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Regulatory
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Notice of Intended Regulatory Action (NOIRA) Agency Background Document

Agency name	Department for Aging and Rehabilitative Services
Virginia Administrative Code (VAC) citation	___22_ VAC_30__ - __50__
Regulation title	Policies and Procedures for Administering the Commonwealth Neurotrauma Initiative Trust Fund
Action title	Amend CNI Regulations as result of Periodic Review
Date this document prepared	January 28, 2014

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), Executive Orders 14 (2010) and 58 (1999), and the *Virginia Register Form, Style, and Procedure Manual*.

Purpose

Please describe the subject matter and intent of the planned regulatory action. Also include a brief explanation of the need for and the goals of the new or amended regulation.

The regulations to administer the Commonwealth Neurotrauma Initiative (CNI) Trust Fund are essential to the integrity of the program. The CNI Trust Fund is designed to promote basic science and clinical research into traumatic brain and spinal cord injuries and to promote the development of models of community based services and support for individuals who have sustained such injuries. Money in the fund comes from funds collected from driver's license reinstatement fees and are used solely to support grants for Virginia based researchers, organizations, and institutions that either conduct research into the mechanism and treatment of neurotrauma or provide community based rehabilitative programs of supports and services for individuals with acquired neurotrauma. The amendments to the existing regulations clarify that requests for proposals shall be issued at the discretion of the CNI Advisory Board and shall depend upon the availability of funds. Statements have been rephrased to emphasize that grants provided by the fund are not to be used for long-term funding of research or community based rehabilitative programs. An additional statement is added that applicants for grants under this fund must provide a plan for sustaining the proposed project following the termination of the grant award. The proposed amendments also include changing incidences of the verb "will" to "shall" and updating the Code of Virginia citations that have changed as a result of combining the Department of Rehabilitative Services and the Department of Aging into the Department for Aging and Rehabilitative Services.

Legal basis

Please identify the state and/or federal legal authority to promulgate this proposed regulation, including (1) the most relevant citations to the Code of Virginia or General Assembly chapter number(s), if applicable, and (2) promulgating entity, i.e., agency, board, or person. Your citation should include a specific provision authorizing the promulgating entity to regulate this specific subject or program, as well as a reference to the agency/board/person's overall regulatory authority.

Code of Virginia § 51.5-131. Powers and duties of Commissioner. To promulgate regulations necessary to carry out the provisions of the laws of the Commonwealth administered by the Department

Code of Virginia § 51.5-181. Procedures for grant applications. The Commissioner shall promulgate regulations establishing procedures and policies for soliciting and receiving grant applications and criteria for reviewing and ranking such applications, including, but not limited to, goals, timelines, forms, eligibility, and mechanisms to ensure avoidance of any conflicts of interest or appearances thereof. The Commissioner shall receive the recommendations of the Commonwealth Neurotrauma Initiative Advisory Board prior to promulgating or revising any such regulations.

Need

Please detail 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, delineate any potential issues that may need to be addressed as the regulation is developed.

These regulations are necessary to administer the CNI Trust Fund, which protects the public health, safety, and welfare by providing funding for research and improving the treatment and care of neurotrauma.

The proposed changes are needed to ensure the efficient operation of the grant award process based on the availability of funds. Also changes in wording were needed to improve clarity.

Substance

Please detail any changes that will be proposed. Be sure to define all acronyms. For new regulations, include a summary of the proposed regulatory action. Where provisions of an existing regulation are being amended, explain how the existing regulation will be changed.

CNI is an abbreviation for Commonwealth Neurotrauma Initiative. It is not used in the regulations, but it appears in supporting documents.

The Statutory Authority that cites the Code of Virginia has been changed for all sections in these regulations due to the combining of the Department of Rehabilitative Services and the Department of Aging into the Department for Aging and Rehabilitative Services.

22VAC30-50-60. Requests for proposals. Requests for proposals to solicit applications for grants of moneys from the fund shall be issued at the discretion of the advisory board and shall depend upon the availability of funds.

22VAC30-50-80. Specification of Option A or B. In addition to using grant funds for developing, expanding, or improving community-based programs, this section proposes to include the term evaluating.

A statement is rephrased to emphasize that funds from grants shall not be used for long-term funding of research projects or community community-based rehabilitative programs and services.

22VAC30-50-90. Submission of applications. Changes statement from present a convincing and persuasive discussion of how proposed projects shall carry out its intention to present a clear and convincing discussion. A statement is added that applications for grants shall provide a plan for sustaining the proposed project following termination of a grant award.

22VAC30-50-110. Amount of grant awards; duration and availability of funding. In subsection C, deletes the adjective substantial that appears before decline in moneys. This proposes that a decline in funds no longer has to be substantial for the advisory board to attempt to distribute moneys in a manner as fair and equitable as possible. The proposed language is that this subsection will apply to all projects and not just those of an anticipated duration greater than one year.

Alternatives

Please describe all viable alternatives to the proposed regulatory action that have been or will be considered to meet the essential purpose of the action. Also, please describe the process by which the agency has considered or will consider other alternatives for achieving the need in the most cost-effective manner.

As a part of a periodic review, the department requested that the staff and Advisory Board of the CNI Trust Fund Initiative review this regulation to determine if any amendments were needed to make the regulation consistent with current practices of administering the trust fund. In order to incorporate the recommendations of the staff and Advisory Board, the department is proceeding with a Notice of Intended Regulatory Action. No other viable alternative is considered to meet the purpose of this regulation.

Public participation

Please indicate whether the agency is seeking comments on the intended regulatory action, including ideas to assist the agency in the development of the proposal and the costs and benefits of the alternatives stated in this notice or other alternatives. Also, indicate whether a public hearing is to be held to receive comments on this notice.

Please also indicate pursuant to your Public Participation Guidelines whether a panel will be appointed to assist in the development of the proposed regulation. Please state one of the following: 1) a panel will be appointed and the agency's contact if you're interested in serving on the panel is _____; 2) a panel will not be used; or 3) public comment is invited as to whether to use a panel to assist in the development of this regulatory proposal.

The agency is seeking comments on this regulatory action, including but not limited to 1) ideas to be considered in the development of this proposal, 2) the costs and benefits of the alternatives stated in this background document or other alternatives, and 3) 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 1) projected reporting, recordkeeping and other administrative costs, 2) the probable effect of the regulation on affected small businesses, and 3) 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 Vanessa S. Rakestraw, 8004 Franklin Farms Drive, Henrico, VA 23229, Vanessa.Rakestraw@dars.virginia.gov, Fax (804) 662-7663. 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 panel will not be used.

A public hearing will not be held following the publication of the proposed stage of this regulatory action.

Family impact

Assess 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 amendment to the regulations will not have any negative impact on the family and family stability. The regulations to administer the CNI Trust Fund are essential to the integrity of this program and to protect the health and safety of Virginians. The CNI Trust Fund program is designed to promote medical research into traumatic brain and spinal cord injury and to improve the treatment and care for Virginians who have sustained such injury. Moneys in the CNI Trust Fund shall be used solely to support grants for Virginia-based organizations, institutions and researchers for research on the mechanisms and treatment of neurotrauma and rehabilitative services. The grant may go to a community based brain injury program to provide services to individuals with brain injury and their family.

Periodic review and small business impact review report of findings

If this NOIRA is not the result of a periodic review/small business impact review of the regulation, please delete this entire section.

If this NOIRA is the result of a periodic review/small business impact review, please (1) summarize all comments received during the public comment period following the publication of the Notice of Periodic Review, and (2) indicate whether the regulation meets the criteria set out in Executive Order 14 (2010), e.g., is necessary for the protection of public health, safety, and welfare, and is clearly written and easily understandable.

In addition, please include, pursuant to Code of Virginia § 2.2-4007.1 E and F, a discussion of the agency's consideration of: (1) the continued need for the regulation; (2) the nature of complaints or comments received concerning the regulation from the public; (3) the complexity of the regulation; (4) the extent to which the regulation overlaps, duplicates, or conflicts with federal or state law or regulation; and (5) the length of time since the regulation has been evaluated or the degree to which technology, economic conditions, or other factors have changed in the area affected by the regulation.

This NOIRA is the result of a periodic review/small business impact review.

These regulations are required in order to administer the CNI Trust Fund pursuant to Code of Virginia § 51.5-181. Because this fund is designed to promote medical research into traumatic brain and spinal cord injury and to improve the treatment and care for Virginians who have sustained such injury, these regulations are necessary for the protection of public health, safety, and welfare of Virginians.

No public comments were received during the public comment period following the publications of the Notice of Periodic Review. The regulations do not overlap, duplicate, or conflict with federal or state law or regulations. The proposed amendments will make the regulations easier for the public to understand. The regulations were last changed in July 2013. The proposed amendments acknowledge that requests for proposals shall be dependent upon the availability of moneys in the fund and at the discretion of the CNI Advisory Board.

These regulations may financially assist researchers and facilities that study and treat neurotrauma, but it is not expected to have any other impact on small businesses.