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Periodic Review and Small Business Impact Review Report of Findings

Agency name	State Board of Social Services
Virginia Administrative Code (VAC) Chapter citation(s)	22VAC40-90
VAC Chapter title(s)	Regulation for Background Checks for Assisted Living Facilities and Adult Day Care Centers
Date this document prepared	June 21, 2024

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.

ALF - Assisted Living Facility
ADC - Adult Day Center

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 State Board of Social Services has the legal authority to adopt regulations and requirements in accordance with §§ 63.2-217, 63.2-1720, 63.2-1732, and 63.2-1733 of the Code of Virginia. The Code mandates promulgation of regulations for the programs and facilities that are conducive to the safety and welfare of the residents of ALF and participants of ADC. This regulatory action was initiated to determine if the regulation should be retained, repealed, or amended.

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 for achieving the purpose of the regulation, which is promulgated to protect the health, safety and welfare of ALF residents and ADC participants.

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.

No public comments were received during the public comment period.

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.

The regulation meets the criteria set forth in Executive Order 19 (2022). It establishes the minimum requirements for background checks for ALF and ADC staff, which enables residents, participants, relatives and legal representatives, licensing inspectors, and other citizens of the Commonwealth to be knowledgeable of these requirements. The regulation, which is clearly written and easily understandable, is necessary to interpret the law and protect the health, safety and welfare of ALF residents and ADC participants.

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.

The agency recommends amending the regulation for technical and clarification purposes and to reduce regulatory burdens.

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.

This regulation is necessary to protect the health, safety, and welfare of ALF residents and ADC participants. No comments were received during the public comment period. The regulation is not complex and does not duplicate or conflict with any federal or state law or regulation. The regulation was last amended in 2017 to reflect revisions to the Code of Virginia. The regulation now needs to be amended in order to be updated for technical and clarification purposes and to reduce regulatory burdens. The amendments should have no economic impact on small businesses, as background checks are already required in Virginia Code.
