Virginia Regulatory Town Hall

Notice of Intended Regulatory Action
Agency Background Document

Agency Name:	Department of Health Professions
VAC Chapter Number:	18 VAC 76-30-10 et seq.
Regulation Title:	Public Participation Guidelines
Action Title:	New regulation
Date:	

This information is required prior to the submission to the Registrar of Regulations of a Notice of Intended Regulatory Action (NOIRA) pursuant to the Administrative Process Act § 9-6.14:7.1 (B). Please refer to Executive Order Twenty-Five (98) and Executive Order Fifty-Eight (99) for more information.

Purpose

Please describe the subject matter and intent of the planned regulation. This description should include a brief explanation of the need for and the goals of the new or amended regulation.

Regulations are being promulgated to provide guidelines for public participation in the process of developing and promulgating regulations to implement programs under the authority of the Director of the Department of Health Professions. These regulations are also intended to enable electronic communication, notification and comment in the development of regulations and to provide for involvement and advice from persons with specialized interest and knowledge.

Basis

Please identify the state and/or federal source of legal authority to promulgate the contemplated regulation. The discussion of this authority should include a description of its scope and the extent to which the authority is mandatory or discretionary. The correlation between the proposed regulatory action and the legal authority identified above should be explained. Full citations of legal authority and, if available, web site addresses for locating the text of the cited authority must be provided.

The statutory authority for this regulation is the Administrative Process Act. § 2.2-4007 (D) specifically mandates the adoption of public participation guidelines pursuant to the provisions

of the Act. Regulations so adopted do not exceed the mandate of the Act but do provide additional clarity to the public for their participation in the regulatory process.

§ 2.2-4007. (Effective October 1, 2001) Notice of intended regulatory action; public participation; informational proceedings; effect of noncompliance.

D. Public participation guidelines for soliciting the input of interested parties in the formation and development of its regulations shall be developed, adopted and utilized by each agency pursuant to the provisions of this chapter. The guidelines shall set out any methods for the identification and notification of interested parties, and any specific means of seeking input from interested persons or groups that the agency intends to use in addition to the Notice of Intended Regulatory Action. The guidelines shall set out a general policy for the use of standing or ad hoc advisory panels and consultation with groups and individuals registering interest in working with the agency. Such policy shall address the circumstances in which the agency considers the panels or consultation appropriate and intends to make use of the panels or consultation.

Substance

Please detail any changes that would be implemented: this discussion should include a summary of the proposed regulatory action where a new regulation is being promulgated; where existing provisions of a regulation are being amended, the statement should explain how the existing regulation will be changed. 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 citizens. In addition, a statement delineating any potential issues that may need to be addressed as the regulation is developed shall be supplied.

Regulations are recommended to provide for the following sections:

- Statement of Purpose for the regulations.
- Definitions of terms used in regulation.
- Composition of mailing lists, including a requirement to maintain notification lists for mailings electronically or in writing and a process for editing or deleting from the lists.
- Documents to be sent to person on the mailing list, either by electronic transmission or by mail.
- Petition for rulemaking as required by § 2.2-4007, as amended by the 2002 General Assembly.
- Notice of Intended Regulatory Action, including requirements to state the purpose of the action and whether a public hearing will be held on the proposed regulation.
- Notice of Comment Period, including provisions for comments received electronically, including facsimile or internet. The regulation will also clarify that oral comment, outside of a scheduled public hearing, will not be accepted.
- Notice of Meetings of Advisory Committees to include a description of the notice and a provision for public access to any regulation for which an APA exemption is being exercised.

- Periodic review of regulations at least every two years or in compliance with Executive Orders.
- Appointment of committees, including provision for ad hoc advisory committees with responsibility to assist in the review and development of regulations.
- Limitation of service for advisory committees would include provisions for the dissolution or reappointment of a committee within 12 months of its creation.

Regulations for health practitioner intervention and prescription monitoring have far-reaching implications for public health, safety and welfare. Promulgation of such regulations should occur within guidelines for public participation, which is essential to ensure clarity, consistency and reasonableness.

Since the Public Participation Guidelines for the Department of Health Professions are likely to be almost identical to the guidelines currently in effect for the 13 regulatory boards within the agency, no issues or objections are expected to be raised.

Alternatives

Please describe, to the extent known, the specific alternatives to the proposal that have been considered or will be considered to meet the essential purpose of the action.

Currently, there are no regulations governing public participation in the regulatory process for the Director of the Department of Health Professions, but specific rule-making authority has been granted in statute for regulations implementing the Health Practitioner Intervention Program and the Prescription Monitoring Program. Therefore, consistent with provisions of the Administrative Process Act, guidelines for the Department of Health Professions to involve the public in the promulgation of regulations are required.

In the adoption of regulations, the intent is to implement but not duplicate provisions of the Administrative Process Act (§ 2.2-4000 et seq. of the Code of Virginia).

Family Impact Statement

Please provide a preliminary analysis of 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.

The proposed regulatory action would not strengthen or erode the authority and rights of parents, encourage or discourage economic self-sufficiency, strengthen or erode the marital commitment or increase or decrease disposable family income.