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## Fast-Track Regulation Agency Background Document

<b>Agency name</b>	Department of Health Professions
<b>Virginia Administrative Code (VAC) citation(s)</b>	18VAC76-40
<b>Regulation title(s)</b>	Regulations Governing Emergency Contact Information
<b>Action title</b>	Periodic review
<b>Date this document prepared</b>	4/17/19

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 (1 VAC7-10), and the *Virginia Register Form, Style, and Procedure Manual for Publication of Virginia Regulations*.

### Brief Summary

*Please provide a brief summary (preferably no more than 2 or 3 paragraphs) of this regulatory change (i.e., new regulation, amendments to an existing regulation, or repeal of an existing regulation). Alert the reader to all substantive matters. If applicable, generally describe the existing regulation.*

As a result of the periodic review and consultation with the Department of Health (VDH), the regulation is amended to delete data elements that have been requested for emergency contact with licensees but have not been utilized and to add a requirement for a number to which a text message can be sent.

### Acronyms and Definitions

*Please define all acronyms used in the Agency Background Document. Also, please define any technical terms that are used in the document that are not also defined in the "Definition" section of the regulations.*

Licensees – refers to any person or entity required to report emergency contact information.

### Statement of Final Agency Action

*Please provide a statement of the final action taken by the agency including: 1) the date the action was taken; 2) the name of the agency taking the action; and 3) the title of the regulation.*

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On April 17, 2019, the Director of the Department of Health Professions amended 18VAC76-40-10 et seq., Regulations Governing Emergency Contact Information.

### Mandate and Impetus

*Please identify the mandate for this regulatory change, and any other impetus that specifically prompted its initiation (e.g., new or modified mandate, petition for rulemaking, periodic review, board decision, etc.). For purposes of executive branch review, “mandate” has the same meaning as defined in Executive Order 14 (as amended, July 16, 2018), “a directive from the General Assembly, the federal government, or a court that requires that a regulation be promulgated, amended, or repealed in whole or part.”*

*As required by Virginia Code § 2.2-4012.1, please also explain why this rulemaking is expected to be noncontroversial and therefore appropriate for the fast-track process.*

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The impetus of the regulatory action was the periodic review of regulation with comment from with comment requested from December 10, 2018 to January 9, 2019. There were no comments.

### Legal Basis

*Please identify (1) the agency or other promulgating entity, 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 entity to regulate this specific subject or program, as well as a reference to the agency or promulgating entity’s overall regulatory authority.*

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Regulations Governing Emergency Contact Information are promulgated under the statutory mandate in;

**§ 54.1-2506.1. Submission of required information.**

*...B. For the purpose of expediting the dissemination of public health information, including notice about a public health emergency, the Department is authorized to require certain licensed, certified or registered persons to report any email address, telephone number and facsimile number that may be used to contact such person in the event of a public health emergency or to provide information related to serving during a public health emergency. In the event of an animal health emergency, the Department shall provide to the State Veterinarian the email addresses, telephone numbers and facsimile numbers that may be used to contact licensed veterinarians.*

*Such email addresses, telephone numbers and facsimile numbers shall not be published, released or made available for any other purpose by the Department, the Department of Health, or the State Veterinarian.*

*The Director, in consultation with the Department of Health and the Department of Emergency Management, shall adopt regulations that identify those licensed, certified or registered persons to which the requirement to report shall apply and the procedures for reporting.*

## Purpose

*Please explain the need for the regulatory change, including a description of: (1) the rationale or justification, (2) the specific reasons the regulatory change is essential to protect the health, safety or welfare of citizens, and (3) the goals of the regulatory change and the problems it's intended to solve.*

The purpose of the regulatory change is to update the emergency contact information that licensees of health regulatory boards are required to provide, so the required information is more relevant and useful to VDH in the event of a public health emergency or for dissemination of important public health information. The amended regulation will delete data elements that VDH has never used and does not believe are practical in the rapid dissemination of information or request for assistance in a public health emergency.

## Substance

*Please briefly identify and explain the new substantive provisions, the substantive changes to existing sections, or both. A more detailed discussion is provided in the "Detail of Changes" section below.*

Amendments to section 20 will delete the requirement for telephone and fax numbers and add a requirement for a number at which a licensee can be contacted or sent information by text. An amendment in section 10 is necessary to correct "certified" massage therapists to "licensed massage therapists," since that profession is now licensed.

## Issues

*Please identify the issues associated with the regulatory change, including: 1) the primary advantages and disadvantages to the public, such as individual private citizens or businesses, of implementing the new or amended provisions; 2) the primary advantages and disadvantages to the agency or the Commonwealth; and 3) other pertinent matters of interest to the regulated community, government officials, and the public. If there are no disadvantages to the public or the Commonwealth, include a specific statement to that effect.*

- 1) The primary advantage to the public would be additional information for contact and assistance in case of a public health emergency or disaster. The advantage to licensees is completion of the emergency contact information section of a renewal form becomes somewhat less burdensome. There are no disadvantages.
- 2) The Department of Health and the Department of Emergency Management would have better access to health care workers in case of a public health emergency or to disseminate information about an outbreak of a communicable disease. There are no disadvantages.

3) There is no other pertinent matter of interest.

**Requirements More Restrictive than Federal**

*Please identify and describe any requirement of the regulatory change which is more restrictive than applicable federal requirements. Include a specific citation for each applicable federal requirement, and a rationale for the need for the more restrictive requirements. If there are no applicable federal requirements, or no requirements that exceed applicable federal requirements, include a specific statement to that effect.*

There no applicable federal requirements.

**Agencies, Localities, and Other Entities Particularly Affected**

*Please identify any other state agencies, localities, or other entities particularly affected by the regulatory change. "Particularly affected" are those that are likely to bear any identified disproportionate material impact which would not be experienced by other agencies, localities, or entities. "Locality" can refer to either local governments or the locations in the Commonwealth where the activities relevant to the regulation or regulatory change are most likely to occur. If no agency, locality, or entity is particularly affected, include a specific statement to that effect.*

Other State Agencies Particularly Affected – The Department of Health is directly affected because the emergency contact information is collected on its behalf and used by that agency to disseminate information about public health emergencies. The information required by section 20 is the result of consultation with and a recommendation from VDH.

Localities Particularly Affected - None

Other Entities Particularly Affected - None

**Economic Impact**

*Pursuant to § 2.2-4007.04 of the Code of Virginia, please identify all specific economic impacts (costs and/or benefits), anticipated to result from the regulatory change. When describing a particular economic impact, specify which new requirement or change in requirement creates the anticipated economic impact. Please keep in mind that this is change versus the status quo.*

**Impact on State Agencies**

<p><i>For your agency:</i> projected costs, savings, fees or revenues resulting from the regulatory change, including:</p> <ul style="list-style-type: none"> <li>a) fund source / fund detail;</li> <li>b) delineation of one-time versus on-going expenditures; and</li> <li>c) whether any costs or revenue loss can be absorbed within existing resources</li> </ul>	<p>The information for emergency contact is collected as part of a licensee’s renewal process, so there are no additional costs involved.</p> <p>The agency will have to revise renewal forms for affected entities, but the programming for electronic renewals can be accomplished by DHP staff.</p>
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<i>For other state agencies:</i> projected costs, savings, fees or revenues resulting from the regulatory change, including a delineation of one-time versus on-going expenditures.	There are no costs or savings for any other agency.
<i>For all agencies:</i> Benefits the regulatory change is designed to produce.	The benefit for VDH is availability of numbers it can use for text messages, which can be an expedited point of contact for dissemination of information.

**Impact on Localities**

Projected costs, savings, fees or revenues resulting from the regulatory change.	None
Benefits the regulatory change is designed to produce.	More effective communication in a case of a localized public health emergency

**Impact on Other Entities**

Description of the individuals, businesses, or other entities likely to be affected by the regulatory change. If no other entities will be affected, include a specific statement to that effect.	<p>The following persons and entities whose address of record is in Virginia, a contiguous state, or the District of Columbia are required to report emergency contact information:</p> <ol style="list-style-type: none"> <li>1. Assisted living facility administrators;</li> <li>2. Athletic trainers;</li> <li>3. Licensed massage therapists;</li> <li>4. Clinical psychologists;</li> <li>5. Clinical social workers;</li> <li>6. Dentists;</li> <li>7. Dental hygienists;</li> <li>8. Funeral service licensees, embalmers and funeral directors;</li> <li>9. Licensed acupuncturists;</li> <li>10. Licensed practical nurses;</li> <li>11. Licensed professional counselors;</li> <li>12. Medical equipment suppliers;</li> <li>13. Nursing home administrators;</li> <li>14. Pharmacists;</li> <li>15. Pharmacy technicians;</li> <li>16. Physical therapists;</li> <li>17. Physician assistants;</li> <li>18. Radiologic technologists;</li> <li>19. Registered nurses;</li> <li>20. Respiratory care practitioners;</li> <li>21. Surface transportation and removal service registrants;</li> <li>22. Veterinarians; and</li> <li>23. Wholesaler distributors of pharmaceuticals.</li> </ol>
Agency's best estimate of the number of such entities that will be affected. Please include an estimate of the number of small businesses affected. Small business means a business entity, including its affiliates, that: a) is independently owned and operated and; b) employs fewer than 500 full-time employees or has gross annual sales of less than \$6 million.	All entities identified in regulation as being subject to emergency contact information are affected. It is unknown how many are small businesses.

<p>All projected costs for affected individuals, businesses, or other entities resulting from the regulatory change. Please be specific and include all costs including, but not limited to:</p> <ul style="list-style-type: none"> <li>a) projected reporting, recordkeeping, and other administrative costs required for compliance by small businesses;</li> <li>b) specify any costs related to the development of real estate for commercial or residential purposes that are a consequence of the regulatory change;</li> <li>c) fees;</li> <li>d) purchases of equipment or services; and</li> <li>e) time required to comply with the requirements.</li> </ul>	<p>There are no costs; information is provided when a licensee renews a license, registration, or permit.</p>
<p>Benefits the regulatory change is designed to produce.</p>	<p>The regulatory changes primarily benefit VDH by giving that agency another point of contact that is efficient and effective in the dissemination of information. The changes have a small benefit to licensees because three numbers they are currently required to provide on a renewal form are being eliminated and replaced by one number for text communication.</p>

### Alternatives

*Please describe any viable alternatives to the regulatory change that were considered, and the rationale used by the agency to select the least burdensome or intrusive alternative that meets the essential purpose of the regulatory change. 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 regulatory change.*

There are no alternatives; requirements for emergency contact information must be set out in regulation.

### Regulatory Flexibility Analysis

*Pursuant to § 2.2-4007.1B of the Code of Virginia, please describe the agency’s analysis of alternative regulatory methods, consistent with health, safety, environmental, and economic welfare, that will accomplish the objectives of applicable law while minimizing the adverse impact on small business. Alternative regulatory methods include, at a minimum: 1) establishing less stringent compliance or reporting requirements; 2) establishing less stringent schedules or deadlines for compliance or reporting requirements; 3) consolidation or simplification of compliance or reporting requirements; 4) establishing performance standards for small businesses to replace design or operational standards required in the proposed regulation; and 5) the exemption of small businesses from all or any part of the requirements contained in the regulatory change.*

There are no alternative regulatory methods consistent with the statutory requirements of § 54.1-2506.1 of the Code of Virginia.

### Public Participation

*If an objection to the use of the fast-track process is received within the 30-day public comment period from 10 or more persons, any member of the applicable standing committee of either house of the General Assembly or of the Joint Commission on Administrative Rules, the agency shall: 1) file notice of the objections with the Registrar of Regulations for publication in the Virginia Register; and 2) proceed with the normal promulgation process with the initial publication of the fast-track regulation serving as the Notice of Intended Regulatory Action.*

### Detail of Changes

*Please list all regulatory changes and the consequences of the changes. Explain the new requirements and what they mean rather than merely quoting the text of the regulation.*

Current section number	Current requirement	Change, intent, rationale, and likely impact of new requirements
10	Lists the professions subject to reporting emergency contact information	“Certified” massage therapists is amended to “licensed” massage therapists, since the profession changed to licensure in 2016.
20	Sets out the information necessary for contact in the event of a public health emergency or for dissemination of public health information	Amendments to section 20 will delete the requirement for telephone and fax numbers and add a requirement for a number at which a licensee can be contacted or sent information by text. <i>VDH reports that it has never utilized telephone numbers or fax numbers in its contact for public health emergencies or for dissemination of public health information. Contacting by telephone or fax is not efficient or practical. Instead, VDH requested that a number at which someone could receive a text message would be a helpful point of contact. Amendments were adopted accordingly.</i>