



townhall.virginia.gov

Proposed Regulation Agency Background Document

Agency name	State Board of Health
Virginia Administrative Code (VAC) Chapter citation(s)	12 VAC5-402
VAC Chapter title(s)	Certification of Community Health Workers
Action title	Adopt regulations setting forth the requirements for community health worker certification
Date this document prepared	July 17, 2023

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), Executive Order 19 (2022) (EO 19), any instructions or procedures issued by the Office of Regulatory Management (ORM) or the Department of Planning and Budget (DPB) pursuant to EO 19, the Regulations for Filing and Publishing Agency Regulations (1 VAC 7-10), 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.

Chapter 363 of the 2020 Acts of Assembly enacted § 32.1-15.1, which mandates the Board of Health to adopt regulations that set forth the requirements for use of the title “certified community health worker” and the training and education necessary to satisfy the requirements for certification as a certified community health worker. Section 32.1-15.1 also requires that the Board approve a certifying body that intends to certify community health workers. This action is intended to fulfill the mandate in Ch 363 (2020).

Community health workers are nonmedical professionals with the education and experience necessary to provide collaborative services to assist individuals in achieving sustained wellness by engaging, educating, supporting, and advocating on behalf of an individual's efforts to meet the goals established in a plan of care. To ensure continuity and validity in the knowledge, skills and abilities of individuals promoting themselves as certified community health workers, 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 community health worker” in Virginia based on the core competences for community health worker used by community-based organizations in Virginia. This regulation will also outline the minimum standards required of the entity, approved by the Board, responsible for confirming certified community health workers, approving the training and education to meet community health worker certification requirements and maintaining a registry of certified community health workers 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.

“CHW” means a community health worker
“Department” or “VDH” means the Virginia Department 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 the ORM procedures, “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.”

Section 32.1-15.1 of the Code of Virginia mandates that the Board of Health adopt regulations setting forth requirements for use of the title "certified community health worker" and education and training necessary to meet the requirements for certification as a certified CHW.

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 Board is authorized by § 32.1-12 to “make, adopt, promulgate and enforce such regulations and provide for reasonable variances and exemptions therefrom as may be necessary to carry out the provisions of [Title 32.1] and other laws administered by it, the Commissioner or the Department.”

Section 32.1-15.1 of the Code of Virginia mandates that the Board of Health adopt regulations setting forth requirements for use of the title "certified community health worker" and education and training programs necessary to meet the requirements for certification as a certified CHW.

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 is intended to solve.

The purpose of this regulation is to comply with the mandate of § 32.1-15.1 and to provide standardized CHW certification requirements in the Commonwealth of Virginia. Certification requirements for certified CHWs shall reflect national best practices pertaining to community-based community health worker training and certification. Individuals practicing as certified CHWs will have attained the required training, through entities approved by the Board of Health, to provide collaborative services to assist individuals in achieving sustained wellness by engaging, educating, supporting, and advocating on behalf of an individual's efforts to meet the goals established in a plan of care. A standardized CHW certification model is also beneficial to supporting and maintaining the workforce. This regulatory action will ensure that the content is clearly written.

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.

This new regulation will include the definition of a CHW as well as other relevant terminology. The regulation will outline the minimum training and education requirements for certified CHWs based on the core competences 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 certified CHWs, approving the training and education to meet CHW certification requirements and maintaining a registry of certified CHWs 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 community health worker certification requirements and a public registry. Establishing minimum training and education criteria for state certification of CHWs based on national standards and best practices will provide assurance to the public that certified CHW have met those requirements. A certifying body approved by the Board of Health will verify that CHWs practicing in the Commonwealth have completed the required training to attain certification and provide collaborative services to assist individuals in achieving sustained wellness. 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 CHWs certified in Virginia and will make identification of certified CHWs 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 certified CHW as they will likely incur an application fee. Another potential issue regarding standardizing CHW certification requirements is that the regulation may present a perceived barrier to CHWs who are currently practicing without certification, though a CHW is

not required to be certified if they do not intend to use the title “certified CHW.” This regulation will be written to ensure that these individuals are not prohibited from continuing to practice. There are no other known disadvantages to the public associated with this regulatory change.

Requirements More Restrictive than Federal

Identify and describe any requirement of the regulatory change which is more restrictive than applicable federal requirements. Include a specific citation for each applicable federal requirement, and 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 specific statement to that effect.

There are no requirements more restrictive than applicable federal requirements.

Agencies, Localities, and Other Entities Particularly Affected

Consistent with § 2.2-4007.04 of the Code of Virginia, identify any other state agencies, localities, or other entities particularly affected by the regulatory change. Other entities could include local partners such as tribal governments, school boards, community services boards, and similar regional organizations. “Particularly affected” are those that are likely to bear any identified disproportionate material impact which would not be experienced by other agencies, localities, or entities. “Locality” can refer to either local governments or the locations in the Commonwealth where the activities relevant to the regulation or regulatory change are most likely to occur. If no agency, locality, or entity is particularly affected, include a specific statement to that effect.

Other State Agencies Particularly Affected

No other state agencies will be particularly affected.

Localities Particularly Affected

No localities will be particularly affected.

Other Entities Particularly Affected

Community health workers or others who wish to practice as a certified community health worker in Virginia will be particularly affected.

Economic Impact

Consistent with § 2.2-4007.04 of the Code of Virginia, identify all specific economic impacts (costs and/or benefits) anticipated to result from the regulatory change. When describing a particular economic impact, specify which new requirement or change in requirement creates the anticipated economic impact. Keep in mind that this is the proposed change versus the status quo.

Impact on State Agencies

<p><i>For your agency:</i> projected costs, savings, fees, or revenues resulting from the regulatory change, including:</p>	<p>The regulatory change has no economic impact on VDH.</p>
---	---

<p>a) fund source / fund detail; b) delineation of one-time versus on-going expenditures; and c) whether any costs or revenue loss can be absorbed within existing resources.</p>	
<p><i>For other state agencies:</i> projected costs, savings, fees, or revenues resulting from the regulatory change, including a delineation of one-time versus on-going expenditures.</p>	<p>This regulatory change has no economic impact on other state agencies.</p>
<p><i>For all agencies:</i> Benefits the regulatory change is designed to produce.</p>	<p>This regulatory change is intended to improve the health and well-being of individuals in Virginia through community-based collaborative services. This change is also intended to help eliminate health disparities across the Commonwealth.</p>

Impact on Localities

If this analysis has been reported on the ORM Economic Impact form, indicate the tables (1a or 2) on which it was reported. Information provided on that form need not be repeated here.

<p>Projected costs, savings, fees, or revenues resulting from the regulatory change.</p>	<p>This regulatory change has no economic impact on localities.</p>
<p>Benefits the regulatory change is designed to produce.</p>	<p>This regulatory change is intended to improve the health and well-being of individuals in Virginia through community-based collaborative services. This change is also intended to help eliminate health disparities across the Commonwealth.</p>

Impact on Other Entities

If this analysis has been reported on the ORM Economic Impact form, indicate the tables (1a, 3, or 4) on which it was reported. Information provided on that form need not be repeated here.

<p>Description of the individuals, businesses, or other entities likely to be affected by the regulatory change. If no other entities will be affected, include a specific statement to that effect.</p>	<p>Community health workers or others who wish to practice as a certified community health worker in Virginia will be particularly affected.</p>
<p>Agency's best estimate of the number of such entities that will be affected. Include an estimate of the number of small businesses affected. Small business means a business entity, including its affiliates, that: a) is independently owned and operated, and; b) employs fewer than 500 full-time employees or has gross annual sales of less than \$6 million.</p>	<p>This number is unknown as Virginia does not currently have a central repository to collect data on the number of CHWs practicing in the state. This regulatory action will establish a public registry, which will provide this information once implemented.</p>
<p>All projected costs for affected individuals, businesses, or other entities resulting from the regulatory change. Be specific and include all costs including, but not limited to: a) projected reporting, recordkeeping, and other administrative costs required for compliance by small businesses;</p>	<p>The projected cost for each affected individual is \$100 per application for CHW certification.</p>

<p>b) specify any costs related to the development of real estate for commercial or residential purposes that are a consequence of the regulatory change; c) fees; d) purchases of equipment or services; and e) time required to comply with the requirements.</p>	
<p>Benefits the regulatory change is designed to produce.</p>	<p>The regulatory change is designed to establish minimum standards for CHWs practicing as certified CHWs in Virginia. This regulatory change is intended to improve the health and well-being of individuals in Virginia through community-based collaborative services. This change is also intended to help eliminate health disparities across the Commonwealth.</p>

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 mandates the requirement for regulations pertaining to CHW certification.

If this analysis has been reported on the ORM Economic Impact form, indicate the tables on which it was reported. Information provided on that form need not be repeated here.

Regulatory Flexibility Analysis

Consistent with § 2.2-4007.1 B of the Code of Virginia, 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) establishing less stringent compliance or reporting requirements; 2) establishing less stringent schedules or deadlines for compliance or reporting requirements; 3) consolidation or simplification of compliance or reporting requirements; 4) establishing 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 regulatory change.

§32.1-15.1 mandated the Board of Health to establish requirements for use of the title “certified community health worker” and to establish training and education requirements for certified CHWs. VDH had previously partnered with key stakeholders to implement a CHW certification process based on identified core competencies. The proposed regulations will codify the existing process. VDH staff convened stakeholder workgroup meetings to receive input and feedback on the proposed regulations.

There are no other applicable regulations to consolidate that impact establishing requirements for use of the title “certified community health worker” or establishing training and education requirements for certification as a certified CHW. Small businesses may not be exempted as a category because health services must be managed equitably by their providers, regardless of business size, to assure optimal

outcomes. There are no viable alternatives to the proposed regulatory action to achieve the necessary regulatory changes.

If this analysis has been reported on the ORM Economic Impact form, indicate the tables on which it was reported. Information provided on that form need not be repeated here.

**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 is being conducted as part of this regulatory action, and was announced during the NOIRA stage, indicate whether the regulatory change meets the criteria set out in EO 19 and the ORM procedures, e.g., is necessary for the protection of public health, safety, and welfare; minimizes the economic impact on small businesses consistent with the stated objectives of applicable law; and is clearly written and easily understandable. In addition, as required by § 2.2-4007.1 E and F of the Code of Virginia, discuss the agency’s consideration of: (1) the continued need for the regulation; (2) the nature of complaints or comments received concerning the regulation; (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. Also, discuss why the agency’s decision, consistent with applicable law, will minimize the economic impact of regulations on small businesses.

This form is not being used to report the result of a periodic review or a small business impact review.

Public Comment

Summarize all comments received during the public comment period following the publication of the previous stage, and provide the agency’s 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.

No public comments were received following publication of the NOIRA stage.

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.

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, (iii) the potential impacts of the regulation, and (iv) the agency's regulatory flexibility analysis stated in that section of this background document.

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 Heather Board, 109 Governor St, 9th Floor, Richmond, VA 23219,

communityhealthworker@vdh.virginia.gov and 804-864-7748. 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.

Detail of Changes

List all regulatory changes and the consequences of the changes. Explain the new requirements and what they mean rather than merely quoting the text of the regulation. 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. Use all tables that apply, but delete inapplicable tables.

If a new VAC Chapter(s) is being promulgated and is not replacing an existing Chapter(s), use Table 2.

Table 2: Promulgating New VAC Chapter(s) without Repeal and Replace

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
10	Defines terms used throughout the regulations	Not applicable.	<p>Change: The section defines terms used in the regulation.</p> <p>Intent: The intent is to ensure clarification for and allow the agency to control the meaning of terms used.</p> <p>Rationale: Definitions sections are required as part of regulations.</p> <p>Likely Impact: VDH staff and the public will clearly understand the terms used.</p>
20	Describes use of the title certified community health worker	Not applicable.	<p>Change: This section prohibits use of the title “certified CHW” without meeting the requirements in the chapter. It also exempts CHWs who do not desire to use that title from the requirements of the chapter.</p> <p>Intent: The intent is to clarify who is allowed to use the title.</p> <p>Rationale: The requirement in subsection A come directly from § 32.1-15.1 (B).</p> <p>Likely Impact: The likely impact of the requirements is clarity and distinction between certified CHWs and other CHWs to members of the public when reading the regulatory chapter. The impact of the certification exemption is intended to assure individuals who are currently practicing as</p>

			CHWs in the state that they may continue to do so.
30	Describes the qualifications for a certified community health worker and continuing education	Not applicable.	<p>Change: This section requires someone desiring to be certified to be an adult, complete at least 60 hours of approved training, and perform at least 2,000 hours of community health services within three years before the application, 50 of which being supervised. The applicant is also required to verify that information to the approved certifying body.</p> <p>The section also allows someone who was certified in another state to become certified in Virginia by providing their certification to the certifying body, as long as they meet the stated training hours requirements.</p> <p>The section also requires recertification every two years and 30 hours of approved continuing education during the two-year period.</p> <p>Intent: The requirements are intended to make the distinction between initial CHW certification requirements and recertification requirements. They are also intended to ensure that a “certified CHW” has met acceptable training and education standards consistent with a “certified” professional. The recertification requirements are intended to ensure that a certified CHW remains up-to-date on relevant training and education over time.</p> <p>Rationale: The rationale is that § 32.1-15.1 required the Board to promulgate the education and training requirements.</p> <p>Likely Impact: The impact of these requirements will likely result in clarity to members of the public regarding minimum applicant qualifications. Also, members of the public will know that certified CHWs have met widely accepted training and education standards and possess the associated knowledge, skills, and abilities.</p>
40	Describes the standards for certifying bodies	Not applicable.	<p>Change: This section describes the minimum standards for the entity approved by the Board of Health that will certify CHWs, approve continuing education for the recertification of CHWs. The certifying body must establish a public registry of certified CHWs, submit annual reports to the Board on approved certified CHWS and</p>

			<p>training entities, ensure applicants' compliance with the training and education requirements, and establish a code of ethics for certified CHWs.</p> <p>Intent: The intent is to describe the minimum expectations of a certifying body to be approved by the Board and to maintain and provide data on certified CHWs and training entities.</p> <p>Rationale: The registry and reporting requirements will allow for public transparency and the ability for the public to confirm the certification status of a certified CHW. It will also allow for VDH and the public to analyze trends regarding the certification of CHWs across the Commonwealth.</p> <p>Likely Impact: The likely impact is that bodies who demonstrate the ability to meet the requirements in the section will be approved certifying bodies and will begin issuing certifications.</p>
50	Describes the curriculum requirements	Not applicable.	<p>Change: This section requires training entities to provide 60 hours of training, broken down according to the section, in the following topic areas: community health concepts and approaches; service coordination and system navigation; health promotion and prevention; advocacy, outreach, and engagement; communication; cultural humility and responsiveness; and ethical responsibilities and professionalism.</p> <p>Intent: The intent is to ensure that training entities provide a consistent framework for certified CHW education programs that are sufficient to provide the expected knowledge, skills, and abilities of a "certified" professional.</p> <p>Rationale: The rationale is that § 32.1-15.1 requires the Board to set requirements for education and training programs.</p> <p>Likely Impact: The likely impact is that certified CHWs will have solid, consistent educational backgrounds sufficient to perform the typical duties of a CHW. Also, training entities providing compliant training programs will be approved by certifying bodies to provide the programs to CHWs seeking certification in Virginia.</p>