



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

<b>Agency name</b>	Virginia Office of Emergency Medical Services
<b>Virginia Administrative Code (VAC) citation</b>	12 VAC 5-31
<b>Regulation title</b>	Virginia Emergency Medical Services Regulations
<b>Action title</b>	Amend current regulations to include new regulations as a result of legislative changes and changes in the practice of EMS.
<b>Date this document prepared</b>	March 13, 2007 (July 27, 2007)

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), Executive Orders 36 (2006) 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 Office of EMS (OEMS) has been working with numerous constituent groups and organizations to review and suggest improvements to the current regulations. EMS is a dynamic profession and this request will allow the opportunity for comment from the public and regulators on how the regulations can better meet the needs of a progressive, responsive, innovative and disciplined EMS system.

### 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.*

The following is a comprehensive summary of Virginia Law that authorizes the State Board of Health to adopt regulations addressing the provision of Emergency Medical Services in Virginia:

§ 32.1-111.3 of the Code of Virginia directs the Board of Health to “...develop a comprehensive, coordinated, emergency medical care system in the Commonwealth...” There are a total of 19 objectives and attributes identified as necessary for a comprehensive EMS system in Virginia.

§ 32.1-111.4 of the Code of Virginia vests authority for the regulation of emergency medical services in the State Board of Health. The laws specifically requires that the Board regulate such services by establishing minimum standards for agencies and for emergency services vehicles by type of service rendered and specify the medical equipment, supplies, vehicle specifications and the personnel required for each classification. The law further requires the use of licensure, certification and inspection for compliance.

§ 32.1-111.4 of the Code of Virginia directs the State Board of Health to require licensed EMS agencies to establish protocols and operating procedures for record keeping.

§ 32.1-111.5 of the Code of Virginia directs the Board of Health to prescribe by regulations the qualifications for certification and recertification of emergency medical attendants. It also requires that such regulations shall include authorization for continuing education and skills testing, authorization for exemptions of testing and options for sequential testing for recertification.

**Need**

*Please detail the specific reasons why the agency has determined that the proposed regulatory action is essential to protect the health, safety, or welfare of citizens. In addition, delineate any potential issues that may need to be addressed as the regulation is developed.*

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These regulations contain the criteria, standards, and requirements for emergency medical services (EMS) agencies, personnel, vehicles, training programs and medical direction. The intent of these regulations is to protect the health, safety, and welfare of Virginia’s citizens and to ensure that a quality standard for the provision of emergency medical services exists throughout the Commonwealth. The provision of EMS is dynamic and revisions to the existing regulations are needed to address the many associated changes arising from improved practice and technology and increased public expectations and awareness about emergency medical care.

**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.*

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12 VAC 5-31-10 Definitions - Amend definitions to include correct nomenclature and new terms.

12 VAC 5-31-200. Right to Enforcement - amend enforcement actions to include civil penalties as directed by recent amendments to the Code of Virginia.

12 VAC 5-31-370. Designated emergency response agency – amend description to include term describing the meaning of “24-hour”

12 VAC 5-31-380. EMS Agency availability – adds language regarding special conditions.

12 VAC 5-31-540. Personnel records. – Adds language to include DMV transcript.

12 VAC 5-31-610. Designated emergency response agency standards. – amend terminology, update standards, requirements and criteria.

12 VAC 5-31-700. EMS vehicle safety – amend language regarding weapons possession on permitted EMS vehicles.

12 VAC -5-31-710. EMS vehicle occupant safety – amend language regarding securing of equipment and supplies within the patient care compartment of EMS vehicles.

12 VAC 5-31-760. EMS vehicle communications – amend language regarding DERA agency communications requirements and make necessary changes to comply with Virginia Interoperability Plan.

12 VAC 5-31-800. Nontransport response vehicle specifications – amend language to reflect current nomenclature.

12 VAC 5-31-810. Ground ambulance specifications – amend language to reflect current nomenclature.

12 VAC 5-31-840. Air Ambulance specifications – repeal this specific regulation, but submit under different amended air medical regulations section of the EMS Regulations.

12 VAC 5-31-860. Required vehicle equipment. – amend and reformat to include new nomenclature and requirements.

12 VAC 5-31-12 VAC 5-31-1010. Misappropriation or theft of medications – amend nomenclature.

12 VAC 5-31-1030. Sexual Harassment – include language to include students and EMS instructors.

12 VAC 5-31-2040. Operational medical director authorization to practice – amend to include legislative change for use of epinephrine auto injectors and portable oxygen use in personally owned vehicles.

12 VAC 5-31-1050. Scope of practice – describes level of emergency care within specified scopes of practice.

12 VAC 5-31-1140. Provision of patient care documentation – amend to reflect current Board of Pharmacy regulations for drug administration documentation.

12 VAC 5-31-1280 Air ambulance transport requirements – repeal existing section and include updated requirements in a new section of EMS Regulations

12 VAC 5-21-1290. Exemptions – repeal to reflect current practice.

Part III, EMS Education and Certification – amend entire section to reflect current practice and policy.

12 VAC 5-31-1820. Application for EMS physician endorsement – amend nomenclature.

12 VAC 5-31-1850. Change in EMS physician contact information – amend to 30 day notification.

12 VAC 5-31-1890. Responsibility of operational medical directors – amend language in paragraph 1.

## 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. Also, please describe the process by which the*

*agency has considered or will consider other alternatives for achieving the need in the most cost-effective manner.*

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The Office of EMS has worked continuously with its constituents and stakeholders to review and submit language to reflect the current practice of EMS for the Commonwealth. This process has also included related regulatory agencies, i.e., Board of Pharmacy, etc. Failure to adopt these proposed changes will create an archaic regulatory process that is not responsive to the demands of a dynamic pre-hospital health care delivery system. Additional public comment will be solicited to assure all recommendations are considered.

**Public participation**

*Please indicate the agency is seeking comments on the intended regulatory action, to include ideas to assist the agency in the development of the proposal and the costs and benefits of the alternatives stated in this notice or other alternatives. Also, indicate whether a public hearing is to be held to receive comments on this notice.*

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The agency is seeking comments on the intended regulatory action, including but not limited to 1) ideas to assist in the review and revision of current regulations, 2) the costs and benefits of the alternatives stated in this background document or other alternatives and 3) potential impacts of the regulation. The agency 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, email or fax to Michael D. Berg, Manager, Regulations and Compliance, 109 Governor Street, Suite UB-55, Richmond, Virginia, 23219, (804) 864-7580 (fax), [michael.berg@vdh.virginia.gov](mailto:michael.berg@vdh.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.

In addition, the agency is seeking information on (1) the continued need for the regulation; (2) the complexity of the regulation; (3) the extent to which the regulation overlaps, duplicates, or conflicts with federal or state law or regulation; and (4) the length of time since the regulation has been evaluated or the degree to which technology, economic conditions, or other factors have changed in the area affected by the regulation.

A public hearing will be held and notice of the hearing may be found on the Virginia Regulatory Town Hall website ([www.townhall.virginia.gov](http://www.townhall.virginia.gov)) and can be found in the Calendar of Events section of the Virginia Register of Regulations. Both oral and written comments may be submitted at that time.

**Participatory approach**

*Please indicate, to the extent known, if advisers (e.g., ad hoc advisory committees, technical advisory committees) will be involved in the development of the proposed regulation. Indicate that 1) the agency is not using the participatory approach in the development of the proposal because the agency has authorized proceeding without using the participatory approach; 2) the agency is using the participatory approach in the development of the proposal; or 3) the agency is inviting comment on whether to use the participatory approach to assist the agency in the development of a proposal.*

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The Office of EMS continues to utilize a participatory, committee structure under the direction of the Virginia EMS Advisory Board as a means to solicit input, ideas and feedback regarding proposed changes to regulations regarding the provision of EMS in the Commonwealth. Extensive efforts have already been taken to make recommendations to amend the current regulations. Further efforts to solicit additional input from EMS system users will be achieved through a series of public hearings located strategically throughout the Commonwealth.

### Family impact

*Assess 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.*

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The proposed regulations will greatly benefit Virginia's families by ensuring a higher level of emergency medical services statewide. Developing a comprehensive, coordinated statewide emergency medical services (EMS) system is essential to reducing death and disability resulting from sudden or serious injury and illness in the Commonwealth. Standardization methods for inspection, licensing, permitting, certification and medical direction for EMS agencies, vehicle and personnel is essential to maintain access and a constant state of readiness throughout Virginia.