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Notice of Intended Regulatory Action (NOIRA)
Agency Background Document

Agency name	Virginia Department of Health
Virginia Administrative Code (VAC) citation(s)	12VAC5-31
Regulation title(s)	Regulations Governing Emergency Medical Services
Action title	Create New Chapter for the Emergency Medical Services Regulations
Date this document prepared	November 2016

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), Executive Orders 17 (2014) and 58 (1999), and the *Virginia Register Form, Style, and Procedure Manual.*

Subject matter and intent

Please describe briefly the subject matter, intent, and goals of the planned regulatory action.

The current chapter will be repealed and replaced by a new chapter. The Regulations Governing Emergency Medical Services (EMS) require amendments to remain current and relevant to the changing landscape in the delivery of EMS in the Commonwealth. In addition, the current chapter has been amended and revised several times and as such, a new chapter needs to be developed to incorporate all changes and adjusted accordingly for technical changes within the document.

Legal basis

Please identify the (1) the agency (includes any type of promulgating entity) and(2) the state and/or federal legal authority for the proposed regulatory action, including the most relevant citations to the Code of Virginia or General Assembly chapter number(s), if applicable. Your citation should include a specific

provision, if any, authorizing the promulgating entity to regulate this specific subject or program, as well as a reference to the agency's overall regulatory authority.

Section 32.1-111.4. Regulations; emergency medical services personnel and vehicles; response times; enforcement provisions; civil penalties.

A. The Board shall prescribe by regulation:

1. Requirements for recordkeeping, supplies, operating procedures, and other emergency medical services agency operations;

2. Requirements for the sanitation and maintenance of emergency medical services vehicles and their medical supplies and equipment;

3. Procedures, including the requirements for forms, to authorize qualified emergency medical services personnel to follow Do Not Resuscitate Orders pursuant to § 54.1-2987.1;

4. Requirements for the composition, administration, duties, and responsibilities of the Advisory Board;

5. Requirements developed in consultation with the Advisory Board, governing the training, certification, and recertification of emergency medical services personnel;

6. Requirements for written notification to the Advisory Board, the Office of Emergency Medical Services, and the Financial Assistance and Review Committee of the Board's action, and the reasons therefor, on requests and recommendations of the Advisory Board, the Office of Emergency Medical Services, or the Financial Assistance and Review Committee, no later than five business days after reaching its decision, specifying whether the Board has approved, denied, or not acted on such requests and recommendations;

7. Authorization procedures, developed in consultation with the Advisory Board, that allow the possession and administration of epinephrine or a medically accepted equivalent for emergency cases of anaphylactic shock by certain levels of certified emergency medical services personnel as authorized by § 54.1-3408 and authorization procedures that allow the possession and administration of oxygen with the authority of the local operational medical director and an emergency medical services agency that holds a valid license issued by the Commissioner;

8. A uniform definition of "response time" and requirements, developed in consultation with the Advisory Board, for each emergency medical services agency to measure response times starting from the time a call for emergency medical services is received until the time (i) appropriate emergency medical services personnel are responding and (ii) appropriate emergency medical services personnel arrive on the scene, and requirements for emergency medical services agencies to collect and report such data to the Director of the Office of Emergency Medical Services, who shall compile such information and make it available to the public, upon request; and

9. Enforcement provisions, including, but not limited to, civil penalties that the Commissioner may assess against any emergency medical services agency or other entity found to be in violation of any of the provisions of this article or any regulation promulgated under this article. All amounts paid as civil penalties for violations of this article or regulations promulgated pursuant thereto shall be paid into the state treasury and shall be deposited in the emergency medical services special fund established pursuant to § 46.2-694, to be used only for emergency medical services purposes.

B. The Board shall classify emergency medical services agencies and emergency medical services vehicles by type of service rendered and shall specify the medical equipment, the supplies, the vehicle specifications, and the emergency medical services personnel required for each classification.

C. In formulating its regulations, the Board shall consider the current Minimal Equipment List for Ambulances adopted by the Committee on Trauma of the American College of Surgeons.

Purpose

Please describe 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, please explain any potential issues that may need to be addressed as the regulation is developed.

The provision of EMS is a dynamic process that is continually changing due to advances in science, technology, legislative changes, federal mandates, evidence based practices, and more. This revision is essential to protect the health and safety of citizens insomuch as it will incorporate changes in terminology, practices in testing, enforcement, agency responsibilities, and certification levels, reporting requirements, training, EMS physician requirements, Regional Council and Financial Assistance for Emergency Medical Services requirements.

Substance

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

The development of a new chapter for the EMS Regulations will allow a more succinct document to allow easier use by regulants and the public. Years of appeals and amendments secondary to the changing landscape and the dynamics for EMS have a document that is arduous to read. Several general changes will be incorporated to include language reflecting current national certification levels and the testing process, updated equipment requirements for all vehicles, updated standards to reflect the changes in the ambulance industry, a reorganization of the Financial Assistance for Emergency Medical Service section, amendments to the Criminal History section and minor amendments to the Regional Council and Medevac sections. Additional changes may occur as a result of input received from the public.

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. 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 regulation.

There are no viable alternatives identified that would be less intrusive or least burdensome.

Public participation

The agency is seeking comments on this regulatory action, including but not limited to: ideas to be considered in the development of this proposal, the costs and benefits of the alternatives stated in this background document or other alternatives, and the 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: projected reporting, recordkeeping, and other administrative costs; the probable effect of the regulation on affected small businesses; and the description of less intrusive or costly alternatives for achieving the purpose of the regulation.

Anyone wishing to submit comments may do so via the Regulatory Town Hall website (**http://www.townhall.virginia.gov**), or by mail, email, or fax to Michael Berg, 1041 Technology Park Drive, Glen Allen, Virginia 2350; 804-888-9100 (office), 804-371-3409 (facsimile), 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 midnight on the last day of the public comment period.

A public hearing will be held following the publication of the proposed stage of this regulatory action and notice of the hearing will be posted on the Virginia Regulatory Town Hall website (**http://www.townhall.virginia.gov**) and on the Commonwealth Calendar website (https://www.virginia.gov/connect/commonwealth-calendar). Both oral and written comments may be submitted at that time.