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Notice of Intended Regulatory Action (NOIRA) Agency Background Document

Agency name	Department of Rehabilitative Services
Virginia Administrative Code (VAC) citation	__22__ VAC 30__ - _50__
Regulation title	Policies and Procedures for Administering Commonwealth Neurotrauma Trust Fund Initiative
Action title	2007 Amendment to Regulation
Date this document prepared	August 28, 2007

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), Executive Orders 36 (2006) and 58 (1999), and the *Virginia Register Form, Style, and Procedure Manual*.

Purpose

Please describe the subject matter and intent of the planned regulatory action. Also include a brief explanation of the need for and the goals of the new or amended regulation.

The regulations to administer the Commonwealth Neurotrauma Initiative (CNI) Trust Fund are essential to the integrity of the program. The CNI Trust Fund is designed to promote medical research into traumatic brain and spinal cord injuries and to provide treatment and care for individuals who have sustained such injuries. Moneys in the trust fund will be used solely to support grants for Virginia based researchers, organizations, and institutions that either conduct research into the mechanism of neurotrauma or provide medical or rehabilitative treatment for individuals receiving such injuries. The amendment to this regulation will clarify that the fund is to be used for innovative research and treatment programs and is not to be used as a source for long term funding. The amended regulation will also provide that the commissioner can reallocate a limited amount of unexpended balances in the fund to fund new research in the area neurotrauma.

Legal basis

Please identify the state and/or federal legal authority to promulgate this proposed regulation, including (1) the most relevant law and/or regulation, including Code of Virginia citation and General Assembly chapter number(s), if applicable, and (2) promulgating entity, i.e., agency, board, or person. Describe the legal authority and the extent to which the authority is mandatory or discretionary.

Code of Virginia

§ [51.5-12.4](#). Procedures for grant applications.

The Commissioner of Rehabilitative Services shall promulgate regulations establishing procedures and policies for soliciting and receiving grant applications and criteria for reviewing and ranking such applications, including, but not limited to, goals, timelines, forms, eligibility, and mechanisms to ensure avoidance of any conflicts of interest or appearances thereof. The Commissioner shall receive the recommendations of the Advisory Board prior to promulgating or revising any such regulations.

Need

Please detail the specific reasons why the agency has determined that the proposed regulatory action is essential to protect the health, safety, or welfare of citizens. In addition, delineate any potential issues that may need to be addressed as the regulation is developed.

This regulation is necessary to administer the CNI Trust Fund which will protect the public health, safety and welfare by providing funds for research and treatment of Neurotrauma. This regulation was last evaluated on June 18, 2004. The CNI Board and Staff met on June 1, 2007 and recommended to the commissioner of the department a number of changes for administering the CNI Trust Fund.

Substance

Please detail any changes that will be proposed. For new regulations, include a summary of the proposed regulatory action. Where provisions of an existing regulation are being amended, explain how the existing regulation will be changed.

Most sections in this regulation contain only minor technical changes. The following sections contain substantive changes:

22VAC30-50-30 Title of catchline has been changed to Disbursement of funds to more adequately describe this section. Adds a phrase that funds are to be used for the development of innovated programs and services for individuals with neurotrauma. Wording has been changed to ensure that "person first" language is used in the regulations

22VAC30-50-70. Title of catchline has been streamlined from Appointment of Grant reviewers and technical advisors to Grant reviewers and technical advisors. The section stating that reviewers and advisors shall be appointed so as to provide equal representation from Virginia's three medical schools has been deleted. The restriction that the chairperson of the advisory board of the Commonwealth Neurotrauma Trust Fund not be able to vote on applications for funds when reviewers and advisors sit as a committee has been removed. .

22VAC30-50-80. Section has been amended to stress that grant funds for rehabilitative services are to be used for the development of innovative, community based rehabilitation programs and services and that grant funds are not to be used for the long term funding of research projects or service programs.

22VAC30-50-90. Review of applications; stated priorities. This section has been amended to state that the advisory board may give priority to applicants who seek funds for research projects relevant to rehabilitative inquiry as well as medical inquiry. In addition, the advisory board may give priority to projects that propose to provide services

22VAC30-50-100. Reviewing and ranking grant applications. The criteria for weighting applications for grant fund has been changed from an itemized list to a statement that applications will be ranked according to their satisfaction of the criteria in the request for proposal.

22VAC30-50-110. Amount of grant awards; duration and availability of funding. Statement added that in addition to available moneys in the fund, the selection of successful applications will be based on the review and ranking of the applications and information from grant reviewers or technical advisors appointed to assist in reviewing and ranking applications.

22VAC30-50-120. Unexpended funds. This new section has been added to this regulation to state that the commissioner may reallocate up to \$500,000 from unexpended balances in the Commonwealth

Neurotrauma Initiative Trust Fund to fund new grant awards for research on traumatic brain and spinal cord injuries.

Alternatives

Please describe all viable alternatives to the proposed regulatory action that have been or will be considered to meet the essential purpose of the action. Also, please describe the process by which the agency has considered or will consider other alternatives for achieving the need in the most cost-effective manner.

As a part of a periodic review, the department requested that the staff and board of the CNI Trust Fund Initiative review this regulation to determine if any amendments were needed to make the regulation consistent with current practices of administering the trust fund. In order to incorporate the recommendations of the staff and board, the department is proceeding with a Notice of Intended Regulatory Action. No other viable alternative is considered to meet the purpose of this regulation.

Public participation

Please indicate the agency is seeking comments on the intended regulatory action, to include ideas to assist the agency in the development of the proposal and the costs and benefits of the alternatives stated in this notice or other alternatives. Also, indicate whether a public hearing is to be held to receive comments on this notice.

The agency is seeking comments on the intended regulatory action, including but not limited to 1) ideas to assist in the development of a proposal, 2) the costs and benefits of the alternatives stated in this background document or other alternatives and 3) potential impacts of the regulation. The agency is also seeking information on impacts on small businesses as defined in § 2.2-4007.1 of the Code of Virginia. Information may include 1) projected reporting, recordkeeping and other administrative costs, 2) probable effect of the regulation on affected small businesses, and 3) description of less intrusive or costly alternative methods of achieving the purpose of the regulation.

Anyone wishing to submit written comments may do so by mail, email or fax to
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8004 Franklin Farms Drive
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fax number (804) 662-7696
email: Vanessa.Rakestraw@drs.virginia.gov

Written comments must include the name and address of the commenter. In order to be considered comments must be received by the last day of the public comment period.

A public hearing will not be held.

Participatory approach

Please indicate, to the extent known, if advisers (e.g., ad hoc advisory committees, technical advisory committees) will be involved in the development of the proposed regulation. Indicate that 1) the agency is not using the participatory approach in the development of the proposal because the agency has authorized proceeding without using the participatory approach; 2) the agency is using the participatory approach in the development of the proposal; or 3) the agency is inviting comment on whether to use the participatory approach to assist the agency in the development of a proposal.

Staff and board members of the Commonwealth Neurotrauma Initiative Trust Fund discussed this regulation during their last board meeting and made a number of recommendations for changes to the commissioner. These changes were approved by the commissioner and will be incorporated into the drafted amendment.

Family impact

Assess the potential impact of the proposed regulatory action on the institution of the family and family stability including to what extent the regulatory action will: 1) strengthen or erode the authority and rights of parents in the education, nurturing, and supervision of their children; 2) encourage or discourage economic self-sufficiency, self-pride, and the assumption of responsibility for oneself, one's spouse, and one's children and/or elderly parents; 3) strengthen or erode the marital commitment; and 4) increase or decrease disposable family income.

This regulation is not expected to have a direct impact on families. However, a positive indirect impact is expected in that the regulation will assist in providing treatment and research into therapeutic techniques to help persons recover as much as possible from neurotrauma. Treatment and any therapeutic techniques that are developed as a result of research would help reduce related health and welfare problems that occur as a result of neurotrauma

Periodic review – Public comment

If this NOIRA is not the result of a periodic review of the regulation, please delete this entire section.

If this NOIRA is the result of a periodic review, please (1) summarize all comments received during the public comment period following the publication of the Notice of Periodic Review, and (2) indicate whether the regulation meets the criteria set out in Executive Order 36, e.g., is necessary for the protection of public health, safety, and welfare, and is clearly written and easily understandable.

Commenter	Comment	Agency response
Regenia Roethler	Can you please summarize in simple terms what the proposed amendment is regarding this DRS regulation? Is it the 5% amount of funds towards the administrative and staffing needs for the Neurotrauma Initiative Trust Fund? If so, is this an increase in money for staffing?	An explanation of the purpose of a periodic review was provided to the commenter. No amendment was being proposed at the time. The statement that was referenced concerning 5% does state that 5% of the money in the fund does go toward administering and staffing the CNI Advisory Board. As this regulation was last changed in May of 2004, it is not new. Therefore, there is no increase in the percentage of funding

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This regulation is necessary to administer the Commonwealth Neurotrauma Trust Fund Initiative which will protect the public health, safety and welfare by providing funds for research and treatment of Neurotrauma. The regulations proposed regulations will be drafted in an effort to make them easy to understand.

Periodic review - Discussion

If this NOIRA is not the result of a periodic review of the regulation, please delete this entire section.

If this NOIRA is the result of a periodic review or if the periodic review is to be performed in combination with the NOIRA, please include a discussion of the agency's consideration of: (1) the continued need for the rule; (2) the complexity of the regulation; (3) the extent to which the regulation overlaps, duplicates, or conflicts with federal or state law or regulation; and (4) 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, include a discussion of the agency's determination whether the regulation should be amended or repealed, consistent with the stated objectives of applicable law, to minimize the economic impact of regulations on small businesses.

As a result of this periodic review, it has been determined that (1) this regulation is necessary to administer the Commonwealth Neurotrauma Trust Fund Initiative which will protect the public health, safety, and welfare by providing funds for research and treatment of Neurotrauma. . (2) The proposed regulations will reduce complexity by stressing that this Fund is a grant for research or for the development, improvement, and expansion of community programs and is not intended as a means for continuous long term funding of research projects or service programs. (3) This regulation does not appear to overlap, duplicate, or conflict with federal or state law or regulations. (4) This regulation was last evaluated on June 18, 2004. The CNI Board and Staff met on June 1, 2007 and recommended to the commissioner of the department a number of changes for administering the CNI Trust Fund. These changes were approved by the commissioner and will be incorporated into the proposed amendment to the regulations consistent with § [51.5-12.4](#). of the Virginia Code