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Fast-Track Regulation
Agency Background Document

Agency name	State Board of Health
Virginia Administrative Code (VAC) Chapter citation(s)	12VAC5-220-10 *et seq.*
VAC Chapter title(s)	Virginia Medical Care Facilities Certificate of Public Need Rules and Regulations
Action title	Amend Regulation after Enactment of Chapter 1271 of the 2020 Acts of Assembly
Date this document prepared	August 22, 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 1271 (2020 Acts of Assembly) made extensive revisions to Article 1.1 (§ 32.1-102.1 *et seq.*) of Chapter 4 of Title 32.1 of the Code of Virginia, which governs the Certificate of Public Need (COPN) program in VDH. The amendments update 12VAC5-220-10 *et seq.* to reflect these statutory changes, including changes to what constitutes a completed application, what is exempt from registration and COPN review, when public hearings are required, what are required conditions for COPNs, the timeline for application submission, and numerous updates to the definitions. The regulatory chapter has also been updated to reorganize and revise multiple sections for improved readability.

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.

"Board" means the State Board of Health.

"Commissioner" means the State Health Commissioner.

"COPN" means certificate of public need.

"RPHA" means regional health planning agency.

"VDH" means the Virginia Department 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.

The Board of Health approved these Fast Track amendments to the Virginia Medical Care Facilities Certificate of Public Need Rules and Regulations (12VAC5-220) at their quarterly meeting on September 14, 2023.

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."

Consistent with Virginia Code § 2.2-4012.1, also explain why this rulemaking is expected to be noncontroversial and therefore appropriate for the fast-track rulemaking process.

The mandate and impetus for this regulatory change are the changes to the Code of Virginia enacted by Chapter 1271 of the 2020 Acts of Assembly. The rulemaking is expected to be noncontroversial because it conforms the regulation to the statutory changes enacted by Chapter 1271 of the 2020 Acts of Assembly.

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.

This regulation is promulgated under the authority of Va. Code §§ 32.1-12 and 32.1-102.2. Va. Code § 32.1-12 grants the Board the legal authority "to make, adopt, promulgate, and enforce such regulations…as may be necessary to carry out the provisions of this title and other laws of the Commonwealth administered by it, the Commissioner, or the Department." Va. Code § 32.1-102.2 states that the Board shall promulgate regulations that are consistent with Article 1.1 of Chapter 4 of Title 32.1 of the Code of Virginia.

The substantive amendments included in this action conform the regulation to Chapter 1271 of the 2020 Acts of Assembly.

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 rationale or justification for this change is that the regulation should be in conformity to the statutory provisions. The specific reasons the regulatory change is essential to protect the health, safety, or welfare of citizens are that the COPN program ensures that the healthcare marketplace is not flooded with unneeded medical facilities or equipment, and that charity care is being provided to indigent patients; updating the regulations to reflect statutory mandates and to be more readable allows the regulants to better understand the regulatory requirements of this regulation. The goals of the regulatory change are to eliminate discrepancies between the statutes and regulations, to improve the readability and organization of the regulatory chapter, and to reduce regulatory requirements.

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 following new substantive provisions and substantive changes to existing sections are proposed:

Part I. Definitions

Section 10. Definitions
Amends the definition of acquisition, amendment, applicant, application, application fees, capital expenditure, certificate, clinical health service, commissioner, construction, day, designated medically underserved areas, ex parte, health planning region, initiation of construction, inpatient beds, medical care facility, modernization, operating expenditure, operator, owner, person, physician office, predevelopment site work, primary medical care services, progress, project, public hearing, rural, and significant change. Adds definitions for charity care, CT, day, general hospital, good cause, hospital, MRI, nursing home, other plan, RFA, State Health Services Plan, and work day. Repeals the definition of gamma knife surgery, medical service area, regional health plan, and State Medical Facilities Plan.

Part II. General Information

This Part header has been repealed.

Section 20. Authority for regulations
Repealed in its entirety.

Section 30. Purpose of chapter
Repealed in its entirety.

Section 40. Administration of chapter
Repealed in its entirety.

Section 50. Public meetings and public hearings
Repealed in its entirety.

Section 60. Official records
Repealed in its entirety.

Section 70. Application of chapter
Repealed in its entirety.

Section 80. Powers and procedures of chapter not exclusive
Repealed in its entirety.

Section 90. Annual report
Repealed in its entirety.

Part II. Mandatory Requirements
This Part header has been re-numbered from Part III to Part II.

Section 100. Requirements for reviewable medical care facility projects; exceptions
Renamed "Requirements for projects; exceptions." Amended to incorporate all exemptions from COPN found in Chapter 1271 of the 2020 Acts of Assembly and to conform to *The Virginia Register of Regulations* style guidelines.

Section 105. Requirements for registration of the replacement of existing medical equipment
Renamed "Requirements for registration of medical equipment." Amended to incorporate all registration changes for replacement medical equipment and new medical equipment found in Chapter 1271 of the 2020 Acts of Assembly and to conform to *The Virginia Register of Regulations* style guidelines.

Section 110. Requirements for registration of certain capital expenditures
Amended to conform to statutory requirements for capital expenditure registration for hospitals and non-hospitals, and to conform to *The Virginia Register of Regulations* style guidelines.

Section 140. Requirements for health maintenance organizations (HMO)
Repealed in its entirety.

Section 155. Requirements for the reporting of charity care
Amended to conform to statutory requirements for reporting charity care and to conform to *The Virginia Register of Regulations* style guidelines.

Part IV. Determination of Public Need (Required Considerations)
This Part header has been repealed.

Section 160. Required considerations
Repealed in its entirety.

Part V. Standard Review Process
This Part header has been re-numbered from Part V to Part III.

Section 180. Application forms
Amended to remove duplicative requirements for fees, to reflect current means by which applicants obtain applications from VDH, to move the filing deadline from the 40th day before the start of the review cycle to the 10th day before the start of the review cycle, and to conform to *The Virginia Register of Regulations* style guidelines.

Section 190. Review for completeness
Amended to conform to statutory requirements that prescribe what constitutes a completed application and to conform to *The Virginia Register of Regulations* style guidelines.

Section 200. One hundred ninety-day review cycle
Amended to remove types of services, facilities, and expenditures no longer reviewable under COPN, to update out-of-date terminology, to correct a typographical error in the table, and to conform to *The Virginia Register of Regulations* style guidelines.

Section 210. Requests for application (RFA)
Renamed to "Requests for application." Amended to conform to *The Virginia Register of Regulations* style guidelines.

Section 220. Consideration of applications
Removed the term "medical service area" and replaced it with "planning region or statewide, as designated in the State Health Services Plan" due to the removal of the definition for "medical service area" from the regulation.

Section 230. Review of complete application
Renamed "Review of completed application by the regional health planning agency." Amended section to narrow scope to application review by the RPHA, to conform to statutory requirements for reviews by RPHAs, and to conform to *The Virginia Register of Regulations* style guidelines.

Section 232. Review of completed application by the department
A new section about application review by VDH. Conforms to statutory requirements for reviews by VDH, updates deadlines so they all use the same time reference (*n*th day of review cycle), and conforms to *The Virginia Register of Regulations* style guidelines.

Section 234. Review of completed application by the commissioner
A new section about application review by the Commissioner. Conforms to statutory requirements for reviews by the Commissioner, updates deadlines so they all use the same time reference (*n*th day of review cycle), and conforms to *The Virginia Register of Regulations* style guidelines.

Section 236. Review period extensions
A new section about review period extensions by applicants. Conforms to statutory requirements and conforms to *The Virginia Register of Regulations* style guidelines.

Section 250. Amendment to an application
Amended to address amendments to applications in the absence of a public hearing and to conform to *The Virginia Register of Regulations* style guidelines.

Section 270. Action on an application
Repealed in its entirety.

Section 275. Conditions of approval
Amended to conform to statutory requirements for conditioning of COPNs and to conform to *The Virginia Register of Regulations* style guidelines.

Section 278. Noncompliance with conditions
Amended to conform to statutory requirements for noncompliance with COPN conditions and to conform to *The Virginia Register of Regulations* style guidelines.

Part VI. Expedited Review Process
This Part header has been re-numbered from Part VI to Part IV.

Section 280. Applicability
Renamed "Criteria for expedited review." Amended to conform to statutory requirements for expedited review and to conform to *The Virginia Register of Regulations* style guidelines.

Section 290. Application forms

Renamed "Application; review for completeness." Amended to remove duplicative requirements for fees, to reflect current means by which applicants obtain applications from VDH, to conform to statutory requirements that prescribe what constitutes a complete application, and to conform to *The Virginia Register of Regulations* style guidelines.

Section 310. Action on application
Amended to conform to statutory requirements for expedited review and to conform to *The Virginia Register of Regulations* style guidelines.

Part VII. New Nursing Home Bed Review Process
This Part header has been re-numbered from Part VII to Part V.

Section 325. Applicability
Amended to conform to *The Virginia Register of Regulations* style guidelines.

Section 335. Request for Applications (RFA)
Renamed "Request for applications." Amended to conform to *The Virginia Register of Regulations* style guidelines and for consistency with Section 10.

Section 365. Review for completeness
Amended to conform to statutory requirements that prescribe what constitutes a completed application and to conform to *The Virginia Register of Regulations* style guidelines.

Section 385. Review of complete application
Renamed "Review of completed application by the regional health planning agency." Amended section to narrow scope to application review by the RPHA, to conform to statutory requirements for reviews by RPHAs, and to conform to *The Virginia Register of Regulations* style guidelines.

Section 388. Review of completed application by the department
A new section about application review by VDH. Conforms to statutory requirements for reviews by VDH, updates deadlines so they all use the same time reference (*n*th day of review cycle), and conforms to *The Virginia Register of Regulations* style guidelines.

Section 392. Review of completed application by the commissioner
A new section about application review by the Commissioner. Conforms to statutory requirements for reviews by the Commissioner, updates deadlines so they all use the same time reference (*n*th day of review cycle), and conforms to *The Virginia Register of Regulations* style guidelines.

Section 394. Review period extensions
A new section about review period extensions by applicants. Conforms to statutory requirements and conforms to *The Virginia Register of Regulations* style guidelines.

Section 420. Action on an application
Repealed in its entirety.

Section 425. Conditions of approval
Amended to conform to statutory requirements for conditioning of COPNs and to conform to *The Virginia Register of Regulations* style guidelines.

Part VIII. Duration, Extension, and Revocation of Certificates
This Part header has been re-numbered from Part VIII to Part VI.

Section 460. Revocation of certificate
Amended to conform to statutory requirements for revocation of a COPN and to conform to *The Virginia Register of Regulations* style guidelines.

Part IX. Appeals

This Part header has been re-number from Part IX to Part VII.

Section 470. Judicial review

Amended to conform to statutory requirements for judicial review of a COPN and to conform to *The Virginia Register of Regulations* style guidelines.

Part X. Sanctions

This Part header has been re-numbered from Part X to Part VIII.

Section 480. Violation of rules and regulations

Amended to clarify that commencing a project without first registering it is grounds to refusing to issue a license for that project.

Section 490. Injunctive relief

Amended to clarify that section includes projects that are commenced without a registration and to conform to *The Virginia Register of Regulations* style guidelines.

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 advantages to the public are that the regulations will be consistent with the statutory mandates from the General Assembly and more readable. The primary advantage to VDH and the Commonwealth is that the regulations will be in compliance with Chapter 1271 of the 2020 Acts of Assembly. There are no primary disadvantages to the public, VDH, or the Commonwealth. A pertinent matter of interest to the the regulated community is that the application deadline for COPN applications has been reduced from 40 days from the start of the applicable batch review cycle to 10 days from the start of the applicable batch review cycle. This regulatory change allows regulants 30 additional days to submit COPN applications; while the deadline has been reduced to 10 days, applicants are able to submit their applications at any time before that deadline.

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 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

The two licensed nursing homes operated by the Department of Veterans Services, the licensed general hospital operated by Virginia Commonwealth University (VCU) Health Systems Authority, the general hospital operated by the University of Virginia (UVA) Medical Center, and any state agency wishing to begin a project that would require either a COPN or registration with the COPN program are particularly affected by this proposed regulatory change.

Localities Particularly Affected

The County of Bedford, Lee County Hospital Authority, and Chesapeake Hospital Authority may be particularly affected by this proposed regulatory change since Bedford operates a nursing home and the two hospital authorities operate a licensed general hospital each and would be particularly affected by this proposed regulatory change. Additionally, any locality wishing to begin a project that would require either a COPN or registration with the COPN program would be particularly affected by this proposed regulatory change.

Other Entities Particularly Affected

Any person wishing to begin a project that would require either a COPN or registration with the COPN program are particularly affected by this proposed regulatory change.

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

For your agency: projected costs, savings, fees or revenues resulting from the regulatory change, including: 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	The estimated costs resulting from this regulatory action on the department is $46,469 annually due to the projected decrease in COPN applications related to the additional exemptions. The agency may save staff time due to the potential reduction in the review load associated with COPN applications; however, this benefit cannot be calculated. Another potential cost saving for the agency is the reduction in public hearings associated with the removal of that requirement from the regulatory text; there were approximately 342 non-competing applications in the last 10 years, accounting for approximately 60% of all COPN applications received during that time period, so it can be estimated that the removal of that requirement will result in a

	decrease of public hearings. The reduction in the number of public hearings will yield a cost saving for the agency associated with the use of state cars, personal cars, and venue rental costs. There will be a shift in the workload for VDH staff due to new requirements, however, that shift cannot be currently calculated.
For other state agencies: projected costs, savings, fees or revenues resulting from the regulatory change, including a delineation of one-time versus on-going expenditures.	Other state agencies that wish to begin a project that would require a COPN or registration with the COPN program may be effected; however, VDH is not aware of any applicable projects from these entities and therefore is unable to calculate the projected costs, savings, fees, or revenues resulting from the regulatory change on other state agencies.
For all agencies: Benefits the regulatory change is designed to produce.	The benefits of the regulatory changes are that the regulation will be in compliance with the statutory mandates from the General Assembly and will be more readable for other state agencies that wish to begin a project that would require a COPN or registration.

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.

Projected costs, savings, fees or revenues resulting from the regulatory change.	Projects that now qualify as exempt will not require a COPN, which will result in a benefit of not paying application fees. The average COPN application cost is $8,119.46 per application, resulting in a cost saving to localities that are interested in beginning projects that would now qualify as exempt. Localities that prepare these applications may benefit from a cost savings if a project is exempt; however, the cost savings cannot be quantified due to the varying complexity of COPN applications, and the number of staff utilized by regulants to complete the application.
Benefits the regulatory change is designed to produce.	Style changes to the text will increase the clarity of the regulations, making them easier for localities to read and understand.

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.

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.	The other entities likely to be affected by the regulatory change are any entities that are interested in beginning a project that would require a COPN or registration; however, VDH is not able to quantify the number of entities or who these entities would be.

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.	Based on anecdotal information, VDH does not believe any general hospital or nursing home meets the definition of "small business." VDH is unable to quantify how many Physician Offices and Outpatient Surgical Centers qualify as small businesses.
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; 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.	Projects that now qualify as exempt will not require a COPN, which will result in a benefit of not paying application fees. The average COPN application cost is $8,119.46 per application, resulting in a cost saving to entities that are interested in beginning projects that would now qualify as exempt. Other entities that prepare these applications may benefit from a cost savings if a project is exempt; however, the cost savings cannot be quantified due to the varying complexity of COPN applications, and the number of staff utilized by regulants to complete the application.
Benefits the regulatory change is designed to produce.	Style changes to the text will increase the clarity of the regulations, making them easier for regulated entities to read and understand.

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.

There are no alternative regulatory methods that will accomplish the objectives of applicable law. The Board is required by the General Assembly to regulate the COPN program. The Board has no other method other than the promulgation or amendment of regulations to regulate the COPN program. The Board has put forth thoughtful consideration about the burdens of the new regulatory requirements and has limited these amendments to those necessary to protect the health, safety, and welfare of the public.

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.

There are no alternative regulatory methods that will accomplish the objectives of applicable law. The Board is required by the General Assembly to regulate the COPN program. The Board has no other method other

than the promulgation or amendment of regulations to regulate the COPN program. The Board has put forth thoughtful consideration about the burdens of the new regulatory requirements and has limited these amendments to those necessary to protect the health, safety, and welfare of the public.

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.

Consistent with § 2.2-4011 of the Code of Virginia, 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: 1) file notice of the objections with the Registrar of Regulations for publication in the Virginia Register and 2) proceed with the normal promulgation process with the initial publication of the fast-track regulation serving as the Notice of Intended Regulatory Action.

If you are objecting to the use of the fast-track process as the means of promulgating this regulation, please clearly indicate your objection in your comment. Please also indicate the nature of, and reason for, your objection to using this process.

The Board is providing an opportunity for comments on this regulatory proposal, including but not limited to (i) the costs and benefits of the regulatory proposal and any alternative approaches, (ii) the potential impacts of the regulation, and (iii) the agency's regulatory flexibility analysis stated in 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 Rebekah E. Allen, Senior Policy Analyst, Virginia Department of Health, Office of Licensure and Certification, 9960 Mayland Drive, Suite 401, Henrico, VA 23233; email:regulatorycomment@vdh.virginia.gov; fax: (804) 527-4502. In order to be considered, comments must be received by 11:59 pm on the last day of the public comment period.

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.

Table 1: Changes to Existing VAC Chapter(s)

Current chapter-section number	New chapter-section number, if applicable	Current requirements in VAC	Change, intent, rationale, and likely impact of new requirements
220-10	N/A	This section contains the definitions for terms used in the chapter.	**CHANGE:** The Board is proposing the following new edits: • Updated to reference the Code definition: ○ Application

			○ Certificate of public need ○ Medical care facility ○ Person ○ Project ○ State Health Services Plan (formerly "State Medical Facilities Plan") • Updated the definition of "competing applications" to remove the reference to the "medical service area" designation • Moved the "good cause" definition from section 232 to the definitions section • Moved "Initiation of Construction" • Added a definition of the following terms: ○ Charity care ○ CT ○ Day ○ General hospital ○ Hopsital ○ MRI ○ Nursing home ○ PET ○ RFA ○ Work day • Struck completely: ○ Gamma knife ○ Medical service area ○ Regional health plan ○ Other plans • Style changes **INTENT:** The intent of the new requirements is update the terminology to be consistent with the Code of Virginia and current practice. **RATIONALE:** The rationale for the new requirements is the regulatory text should conform to statutory requirements. **LIKELY IMPACT:** The likely impact of the new requirement is improved clarity for readers.
220-20	N/A	This section references the statutory authority for the COPN program and regulations.	**CHANGE:** The Board is proposing to repeal this section. **INTENT:** The intent of the repeal is to remove non-regulatory provisions from the regulation

			RATIONALE: The rationale for the repeal is that only regulatory requirements should appear in the regulations. The cited statutes themselves sufficiently establish the authority for the regulations, which are cited at the end of every section of the regulation. Thus, a standalone authority section is unnecessary, **LIKELY IMPACT:** The likely impact of the repeal is reduced confusion for readers.
220-30	N/A	**Purpose of chapter.** The board has promulgated this chapter to set forth an orderly administrative process for making public need decisions.	**CHANGE:** The Board is proposing to repeal this section. **INTENT:** The intent of the repeal is to remove non-regulatory provisions from the regulation **RATIONALE:** The rationale for the repeal is that only regulatory requirements should appear in the regulations. The Registrar of regulations, pursuant to 1VAC7-10-40 (C), is permitted to omit purpose statements from publication in the *Virginia Register of Regulations* or inclusion in the Virginia Administrative Code. **LIKELY IMPACT:** The likely impact of the repeal is reduced confusion for readers.
220-40	N/A	**Administration of chapter.** This chapter is administered by the following: 1. The Board of Health is the governing body of the Virginia Department of Health. The Board of Health has the authority to promulgate and prescribe such rules and regulations as it deems necessary to effectuate the purposes of the Act. 2. The State Health Commissioner is the executive officer of the Virginia Department of Health. The commissioner is the designated decision maker in the process of determining public need under the Act.	**CHANGE:** The Board is proposing to repeal this section. **INTENT:** The intent of the repeal is to remove non-regulatory provisions from the regulation **RATIONALE:** The rationale for the repeal is that only regulatory requirements should appear in the regulations. The responsibilities of the Board, VDH, and the Commissioner included in this section are sufficiently established in the Code of Virginia and are unnecessary to include here. **LIKELY IMPACT:** The likely impact of the repeal is reduced confusion for readers.
220-50	N/A	**Public meetings and public hearings.** All meetings and hearings convened to consider any certificate of public need application shall be open to the	**CHANGE:** The Board is proposing to repeal this section. **INTENT:** The intent of the repeal is to remove non-regulatory provisions from the regulation

		public in accordance with the provisions of the Virginia Freedom of Information Act (§ 2.1-340 et seq.) of the Code of Virginia.	**RATIONALE:** The rationale for the repeal is that conduct of public meetings are controlled by the Virginia Freedom of Information Act, which these regulations cannot supersede. **LIKELY IMPACT:** The likely impact of the repeal is reduced confusion for readers.
220-60	N/A	**Official records.** Written information including staff evaluations and reports and correspondence developed or utilized or received by the commissioner during the review of a medical care facility project shall become part of the official project record maintained by the Department of Health and shall be made available to the applicant, competing applicant and review bodies. Other persons may obtain a copy of the project record upon request. All records are subject to the Virginia Freedom of Information Act.	**CHANGE:** The Board is proposing to repeal this section. **INTENT:** The intent of the repeal is to remove non-regulatory provisions from the regulation **RATIONALE:** The rationale for the repeal is that the preservation, disposition, and dissemination of public records are controlled by the Virginia Public Records Act and the Virginia Freedom of Information Act, which these regulations cannot supersede. Specific provisions regarding the creation of, maintenance of, and access to COPN records are sufficiently addressed in the relevant sections of the regulation. **LIKELY IMPACT:** The likely impact of the repeal is reduced confusion for readers.
220-70	N/A	**Application of chapter.** This chapter has general applicability throughout the Commonwealth. The requirements of the Virginia Administrative Process Act (§ 9-6.14:1 et seq.) of the Code of Virginia apply to their promulgation.	**CHANGE:** The Board is proposing to repeal this section. **INTENT:** The intent of the repeal is to remove non-regulatory provisions from the regulation **RATIONALE:** The rationale for the repeal is that the promulgation, amendment, and application of regulations are controlled by the Virginia Administrative Process Act, which these regulations cannot supersede. **LIKELY IMPACT:** The likely impact of the repeal is reduced confusion for readers.
220-80	N/A	**Powers and procedures of chapter not exclusive.** The commissioner and the board reserve the right to authorize any procedure for the enforcement of this chapter that is not inconsistent with the provisions set forth herein and the provisions of Article 1.1 (§ 32.1-102.1 et seq.) of Chapter 4	**CHANGE:** The Board is proposing to repeal this section. **INTENT:** The intent of the repeal is to remove non-regulatory provisions from the regulation **RATIONALE:** The rationale for the repeal is that only regulatory requirements should appear in the regulations. The

		of Title 32.1 of the Code of Virginia.	rights of the board, department, and commissioner with regard to enforcement are sufficiently established in the Code of Virginia and need not be repeated here. **LIKELY IMPACT:** The likely impact of the repeal is reduced confusion for readers.
220-90	N/A	**Annual report.** This section contains report requirements.	**CHANGE:** The Board is proposing to repeal this section. **INTENT:** The intent of the repeal is to remove obsolete requirements from the regulation **RATIONALE:** The rationale for the repeal is that Chapter 1271 of the 2020 Acts of the Assembly repealed the requirement that an annual report be submitted. **LIKELY IMPACT:** The likely impact of the repeal is reduced confusion for readers.
220-100	N/A	**Requirements for reviewable medical care facility projects; exceptions.** This section details the requirements for projects and the exemptions that exist for those projects.	**CHANGE:** The Board is proposing style and form changes to the existing language, the inclusion of registrations prior to the initiation of a project as a requirement, and the inclusion of new exemptions for: • Certain bed relocations • Certain nursing homes **INTENT:** The intent of the new requirements is to incorporate all COPN exemption changes found in Chapter 1271 of the 2020 Acts of Assembly. **RATIONALE:** The rationale for the new requirements is the regulatory text should conform to both statutory requirements and to *The Virginia Register of Regulations* style guidelines. **LIKELY IMPACT:** The likely impact of the new requirement is improved clarity for readers.
220-105	N/A	**Requirements for registration of the replacement of existing medical equipment.** This section requires the registration of replacement medical equipment or the acquisition of certain medical equipment listed in the definition of a "project"	**CHANGE:** The Board is proposing to: • Add registration requirements for new medical equipment capital expenditures, replacement medical equipment capital expenditures • Prohibit the department from requiring the registration of replacement medical equipment for certain provisions

			• Strike the original language for how the registration needs to be submitted and replace it with language that follows the *The Virginia Register of Regulations* style guidelines **INTENT:** The intent of the new requirements is to incorporate all registration changes for medical equipment found in Chapter 1271 of the 2020 Acts of Assembly. **RATIONALE:** The rationale for the new requirements is the regulatory text should conform to both statutory requirements and to *The Virginia Register of Regulations* style guidelines. **LIKELY IMPACT:** The likely impact of the new requirement is improved clarity for readers.
220-110	N/A	**Requirements for registration of certain capital expenditures.** Sets the registration requirements for capital expenditures	**CHANGE:** The Board is proposing the following new amendments: • Strike the previous capital expenditure registration requirement and replace it with the new requirements from Chapter 1271 of the 2020 Acts of Assembly • Style changes **INTENT:** The intent of the new requirements is to incorporate all registration changes for capital expenditure found in Chapter 1271 of the 2020 Acts of Assembly. **RATIONALE:** The rationale for the new requirements is the regulatory text should conform to both statutory requirements and to *The Virginia Register of Regulations* style guidelines. **LIKELY IMPACT:** The likely impact of the new requirement is improved clarity for readers.
220-140	N/A	**Requirements for health maintenance organizations (HMO).** An HMO must obtain a certificate of public need prior to initiating a project. Such HMO must also adhere to the requirements for the acquisition of medical care facilities if	**CHANGE:** The Board is proposing to repeal this section. **INTENT:** The intent of the repeal is to remove obsolete provisions **RATIONALE:** The rationale for the repeal is that HMOs are covered by the definition of “person” and therefore are already

		appropriate. See definition of "project" and 12VAC5-220-10.	obligated to comply with COPN statutes and regulations. **LIKELY IMPACT:** The likely impact of the repeal is reduced confusion for readers.
220-155	N/A	**Requirements for the reporting of charity care.** Every medical care facility subject to the requirements of Article 1.1 (§ 32.1-102.1 et seq.) of Chapter 4 of Title 32.1 of the Code of Virginia, other than a nursing home, that is not a medical care facility for which a certificate with conditions imposed pursuant to § 32.1-102.4 F of the Code of Virginia has been issued and that provides charity care, as defined in § 32.1-102.1 of the Code of Virginia, shall annually report to the commissioner the amount of charity care provided.	**CHANGE:** The Board is proposing the following new requirements: **Requirements for the reporting of charity care.** A. ~~Every~~ If a medical care facility ~~subject to the requirements of Article 1.1 (§ 32.1-102.1 et seq.) of Chapter 4 of Title 32.1 of the Code of Virginia, other than a nursing home, that is not a medical care facility for which a certificate with conditions imposed pursuant to § 32.1-102.4 F of the Code of Virginia has been issued and that provides charity care, as defined in § 32.1-102.1 of the Code of Virginia,~~ has a certificate of public need with conditions imposed pursuant to subsection B of § 32.1-102.4 of the Code of Virginia and provides charity care, the medical facility shall ~~annually~~ report to the ~~commissioner~~ department annually the amount of charity care provided by submitting that information to the nonprofit organization described in § 32.1-276.4 of the Code of Virginia. B. No provision of this section shall apply to a nursing home. **INTENT:** The intent of the new requirements is to address charity care reporting requirements for non-nursing homes. **RATIONALE:** The rationale for the new requirements is the regulatory text should conform to both statutory requirements and to *The Virginia Register of Regulations* style guidelines. **LIKELY IMPACT:** The likely impact of the new requirement is improved clarity for readers.
220-160	N/A	**Required considerations.** In determining whether a public need exists for a proposed project, the applicable requirements of § 32.1-102.2:1 of the Code of Virginia will be considered.	**CHANGE:** The Board is proposing to repeal this section. **INTENT:** The intent of the repeal is to remove duplicative requirements from the regulation.

			RATIONALE: The rationale for the repeal is that these requirements should be addressed in context of the review application. **LIKELY IMPACT:** The likely impact of the repeal is reduced confusion for readers.
220-180	N/A	**Application forms.** Sets the requirements for the letter of intent and applications for projects.	**CHANGE:** The Board is proposing the following amendments: • Updated the text to reflect current practice of the application forms and their availability on the department's website • Reduced the application submission deadline from 40 days prior to the first day of the batch review cycle to 5 p.m. 10 days before the first day of the batch review cycle • Removed reference to "medical service area" • Added "number of operating rooms" to the list of potential elements to be included in the letter of intent for clarity • Style changes **INTENT:** The intent of the new requirements is to remove duplicative requirements for fees, to reflect current means by which applicants obtain applications from VDH, to move the filing deadline from the 40th day before the start of the review cycle to the 10th day before the start of the review cycle. **RATIONALE:** The rationale for the new requirements is to reduce the regulatory burden by giving applicants more time to submit their applications and that the regulatory text should conform to both statutory requirements and to *The Virginia Register of Regulations* style guidelines. **LIKELY IMPACT:** The likely impact of the new requirement is improved clarity for readers.
220-190	N/A	**Review for completeness.** Sets the completeness review requirements for the department and the regional health planning agency.	**CHANGE:** The Board is proposing the following amendments: • Reduced the timeline for notification by the department from 15 days following the receipt of an application to 10 days • Style changes

			INTENT: The intent of the new requirements is to remove and amend requirements in the regulation that were changed by Chapter 1271 of the 2020 Acts of Assembly. **RATIONALE:** The rationale for the new requirements is the regulatory text should conform to both statutory requirements and to *The Virginia Register of Regulations* style guidelines. **LIKELY IMPACT:** The likely impact of the new requirement is improved clarity for readers.
220-200	N/A	**One hundred ninety-day review cycle.** Sets forth the batch groups and the scheduled review cycles for the batch groups.	**CHANGE:** The Board is proposing the following amendments: • Removed "mental retardation facilities" throughout and replaced the term with "intermediate care facilities for individuals with intellectual disabilities" • Corrected the "D/F" batch group cycles to "D" and "F/D" • Removed "obstetrical services" throughout • Removed "selected therapeutic facilities/services" from the table • Removed bed relocation and capital expenditures from batch group A • Removed "alcoholics or drug addicts" throughout and replaced the term with "individuals with substance use disorder" • Removed "Substance abuse" and replaced the term with "substance use disorder" • Removed bed relocations from batch group C • Removed "nuclear medicine imagery" from batch group D • Removed bed relocations from batch group E • Added "Steroestatic radiotherapy" to batch group F/D • Added CT, MRI, and PET scanning to batch group F/D • Removed "extended care facility" from batch group G • Removed bed relocations from batch group G • Style changes

			INTENT: The intent of the new requirements is to remove types of services, facilities, and expenditures no longer reviewable under COPN, to update out-of-date terminology, to correct a typographical error in the table **RATIONALE:** The rationale for the new requirements is that the regulatory text should conform to *The Virginia Register of Regulations* style guidelines and use consistent terminology through the chapter. **LIKELY IMPACT:** The likely impact of the new requirements is improved clarity for readers.
220-210	N/A	**Requests for application (RFA).** Allows the commissioner to request the submission of applications for certain services and facilities.	**CHANGE:** The Board is proposing the following amendments: • Changed "State Medical Facilities Plan" to "State Health Services Plan" • Style changes **INTENT:** The intent of the new requirements is to improve the readability of the section. **RATIONALE:** The rationale for the new requirements is that the regulatory text should conform to *The Virginia Register of Regulations* style guidelines and use consistent terminology through the chapter. **LIKELY IMPACT:** The likely impact of the new requirements is improved clarity for readers.
220-220	N/A	**Consideration of applications.** Sets the requirements and criteria for "competing applications."	**CHANGE:** The Board is proposing to remove "medical service area" and replace it with identical text from the definition of "competing application." **INTENT:** The intent of the new requirements is to improve the readability of the section. **RATIONALE:** The rationale for the removal of the term "medical service area" is that it is not used in practice. Replacing it with the language from the "competing application" definition makes the regulation more uniform without making a substantiative change.

			LIKELY IMPACT: The likely impact of the new requirements is improved clarity for readers.
220-230	N/A	**Review of complete application.** Sets the requirements for the review of a complete application for the regional health planning agency, the department, and the commissioner.	**CHANGE:** The Board is proposing the following amendments: • Removal of language related to the review requirements for the department and the commissioner (moved to the new sections) • Removed the requirement to conduct no more than 2 meetings, with at least one of those meetings needing to be a public hearing • Added language that requires the department to perform certain duties when a regional health planning agency does not exist • Removed health care providers and specifically identifiable consumer groups from the list of entities the regional health planning agency is required to notify • Added "or cause to be posted" to the requirements of the RHPA • Style changes **INTENT:** The intent of the new requirements is to reorganize the requirements related to RPHA's application review so that it is linear and uses the same time calculation (*n*th day of review cycle) for all required deadlines and to narrow the scope of the section to just the RPHA's review. **RATIONALE:** The rationale for the new requirements is the regulatory text should conform to both statutory requirements and to *The Virginia Register of Regulations* style guidelines, as well as describe the regulatory requirements in a logical order. **LIKELY IMPACT:** The likely impact of the new requirements is improved clarity for readers.
N/A	220-232	This is a new section.	**CHANGE:** The Board is proposing the following: • Moved the language regarding the departments review of an application from section 230 to a new section

			• Style changes to correct the language pulled from 230 **INTENT:** The intent of the new requirements is to reorganize the requirements related to VDH's application review so that it is linear and uses the same time calculation (*n*th day of review cycle) for all required deadlines. **RATIONALE:** The rationale for the new requirements is the regulatory text should conform to both statutory requirements and to *The Virginia Register of Regulations* style guidelines, as well as describe the regulatory requirements in a logical order. **LIKELY IMPACT:** The likely impact of the new requirements is improved clarity for readers.
N/A	220-234	This is a new section.	**CHANGE:** The Board is proposing the following: • Moved language related to the commissioner's review of an application from 230 and 270 to the new section • Style changes **INTENT:** The intent of the new requirements is to reorganize the requirements related to the Commissioner's application review so that it is linear and uses the same time calculation (*n*th day of review cycle) for all required deadlines. **RATIONALE:** The rationale for the new requirements is the regulatory text should conform to both statutory requirements and to *The Virginia Register of Regulations* style guidelines, as well as describe the regulatory requirements in a logical order. **LIKELY IMPACT:** The likely impact of the new requirements is improved clarity for readers.
N/A	220-236	This is a new section.	**CHANGE:** The Board is proposing the following: • Moved language from section 230 and created a new section for the extension of the review period • Style changes

			INTENT: The intent of the new requirements is address who may extend review periods for a COPN application. **RATIONALE:** The rationale for the new requirements is the regulatory text should conform to both statutory requirements and to *The Virginia Register of Regulations* style guidelines. **LIKELY IMPACT:** The likely impact of the new requirements is improved clarity about when review periods may be extended and by whom.
220-250	N/A	**Amendment to an application.** The applicant shall have the right to amend an application at any time. Any amendment which is made to an application following the public hearing and prior to the issuance of a certificate unless otherwise specified in this chapter shall constitute a new application and shall be subject to the review requirements set forth in Part V of this chapter. If such amendment is made subsequent to the issuance of a certificate of public need, it shall be reviewed in accordance with 12VAC5-220-130.	**CHANGE:** The Board is proposing the following amendments: • Style changes • Changes Part V or Part III • Added language to cover the amendment process if a public hearing is not held **INTENT:** The intent of the new requirements is address when an amendment to an application constitutes a new application when there is no public hearing held **RATIONALE:** The rationale for the new requirements is that statutory changes from Chapter 1271 of the 2020 Acts of Assembly removed the requirement for a public hearing for every application, thus necessitating the amendment of this section to address application amendments in the absence of a public hearing. **LIKELY IMPACT:** The likely impact of the new requirements is improved clarity for readers.
220-270	N/A	**Action on an application.** Sets the requirements for the commissioner in their review of an application, conditionals of approval, and extensions.	**CHANGE:** The Board is proposing to repeal this section. **INTENT:** The intent of the repeal is to remove requirements that are obsolete or have been addressed in other sections of the regulation. **RATIONALE:** The rationale for the repeal is that the regulations should conform to statutory provisions and should only be addressed once rather than multiple ties throughout a regulatory chapter.

			LIKELY IMPACT: The likely impact of the repeal is reduced confusion for readers.
N/A	220-275	This is a new section.	**CHANGE:** The Board is proposing the following: • Moved language from section 270 regarding the conditions of approval • Added new language for conditional approval, financial assistance policies, and circumstantial review of conditions from Chapter 1271 of the 2020 Acts of Assembly • Style changes **INTENT:** The intent of the new requirements is to conform to statutory changes regarding which conditions are mandatory or discretionary and what obligations the COPN holder and the commissioner have regarding conditions on a COPN. **RATIONALE:** The rationale for the new requirements is the regulatory text should conform to both statutory requirements and to *The Virginia Register of Regulations* style guidelines. **LIKELY IMPACT:** The likely impact of the new requirements is improved clarity for readers.
N/A	220-278	This is a new section.	**CHANGE:** The Board is proposing the following: • Moved the language about noncompliance from 270 to this new section • Amended the date the civil penalty begins to align with Chapter 1271 of the 2020 Acts of Assembly • Style Changes **INTENT:** The intent of the new requirements is to conform to statutory changes regarding the administrative consequences for failing to comply with COPN conditions. **RATIONALE:** The rationale for the new requirements is the regulatory text should conform to both statutory requirements and to *The Virginia Register of Regulations* style guidelines.

			LIKELY IMPACT: The likely impact of the new requirements is improved clarity for readers.
220-280	N/A	**Applicability.** Capital expenditures as contained in subdivision 8 of "project" as defined in § 32.1-102.1 of the Code of Virginia or projects that involve relocation at the same site of 10 beds or 10% of the beds, whichever is less, from one existing physical facility to another, when the cost of such relocation is less than $5 million, shall be subject to an expedited review process.	**CHANGE:** The Board is proposing the following amendments: • Updated the Code reference • Removed the bed relocation and capital expenditure language **INTENT:** The intent of the new requirements is to conform to statutory changes regarding which projects are eligible for expedited review. **RATIONALE:** The rationale for the new requirements is the regulatory text should conform to both statutory requirements and to *The Virginia Register of Regulations* style guidelines. **LIKELY IMPACT:** The likely impact of the new requirements is improved clarity for readers.
220-290	N/A	**Application forms.** Sets the application form requirements and the review of completeness requirements for the department and regional health planning agency	**CHANGE:** The Board is proposing the following amendments: • Rewritten to reflect the completeness review requirements of the standard review cycle for clarity and to adhere to Chapter 1271 of the 2020 Acts of Assembly • Style changes **INTENT:** The intent of the new requirements is to reflect how applicants currently obtain applications, to remove duplicative fee information, and to conform to statutory changes regarding what constitutes a completed application. **RATIONALE:** The rationale for the new requirements is the regulatory text should conform to both statutory requirements and to *The Virginia Register of Regulations* style guidelines. **LIKELY IMPACT:** The likely impact of the new requirements is improved clarity for readers.
220-310	N/A	**Action on application.** Sets the requirements for the commissioner's action on an expedited application.	**CHANGE:** The Board is proposing the following amendments: • Style changes **INTENT:** The intent of the new amendments is to improve readability.

			RATIONALE: The rationale for the new requirements is the regulatory text should conform to both statutory requirements and to *The Virginia Register of Regulations* style guidelines. **LIKELY IMPACT:** The likely impact of the new requirements is improved clarity for readers.
220-325	N/A	**Applicability**. Sets the types of projects that are subject to the nursing home bed review process	**CHANGE:** The Board is proposing the following amendments: • Removal of "intermediate care facility" and "extended care facility" from the language • Style changes **INTENT:** The intent of the new requirements is to improve readability and remove obsolete language. **RATIONALE:** The rationale for the new requirements is that the regulatory text should conform to both statutory requirements and to *The Virginia Register of Regulations* style guidelines. **LIKELY IMPACT:** The likely impact of the new requirements is improved clarity for readers.
220-335	N/A	**Request for Applications (RFA).** Allows the commissioner to request the submission of applications for certain services and facilities.	**CHANGE:** The Board is proposing the following amendments: • Changed "State Medical Facilities Plan" to "State Health Services Plan" • Style changes **INTENT:** The intent of the new requirements is improve the readability of the section. **RATIONALE:** The rationale for the new requirements is that the regulatory text should conform to *The Virginia Register of Regulations* style guidelines and use consistent terminology through the chapter. **LIKELY IMPACT:** The likely impact of the new requirements is improved clarity for readers.
220-365	N/A	**Review for completeness.** The department is required to notify an applicant within 15 days following the receipt of an	**CHANGE:** The Board is proposing the following amendments:

		application. Sets the requirements for a complete application.	• Updated the language to conform to Chapter 1271 of the 2020 Acts of Assembly • Style changes **INTENT:** The intent of the new requirements is to remove and amend requirements in the regulation that were changed by Chapter 1271 of the 2020 Acts of Assembly. **RATIONALE:** The rationale for the new requirements is the regulatory text should conform to both statutory requirements and to *The Virginia Register of Regulations* style guidelines. **LIKELY IMPACT:** The likely impact of the new requirement is improved clarity for readers.
220-385	N/A	**Review of complete application.** Sets the requirements for the review of a complete application for the regional health planning agency, the department, and the commissioner.	**CHANGE:** The Board is proposing the following amendments: • Removal of language related to the review requirements for the department and the commissioner (moved to the new sections) • Removed the requirement to conduct no more than 2 meetings, with at least one of those meetings needing to be a public hearing • Added language that requires the department to perform certain duties when a regional health planning agency does not exist • Removed health care providers and specifically identifiable consumer groups from the list of entities the regional health planning agency is required to notify • Added “or cause to be posted” to the requirements of the RHPA • Style changes **INTENT:** The intent of the new requirements is to reorganize the requirements related to RPHA’s application review so that it is linear and uses the same time calculation (*n*th day of review cycle) for all required deadlines and to narrow the scope of the section to just the RPHA’s review.

			RATIONALE: The rationale for the new requirements is the regulatory text should conform to both statutory requirements and to *The Virginia Register of Regulations* style guidelines, as well as describe the regulatory requirements in a logical order. **LIKELY IMPACT:** The likely impact of the new requirements is improved clarity for readers.
N/A	220-388	This is a new section.	**CHANGE:** The Board is proposing the following: • Moving the language regarding the departments review of an application from section 230 to a new section • Style changes to correct the language pulled from 230 **INTENT:** The intent of the new requirements is to reorganize the requirements related to VDH's application review so that it is linear and uses the same time calculation (*n*th day of review cycle) for all required deadlines. **RATIONALE:** The rationale for the new requirements is the regulatory text should conform to both statutory requirements and to *The Virginia Register of Regulations* style guidelines, as well as describe the regulatory requirements in a logical order. **LIKELY IMPACT:** The likely impact of the new requirements is improved clarity for readers.
N/A	220-392	This is a new section.	**CHANGE:** The Board is proposing the following: • Moved language related to the commissioner's review of an application from 230 and 270 to the new section • Style changes **INTENT:** The intent of the new requirements is to reorganize the requirements related to the Commissioner's application review so that it is linear and uses the same time calculation (*n*th day of review cycle) for all required deadlines.

			RATIONALE: The rationale for the new requirements is the regulatory text should conform to both statutory requirements and to *The Virginia Register of Regulations* style guidelines, as well as describe the regulatory requirements in a logical order. **LIKELY IMPACT:** The likely impact of the new requirements is improved clarity for readers.
N/A	220-394	This is a new section.	**CHANGE:** The Board is proposing the following: • Moved language from section 230 and created a new section for the extension of the review period • Style changes **INTENT:** The intent of the new requirements is address who may extend review periods for a COPN application. **RATIONALE:** The rationale for the new requirements is the regulatory text should conform to both statutory requirements and to *The Virginia Register of Regulations* style guidelines. **LIKELY IMPACT:** The likely impact of the new requirements is improved clarity about when review periods may be extended and by whom.
220-420	N/A	**Action on an application.** Sets the requirements for the commissioner in their review of an application, conditionals of approval, and extensions.	**CHANGE:** The Board is proposing to repeal this section. **INTENT:** The intent of the repeal is to remove duplicative regulatory requirements already addressed in the chapter **RATIONALE:** The rationale for the repeal is that a regulatory requirement should only be addressed once instead of in multiple sections. **LIKELY IMPACT:** The likely impact of the repeal is reduced confusion for readers.
N/A	220-425	This is a new section.	**CHANGE:** The Board is proposing the following: **Conditions of approval.** The commissioner may condition the approval of an application for a project on the agreement of the applicant to: 1. Comply with a schedule for completion; or

			2. Comply with a maximum expenditure amount. **INTENT:** The intent of the new requirements is specify what conditions the commissioner may attach to a COPN for new nursing home beds. **RATIONALE:** The rationale for the new requirements is the regulatory text should conform to both statutory requirements and to *The Virginia Register of Regulations* style guidelines. **LIKELY IMPACT:** The likely impact of the new requirements is improved clarity about what conditions may be placed on a COPN for new nursing home beds.
220-460	N/A	**Revocation of a certificate** Allows the commissioner to revoke a certificate under certain conditions	**CHANGE:** The Board is proposing the following amendments: • Added the requirement for the commissioner to revoke a certificate for the failure to comply with Code requirements or for misrepresenting intentions or facts while obtaining that certificate • Updated the original revocation requirements to be an optional action by the commissioner for revocation instead of a required action • Style changes **INTENT:** The intent of the new requirements is to separately address the grounds for mandatory revocation of a COPN and discretionary revocation of a COPN. **RATIONALE:** The rationale for the new requirements is the regulatory text should conform to both statutory requirements and to *The Virginia Register of Regulations* style guidelines. **LIKELY IMPACT:** The likely impact of the new requirements is improved clarity about when revocation of a COPN by the Commissioner is mandated or discretionary.
220-470	N/A	**Judicial review.** Appeals to a circuit court shall be governed by the Virginia Administrative Process Act, § 2.2-4000 et seq. of the Code of	**CHANGE:** The Board is proposing the following amendments: • Added the deemed approval language from section 230

		Virginia, and Part Two A of the Rules of the Supreme Court of Virginia.	• Style changes **INTENT:** The intent of the new requirements is address whether deemed approvals may be subject to judicial review, who is deemed to be a person showing good cause in the case of a deemed approval, and the court's ability to require a bond from an appellant. **RATIONALE:** The rationale for the new requirements is the regulatory text should conform to both statutory requirements and to *The Virginia Register of Regulations* style guidelines. **LIKELY IMPACT:** The likely impact of the new requirements is improved clarity about what decisions may be appealed to circuit court and by whom.
220-480	N/A	**Violation of rules and regulations.** Commencing any project without a certificate required by this chapter shall constitute grounds for refusing to issue a license for such project.	**CHANGE:** The Board is proposing the following amendments: **Violation of rules and regulations.** Commencing any project without a certificate or a registration required by this chapter shall constitute grounds for refusing to issue a license for ~~such~~ that project. **INTENT:** The intent of the new requirements is to clarify that a license may be refused for a project is commenced without a registration **RATIONALE:** The rationale for the new requirements is that the regulatory text should conform to both statutory requirements and to *The Virginia Register of Regulations* style guidelines. **LIKELY IMPACT:** The likely impact of the new requirements is improved clarity about licensure consequences for projects commenced with registration.
220-490	N/A	**Injunctive relief.** On petition of the commissioner, the Board of Health or the Attorney General, the circuit court of the county or city where a project is under construction or is intended to be constructed, located or undertaken shall have jurisdiction to enjoin any project which is constructed, undertaken or	**CHANGE:** The Board is proposing the following amendments: **Injunctive relief.** On petition of the commissioner, the ~~Board of Health~~ board, ~~or~~ the Attorney General, or the circuit court of the county or city where a project is under construction or is intended to be constructed, located, or undertaken shall have jurisdiction to enjoin:

		commenced without a certificate or to enjoin the admission of patients to the project or to enjoin the provision of services through the project	1. ~~any~~ Any project ~~which~~ that is constructed, undertaken, or commenced without a certificate or registration; or ~~to enjoin~~ 2. ~~the~~ The admission of patients to the project; or ~~or to enjoin~~ 3. ~~the~~ The provision of services through the project. **INTENT:** The intent of the new requirements is to clarify that injunctive relief is available if a project is commenced without a registration. **RATIONALE:** The rationale for the new requirements is that the regulatory text should conform to both statutory requirements and to *The Virginia Register of Regulations* style guidelines. **LIKELY IMPACT:** The likely impact of the new requirements is improved clarity about available judicial relief for projects commenced with registration.