



Virginia
Regulatory
Town Hall

Emergency Regulation
Agency Background Document

Agency Name:	Department of Health (State Board of)
VAC Chapter Number:	12 VAC 5-90-185
Regulation Title:	Regulations for Disease Reporting and Control
Action Title:	Cancer Registry Patient Notification
Date:	August 15, 2000

Section 9-6.14:4.1(C)(5) of the Administrative Process Act allows for the adoption of emergency regulations. Please refer to the APA, Executive Order Twenty-Four (98), and the *Virginia Register Form, Style and Procedure Manual* for more information and other materials required to be submitted in the emergency regulation submission package.

Emergency Preamble

Please provide a statement that the emergency regulation is necessary and provide detail of the nature of the emergency. Section 9-6.14:4.1(C)(5) of the Administrative Process Act states that an "emergency situation" means: (i) a situation involving an imminent threat to public health or safety; or (ii) a situation in which Virginia statutory law, the Virginia appropriation act, or federal law requires that a regulation shall be effective in 280 days or less from its enactment, or in which federal regulation requires a regulation to take effect no later than 280 days from its effective date. The statement should also identify that the regulation is not otherwise exempt under the provisions of § 9-6.14:4.1(C)(4).

Please include a brief summary of the emergency action. There is no need to state each provision or amendment.

This emergency regulation is necessary because Virginia statutory law (§32.1-71.01 of the Code of Virginia) requires that a regulation shall be effective in 280 days from its enactment. This regulation defines the process by which the Virginia Cancer Registry shall notify patients that they have been included in the registry. These regulations are not otherwise exempt under the provisions of §9-6.14:4.1(c)(4).

Basis

Please identify the state and/or federal source of legal authority to promulgate the emergency regulation. The discussion of this emergency statutory authority should: 1) describe its scope; and 2) include a brief statement relating the content of the statutory authority to the specific regulation. Full citations of legal authority and web site addresses, if available for locating the text of the cited authority, should be provided.

Please provide a statement that the Office of the Attorney General has certified that the agency has the statutory authority to promulgate the emergency regulation and that it comports with applicable state and/or federal law.

The source of legal authority to promulgate the emergency regulation is §32.1-71.01 of the *Code of Virginia*. That law requires the Virginia Cancer Registry to notify patients of their inclusion in the registry within 30 days of receiving a report. The regulation provides additional information about the process by which this notification shall occur.

That cited authority, §32.1-71.01 states that the Commissioner, or his designee, shall develop and implement a system for notifying, within thirty days of receipt of the case record, each patient whose name and record abstract is reported to the statewide cancer registry pursuant to §32.1-70 that personal identifying information about him has been included in the registry. The notification shall include (i) the purpose, objectives, reporting requirements, confidentiality policies and procedures of the statewide cancer registry, including, but not limited to, continued surveillance and investigation procedures and (ii) a copy of §2.1-378 of the Privacy Protection Act. This citation may be found at <http://leg1.state.va.us/cgi-bin/legp504.exe?001+ful+CHAP0918>.

The Office of the Attorney General has certified that the agency has the statutory authority to promulgate the emergency regulation and that it comports with applicable state law.

Substance

Please detail any changes, other than strictly editorial changes, that would be implemented. Please outline new substantive provisions, all substantive changes to existing sections, or both where appropriate. Please provide a cross-walk which includes citations to the specific sections of an existing regulation being amended and explain the consequences of the proposed changes. The statement should set forth the specific reasons the agency has determined that the proposed regulatory action would be essential to protect the health, safety or welfare of Virginians. The statement should also delineate any potential issues that may need to be addressed as a permanent final regulation is developed.

This regulation will provide that the Virginia Cancer Registry shall send a notification to each person reported to the registry by a Virginia hospital, clinic, laboratory, or physician. Such notification will be done within 30 days of receiving a case record on a newly registered patient that contains complete identifying and locating information for the patient. The notification will

begin with cases diagnosed January 1, 2001 and include the purpose, objectives, reporting requirements, confidentiality policies and procedures of the registry and a copy of the Virginia Privacy Protection Act, as required by §32.1-71.01 of the *Code*.

Alternatives

Please describe the specific alternatives that were considered and the rationale used by the agency to select the least burdensome or intrusive method to meet the essential purpose of the action.

Since Virginia law requires the adoption of emergency regulations addressing this matter, the agency enjoys no discretion in whether to do so. Adopting these emergency regulations is the only means available to comply with the clear mandate set forth in the emergency provision of the statute.

Family Impact Statement

Please provide a preliminary analysis of the potential impact of the emergency action on the institution of the family and family stability including to what extent the 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.

This regulation is expected to have no impact on the education, nurturing, and supervision of children; economic self-sufficiency, pride, or responsibility; marital commitment; or family income. It merely provides for the informing of individuals that they are in the state cancer registry. This could have a negative emotional impact on family members, however, when the cancer patient has died between the time of diagnosis and when the registry sends the patient notification.

Emergency template-cancer registry.doc