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Regulatory
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Proposed Regulation Agency Background Document

Agency name	Board of Medicine, Department of Health Professions
Virginia Administrative Code (VAC) citation	18VAC85-20-10 et seq.
Regulation title	Regulations Governing the Practice of Medicine, Osteopathic Medicine, Podiatry and Chiropractic
Action title	Bachelor's degree for chiropractic licensure
Document preparation date	3/4/08

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

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

The proposed regulation would require an applicant for licensure in chiropractic who matriculated in a chiropractic college on or after July 1, 2009 to also hold a bachelor's degree from a college or university accredited by an accrediting body recognized by the U. S. Department of Education.

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 number(s), if applicable, and (2) promulgating entity, i.e., the 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 24 of Title 54.1 of the Code of Virginia. Section 54.1-2400, which 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:

...

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. ...

Provisions in the Medical Practice Act relating to requirements for examination and post-graduate training include:

§ 54.1-2930. Requirements for admission to examination.

The Board may admit to examination for licensure to practice medicine, osteopathy, chiropractic and podiatry any candidate who has submitted satisfactory evidence verified by affidavits that he:

- 1. Is eighteen years of age or more;*
- 2. Is of good moral character;*
- 3. Has successfully completed all or such part as may be prescribed by the Board, of an educational course of study of that branch of the healing arts in which he desires a license to practice, which course of study and the educational institution providing that course of study are acceptable to the Board; and*
- 4. Has completed one year of satisfactory postgraduate training in a hospital approved by an accrediting agency recognized by the Board for internships or residency training. At the discretion of the Board, the postgraduate training may be waived if an applicant for licensure in podiatry has been in active practice for four continuous years while serving in the military and is a diplomate of the American Board of Podiatric Surgery. Applicants for licensure in chiropractic need not fulfill this requirement.*

In determining whether such course of study and institution are acceptable to it, the Board may consider the reputation of the institution and whether it is approved or accredited by regional or national educational or professional associations including, but not limited to, such organizations as the Accreditation Council of Graduate Medical Education or other official accrediting body recognized by the American Medical Association, by the Committee for the Accreditation of Canadian Medical Schools or their appropriate subsidiary agencies, by any appropriate agency of the United States government, or by any other organization approved by the Board. Supervised clinical training which is received in the United States as part of the curriculum of a foreign medical school shall be obtained in an approved hospital, institution or school of medicine offering an approved residency program in the specialty area for the relevant clinical training. The Board may also consider any other factors that reflect whether that institution and its course of instruction provide training sufficient to prepare practitioners to practice their branch of the healing arts with competency and safety in the Commonwealth.

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.

The purpose of the proposed action is to amend requirements for licensure in chiropractic in response to a petition for rule-making from Dr. William Ward, on behalf of the Virginia Chiropractic Association (VCA). Although the petition requested a regulation requiring a bachelor's degree prior to entrance into chiropractic school, the proposal adopted by the Board would require that all applicants who matriculated in chiropractic school after July 1, 2009 have a bachelor's degree from an accredited college or university for licensure in chiropractic. The Board believes its proposal is more equitable and would allow an applicant who has completed chiropractic school but not yet earned a bachelor's degree to remedy the deficiency without having to earn the degree and re-enroll in chiropractic school.

The VCA submitted the petition requesting the change because the association believes that chiropractors need to have a better educational foundation to ensure quality of care delivered to patients. Since neighboring states have such a requirement, the Board is concerned that Virginia will become the state of choice for less qualified practitioners. Those who advocate for the change note that post-graduate training is required for other professions, adding maturity and experience prior to independent practice. The additional educational requirement for chiropractors will also provide some additional maturity to handle the increasingly complex healthcare system and to make the newly graduated chiropractor less susceptible to purveyors of unprofessional or unethical practices. To ensure that chiropractic care is provided by competent practitioners in the future, the Board is proposing additional education to protect the health, safety and welfare of the public.

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 requirements for licensure in chiropractic found in subsection C of section 121 would be amended to require applicants who matriculated in a chiropractic college on or after July 1, 2009 to demonstrate that have a bachelor's degree from an accredited college or university in applying for licensure in chiropractic.

According to the VCA and the many persons who submitted comment in favor of the petition, this is important to ensure an adequate level of education so chiropractors may function in the increasingly evidence-based and scientifically sophisticated environment. The VCA proposal is similar to requirements in Maryland, North Carolina, Tennessee and West Virginia and is a standard evolving nationwide. If Virginia is left with an educational standard below other mid-Atlantic states, patients in Virginia may not have the benefit of care by the best-qualified doctors.

Students currently enrolling in a chiropractic college without first earning an undergraduate degree must allocate certain didactic hours to fulfill requirements in both credit hours and core content, which may detract from time available for advanced didactic courses and clinical experience. It was noted that Palmer College (one of the approved chiropractic colleges) recommends that its student obtain a bachelor's degree prior to entering the doctoral program.

By having a delayed effective date in the amendment, it would not affect those who will matriculate in chiropractic school prior to the effective date of the regulations and would not affect those who have been licensed previously – either in Virginia or in another state.

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.

1) The proponents of the amendment believe the public is better protected by having chiropractors with more education and more maturity. There should be no disadvantages because neighboring states with a similar requirement actually have more chiropractors being licensed than does Virginia, so it does not appear to be a deterrent to licensure.

2) There are no advantages or disadvantages to the agency or the Commonwealth.

3) This appears to be an issue that demonstrates some division in the chiropractic community, in which the older, larger organization (VCA) petitioned for the change, and the newer, smaller organization (Va. Society of Chiropractic) has strongly opposed the change.

Localities particularly affected

Please identify any locality particularly affected by the proposed regulation. Locality particularly affected means any locality which bears any identified disproportionate material impact which would not be experienced by other localities.

There are no localities particularly affected by the proposed regulation.

Public participation

Please include a statement that in addition to any other comments on the proposal, the agency is seeking comments on the costs and benefits of the proposal and the impacts of the regulated community.

The Board is seeking comments on the proposed regulations, including but not limited to 1) ideas to assist in the development of a 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 Board 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) probable effect of the regulation on affected small businesses, and 3)

description of less intrusive or costly alternative methods of achieving the purpose of the regulation.

Anyone wishing to submit written comments may do so by mail or email to Dr. William Harp, Executive Director of the Board of Medicine, 9960 Mayland Drive, Suite 300, Richmond, VA 23233 or william.harp@dhp.virginia.gov or may submit comment on the Virginia Regulatory Townhall at www.townhall.virginia.gov. Written comments must include the name and address of the commenter. In order to be considered comments must be received by the last day of the public comment period noted on the Townhall.

A public hearing will be held and notice of the public hearing will appear on the Virginia Regulatory Town Hall website (www.townhall.virginia.gov) after the publication of the proposed regulation. Both oral and written comments may be submitted at that time.

Economic impact

Please identify the anticipated economic impact of the proposed regulation.

<p>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</p>	<p>a) 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; b) The agency will incur some one-time costs (less than \$1,000) for mailings to the Public Participation Guidelines mailing lists, conducting a public hearing, and sending notice of final regulations to regulated entities. Notices to the PPG list are typically sent by email so there is no cost involved. There are no on-going expenditures.</p>
<p>Projected cost of the regulation on localities</p>	<p>None</p>
<p>Description of the individuals, businesses or other entities likely to be affected by the regulation</p>	<p>The entities that are likely to be affected by these regulations would be applicants who matriculated in chiropractic college after July 1, 2009 who have not earned a bachelor’s degree.</p>
<p>Agency’s best estimate of the number of such entities that will be affected. Please include an estimate of the number of small businesses affected. Small business means a business entity, including its affiliates, that (i) is independently owned and operated and (ii) employs fewer than 500 full-time employees or has gross annual sales of less than \$6 million.</p>	<p>There is no estimate of the number of entities impacted by this regulation. All chiropractors are engaged as small business entities, so to the extent anyone is impacted by not being able to be licensed in Virginia, it would impact a small business. As was pointed out in the Substance section, NC licenses more chiropractors annually than VA, and it already has a bachelor’s degree requirement, so there may not be a reduction in the number of persons who qualify for licensure as a result of a similar requirement in VA.</p>
<p>All projected costs of the regulation for affected individuals, businesses, or other entities.</p>	<p>Since chiropractic colleges generally require 90 hours in an accredited college as a prerequisite for</p>

<p>Please be specific. Be sure to include the projected reporting, recordkeeping, and other administrative costs required for compliance by small businesses.</p>	<p>admission, persons who did not earn a bachelor’s degree would be required to get another 30 hours for graduation. The cost of 30 credit hours would depend on the college or university where those hours were obtained.</p>
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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.

In its consideration of the proposal, the Board reviewed the numerous comments received in support and in opposition to the amendment. The Virginia Society of Chiropractic (VSC) expressed opposition to the petition by the Virginia Chiropractic Association and the NOIRA submitted by the Board, pointing to the lack of evidence that an undergraduate degree equates to greater competency. In a letter from Dr. Sandy Elbaum, President of the VSC, he noted that the number of new licensees is declining in Virginia with less than 100 per year. In contrast, North Carolina, which does have a 4-year degree requirement, is licensing over 140 per year and that number is increasing.

The petition from the VCA recommended that the bachelor’s degree be required prior to matriculation into chiropractic college. However, in NC (and many other states), the 4-year degree is not required prior to matriculation in chiropractic school but both a bachelor’s and DC degree are required for licensure. After looking at requirements from other states, the Board voted to adopt a regulation similar to the NC requirement with the bachelor’s degree required for licensure but not required prior to matriculation in chiropractic college.

Public comment

Please summarize all comments received during public comment period following the publication of the NOIRA, and provide the agency response.

The Notice of Intended Regulatory Action was published in the Register on November 26, 2007 and sent to the Public Participation Guidelines list with comment requested until December 26, 2007. The following comments on the NOIRA were received:

Commenter	Comment	Agency response
<p>The following provided comment in support of the action:</p> <p>Briggs Allen, DC M. S. Niblo, DC Mark Hundley, DC Dorothy Fensterer, DC Mike Poulin, DC</p>	<p>Supports requiring a four-year degree for licensure in chiropractic; increased educational standard will benefit citizens of Virginia; bordering states have already adopted & it is becoming uniform across the country. Some commenters noted that schools have always followed the lead of states that require higher education.</p>	<p>The Board concurred with the comment in the adoption of proposed regulations</p>

<p>Josh Reed, DC Jay M. Becker, DC Kenneth Bowman, DC Daniel Shaye, DC Wade Quinn, DC Scott Cypher, DC John Hoffman, DC Charlene Truhlik, DC William Thesier, DC Steven Riggleman, DC Jefferson Teass, DC Susan Goddard Hugh Cline, DC Susan McClelland Randall Short, DC Martin Skopp, DC George McClelland, DC Ellis Eisenberg, DC Rebecca Walter, RRC Gregory Walter Michael Pankow, DC Jennifer Tinoosh, DC Nelson Gregory, DC Kristen Teagle, DC Chris Burnham, DC William Ward, DC</p>		
<p>The following provided comment in opposition to the action:</p> <p>Jeff Bowers, DC J. Fernandez, DC Joe Foley, DC Ellen Fitzenrider, DC Brycen Hudock, DC Michael Vanella, DC Thomas Tauer, DC Ronald Santangelo, DC Meredith Oudt, DC David N. Block, DC Garnett Stover, DC Josh Gilbert, DC Travis Davis, DC Michael McLean, DC Nichole Lykens, DC Brad Robinson, DC Hirad Bagy, DC Charles Masarsky, DC Troy May, DC David May, DC Dale May, DC Diane DeReu-Foley, DC Thomas Skelton, DC Mark Gutekunst, DC</p>	<p>1) Since the petition for rulemaking requested a requirement of a bachelor’s degree prior to chiropractic school, some commenters were in opposition because it would exclude a DC who entered chiropractic school without first obtaining a BS from ever being licensed in Va. Likewise, there was concern expressed that the requirement would be retroactive on currently-licensed DC’s.</p> <p>2) A bachelor’s degree is not required for doctors of medicine, osteopathic medicine or podiatry, so it is discriminatory to require it for chiropractic.</p> <p>3) The degree is not required by the Council on Chiropractic Education.</p> <p>4) The number of newly licensed chiropractors in Virginia is lower than in NC, which does have a bachelor’s</p>	<p>1) The Board concurred with the argument that requiring a bachelor’s degree <i>prior</i> to chiropractic school was unworkable and discriminatory. The proposed requirement is a bachelor’s degree from an accredited college or university prior to licensure. The proposed requirement would not affect those enrolled in chiropractic school or those licensed prior to the effective date of the regulations.</p> <p>2) While medical school do accept students with only 90 hours of undergraduate prerequisites, it is a rare event and currently reserved for the truly exceptional academically-gifted student. The norm is a bachelor’s degree, and post-degree experience is preferable. In addition, other doctors have post-doctoral training requirements.</p> <p>3) According to proponents, educational requirements for chiropractic colleges have always followed state requirements for licensure. Not until some states added educational requirements did chiropractic schools begin requiring college credits for entry.</p> <p>4) The Board does not believe VA is the choice for licensure of less-qualified applicants, but does believe that could be the result as more</p>

Duane Connell, DC William Sonak, DC Kell Fleshood, DC David Milot, DC Greg Loy, DC Julia Trudeau, DC James Trudeau, DC Christopher Moss, DC Spencer Johansen, DC Mark Soccio, DC Brad Robinson, DC Mithra Green, DC Gregory Armstong, DC Julia Stickell, DC Mark Aldridge, DC	degree requirement, so VA is not a “dumping” ground for under-educated DC’s. 5) Virginia should consider a more rigorous examination or increased requirements for renewal of licensure to prevent it from becoming a “fall-back” state.	states adopt a higher educational standard. The fact that NC annually licenses more DC’s than VA supports the position that it will not adversely affect the number of applicants. 5) The Board did not consider developing its own examination because such a step would be extremely costly for applicants in chiropractic. Additionally, there was no support for increasing continuing education or using some other means of assuring continued competency.
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Family impact

Please assess the 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.

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. Detail all new provisions and/or all changes to existing sections.

Current section number	Proposed new section number	Current requirement	Proposed change and rationale
121	n/a	Sets out the educational requirements for licensure in four categories of the healing arts	The proposed regulation would require an applicant for licensure in chiropractic who matriculated in a chiropractic college on or after July 1, 2009 to also hold a bachelor’s degree from a college or university accredited by an accrediting body recognized by the U. S. Department of Education. <i>(See substance section for rationale)</i>