



Virginia
Regulatory
Town Hall

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Notice of Intended Regulatory Action (NOIRA) Agency Background Document

Agency name	Department for Aging and Rehabilitative
Virginia Administrative Code (VAC) citation	___22_ VAC_30__ - __70__
Regulation title	THE VIRGINIA PUBLIC GUARDIAN AND CONSERVATOR PROGRAM
Action title	Amendment to include person centered planning language
Date this document prepared	January 9, 2013

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), Executive Orders 14 (2010) and 58 (1999), and the *Virginia Register Form, Style, and Procedure Manual*.

Purpose

Please describe the subject matter and intent of the planned regulatory action. Also include a brief explanation of the need for and the goals of the new or amended regulation.

The Public Guardian and Conservator Program within the Department for Aging and Rehabilitative Services (DARS) will direct its local or regional programs to use person-centered planning through this regulatory action. Such planning (a) focuses on the preferences and needs of the individual receiving public guardianship services and (b) empowers and supports the individual receiving public guardianship services, to the extent feasible, in defining the direction for his life and promoting self-determination and community involvement.

Legal basis

Please identify the state and/or federal legal authority to promulgate this proposed regulation, including (1) the most relevant citations to the Code of Virginia or General Assembly chapter number(s), if applicable, and (2) promulgating entity, i.e., agency, board, or person. Your citation should include a specific provision authorizing the promulgating entity to regulate this specific subject or program, as well as a reference to the agency/board/person's overall regulatory authority.

The regulatory action of DARS will conform regulations to changes in the Code of Virginia in Chapter 322 of the 2012 Acts of Assembly (HB 270). The Commissioner of DARS has authority to promulgate regulations pursuant to Code of Virginia § 51.5-131.

Need

Please detail the specific reasons why the agency has determined that the proposed regulatory action is essential to protect the health, safety, or welfare of citizens. In addition, delineate any potential issues that may need to be addressed as the regulation is developed.

The regulatory action of DARS will conform regulations to changes in the Code of Virginia in Chapter 322 of the 2012 Acts of Assembly (HB 270). There are no known potential needs to be addressed.

Substance

Please detail any changes that will be proposed. Be sure to define all acronyms. For new regulations, include a summary of the proposed regulatory action. Where provisions of an existing regulation are being amended, explain how the existing regulation will be changed.

DARS will amended section 22VAC30-70-30 to require that a guardian and conservator be guided by person-centered planning that (a) focuses on the preferences and needs of the individual receiving public guardianship services and (b) empowers and supports the individual receiving public guardianship services, to the extent feasible, in defining the direction for his life and promoting self-determination and community involvement.

Alternatives

Please describe all viable alternatives to the proposed regulatory action that have been or will be considered to meet the essential purpose of the action. Also, please describe the process by which the agency has considered or will consider other alternatives for achieving the need in the most cost-effective manner.

This amendment is required by changes in the Code of Virginia in Chapter 322 of the 2012 Acts of Assembly (HB 270).

Public participation

Please indicate whether the agency is seeking comments on the intended regulatory action, including ideas to assist the agency in the development of the proposal and the costs and benefits of the alternatives stated in this notice or other alternatives. Also, indicate whether a public hearing is to be held to receive comments on this notice.

Please also indicate pursuant to your Public Participation Guidelines whether a panel will be appointed to assist in the development of the proposed regulation. Please state one of the following: 1) a panel will be appointed and the agency's contact if you're interested in serving on the panel is _____; 2) a panel will

not be used; or 3) public comment is invited as to whether to use a panel to assist in the development of this regulatory proposal.

The agency is seeking comments on this regulatory action, including but not limited to 1) ideas to be considered in the development of this proposal, 2) the costs and benefits of the alternatives stated in this background document or other alternatives and 3) potential impacts of the regulation. The agency is also seeking information on impacts on small businesses as defined in § 2.2-4007.1 of the Code of Virginia. Information may include 1) projected reporting, recordkeeping and other administrative costs, 2) the probable effect of the regulation on affected small businesses, and 3) the description of less intrusive or costly alternatives for achieving the purpose of the regulation.

Anyone wishing to submit comments may do so via the Regulatory Town Hall website (<http://www.townhall.virginia.gov>), or by mail, email, or fax to **Vanessa S. Rakestraw, Ph.D., CRC, 8004 Franklin Farms Drive, (804) 662-7612, fax number (804) 662-7663, Vanessa.Rakestraw@dars.virginia.gov** Written comments must include the name and address of the commenter. In order to be considered, comments must be received by midnight on the last day of the public comment period.

A panel will not be used to assist in the development of these regulations.

A public hearing will not be held following the publication of the proposed stage of this regulatory action.

Family impact

Assess the potential impact of the proposed regulatory action on the institution of the family and family stability including to what extent the regulatory action will: 1) strengthen or erode the authority and rights of parents in the education, nurturing, and supervision of their children; 2) encourage or discourage economic self-sufficiency, self-pride, and the assumption of responsibility for oneself, one's spouse, and one's children and/or elderly parents; 3) strengthen or erode the marital commitment; and 4) increase or decrease disposable family income.

Adding the requirements of person centered planning will allow an individual to have self-direction in his own care and will encourage the assumption of responsibility for oneself.

Periodic review/small business impact review result

If this NOIRA is not the result of a periodic review/small business impact review of the regulation, please delete this entire section.

If this NOIRA is the result of a periodic review/small business impact review, please (1) summarize all comments received during the public comment period following the publication of the Notice of Periodic Review, and (2) indicate whether the regulation meets the criteria set out in Executive Order 14 (2010), e.g., is necessary for the protection of public health, safety, and welfare, and is clearly written and easily understandable. In addition, please include, pursuant to Code of Virginia § 2.2-4007.1 E and F, a discussion of the agency's consideration of: (1) the continued need for the regulation; (2) the nature of complaints or comments received concerning the regulation from the public; (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.

Commenter	Comment	Agency response
Jennifer G. Fidura, Fidura & Associates, Inc.	We are concerned that the regulations and practice of the public guardianship programs do not utilize the Person Centered Process which is established by regulation for individuals in programs licensed by DBHDS. We feel strongly that this team process should be the basis for the majority of the life decisions such as place of residence, employment and the supports and services within each, as it incorporates what is important to and what is important for each individual	Adding Person Centered Planning requirements to this regulation is the original purpose of the regulatory amendment. This change is required by changes in the Code of Virginia in Chapter 322 of the 2012 Acts of Assembly (HB 270).

This NOIRA is the result of changes in the Code of Virginia in Chapter 322 of the 2012 Acts of Assembly (HB 270). However, a Periodic Review was conducted to allow for a review of the entire chapter. One public comment was received, which is summarized in the above table.

No comments were received regarding the impact on small business. This regulation is not expected to have an impact on small businesses.

This regulation is needed to administer the Public Guardianship and Conservator Program and is necessary for the protection of health, safety, and welfare of members of the public who are in this program.

No comments or complaints were received concerning the complexity of the regulation.

This regulation does not overlap, duplicate, or conflict with any known federal or state laws. This regulation has not been reviewed in four years. Technology or economic conditions have not impacted this regulation.