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## Notice of Intended Regulatory Action (NOIRA) Agency Background Document

<b>Agency name</b>	Board of Nursing, Department of Health Professions
<b>Virginia Administrative Code (VAC) Chapter citation(s)</b>	18VAC90-21
<b>VAC Chapter title(s)</b>	Medication Administration Training and Immunization Protocol
<b>Action title</b>	Implementation of 2022 periodic review
<b>Date this document prepared</b>	March 21, 2023

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), Executive Order 19 (2022) (EO 19), any instructions or procedures issued by the Office of Regulatory Management (ORM) or the Department of Planning and Budget (DPB) pursuant to EO 19, the Regulations for Filing and Publishing Agency Regulations (1 VAC 7-10), and the *Form and Style Requirements for the Virginia Register of Regulations and Virginia Administrative Code*.

### Brief Summary

*Provide a brief summary (preferably no more than 2 or 3 paragraphs) of the subject matter, intent, and goals of this regulatory change (i.e., new regulation, amendments to an existing regulation, or repeal of an existing regulation).*

This regulatory action is initiated to implement amendments identified during the 2022 periodic review of this Chapter. The changes being considered include the following:

- Review and revise the requirements to establish medication administration training programs in 18VAC90-21-10;
- Review and revise the minimum hours of classroom instruction required by 18VAC90-21-30;
- Review and revise requirements for training regarding diabetes medication contained in portions of 18VAC90-21-30;
- Review and revise references to requirements compliant with VDH protocol in 18VAC90-21-50;
- Remove redundant language throughout the Chapter; and

- Reorganize portions of the Chapter for readability.

## Acronyms and Definitions

*Define all acronyms or technical definitions used in this form.*

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N/A

## Mandate and Impetus

*Identify the mandate for this regulatory change and any other impetus that specifically prompted its initiation, (e.g., new or modified mandate, petition for rulemaking, periodic review, or board decision). For purposes of executive branch review, "mandate" has the same meaning as defined in the ORM procedures, "a directive from the General Assembly, the federal government, or a court that requires that a regulation be promulgated, amended, or repealed in whole or part."*

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The impetus for this regulatory change is the 2022 periodic review conducted by the Board of Nursing of this Chapter.

## Legal Basis

*Identify (1) the promulgating agency, and (2) the state and/or federal legal authority for the regulatory change, including the most relevant citations to the Code of Virginia and Acts of Assembly chapter number(s), if applicable. Your citation must include a specific provision, if any, authorizing the promulgating agency to regulate this specific subject or program, as well as a reference to the agency's overall regulatory authority.*

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Regulations of the Board of Nursing are promulgated under the general authority of Chapter 24 of Title 54.1 of the Code of Virginia. Virginia Code § 54.1-2400(6) specifically states that the general powers and duties of health regulatory boards shall be "[t]o promulgate regulations in accordance with the Administrative Process Act (§ 2.2-4000 et seq.) that are reasonable and necessary to administer effectively the regulatory system."

Virginia Code § 54.1-3005 directs the Board of Nursing to "approve training programs for medication aides to include requirements for instructional personnel, curriculum, continuing education, and a competency evaluation." Va. Code § 54.1-3005(17). Virginia Code § 54.1-3408(l) requires the Board of Nursing to approve protocols for the administration of vaccines for adults when a practitioner with prescriptive authority is not physically present.

## Purpose

*Describe the specific reasons why the agency has determined that this regulation is essential to protect the health, safety, or welfare of citizens. In addition, explain any potential issues that may need to be addressed as the regulation is developed.*

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The Board did not make such a determination. The General Assembly determined that medication administration training and immunization protocol required regulation by the Board of Nursing.

## Substance

*Briefly identify and explain the new substantive provisions that are being considered, the substantive changes to existing sections that are being considered, or both.*

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- Review and revise requirements for training regarding diabetes medication contained in portions of 18VAC90-21-30;
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- Remove redundant language throughout the Chapter; and
- Reorganize portions of the Chapter for readability.

## Alternatives to Regulation

*Describe any viable alternatives to the regulatory change that were considered, and the rationale used by the agency to select the least burdensome or intrusive alternative that meets the essential purpose of the regulatory change. Also, include discussion of less intrusive or less costly alternatives for small businesses, as defined in § 2.2-4007.1 of the Code of Virginia, of achieving the purpose of the regulatory change.*

Oversight of medication administration programs and approval of immunization protocols by the Board of Nursing are mandated by statute. See Va. Code §§ 54.1-3005, 54.1-3408(1). There are no alternatives for implementation of the mandates other than the promulgation of reasonable regulations that are enforceable and that protect the public health and safety.

## Periodic Review and Small Business Impact Review Announcement

This NOIRA is not being used to announce a periodic review or a small business impact review.

## Public Participation

*Indicate how the public should contact the agency to submit comments on this regulation, and whether a public hearing will be held, by completing the text below. In addition, as required by § 2.2-4007.02 of the Code of Virginia, describe any other means that will be used to identify and notify interested parties and seek their input, such as regulatory advisory panels or general notices.*

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The Board of Nursing is providing an opportunity for comments on this regulatory proposal, including but not limited to (i) the costs and benefits of the regulatory proposal, (ii) any alternative approaches, and (iii) the potential impacts of the regulation.

Anyone wishing to submit written comments for the public comment file may do so through the Public Comment Forums feature of the Virginia Regulatory Town Hall web site at: <https://townhall.virginia.gov>. Comments may also be submitted by mail, email or fax to Erin Barrett, Agency Regulatory Coordinator, 9960 Mayland Drive, Henrico, VA 23233 or [erin.barrett@dhp.virginia.gov](mailto:erin.barrett@dhp.virginia.gov) or by fax to (804) 915-0382. In order to be considered, comments must be received by 11:59 pm on the last day of the public comment period.

A public hearing will be held following the publication of the proposed stage, and notice of the hearing will be posted on the Virginia Regulatory Town Hall website (<https://townhall.virginia.gov>) and on the Commonwealth Calendar website (<https://commonwealthcalendar.virginia.gov/>). Both oral and written comments may be submitted at that time.