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## Exempt Action: Final Regulation Agency Background Document

<b>Agency name</b>	State Board of Health
<b>Virginia Administrative Code (VAC) Chapter citation(s)</b>	12VAC5-408
<b>VAC Chapter title(s)</b>	Certificate of Quality Assurance of Managed Care Health Insurance Plan Licensees
<b>Action title</b>	Amend Regulation after Enactment of Chapters 376 and 377 of the 2023 Acts of Assembly
<b>Final agency action date</b>	September 19, 2023
<b>Date this document prepared</b>	September 1, 2023

This information is required for executive branch review pursuant to 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. In addition, this information is required by the Virginia Registrar of Regulations pursuant to the Virginia Register Act (§ 2.2-4100 et seq. of the Code of Virginia). Regulations must conform to 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 this regulatory change (i.e., new regulation, amendments to an existing regulation, or repeal of an existing regulation). Alert the reader to all substantive matters. If applicable, generally describe the existing regulation.*

Chapters 376 and 377 of the 2023 Acts of Assembly amend and reenact § 38.2-3407.10:1 of the Code of Virginia, which outlines requirements for carriers that credential physicians, mental health professionals, or other providers in their network. The legislation requires carriers to establish protocols for processing new provider credentialing applications and reimburse new provider applicants for health care services provided to covered persons during the period when their completed credentialing application is pending. This includes carrier notification to the applicant when the application is received, to approve or deny the application within 60 days of receiving a completed application, to adjudicate and pay claims for services rendered during the pending application period no later than 40 days after the new provider applicant is credentialed and contracted, and to pay any reimbursement at the in-network rate. These protocols and procedures only apply if a contractual relationship exists between the carrier and the new provider applicant

or entity for whom the new provider applicant is employed or engaged. Additionally, beginning January 1, 2024, a new provider applicant's application is deemed complete within 30 days of the carrier receiving the application, unless the carrier has provided notice that the application is not complete.

Chapters 376 and 377 of the 2023 Acts of Assembly further directs the promulgation of regulations to implement the legislation within 280 days of its enactment date. This exempt action is being utilized to conform 12VAC5-408 to the statutory language and to meet the prescribed regulatory deadline.

### **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, internal staff review, 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 mandate for this regulatory change is found in Chapters 376 and 377 of the 2023 Acts of Assembly.

### **Statement of Final Agency Action**

*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 State Health Commissioner, pursuant to the authority in § 32.1-20 of the Code of Virginia, approved this Final Exempt amendment to the *Certificate of Quality Assurance of Managed Care Health Insurance Plan Licensees Regulations* (12VAC5-408), on behalf of the State Board of Health while the Board was not in session, on September 19, 2023.