collected into a special fund from which the expenses attributed to this chapter shall be paid.~~ Intent: Repeal an unnecessary section. Rationale: Less burdensome and lengthy regulation. Greater clarity. No impact.