



## Fast Track Regulation Agency Background Document

<b>Agency name</b>	Board of Medicine, Department of Health Professions
<b>Virginia Administrative Code (VAC) citation</b>	18 VAC 85-20
<b>Regulation title</b>	Regulations Governing the Practice of Medicine, Osteopathic Medicine, Podiatry and Chiropractic
<b>Action title</b>	Certification of continuing education in chiropractic
<b>Document preparation date</b>	10/23/06

This information is required for executive review ([www.townhall.state.va.us/dpbpages/apaintro.htm#execreview](http://www.townhall.state.va.us/dpbpages/apaintro.htm#execreview)) and the Virginia Registrar of Regulations ([legis.state.va.us/codecomm/register/regindex.htm](http://legis.state.va.us/codecomm/register/regindex.htm)), pursuant to the Virginia Administrative Process Act ([www.townhall.state.va.us/dpbpages/dpb\\_apa.htm](http://www.townhall.state.va.us/dpbpages/dpb_apa.htm)), Executive Orders 21 (2002) and 58 (1999) ([www.governor.state.va.us/Press\\_Policy/Executive\\_Orders/EOHome.html](http://www.governor.state.va.us/Press_Policy/Executive_Orders/EOHome.html)), and the *Virginia Register Form, Style and Procedure Manual* ([http://legis.state.va.us/codecomm/register/download/styl8\\_95.rtf](http://legis.state.va.us/codecomm/register/download/styl8_95.rtf)).

### Brief summary

*In a short paragraph, please summarize all substantive changes that are being proposed in this regulatory action.*

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The proposed action would clarify that the Type 1 (verifiable) hours of chiropractic continuing education must be clinical hours which are approved by a college or university accredited by the Council on Chiropractic Education or any other organization approved by the board.

### Statement of agency final 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 October 19, 2006, the Board of Medicine took action to amend 18 VAC 85-20-10 et seq., Regulations Governing the Practice of Medicine, Osteopathic Medicine, Podiatry and Chiropractic through the fast-track regulatory process to amend section 235, establishing the continuing education requirements for chiropractors. The amendment is a recommendation from the chiropractic member of the Board.

### Legal basis

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

Regulations are promulgated under the general authority of Chapter 24 of Title 54.1 of the Code of Virginia. Section 54.1-2400 (6) provides the Board of Medicine the authority to promulgate regulations to administer the regulatory system:

***§ 54.1-2400 -General powers and duties of health regulatory boards***

*The general powers and duties of health regulatory boards shall be:*

- 1. To establish the qualifications for registration, certification or licensure in accordance with the applicable law which are necessary to ensure competence and integrity to engage in the regulated professions.*
- 2. To examine or cause to be examined applicants for certification or licensure. Unless otherwise required by law, examinations shall be administered in writing or shall be a demonstration of manual skills.*
- 3. To register, certify or license qualified applicants as practitioners of the particular profession or professions regulated by such board.*
- ...*
- 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. ...*

The specific mandate for evidence of continued competency is found in:

*§ 54.1-2912.1. Continued competency and office-based anesthesia requirements.*

*A. The Board shall prescribe by regulation such requirements as may be necessary to ensure continued practitioner competence which may include continuing education, testing, and/or any other requirement.*

*B. In promulgating such regulations, the Board shall consider (i) the need to promote ethical practice, (ii) an appropriate standard of care, (iii) patient safety, (iv) application of new medical*

technology, (v) appropriate communication with patients, and (vi) knowledge of the changing health care system.

C. The Board may approve persons who provide or accredit such programs in order to accomplish the purposes of this section.

D. Pursuant to § [54.1-2400](#) and its authority to establish the qualifications for registration, certification or licensure that are necessary to ensure competence and integrity to engage in the regulated practice, the Board of Medicine shall promulgate regulations governing the practice of medicine related to the administration of anesthesia in physicians' offices.

## Purpose

Please explain the need for the new or amended regulation by (1) detailing the specific reasons why this regulatory action is essential to protect the health, safety, or welfare of citizens, and (2) discussing the goals of the proposal and the problems the proposal is intended to solve.

Current regulations require the Type 1 hours in chiropractic to be accredited by the Council on Chiropractic Education or any other organization approved by the board. The problem with the current language is that the Council on Chiropractic Education does not “accredit” continuing education; it accredits the colleges or universities that offer educational activities or courses in chiropractic. Therefore, it is theoretically impossible to comply with the current regulation for chiropractic continuing education.

In addition, Type 1 activities or courses offered by an accredited sponsor or organization sanctioned by the medical profession are always clinical hours of CME. The addition of the phrase “clinical hours” is necessary for the health and safety of the public to ensure that the Type 1 hours of continuing education for chiropractors are in patient care and clinical topics rather than in business management.

## Rationale for using fast track process

Please explain why the fast track process is being used to promulgate this regulation.

Please note: If an objection to the use of the fast-track process is received within the 60-day public comment period from (1) 10 or more persons, (2) any member of the applicable standing committee of either house of the General Assembly or (3) any member of the Joint Commission on Administrative Rules, the agency shall (i) file notice of the objection with the Registrar of Regulations for publication in the Virginia Register, and (ii) proceed with the normal promulgation process with the initial publication of the fast-track regulation serving as the Notice of Intended Regulatory Action.

The fast-track process is being used to promulgate the amendment because it is strongly recommended by the chiropractic community to clarify the current requirement and make it consistent with the accreditation of chiropractic education.

**Substance**

*Please briefly identify and explain the new substantive provisions, the substantive changes to existing sections, or both where appropriate. (More detail about these changes is requested in the "Detail of changes" section.)*

The proposed fast-track action clarifies that the Type 1 (verifiable) hours of chiropractic continuing education must be clinical hours which are approved by a college or university accredited by the Council on Chiropractic Education or any other organization approved by the board

**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 the regulatory action poses no disadvantages to the public or the Commonwealth, please so indicate.*

There are no disadvantages to the public of this amendment. Currently, the Board looks for accreditation of the chiropractic programs by the Council on Chiropractic Education, but that is not consistent with the language in the regulation.

There are no disadvantages to the agency or the Commonwealth; the proposal is a clarification for ease of compliance.

There are no other pertinent matters of interest.

**Economic impact**

<p><b>Projected cost to the state to implement and enforce the proposed regulation, including (a) fund source / fund detail, and (b) a delineation of one-time versus on-going expenditures</b></p>	<p>The agency will incur some one-time costs (less than \$1,000) for mailings and conducting a public hearing. Every effort will be made to incorporate those into anticipated mailings or distribute notices by email. There are no ongoing expenditures related to this amendment. As a special fund agency, the Board must generate sufficient revenue to cover its expenditures from non-general funds, specifically the renewal and application fees it charges to practitioners for necessary functions of regulation.</p>
<p><b>Projected cost of the regulation on localities</b></p>	<p>None</p>
<p><b>Description of the individuals, businesses or</b></p>	<p>The individuals who may be affected would be</p>

<b>other entities likely to be affected by the regulation</b>	licensed chiropractors; the other entities would be those colleges or universities that offer chiropractic education.
<b>Agency’s best estimate of the number of such entities that will be affected</b>	There are 1480 chiropractors with active licenses who must comply with continuing education requirements in order to renew biennially.
<b>Projected cost of the regulation for affected individuals, businesses, or other entities</b>	There would be no costs to the affected entities; the proposal is a clarification to accurately state the accreditation of chiropractic continuing education as it is currently offered.

**Alternatives**

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

There are no alternatives to the proposal if the Board intends for its regulation to be clear and enforceable. The proposed language is consistent with the current method of accrediting chiropractic continuing education.

**Family impact**

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

There is no impact on the institution of the family and family stability.

**Detail of changes**

*Please detail all changes that are being proposed and the consequences of the proposed changes.*

<b>Current section number</b>	<b>Current requirement</b>	<b>Proposed change and rationale</b>
235	Type 1 hours in chiropractic shall be accredited by the Council on Chiropractic Education or any other organization approved by the board.	Type 1 hours in chiropractic shall be <u>clinical hours which are approved by a college or university</u> accredited by the Council on Chiropractic Education or any other organization approved by the board.  <i>The Council does not accredit hours of continuing education; it accredits the colleges or universities that offer the CE. Currently, if the Virginia</i>

		<p><i>Chiropractic Association offers Type I continuing education, it would have the courses offered by a chiropractic college in order to get the hours “accredited” by the Council on Chiropractic Education. Under the proposed regulation, the method or system for offering CE in chiropractic will not be different, but the regulation will accurately reflect the accreditation of the college rather than the “hours.”</i></p>
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