



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

Agency name	Virginia Department for the Aging
Virginia Administrative Code (VAC) citation	<u>22</u> VAC 5-30
Regulation title	The Virginia Public Guardian and Conservator Program
Action title	New Regulation
Document preparation date	June 20, 2005

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*.

Purpose

Please describe the subject matter and intent of the planned regulatory action. Also include a brief explanation of the need for and the goals of the new or amended regulation.

The Virginia Public Guardian and Conservator Program: This regulation is proposed by the Virginia Department for the Aging (VDA) and sets forth guidance for a statewide program of local and regional Public Guardian Programs.

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., agency, board, or person. Describe the legal authority and the extent to which the authority is mandatory or discretionary.

Statutory Authority for VDA to promulgate regulations is specified in § 2.2-712 of the Code of Virginia: Powers and duties of the Department with respect to public guardian and conservator program. The Code of Virginia mandates that the Department *shall* adopt reasonable regulations in accordance with the Administrative Process Act as appropriate to implement, administer and manage the state and local or regional programs authorized by this article.

Substance

Please detail any changes that will be proposed. For new regulations, include a summary of the proposed regulatory action. Where provisions of an existing regulation are being amended, explain how the existing regulation will be changed. Include the specific reasons why the agency has determined that the proposed regulatory action is essential to protect the health, safety, or welfare of citizens. Delineate any potential issues that may need to be addressed as the regulation is developed.

New Regulation. This regulation sets forth guidance for a statewide program of local and regional Public Guardian Programs to ensure that eligible persons who cannot adequately care for themselves because of incapacity are able to meet essential requirements for physical and emotional health and management of financial resources with the assistance of a guardian or conservator or both, as appropriate, and that there are uniform standards throughout the statewide program.

Alternatives

Please describe all viable alternatives to the proposed regulatory action that have been or will be considered to meet the essential purpose of the action.

No viable alternative. The Code of Virginia requires regulatory action. § 2.2-712 of the Code of Virginia.

Family impact

Assess the potential impact of the proposed regulatory action on the institution of the family and family stability.

Negligible. Persons served by the Virginia Public Guardian and Conservator Program do not have any other proper and suitable person, including family members, who are willing and able to serve in the capacity of guardian or conservator or both.

Periodic review

If this NOIRA is not the result of a periodic review of the regulation, please delete this entire section. If this NOIRA is the result of a periodic review, please (1) summarize all comments received during the public comment period following the publication of the Notice of Periodic Review, and (2) indicate whether the regulation meets the criteria set out in Executive Order 21, e.g., is necessary for the protection of public health, safety, and welfare, and is clearly written and easily understandable.

Section Inapplicable. Deleted.