



townhall.virginia.gov

Final Regulation 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 30, 2021

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 this regulatory change (i.e., new regulation, amendments to an existing regulation, or repeal of an existing regulation). Alert the reader to all substantive matters. If applicable, generally describe the existing regulation.

The intent of this regulatory action is to promulgate a new regulation to establish the requirements for use of "state-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 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. HB 687 also required the establishment of a public registry of state-certified doulas.

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 primary 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. This regulation also outlines the minimum standards required of the entity, approved by the Board, responsible for confirming state-certified doulas, approving the training and education to meet doula certification requirements and maintaining a registry of state-certified doulas available to the general public.

Acronyms and Definitions

Define all acronyms used in this form, and any technical terms that are not also defined in the "Definitions" section of the regulation.

VDH – Virginia Department of Health or the Department

Board – Virginia Board of Health

Statement of Final Agency Action

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.

Pursuant to §32.1-20 of the Code of Virginia, the State Health Commissioner approved this final action on behalf of the Board of Health, while the Board was not in session, on September 1, 2021

Mandate and Impetus

List all changes to the information reported on the Agency Background Document submitted for the previous stage regarding the mandate for this regulatory change, and any other impetus that specifically prompted its initiation. If there are no changes to previously reported information, include a specific statement to that effect.

There are no changes to previously reported information.

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

Explain the need for the regulatory change, including a description of: (1) the rationale or justification, (2) the specific reasons the regulatory change is essential to protect the health, safety or welfare of citizens, and (3) the goals of the regulatory change and the problems it's intended to solve.

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.

Substance

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.

The regulation includes definitions for community-based and state-certified doulas, as well as other relevant terminology. The regulation outlines 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 describes the minimum standards required of the entity, approved by the Board, responsible for confirming state-certified doulas, approving the training and education to meet doula certification requirements and maintaining a registry of state-certified doulas available to the general public.

Issues

Identify the issues associated with the regulatory change, 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, include a specific statement to that effect.

The primary advantage of the proposed regulatory action to the public is the establishment of statewide doula certification requirements and a public registry. Currently, anyone can identify as a certified doula because the Commonwealth of Virginia has no central repository or public registry that identifies certified doulas or that collects data on the number of doula practicing in the state. Establishing minimum training and education criteria for state certification of doulas based on national standards and best practices will provide assurance to the public that state-certified doulas have met those requirements. A certifying body approved by the Board of Health will verify that doulas practicing in the Commonwealth have completed the required training to attain certification and provide doula care to pregnant women. Healthcare providers, community-based organizations and payers may be assured of standardized training requirements when vetting this critical workforce. The public registry will include all doulas certified in Virginia and will make identification of state-certified doulas easier and more accessible to the public.

One disadvantage associated with this regulatory action to the public is the potential costs to applicants seeking to become a state-certified doula as they will likely incur an application fee. Another 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 is written to ensure that these individuals are not prohibited from continuing to practice.

A primary advantage of the proposed regulatory action to the Commonwealth is that the action supports development of the doula workforce, for which the need aligns with research supporting the benefits of emotional support provided by support personnel, such as doulas, on labor outcomes. The March of Dimes' July 2018 position statement, Statement on Doulas and Birth Outcomes, outlines evidence and guidance in support of doula care. Specifically, the March of Dimes supports increased access to doula care as one tool to help improve birth outcomes and reduce the higher rates of maternal morbidity and mortality among women of color in the United States; advocates for all payers to provide coverage for doula services; and recognizes the importance of increased training, support and capacity development for doulas, including doulas from racially, ethnically, socioeconomically and culturally diverse communities. There are no other known disadvantages to the public associated with this regulatory change.

The Department of Medical Assistance Services completed a rate study for Medicaid reimbursement of doula services, and funding was authorized and approved by the 2021 General Assembly (Chapter 552, Item 313 WWWW). Individuals will need to satisfy doula state-certification requirements in order to receive Medicaid reimbursement for doula services. Therefore, this regulatory action is a pertinent matter of interest to all parties vested in those efforts.

Requirements More Restrictive than Federal

List all changes to the information reported on the Agency Background Document submitted for the previous stage regarding any requirement of the regulatory change which is more restrictive than applicable federal requirements. If there are no changes to previously reported information, include a specific statement to that effect.

There are no changes to the previously reported information.

Agencies, Localities, and Other Entities Particularly Affected

List all changes to the information reported on the Agency Background Document submitted for the previous stage regarding any other state agencies, localities, or other entities that are particularly affected by the regulatory change. If there are no changes to previously reported information, include a specific statement to that effect.

There are no changes to the previously reported information.

Public Comment

Summarize all comments received during the public comment period following the publication of the previous stage, and provide the agency response. Include all comments submitted: including those received on Town Hall, in a public hearing, or submitted directly to the agency. If no comment was received, enter a specific statement to that effect.

VDH received one public comment from two individuals representing the same organization during the public comment period following publication of the previous stage. The comment was submitted directly to the agency.

Commenter	Comment	Agency response
<p>Doreen Bonnet, Executive Director/Birth Sisters of Charlottesville</p> <p>Lisa Brown, Deputy Executive Director/Birth Sisters of Charlottesville</p>	<p>The commenters submitted inquiries with regard to 12VAC5-403-20 to include the following:</p> <p>“Questions:</p> <ol style="list-style-type: none"> 1. Who are the training entities, when will they be announced, and what criteria is used by the certifying body to approve an entity? 2. Are there any restrictions on whether the training entity is in the state or outside of the state in respect to all training curriculum requirements? We support approving training entities both inside and outside of the state. 3. Who is responsible for submitting approval consideration for a given training entity? Does that responsibility lie with the individual doula/organization or the potential training entity itself?” <p>The commenters also included a recommendation to amend the language to 12VAC5-403-50 B.5.b. Specifically, the recommendation was to modify the language to “Intentional reflection and needs assessment of the community served.”</p> <p>The commenters also stated, “In the regulation, there doesn’t seem to be provisions for seasoned community established doulas who have been providing doula services for many years and who may not have approved certification through an approved certifying entity. What is in place to ensure these doulas are also eligible for Medicaid reimbursement?”</p>	<p>VDH provides the following responses to the questions and recommendations:</p> <ol style="list-style-type: none"> 1. The training entities have not been determined. The Virginia Doula Task Force, established by the 2021 Appropriation Act to serve as an information resource on the regulation and the certification process, will make recommendations for training entities to be approved by the certifying body. Per the legislation, §32.1-77.1, the certifying body approved by the Board approves training entities. The Board will approve the certifying body after the regulation takes effect. The certifying body will make available the list of approved training entities. The Virginia Doula Task Force will recommend the criteria to be used by the certifying body to approve training entities. 2. The legislation does not impose any geographic restrictions on training entities. The Virginia Doula Task Force will make recommendations with respect to training entities. 3. The Virginia Doula Task Force will make recommendations regarding the training entity review and approval process. <p>VDH does not concur with the recommendation to amend the proposed regulatory text in 403-50 B.5.b. VDH convened a meeting of the Virginia Doula Task Force on July 30, 2021. This recommendation was discussed and the majority of the task force members voted against amending the regulatory text.</p> <p>The legislation, §32.1-77.1 H, and the proposed regulation, 12-VAC5- 403-70, includes language that provides for individuals that currently practice as doulas to continue to do so even if they do not wish to become a state-certified doula. The legislation and the regulation establish requirements for state-certified doulas. The legislation and the regulation does not establish requirements for the Medicaid doula reimbursement benefit. Authority for Medicaid reimbursement lies with the Department of Medical Assistance Services.</p>

Detail of Changes Made Since the Previous Stage

*List all changes made to the text since the previous stage was published in the Virginia Register of Regulations and the rationale for the changes. For example, describe the intent of the language and the expected impact. Describe the difference between existing requirement(s) and/or agency practice(s) and what is being proposed in this regulatory change. Explain the new requirements and what they mean rather than merely quoting the text of the regulation. * Put an asterisk next to any substantive changes.*

Current chapter-section number	New chapter-section number, if applicable	New requirement from previous stage	Updated new requirement since previous stage	Change, intent, rationale, and likely impact of updated requirements
		There are no new changes or requirements to the regulatory text from the previous stage.		

Detail of All Changes Proposed in this Regulatory Action

*List all changes proposed in this action and the rationale for the changes. For example, describe the intent of the language and the expected impact. Describe the difference between existing requirement(s) and/or agency practice(s) and what is being proposed in this regulatory change. Explain the new requirements and what they mean rather than merely quoting the text of the regulation. * Put an asterisk next to any substantive changes.*

New chapter-section number	New requirements to be added to VAC	Other regulations and laws that apply	Change, intent, rationale, and likely impact of new requirements
12VAC5-403-10	Definitions. Defines terms used throughout the regulations	Not applicable.	Change - Adds a new section. Intent - The section defines terms used throughout the regulation regarding the provision of doula services and the certification of doulas. Rationale - To assist readers in understanding the regulation. Impact - The requirements will likely result in improved understanding and application of the regulation.
12VAC5-403-20	State-certified doula. Describes use of the title state-certified doula	Not applicable.	Change - Adds a new section. Intent - This section describes which individuals can use the

			<p>title state-certified doula and the requirements that must be satisfied.</p> <p>Rationale - To provide a distinction for use of the title state-certified doula versus other doula titles.</p> <p>Impact - The likely impact of the requirements is clarity and distinction between state-certified doulas and other doulas to members of the public when reading the regulatory chapter.</p>
12VAC5-403-30	<p>Qualifications. Describes the qualifications for a state-certified doula</p>	Not applicable.	<p>Change - Adds a new section.</p> <p>Intent - This section describes the training qualifications required for individuals wanting to become a state-certified doula and the training exemptions for individuals who have already attained a doula certification.</p> <p>Rationale - To assist readers in understanding what is required to qualify as a state-certified doula.</p> <p>Impact - The impact of these requirements will likely result in clarity to members of the public regarding minimum applicant qualifications.</p>
12VAC5-403-40	<p>Minimum standards for certifying bodies. Describes the standards for certifying bodies</p>	Not applicable.	<p>Change - Adds a new section.</p> <p>Intent - This section describes the minimum standards for the entity approved by the Board of Health that will certify doulas, approve continuing education for the recertification of doulas and establish a public registry of state-certified doulas.</p> <p>Rationale - To establish and help readers understand the minimal criteria and responsibilities of the certifying entity.</p>

			Impact - The likely impact will be clarity and understanding of the regulation.
12VAC5-403-50	Curriculum requirements. Describes the curriculum requirements	Not applicable.	Change - Adds a new section. Intent - This section outlines the topics included in the 60-hour doula training curriculum and provides a breakdown of the minimum hours required within the training categories. Rationale - To help readers understand the minimum required training topics and hours specific to community-based doulas. Impact - The likely impact will be clarity and understanding of the regulation.
VAC5-403-60	Continuing education. Describes the continuing education requirements	Not applicable.	Change - Adds a new section. Intent - This section describes the minimum continuing education requirements for the recertification of doulas. Rationale - To help readers understand the distinction between initial doula certification requirements and recertification requirements. Impact - The likely impact will be clarity and understanding of the regulation.
12VAC5-403-70	Certification not required. Describes exemption from state-certified doula requirements	Not applicable.	Change - Adds a new section. Intent - This section includes language that exempts individuals who wish to practice as a doula but do not wish to obtain a state-certified doula certification. Rationale - To help the reader understand that this regulation does not prohibit individuals from practicing as a doula if they are not state-certified doulas. Impact - The likely impact of this requirement exemption is

			understanding of the regulation and assurance that individuals who are currently practicing as doulas in the state may continue to do so.
--	--	--	---