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## Periodic Review and Small Business Impact Review Report of Findings

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| <b>Agency name</b>  | Board of Nursing, Department of Health Professions |
| <b>Virginia Administrative Code (VAC) Chapter citation(s)</b> | 18VAC90-11   |
| <b>VAC Chapter title(s)</b>                                   | Public Participation Guidelines                    |
| <b>Date this document prepared</b>                            | November 14, 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*.

## 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.*

PPG = Public Participation Guidelines

## 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.*

Each agency of the Commonwealth is required to develop regulations related to public participation guidelines for soliciting the input of interested parties in the formation and

development of regulations. *See* Va. Code § 2.2-4007.02. The Board of Nursing promulgated 18VAC90-11 pursuant to this statutory directive.

**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.*

Virginia Code § 2.2-4007.02 requires agencies to promulgate PPG regulations. There is no alternative to regulation.

**Public Comment**

*Summarize all comments received during the public comment period following the publication of the Notice of Periodic Review, and provide the agency’s 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.*

| <b>Commenter</b> | <b>Comment</b>                            | <b>Agency response</b>   |
|------------------|---|--|
| Mary Marcum      | Wants LPN and RN licenses to be combined. | The Board of Nursing does not have the authority to alter the licensing structure in this way. Only the General Assembly can take such action through legislation. Additionally, this issue is not related to public participation in the development of regulations related to the licensure of nurses. |

**Effectiveness**

*Pursuant to § 2.2-4017 of the Code of Virginia, indicate whether the regulation meets the criteria set out in the ORM procedures, including why the regulation is (a) necessary for the protection of public health, safety, and welfare, and (b) is clearly written and easily understandable.*

This chapter of the regulations of the Board of Nursing is necessary for the protection of public health, safety and welfare because it sets forth procedures for participation of the public in the development of Board regulations. Additionally, these regulations are required by statute, and the Board has no discretion not to maintain these regulations. The Board of Nursing has reviewed this chapter and determined that it is clearly written and 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).*

*If the result of the periodic review is to retain the regulation as is, complete the ORM Economic Impact form.*

Retain as is. See last sentence below – these are model regulations provided by the Department of Planning and Budget. The Department of Planning and Budget has not updated these regulations, therefore the Board has not adopted any changes to the chapter.

### **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.*

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The Board is required to maintain these regulations, therefore there is a continued need. There have been no complaints received related to these regulations, which are not complex. The regulations do not overlap with any other law. These regulations have not changed since approximately 2017. They are model regulations provided by the Department of Planning and Budget, however, and the Board will alter these regulations if and when the Department of Planning and Budget recommends changes to the model regulations.