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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(s)	22 VAC 30-130
Regulation title(s)	Adult Services Standards
Action title	Establish Adult Services Standards
Date this document prepared	July 5, 2017

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 intent of the proposed action is to adopt a new regulation addressing the provision of services by local departments of social services (LDSS) to adults with impairment. This regulatory action was originally initiated in 2011 when the Adult Protective Services (APS) Division was part of the Department of Social Services (DSS). The action was started in response to the repeal of an outdated DSS regulation, "Family-Based Social Services." However, when the APS Division relocated to the Department for Aging and Rehabilitative Services (DARS) in July 2013, the regulatory action which was still in process, was withdrawn.

The new Adult Services (AS) regulation will include definitions, principles inherent in the provision of AS, the process for client intake and service delivery, descriptions of the types of services that may be provided, and eligibility for services.

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 51.5-145 of the Code of Virginia gives DARS the responsibility for the planning and oversight of AS. These services are to be delivered by the LDSS as set out in Article 1 (63.2-1600 et seq.) of Chapter 16 of Title 63.2 and pursuant to regulations and subject to the oversight of the Commissioner of DARS. Section 63.2-1600 of the Code of Virginia authorizes the provision of home-based services including the eligibility for such services pursuant to regulations promulgated by the Commissioner of DARS. In addition, § 51.5-131 of the Code of Virginia authorized the Commissioner of the DARS to promulgate regulations necessary to carry out the provisions of the laws of the Commonwealth administered by the Department.

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.

This regulation will describe the provision of services to adults with impairment. Many services provided by LDSS AS workers ensure the safety of elderly individuals and adults with disabilities by helping prevent adult abuse, neglect, and exploitation from occurring or recurring.

These services also promote the well-being of adults by strengthening the support systems, including family supports, that enable them to live in community-based settings for as long as possible. The regulation will outline the principles and philosophy of AS and underscore the importance of an adult's right to self-determination and independence.

This regulatory action will ensure that the regulation content is clearly written. Clarity in regulation content is essential to ensuring that the individual's health and safety needs are most appropriately met.

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.

This new regulation will include definitions of services, the principles inherent in the provision of AS, intake services, individuals to be served, service eligibility, and types of services to be provided.

In addition, the AS regulation will describe the targeted service population and clarify the descriptions of the type of services that may be offered to an adult. Additional revisions to the regulation content may be proposed based on public comments received.

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.

No alternative to this regulatory action was considered, as the Code of Virginia addresses the need for regulations pertaining to AS including the eligibility determination process for home-based services. A regulatory action was initiated in 2011 but that action was withdrawn. Promulgating these regulations is anticipated to have little impact on small businesses as businesses are not the focus 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. Please include one of the following choices: 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: 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 **Paige McCleary, Adult Protective Services Division Director, 8004 Franklin Farms Drive, Henrico, VA 23229; paige.mccleary@dars.virginia.gov; or 804-662-7605 or 804-662-9531 (fax)**. 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 not be held following the publication of the proposed stage of this regulatory action.

A panel will be assembled to develop these regulations to ensure that only pertinent content is included. Panel members will make certain that information that is not appropriate for inclusion in the regulation is

addressed in other guidance materials. The panel membership will include individuals from a variety of backgrounds who have expertise in providing services to or advocating for older and other vulnerable adults. Members will assist DARS in the careful consideration of proposed regulation content and its impact on other entities. DARS will appoint panel members and if you are interested in serving on the panel, contact Paige McCleary, APS Division Director at paige.mccleary@dars.virginia.gov.