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Periodic Review and Small Business Impact Review Report of Findings

Agency name	Department of Professional and Occupational Regulation
Virginia Administrative Code (VAC) Chapter citation(s)	18 VAC120-11
VAC Chapter title(s)	Public Participation Guidelines
Date this document prepared	December 5, 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.

"DPB" means Department of Planning and Budget.

"DPOR" means Department of Professional and Occupational Regulation.

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 promulgating agency is the Department of Professional and Occupational Regulation ("DPOR").

Section 54.1-201(5) of the Code of Virginia gives regulatory boards under the authority of DPOR to promulgate regulations. It provides, in part, for the power and duty “[t]o promulgate regulations in accordance with the Administrative Process Act (§ 2.2-4000 et seq.) necessary to assure continued competency, to prevent deceptive or misleading practices by practitioners and to effectively administer the regulatory system administered by the regulatory board.”

Section 54.1-831 of the Code of Virginia, pertaining to the regulation of boxing, martial arts, and wrestling events grants the Director of DPOR with the powers and duties of a regulatory board as contained in § 54.1-201.

Similarly, § 54.1-1802.1 of the Code of Virginia, pertaining to the regulation of polygraph examiners grants the Director of DPOR with the powers and duties of a regulatory board as contained in § 54.1-201.

Further, § 2.2-4007.02 of the Code of Virginia provides, in part:

A. Public participation guidelines for soliciting the input of interested parties in the formation and development of its regulations shall be developed, adopted, and used by each agency pursuant to the provisions of this chapter. The guidelines shall set out any methods for the identification and notification of interested parties and any specific means of seeking input from interested persons or groups that the agency intends to use in addition to the Notice of Intended Regulatory Action. The guidelines shall set out a general policy for the use of standing or ad hoc advisory panels and consultation with groups and individuals registering interest in working with the agency. Such policy shall address the circumstances in which the agency considers the panels or consultation appropriate and intends to make use of the panels or consultation.

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.

No alternatives were considered as part of this periodic review. DPOR’s public participation guidelines mirror the DPB’s model public participation guidelines.

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.

Commenter	Comment	Agency response
	No Public Comments were received.	

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.

DPOR's public participation guidelines mirror DPB's model public participation guidelines. The guidelines, having the status of a regulation, are necessary to promote public involvement in the development, amendment or repeal of regulations. Further, the regulation 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.

On November 30, 2023, the Director of DPOR made the decision to retain this regulation "as is" without any change.

The regulation continues to mirror the model public participation guidelines from DPB.

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.

1) There is a continued need for this regulation because it promotes public involvement in the development, amendment or repeal of the regulations of DPOR. 2) DPOR did not receive any comments or complaints during the public comment period. 3) The regulation is not complex. 4) The regulation does not overlap, duplicate or conflict with any other federal or state laws or regulations. 5) The regulation was last evaluated in 2019 and it does not rely on technology, economic conditions, or any other factors due to the nature of public participation. This regulation outlines Virginia Regulatory Town Hall as the mechanism for notification, registration and meeting procedures for public participation. DPOR determined there was no effect to the economic impact of small businesses as this regulation promotes public involvement in the development, amendment or repeal of the regulations of DPOR.
