



**Virginia
Regulatory
Town Hall**

Notice of Intended Regulatory Action Agency Background Document

Agency Name:	Board of Health Professions; Department of Health Professions
VAC Chapter Number:	18 VAC 75-40-10 et seq.
Regulation Title:	Regulations Governing Criteria for Certification of Dialysis Technicians
Action Title:	Establishment of criteria for dialysis technicians
Date:	5/6/03

This information is required prior to the submission to the Registrar of Regulations of a Notice of Intended Regulatory Action (NOIRA) pursuant to the Administrative Process Act § 9-6.14:7.1 (B). Please refer to Executive Order Twenty-Five (98) and Executive Order Fifty-Eight (99) for more information.

Purpose

Please describe the subject matter and intent of the planned regulation. This description should include a brief explanation of the need for and the goals of the new or amended regulation.

Chapter 995 of the 2003 Acts of the Assembly amended the Code of Virginia to establish a definition and title protection for “dialysis care technicians” or “dialysis patient care technicians.” Legislation further requires the Board of Health Professions to approve in regulation an organization by which a person could be certified in order to use one of the restricted titles. Only those who hold one of those titles are authorized in the Drug Control Act to possess and administer drugs used in dialysis treatments. The purpose of the new regulation is to approve the organization or organizations that can certify candidates with the appropriate competency and technical proficiency to perform as dialysis technicians.

Basis

Please identify the state and/or federal source of legal authority to promulgate the contemplated regulation. The discussion of this authority should include a description of its scope and the extent to which the authority is mandatory or discretionary. The correlation between the proposed regulatory action and the legal authority identified above should be explained. Full citations of legal authority and, if available, web site addresses for locating the text of the cited authority must be provided.

18 VAC 75-40-10 et seq. Regulations Governing is being promulgated under the legal authority of § 54.1-2400, stating the powers and duties of health regulatory boards and Chapter 27.01 of Title 54.1 of the Code of Virginia, which requires the Board to promulgate regulations establishing criteria for practice as a dialysis care technician.

Chapter 24 establishes the general powers and duties of health regulatory boards including the responsibility to promulgate regulations in accordance with the Administrative Process Act which are reasonable and necessary.

§ 54.1-2400. General powers and duties of health regulatory boards.--The general powers and duties of health regulatory boards shall be:

6. To promulgate regulations in accordance with the Administrative Process Act (§ 9-6.14:1 et seq.) which are reasonable and necessary to administer effectively the regulatory system. Such regulations shall not conflict with the purposes and intent of this chapter or of Chapter 1 (§ 54.1-100 et seq.) and Chapter 25 (§ 54.1-2500 et seq.) of this title.

Chapter 27.01 was created by action of the 2003 General Assembly, effective July 1, 2003. The legislation may be accessed at: <http://leg1.state.va.us/cgi-bin/legp504.exe?031+ful+CHAP0995>.

Substance

Please detail any changes that would be implemented: this discussion should include a summary of the proposed regulatory action where a new regulation is being promulgated; where existing provisions of a regulation are being amended, the statement should explain how the existing regulation will be changed. The statement should set forth the specific reasons the agency has determined that the proposed regulatory action would be essential to protect the health, safety or welfare of citizens. In addition, a statement delineating any potential issues that may need to be addressed as the regulation is developed shall be supplied.

The proposed regulatory action is intended to implement certain provisions of Chapter 995 of the 2003 Acts of the Assembly, which requires the Board to approve a certifying body for dialysis care technicians. While Chapter 27.01 provides only title protection, rather than licensure, certification or registration by a health regulatory board, the Drug Control Act (Chapter 34 of Title 54.1) limits the administration of drugs used in dialysis treatment to those persons who hold the protected titles. Therefore, practically speaking, it will be necessary for any individual, who is not a licensed health care professional, who seeks employment in a dialysis care facility to hold the certification specified in regulations adopted by the Board of Health Professions.

To the extent rules implementing certification criteria for dialysis care technicians will improve the qualifications and abilities of persons who provide dialysis services to a population of persons whose health is fragile or compromised, the regulations are necessary for the protection of the health and safety of the public.

A potential issue to be addressed will be the ability of candidates for certification to obtain clinical experience during training. The law requires persons to hold the protected titles in order to administer dialysis drugs, but all certifying bodies require candidates to have a certain amount of clinical training and experience prior to sitting for the certification examination. With the advice of Board counsel, the Board hopes to address the need for clinical training without having to amend the Code.

Alternatives

Please describe, to the extent known, the specific alternatives to the proposal that have been considered or will be considered to meet the essential purpose of the action.

There are no alternatives to promulgation of regulations, as the Board of Health Professions is specifically mandated to do so in Chapter 27.01 of Title 54.1 of the Code of Virginia.

The second enactment clause allows any person employed as a dialysis care technician on or before the effective date of final regulations to continue administering medications in a renal dialysis facility provided that person has completed a training program in accordance with the Core Curriculum for Dialysis Technicians, also known as the Amgen Core Curriculum or a comparable education and training curriculum (as currently required in § 54.1-3408 of the Drug Control Act). The enactment clause provides that any such person may be deemed to be certified at the time final regulations become effective. Therefore, regulations adopted by the Board will have no effect on those qualified individuals who are currently employed or who will be employed prior to the effective date of final regulations.

In response to the passage of HB 2605, the Board has begun to collect information on organizations that have a certification and examination program for dialysis technicians. It appears that there are two credentials for initial competency and technical proficiency. The Board of Nephrology Examiners, Inc. Nursing and Technology (BONENT) provides certification for the CHT or Certified Hemodialysis Technician. The Nephrology Nursing Certification Commission (NNCC) provides certification for the CCHT or Certified Clinical Hemodialysis Technician. Both require a high school diploma or the equivalent. Both require completion of a training program and clinical experience, successful passage of an examination through a recognized testing agency, and recertification with required contact hours of continuing education. In addition, the National Nephrology Certification Organization (NNCO) offers an advanced certification for Certified Nephrology Technicians or Biomedical Nephrology Technicians. While the Board may decide to recognize the more advanced certification as meeting the criteria set in law, it would only require certification set at the level of minimal competency and proficiency.

Family Impact Statement

Please provide a preliminary analysis of 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.

Compliance with these regulations have no impact on the authority and rights of parents, on economic self-sufficiency, or on the marital commitment. The regulations will not increase or decrease disposable family income.