



Final Regulation Agency Background Document

Agency name	Board for Opticians
Virginia Administrative Code (VAC) citation	18 VAC 100 - 20 - 53
Regulation title	Board for Opticians Regulations
Action title	Promulgating
Document preparation date	December 2, 2004

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), Executive Orders 21 (2002) and 58 (1999), and the *Virginia Register Form, Style, and Procedure Manual*.

Brief summary

Please provide a brief summary (no more than 2 short paragraphs) of the proposed new regulation, proposed amendments to the existing regulation, or the regulation proposed to be repealed. Alert the reader to all substantive matters or changes. If applicable, generally describe the existing regulation.

The Board for Opticians proposes to promulgate Section 18 VAC 100-20-53 of the Board of Opticians Regulations in accordance with Chapter 740 of the 2002 Acts of the Assembly that mandated that the board promulgate regulations for an out-of-state practitioner to be registered to volunteer his services to a nonprofit organization that has no paid employees and offers health care to underprivileged populations throughout the world. The regulations set forth the information and documentation that must be provided prior to such service to ensure compliance with the statute. In accordance with the enactment clause, the board adopted emergency regulations, and it is the board's intent to replace the emergency regulations with permanent regulations.

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.

On November 12, 2004, the Board for Opticians adopted final amendments to 18 VAC 100-20-53 of the Board for Opticians Regulations.

Legal basis

Please identify the state and/or federal legal authority to promulgate this proposed regulation, including (1) the most relevant law and/or regulation, including Code of Virginia citation and General Assembly chapter numbers, if applicable, and (2) promulgating entity, i.e., agency, board, or person. Describe the legal authority and the extent to which the authority is mandatory or discretionary.

Regulations are promulgated under the general authority of Chapter 2 of Title 54.1 of the Code of Virginia. Section 54.1-201(5) provides the Board the authority to promulgate regulations to administer the regulatory system:

§ 54.1-201. Powers and duties of regulatory boards.

The powers and duties of regulatory boards shall be as follows:

5. To 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.

<http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+54.1-201>

The specific legal mandate to promulgate the regulation for the provision of voluntary health care services by out-of-state practitioners in clinics in underserved areas sponsored by nonprofit organizations is found in Chapter 740 of the 2002 Acts of the Assembly.

<http://leg1.state.va.us/cgi-bin/legp504.exe?021+ful+CHAP0740>

Purpose

Please explain the need for the new or amended regulation. Describe the rationale or justification of the proposed regulatory action. Detail the specific reasons it is essential to protect the health, safety or welfare of citizens. Discuss the goals of the proposal and the problems the proposal is intended to solve.

Chapter 740 of the 2002 Acts of the Assembly mandates that the board promulgate regulations for an out-of-state practitioner to be registered to volunteer his services to a non-profit organization that has no paid employees and offers health care to underprivileged populations throughout the world. Regulations set forth the information and documentation that must be provided prior to such service to ensure compliance with the statute. The enactment clause required the board to adopt emergency regulations, and it is the board's intent to replace those regulations with permanent regulations.

This regulatory action's purpose is to protect the health, safety, and welfare of citizens by ensuring that an out-of-state practitioner who is registered to provide voluntary services to underserved areas has provided adequate information to their determine their eligibility and for the Board for Opticians to meet its responsibility to protect the health, safety, and welfare of citizens pertaining to individuals engaged in the practice of opticianry.

Substance

Please identify and explain the new substantive provisions, the substantive changes to existing sections, or both where appropriate. A more detailed discussion is required under the "All changes made in this regulatory action" section.

Chapter 740 of the 2002 Acts of the Assembly provides specific conditions under which a health care practitioner who is licensed in another state can provide free care in underserved areas of Virginia. Statutory requirements include: 1) that they do not regularly practice in Virginia; 2) that they hold a current valid license or certificate in another U. S. jurisdiction; 3) that they volunteer to provide free care to an underserved area of this Commonwealth under the auspices of a publicly supported all-volunteer, nonprofit organization with no paid employees that sponsors the provisions of health care to populations of underserved people throughout the world; 4) that they file copies of their licenses or certificates in advance with the Board; 5) that they notify the Board of the dates and location of services; and 6) that they acknowledge in writing that they will only provide services within the parameters stated in the application. The statute also provides specific requirements for the non-profit organization sponsoring provision of health care.

As provided in the law, the regulations will insert the following requirements:

A practitioner who does not hold a license to practice in Virginia and who seeks registration to practice on a voluntary basis under the auspices of a publicly supported, all volunteer, nonprofit organization with no paid employees that sponsors the provision of health care to populations of underserved people throughout the world shall:

1. File a complete application for registration on a form provided by the board at least 15 days prior to engaging in such practice;
2. Provide a complete list of professional licensure in each state in which he has held a license and a copy of any current license;
3. Provide the name of the nonprofit organization, the dates and location of the voluntary provision of services;
4. Provide a notarized statement from a representative of the nonprofit organization attesting to its compliance with provisions of the applicable section of the Code of Virginia.

In order to protect the health, safety and welfare of the consuming public and to ensure that the care provided by out-of-state practitioners will be minimally competent, the Board will use the information garnered from the application and verification from other states to determine whether the practitioner meets the criteria set forth in the law.

Issues

Please identify the issues associated with the proposed regulatory action, 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, please indicate.

The primary advantages to the public and the Commonwealth of implementing the regulations are additional practitioners may be available to staff voluntary clinics, a requirement for licensure in another state to be verified will ensure that the practitioner holds a current, unrestricted license, and the requirement for a notarized statement from a representative of the nonprofit organization will ensure compliance with provisions of law for voluntary practice.

There are no disadvantages to the public or the Commonwealth.

There are no primary advantages or disadvantages to the agency.

Changes made since the proposed stage

Please describe all changes made to the text of the proposed regulation since the publication of the proposed stage. For the Registrar’s office, please put an asterisk next to any substantive changes.

No changes have been made to the text of the proposed regulation since the publication of the proposed stage.

Section number	Requirement at proposed stage	What has changed	Rationale for change

Public comment

Please summarize all comments received during the public comment period following the publication of the proposed stage, and provide the agency response. If no comment was received, please so indicate.

There was no public comment received during the public comment period following the publication of the proposed stage.

Commenter	Comment	Agency response

All changes made in this regulatory action

Please detail all changes that are being proposed and the consequences of the proposed changes. Detail new provisions and/or all changes to existing sections.

Current section number	Proposed new section number, if applicable	Current requirement	Proposed change and rationale
NA	18 VAC 100-	NA	18 VAC 100-20-53. Registration for

	<p><u>20-53.</u></p>		<p><u>voluntary practice by out-of-state licensees.</u></p> <p><u>Any optician who does not hold a license to practice in Virginia and who seeks registration in accordance with § 54.1-1701(5) of the Code of Virginia shall:</u></p> <ol style="list-style-type: none"> <u>1. File a complete application for registration on a form provided by the board within 15 days prior to engaging in such practice. An incomplete application will not be considered;</u> <u>2. Provide a complete list of professional licensure in each state in which he has held a license and a copy of any current license;</u> <u>3. Provide a name of the nonprofit organization, the dates and location of the voluntary provision of services;</u> <u>4. Provide a notarized statement from a representative of the nonprofit organization attesting to its compliance with the provisions of § 54.1-1701(5) of the Code of Virginia.</u> <p>The proposed change permits individuals who do not hold a license in Virginia to register to provide volunteer services for a nonprofit organization that has not paid employees and offers health care to underprivileged populations throughout the world. Registrants are required to apply 15 days prior to engaging in practice and to provide a list of professional licensure in other states, the name of the nonprofit organization, the dates and location for the voluntary services and a notarized statement attesting to compliance with the statute.</p> <p>Proposed change provides specific conditions under which a health care practitioner who is licensed in another state can provide free care in underserved areas of Virginia in accordance with Chapter 740 of the 2002 Acts of the Assembly.</p>
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Family impact

Please assess the impact of the proposed regulatory action on the institution of the family and family stability.

This proposed regulatory action is not anticipated to have any significant impact on Virginia's families.