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Notice of Intended Regulatory Action (NOIRA) Agency Background Document

Agency name	Virginia Department of Health
Virginia Administrative Code (VAC) Chapter citation(s)	12VAC5-403
VAC Chapter title(s)	Certification of Doulas
Action title	Adopt regulations setting forth the requirements for doula certification
Date this document prepared	July 7, 2020

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), Executive Order 14 (as amended, July 16, 2018), the Regulations for Filing and Publishing Agency Regulations (1VAC7-10), and the *Form and Style Requirements for the Virginia Register of Regulations and Virginia Administrative Code*.

Brief Summary

Provide a brief summary (preferably no more than 2 or 3 paragraphs) of the subject matter, intent, and goals of this regulatory change (i.e., new regulation, amendments to an existing regulation, or repeal of an existing regulation).

The intent of the proposed action is to promulgate a new regulation to establish the requirements for use of "certified doula" and training and education requirements. During the 2020 General Assembly session, House Bill 687 (HB 687) amended the Code of Virginia to include section 32.1-77.1, which includes a subsection mandating the Board of Health to adopt regulations that set forth the requirements for the use of the title "state-certified doula" and the training and education necessary to satisfy the requirements for certification by the Virginia Department of Health as a state-certified doula.

Doulas are trained nonmedical professionals who provide critical physical, emotional, and informational support to pregnant women during antepartum, intrapartum, and postpartum periods. To ensure continuity and validity in the knowledge, skills and abilities of individuals promoting themselves as certified doulas, regulations defining the requirements for certification are required. The goal of this regulation is to establish the minimum requirements to be considered a certified doula in Virginia based

on the core competences for doula certification used by national organizations and community based organizations in Virginia.

Acronyms and Definitions

Define all acronyms or technical definitions used in this form.

VDH – Virginia Department of Health or the Department

Board – Virginia Board of Health

Mandate and Impetus

Identify the mandate for this regulatory change and any other impetus that specifically prompted its initiation (e.g., new or modified mandate, petition for rulemaking, periodic review, or board decision). For purposes of executive branch review, “mandate” has the same meaning as defined in Executive Order 14 (as amended, July 16, 2018), “a directive from the General Assembly, the federal government, or a court that requires that a regulation be promulgated, amended, or repealed in whole or part.”

The mandate for this regulatory change comes from HB 687 from the 2020 General Assembly session, which directs the Board to adopt regulations that set forth the requirements for the use of the title “state-certified doula” and the training and education necessary to satisfy the requirements for certification by the Department as a state-certified doula.

Legal Basis

Identify (1) the promulgating agency, and (2) the state and/or federal legal authority for the regulatory change, including the most relevant citations to the Code of Virginia and Acts of Assembly chapter number(s), if applicable. Your citation must include a specific provision, if any, authorizing the promulgating agency to regulate this specific subject or program, as well as a reference to the agency’s overall regulatory authority.

The State Board of Health is authorized to make, adopt, promulgate and enforce regulations by Section 32.1-12 of the Code of Virginia.

Section 32.1-77.1 of the Code of Virginia requires the Board to adopt regulations that set forth the requirements for the use of the title “state-certified doula” and the training and education necessary to satisfy the requirements for certification by the Department as a state-certified doula.

Purpose

Describe the specific reasons why the agency has determined that this regulation is essential to protect the health, safety, or welfare of citizens. In addition, explain any potential issues that may need to be addressed as the regulation is developed.

The purpose of this regulation is to be in compliance with the Code of Virginia and to provide standardized doula certification requirements in the Commonwealth of Virginia. Certification

requirements for state-certified doulas shall reflect national best practices pertaining to community-based doula training and certification. Individuals practicing as state-certified doulas will have attained the required training, through entities approved by the Board of Health, to provide coaching, outreach, and navigation services to Virginia's most hard-to-reach pregnant women to ensure that disadvantaged populations are equipped with the knowledge to receive the most appropriate medical and social supports to meet their needs. A standardized doula certification model is also beneficial to supporting and maintaining the doula workforce. This regulatory action will ensure that the content is clearly written.

One potential issue regarding standardizing doula certification requirements is that the regulation may present a perceived barrier to doulas who are currently practicing without certification. This regulation will be written to ensure that these individuals are not prohibited from continuing to practice.

Substance

Briefly identify and explain the new substantive provisions that are being considered, the substantive changes to existing sections that are being considered, or both.

This new regulation will include definitions for community-based and state-certified doulas, as well as other relevant terminology. The regulation will outline the minimum training and education requirements for state-certified doulas based on the core competences for doula certification used by national organizations and community based organizations in Virginia. In addition, the regulation will describe the minimum standards required of the entity, approved by the Board, responsible for confirming stated-certified doulas and for approving the training and education to meet doula certification requirements.

Alternatives to Regulation

Describe any viable alternatives to the regulatory change that were considered, and the rationale used by the agency to select the least burdensome or intrusive alternative that meets the essential purpose of the regulatory change. 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 regulatory change.

No alternative to this regulatory action was considered, as the Code of Virginia addresses the need for regulations pertaining to doula certification.

Periodic Review and Small Business Impact Review Announcement

If you wish to use this regulatory action to conduct, and this NOIRA to announce, a periodic review (pursuant to § 2.2-4017 of the Code of Virginia and Executive Order 14 (as amended, July 16, 2018)), and a small business impact review (§ 2.2-4007.1 of the Code of Virginia) of this regulation, keep the following text. Modify as necessary for your agency. Otherwise, delete the paragraph below and insert "This NOIRA is not being used to announce a periodic review or a small business impact review."

This NOIRA is not being used to announce a periodic review or a small business impact review.

Public Participation

Indicate how the public should contact the agency to submit comments on this regulation, and whether a public hearing will be held, by completing the text below. In addition, as required by § 2.2-4007.02 of the Code of Virginia describe any other means that will be used to identify and notify interested parties and seek their input, such as regulatory advisory panels or general notices.

The Virginia Department of Health is providing an opportunity for comments on this regulatory proposal, including but not limited to (i) the costs and benefits of the regulatory proposal, (ii) any alternative approaches, and (iii) the potential impacts of the regulation.

Anyone wishing to submit written comments for the public comment file may do so through the Public Comment Forums feature of the Virginia Regulatory Town Hall web site at: <https://townhall.virginia.gov>. Comments may also be submitted by mail, email or fax to Robin Buskey, P.O. Box 2448, Richmond, VA 23218, 804-864-7652, and robin.buskey@vdh.virginia.gov. 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 the proposed stage of this regulatory action.

A panel will be assembled to develop these regulations to ensure that only pertinent content is included. Panel members will make certain that information that is not appropriate for inclusion in the regulation is addressed in other guidance materials. The panel membership will include stakeholders from a variety of backgrounds who have subject matter expertise on the doula profession. Members will assist VDH in the careful consideration of the proposed regulation and its impact on other entities. VDH will solicit panel member participation, and if you are interested in serving on the panel, contact Consuelo Staton at consuelo.staton@vdh.virginia.gov.