



## Exempt Action Final Regulation Agency Background Document

<b>Agency name</b>	Virginia Department of Health
<b>Virginia Administrative Code (VAC) citation</b>	12VAC5-381
<b>Regulation title</b>	Regulations for the Licensure of Home Care Organization
<b>Action title</b>	Update the regulations to reflect legislative changes
<b>Final agency action date</b>	November 23, 2014
<b>Document preparation date</b>	September 5, 2014

When a regulatory action is exempt from executive branch review pursuant to § 2.2-4002 or § 2.2-4006 of the Virginia Administrative Process Act (APA), the agency is encouraged to provide information to the public on the Regulatory Town Hall using this form.

Note: While posting this form on the Town Hall is optional, the agency must comply with requirements of the Virginia Register Act, Executive Orders 14 (2010) and 58 (1999), and the *Virginia Register Form, Style, and Procedure Manual*.

### Summary

*Please provide a brief summary of all regulatory changes, including the rationale behind such changes. Alert the reader to all substantive matters or changes. If applicable, generally describe the existing regulation.*

This action will bring the Regulations for Licensure of Home Care Organizations (12VAC5-381 et. seq.) in conformance with the Code of Virginia. There have been several legislative changes to the Code which are not currently reflected in the Regulations.

Section 32.1-162.11 of the Code of Virginia requires that every licensed home care organization obtain and maintain a liability insurance policy and third-party crime insurance or blanket fidelity bond in accordance with the regulations of the Board. Currently the regulations require home care organizations obtain and maintain a liability insurance policy and a surety bond. This action will remove the definition of surety bond and replace it with a definition of "blanket fidelity bond" and "third-party crime insurance." Further, this action shall remove the requirement that a home care organization obtain a surety bond and replace it with a requirement that the home care organization obtain a third-party crime insurance policy or blanket fidelity bond.

Section 32.1-162.9 of the Code of Virginia allows the Commissioner to issue a license to a home care organization authorizing the licensee to provide services at one or more branch offices serving portions of

the total geographic area served by the licensee, provided each branch office operates under the supervision and administrative control of the licensee. Section 32.1-162.9 of the Code requires that the address of each branch office at which services are provided by the licensee be included on any license issued to the licensee. The regulations currently require a separate license be required for home care organizations maintained at separate locations even though they are owned or are operated under the same management. This action shall remove the requirement that separate licenses be required for home care organizations maintained at separate locations and will clarify that the Commissioner may issue a license to a home care organization authorizing the licensee to provide services at one or more branch offices. Further the action will provide a definition of the term “branch office.”

Section 32.1-162.9:1 of the Code of Virginia requires that home care organizations or hospices within 30 days of employment, obtain for any compensated employees an original criminal record clearance with respect to barrier crimes. Section 32.1-162.9:1 of the Code was amended in 2014 to require that no employee be permitted to work in a position that involves direct contact with a patient until an original criminal record has been received unless such person works under the direct supervision of another employee for whom a background check has been completed. Currently the regulations do not reflect this legislative change. This action shall add this requirement to the regulations.

Section 32.1-162.9 of the Code of Virginia was amended in 2013 to require that every applicant for a initial license to establish or operate a home care organization shall include as part of his application proof of initial reserve operating funds in an amount determined by the Board which shall be sufficient to ensure operation of the home care organization for the three-month period after a license to operate has been issued. This requirement is not currently reflected in the regulations. This action shall add this requirement to the regulations.

**Statement of final agency 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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The Virginia Board of Health approved these amendments to the Regulations for the Licensure of Home Care Organizations on November 23, 2014, while the Board of Health was not in session.

**Family impact**

*Assess the impact of this regulatory action on the institution of the family and family stability.*

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This regulatory action will have no impact on the institution of the family and family stability.