



**COMMONWEALTH of VIRGINIA**  
*Office of the Attorney General*

**Jason S. Miyares**  
Attorney General

202 N. 9<sup>th</sup> Street  
Richmond, Virginia 23219  
(804) 786-2071  
Fax (804) 786-1991  
Virginia Relay Services  
800-828-1120  
7-1-1

MEMORANDUM

FROM: Michael A. Jagels  
Senior Assistant Attorney General

TO: Colin M. Greene, MD, MPH  
Commissioner, Virginia Department of Health

DATE: September 16, 2022

RE: Review of State Board of Health Regulations — 12 VAC 5-421

---

*Please note that this memorandum does not constitute an opinion, formal or informal, of the Attorney General. Rather, this memorandum contains the legal analysis of the individual staff member providing it.*

In response to a request from the Department of Health, I have reviewed the above-referenced regulations of the Virginia Board of Health.

The Board of Health has the authority to amend its regulations. See Va. Code §§ 35.1-11 and 35.1-14. After reviewing the proposed amendments, it is my opinion that the Board of Health has the authority to amend 12 VAC 5-421.

It is also my view that the Virginia Administrative Process Act §§ 2.2-4000 to -4032, applies here. Further, as the Board is employing the fast-track rule making process set forth in § 2.2-4012.1, amending these regulations is subject to there being no more objections than provided for in § 2.2-4012.1 of the Code of Virginia.