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Periodic Review and Small Business Impact Review Report of Findings

Agency name	Virginia Department for Aging and Rehabilitative Services
Virginia Administrative Code (VAC) Chapter citation(s)	22VAC30-50
VAC Chapter title(s)	Policies and Procedures for Administering Commonwealth Neurotrauma Initiative Trust Fund
Date this document prepared	November 30, 2020

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), Executive Order 14 (as amended, July 16, 2018), the Regulations for Filing and Publishing Agency Regulations (1VAC7-10), and the **Form and Style Requirements for the Virginia Register of Regulations and Virginia Administrative Code**.

Acronyms and Definitions

Define all acronyms used in this Report, and any technical terms that are not also defined in the "Definitions" section of the regulation.

CNI = Commonwealth Neurotrauma Initiative
DARS = Virginia Department for Aging and Rehabilitative Services

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 or Acts of Assembly chapter number(s), if applicable. Your citation must include a specific provision, if any, authorizing the promulgating agency to regulate this specific subject or program, as well as a reference to the agency's overall regulatory authority.

The Commonwealth Neurotrauma Initiative (CNI) Trust Fund is authorized under Article 12 of Chapter 14 of Title 51.5 of the Code of Virginia (§§ 51.5-178 et seq.). Specifically, under § 51.5-181 (Procedures for grant applications), “the Commissioner 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 CNI Trust Fund is also authorized under Item 339 M of the 2020 Appropriation Act.

In addition, § 51.5-131 of the Code of Virginia authorizes the Commissioner of DARS to promulgate regulations necessary to carry out the provisions of the laws of the Commonwealth administered by DARS.

Alternatives to Regulation

Describe any viable alternatives for achieving the purpose of the regulation that were considered as part of the periodic review. Include an explanation of why such alternatives were rejected and why this regulation is the least burdensome alternative available for achieving its purpose.

There are no other alternatives to the proposed regulatory action; a periodic review of this regulation is required. This periodic review complies with the requirements in Executive Order 14 (2018). Further, under § 51.5-181 of the Code of Virginia, DARS is required to promulgate regulations for the administration of the CNI Trust Fund Program.

Public Comment

Summarize all comments received during the public comment period following the publication of the Notice of Periodic Review, and provide the agency response. Be sure to include all comments submitted: including those received on Town Hall, in a public hearing, or submitted directly to the agency. Indicate if an informal advisory group was formed for purposes of assisting in the periodic review.

Commenter	Comment	Agency response

DARS did not receive any public comments.

Effectiveness

Pursuant to § 2.2-4017 of the Code of Virginia, indicate whether the regulation meets the criteria set out in Executive Order 14 (as amended, July 16, 2018), including why the regulation is (a) necessary for the protection of public health, safety, and welfare, and (b) is clearly written and easily understandable.

The regulation is required by § 51.5-181 of the Code of Virginia and meets the criteria set out in Executive Order 14 (2018). The regulation ensures fidelity to the legislative intent for the CNI Trust Fund Program. The regulations require the CNI Trust Fund Advisory Board to evaluate project applications to ensure projects will benefit Virginians with acquired neurotrauma. No comments have been received indicating that the regulations were not clearly written and easily understandable.

Decision

Explain the basis for the promulgating agency’s decision (retain the regulation as is without making changes, amend the regulation, or repeal the regulation).

The agency recommends that the regulation be amended.

The CNI Trust Fund is a special non-reverting fund established in the Code of Virginia (§§ 51.5-178 et seq.) that provides funding to Virginia-based organizations, institutions and researchers to address the needs of people with acquired neurotrauma. Neurotrauma is defined as “injury to the central nervous system (i.e., a traumatic spinal cord or brain injury) that results in loss of physical functions, cognitive functions, or both” (22VAC30-50-10). The source of revenue for the CNI Trust Fund is a portion of the reinstatement fees that are charged before restoring an operator's license to any person whose driver's license has been revoked or suspended upon conviction for specified dangerous driving offenses. In accordance with the Code of Virginia and 22VAC30-50, the CNI Trust Fund Program provides funding for projects that are either: 1) Research-Based; or 2) Community-Based Rehabilitative Programs and Services.

As outlined in 22VAC30-50-30 (Disbursement of funds), the regulatory chapter establishes: (i) policies and procedures for soliciting and receiving applications for grants from the fund, (ii) criteria for reviewing and ranking such applications, and (iii) procedures for distributing moneys in the fund. The chapter requirements ensure fidelity to the purpose of the CNI Trust Fund and proper use of public funds to improve the lives of individuals who have acquired neurotrauma.

Upon review of the chapter during the periodic review, DARS identified several areas that could benefit from minor revisions. The changes align the regulatory chapter with the Code of Virginia and current practices, and reduce potential ambiguities.

Small Business Impact

As required by § 2.2-4007.1 E and F of the Code of Virginia, discuss the agency’s consideration of: (1) the continued need for the regulation; (2) the nature of complaints or comments received concerning the regulation; (3) the complexity of the regulation; (4) the extent to which the regulation overlaps, duplicates, or conflicts with federal or state law or regulation; and (5) the length of time since the regulation has been evaluated or the degree to which technology, economic conditions, or other factors have changed in the area affected by the regulation. Also, discuss why the agency’s decision, consistent with applicable law, will minimize the economic impact of regulations on small businesses.

There is a continued need for the regulations as they are mandated by § 51.5-181 of the Code of Virginia. The regulations ensure fidelity to the legislative intent for the CNI Trust Fund Program.

No complaints or comments about the chapter were received during the periodic review. The regulation is designed to support clarity and ensure transparency with the administration of the CNI Trust Fund Program. The chapter comprises only those requirements for the implementation of the CNI Trust Fund Program.

There are no federal requirements for the CNI Trust Fund Program. It is a state-established program operated in accordance with Virginia law and with Virginia funding. As such, the chapter does not conflict with federal or state law or regulation.

The chapter was last revised in 2016 to: (i) clarify that requests for proposals shall be issued at the discretion of the CNI Trust Fund Advisory Board and shall depend upon the availability of funds; (ii) emphasize that grants provided by the CNI Trust Fund Program are not to be used for long-term funding

of research or community based rehabilitative programs; (iii) require that applicants for grants under the CNI Trust Fund Program provide a plan for sustaining the proposed project following the termination of the grant award; and (iv) make technical corrections, update statutory references, and make other necessary changes.

There is a potential small business impact as a result of this regulation. Virginia-based organizations and institutions of higher education that seek funding from the CNI Trust Fund Program are impacted by the regulation. The CNI Trust Fund Program currently funds 11 projects. Seven projects are based in Virginia higher education institutions. Four projects are based in community organizations or private research entities, all of which are likely small businesses. However, the chapter does not include overly burdensome requirements to those entities seeking to use the CNI Trust Fund resources for Research-Based or Community-Based Rehabilitative Programs and Services.
