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## Notice of Intended Regulatory Action (NOIRA) Agency Background Document

<b>Agency name</b>	State Board of Social Services
<b>Virginia Administrative Code (VAC) citation(s)</b>	22VAC40-60
<b>Regulation title(s)</b>	Standards and Regulations for Licensed Adult Day Care Centers
<b>Action title</b>	Licensed Adult Day Care Centers Regulation Comprehensive Revision
<b>Date this document prepared</b>	October 14, 2015

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), Executive Orders 17 (2014) and 58 (1999), and the *Virginia Register Form, Style, and Procedure Manual*.

### Subject matter and intent

*Please describe briefly the subject matter, intent, and goals of the planned regulatory action.*

The regulatory action will repeal the existing regulation for licensed adult day care centers, 22VAC40-60, and adopt a new regulation, 22VAC40-61, to replace it. The new regulation is to be a comprehensive revision of the existing regulation. A comprehensive revision is needed to provide greater protection for adults in care, improve the organization of the regulation, increase clarity and consistency, incorporate changed practices and procedures, and eliminate unnecessarily burdensome or intrusive requirements. The goals of the action are to better meet the needs of an increasingly vulnerable population of residents who are aged, infirm or disabled, and to do so in a cost effective manner.

### Legal basis

*Please identify the (1) the agency (includes any type of promulgating entity) and(2) the state and/or federal legal authority for the proposed regulatory action, including the most relevant citations to the Code of Virginia or General Assembly chapter number(s), if applicable. Your citation should include a specific*

*provision, if any, authorizing the promulgating entity to regulate this specific subject or program, as well as a reference to the agency's overall regulatory authority.*

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The State Board of Social Services (Board) has authority to promulgate the regulation under § 63.2-217, which provides that the Board shall adopt regulations as may be necessary or desirable to carry out the purpose of Title 63.2. Section 63.2-1733 addresses the Board's overall authority to adopt regulations for adult day care centers to protect the health, safety, welfare, and individual rights of participants of adult day care centers and to promote their highest level of functioning.

### Purpose

*Please describe 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, please explain any potential issues that may need to be addressed as the regulation is developed.*

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During the previous periodic review, the State Board of Social Services requested that a comprehensive revision be completed for this regulation at the next periodic review. It has been 15 years since the last comprehensive revision. The action and the regulation are essential to protect the health, safety and welfare of adult day care center participants. The revision will allow for changes based on improved practices, the latest research and improved technology, as well as meeting the increased needs of a population of elderly, infirm, or disabled persons that has become more vulnerable over the years. Current technology and medical practice have allowed individuals to stay in their own homes, or to live with family members longer, and as a result, there is an increased need for this level of care and socialization.

### Substance

*Please briefly identify and explain the new substantive provisions that are being considered, the substantive changes to existing sections that are being considered, or both.*

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The regulatory action will potentially include changes to requirements regarding general provisions, administration, personnel, supervision, buildings and grounds, admission, retention and discharge, programs and services and emergency preparedness. Since the proposed regulatory action involves a comprehensive review of the adult day care center regulation, revisions to all areas of the regulation will be considered.

### Alternatives

*Please describe any viable alternatives to the proposal considered and the rationale used by the agency to select the least burdensome or intrusive alternative that meets the essential purpose of the action. 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 regulation.*

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The Board is mandated by the Code of Virginia to promulgate regulations for adult day care centers. The proposed regulatory action involves a comprehensive revision of the existing regulation. Because changes are likely to be extensive, the current regulation is being repealed and a new regulation is being

adopted. Consideration will be given throughout the development of the proposed regulation to necessity, enforceability, reasonableness, and cost impact. There is no alternative to regulatory action.

**Public participation**

*Please indicate whether the agency is seeking comments on the intended regulatory action, including 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. Please include one of the following choices: 1) a panel will be appointed and the agency’s contact if you’re interested in serving on the panel is \_\_\_\_\_; 2) a panel will not be used; or 3) public comment is invited as to whether to use a panel to assist in the development of this regulatory proposal.*

The agency is seeking comments on this regulatory action, including but not limited to: ideas to be considered in the development of this proposal, the costs and benefits of the any alternatives that may be identified, and the 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: projected reporting, recordkeeping, and other administrative costs; the probable effect of the regulation on affected small businesses; and the description of less intrusive or costly alternatives for achieving the purpose of the regulation.

Anyone wishing to submit comments may do so via the Regulatory Town Hall website (<http://www.townhall.virginia.gov>), or by mail, email, or fax to Annette Kelley: 801 East Main Street, Richmond, VA 23219; telephone: (804) 726-7632; fax: (804) 726-7132; [annette.kelley@dss.virginia.gov](mailto:annette.kelley@dss.virginia.gov). Written comments must include the name and address of the commenter. In order to be considered, comments must be received by midnight on the last day of the public comment period.

A regulatory advisory panel will be established and the agency’s contact if you’re interested in serving on the panel is Annette Kelley, 801 East Main Street, Richmond, VA 23219; telephone: (804) 726-7632; fax: (804) 726-7132; [annette.kelley@dss.virginia.gov](mailto:annette.kelley@dss.virginia.gov).

A public hearing will not be held following the publication of the proposed stage of this regulatory action.

**Periodic review/small business impact review announcement**

*If you wish to use this NOIRA to announce a periodic review (§ 2.2-4017 & EO-17 (2014)) and a small business impact review (§ 2.2-4007.1) of this regulation, keep the following text. Modify as necessary for your agency. Otherwise, delete this section.*

Pursuant to Executive Order 17 (2014) and § 2.2-4007.1 of the Code of Virginia, the agency is conducting a periodic review and small business impact review of this regulation to determine whether this regulation should be terminated, amended, or retained in its current form. Public comment is sought on the review of any issue relating to this regulation, including whether the regulation (i) is necessary for the protection of public health, safety, and welfare or for the economical performance of important governmental functions; (ii) minimizes the economic impact on small businesses in a manner consistent with the stated objectives of applicable law; and (iii) is clearly written and easily understandable.