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Fast-Track Regulation Agency Background Document

Agency name	Virginia Department for Aging and Rehabilitative Services
Virginia Administrative Code (VAC) Chapter citation(s)	22VAC30-70
VAC Chapter title(s)	The Virginia Public Guardian and Conservator Program
Action title	Fast-Track Updates to the Public Guardian Program
Date this document prepared	October 5, 2020

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), Executive Order 14 (as amended, July 16, 2018), the Regulations for Filing and Publishing Agency Regulations (1VAC7-10), 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.

The Virginia Public Guardian and Conservator Program ("Program"), operated by the Department for Aging and Rehabilitative Services ("DARS" or the department), provides public guardian and conservator services for adults who are incapacitated, indigent, and for whom no other proper or suitable person can be identified who is willing and able to serve as the individual's guardian, or conservator, or both, as applicable. The Program has capacity to provide public guardianship services, public conservatorship services, or both to 1,049 incapacitated adult residents of Virginia who are found by a Virginia circuit court to be (i) incapacitated, and (ii) who meet the criteria for public guardianship as set forth in § 64.2-2010 of the Code of Virginia. These services are provided by 13 local public guardian programs, which are operated by local public guardian program contractors under contract with department.

Revisions made through this regulatory action are: 1) designed to align with the current Code of Virginia requirements; 2) designed to align with requirements already in place in contracts between the public guardian program contractors and the department; and 3) intended to clarify or improve the logic and flow of the chapter.

Acronyms and Definitions

Define all acronyms used in this form, and any technical terms that are not also defined in the "Definitions" section of the regulation.

DARS or department = Virginia Department for Aging and Rehabilitative Services
 DBHDS = Department of Behavioral Health and Developmental Services
 Program = Virginia Public Guardian and Conservator Program
 UAI = Uniform Assessment Instrument

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.

On June 18, 2020, the Commissioner of DARS approved the amendments to The Virginia Public Guardian and Conservator Program (22VAC30-70).

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, petition for rulemaking, periodic review, or board decision). For purposes of executive branch review, "mandate" has the same meaning as defined in Executive Order 14 (as amended, July 16, 2018), "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."

As required by Virginia Code § 2.2-4012.1, also explain why this rulemaking is expected to be noncontroversial and therefore appropriate for the fast-track process.

Upon review of the Code of Virginia and the requirements in the department's contract with public guardian program contractors, the department decide to pursue regulatory revisions. As the Program has grown in size and scope over the last decade, an update to the chapter for these reasons is needed.

Most revisions made through this regulatory action are: 1) designed to align with the Code of Virginia; 2) already required of public guardian program contractors under contracts with the department; and 3) intended to clarify or improve the logic and flow of the chapter.

The department shared the potential revisions with the Virginia Public Guardian and Conservator Advisory Board (§§ 51.5-149.1 and 51.5-149.2 of the Code of Virginia) and with the department's 13 public guardian program contractors. The department received no objections from the entities for these revisions.

Legal Basis

Identify (1) the promulgating agency, and (2) the state and/or federal legal authority for the regulatory change, including the most relevant citations to the Code of Virginia and Acts of Assembly chapter number(s), if applicable. Your citation must include a specific provision, if any, authorizing the

promulgating agency to regulate this specific subject or program, as well as a reference to the agency's overall regulatory authority.

The Program is established under §§ 51.5-149 et seq. of the Code of Virginia. Section 51.5-149 gives DARS the oversight for the provision of the Program. In accordance with § 51.5-150 B 3 of the Code of Virginia, the department is authorized to “adopt reasonable regulations in accordance with the Administrative Process Act (§ 2.2-4000 et seq.) as appropriate to implement, administer, and manage the Program,” including the adoption of: 1) minimum training and experience requirements for Program staff and volunteers; 2) client-to-staff ratios; and 3) person-centered practices.

Purpose

Explain the need for the regulatory change, including a description of: (1) the rationale or justification, (2) the specific reasons the regulatory change is essential to protect the health, safety or welfare of citizens, and (3) the goals of the regulatory change and the problems it's intended to solve.

The purpose of this action is to improve the chapter's consistency, transparency, clarity, and enforcement of Program requirements. The Program serves some of the Commonwealth's most vulnerable citizens: individuals who are incapacitated, unbefriended, and indigent. Clear regulatory requirements are vital to protecting their health, welfare, and safety.

Most revisions made through this regulatory action are: 1) designed to align with the current Code of Virginia requirements; 2) designed to align with requirements already in place in contracts between public guardian program contractors and the department; and 3) intended to clarify or improve the logic and flow of the chapter. This regulatory action will allow for changes to reflect current practices of the department and the public guardian programs. Further, this action will ensure that the regulation content is clearly written, which will improve compliance with the regulation and enforcement.

Substance

Briefly identify and explain the new substantive provisions, the substantive changes to existing sections, or both. A more detailed discussion is provided in the “Detail of Changes” section below.

New substantive provisions in the regulation include:

1. Technical Changes:
 - a. Updated Code of Virginia references in various places.
 - b. Made revisions to align with Code of Virginia requirements in various places.
 - c. Struck unnecessary and duplicative terminology in various places.
2. New or Revised Definitions:
 - a. Added a new definition for “face-to-face.”
 - b. Added a new definition for “public guardian program,” and differentiated it from the “public guardian program contractor,” which is the legal entity that operates the public guardian program under contract with the department. The terms are clarified throughout the chapter in various places.
 - c. Changed the old defined term “indigency,” which was not used in the chapter, to the term “indigent” and revised the definition to reflect criteria found in §§ 51.5-149, 64.2-2010, and 19.2-159 B of the Code of Virginia.
 - d. Added a new definition for “volunteer.”
3. Program Structure and Operations:

- a. Struck the uses of “local program” and “regional program.” As the Program has evolved, the terms no longer apply and the requirements are equivalent for both.
 - b. Restructured the public guardian program staffing and volunteer requirements for improved logic and flow.
 - c. Added a new requirement for a face-to-face meeting with the client once per month. This is best practice and a longstanding contract requirement for public guardian program contractors. This inclusion will not change the current practices of programs.
 - d. Clarified the requirement for coordination on clients receiving case management services through the Department of Behavioral Health and Developmental Services (DBHDS). The current requirement was unclear and referenced the client’s court order, which generally does not discuss planning goals in specificity.
4. Multidisciplinary Panels:
- a. Restructured the multidisciplinary panel requirements for improved logic and flow.
 - b. Removed a previous requirement for representatives on the panel from each jurisdiction when public guardian programs are regional. This requirement was overly burdensome to some programs and did not add specific value to the multidisciplinary panel.
 - c. Updated the referral screening considerations so that the current requirements reflect the department’s expectations and current panel practices.
 - d. Moved the requirement that panels consider if a limited guardianship and/or conservatorship is appropriate. In such cases, added specific instructions for how to make recommendations to that effect. This reflects best practice and the department’s expectation of programs.
5. Volunteers:
- a. Added volunteers to the requirement to report suspected abuse, neglect, and exploitation. This was likely an omission and adding volunteers is in keeping with best practice and ethical obligations.
6. New Hires, Training and Orientation:
- a. Restructured the requirements for: 1) new staff hires; and 2) training and orientation for staff upon hire and for volunteers.
 - b. Clarified the requirements for staff criminal record checks and drug testing.
 - c. Removed the “Virginia-specific” requirement for a diploma or GED from an accredited program for staff qualification. A diploma or GED from outside Virginia should be acceptable.
 - d. Removed the requirement for knowledge and course work on guardianship prior to hire. For non-program director staff, this is best covered upon hire during training and orientation and it is not realistic to expect all new staff to have that knowledge upon hire.
 - e. Added a new requirement that volunteers receive a drug screening. This is a new requirement. However, many contractors have already been doing this as a standard practice.
7. Client Records:
- a. Clarified that the client’s Uniform Assessment Instrument (UAI) or other assessment instrument should be a “current” version.
 - b. Clarified that the care plan required should be the guardian program care plan and it should be “current.” This is consistent with the intent of § 51.5-150 B 6.
 - c. Clarified that the values history should be current.
 - d. Clarified that the guardian report to the court should be the most recent one filed.
 - e. Clarified that the conservator report to the court should be the most recent one filed.
8. Evaluation and Monitoring:
- a. Restructured the requirements for the department for evaluating and monitoring public guardian programs.

- b. Restructured the requirement for public guardian programs to maintain compliance and provide reports to the department.

Issues

Identify the issues associated with the regulatory change, including: 1) the primary advantages and disadvantages to the public, such as individual private citizens or businesses, of implementing the new or amended provisions; 2) the primary advantages and disadvantages to the agency or the Commonwealth; and 3) other pertinent matters of interest to the regulated community, government officials, and the public. If there are no disadvantages to the public or the Commonwealth, include a specific statement to that effect.

The Program, operated within DARS provides public guardian and conservator services for adults who are incapacitated and indigent and for whom no other proper or suitable person can be identified who is willing and able to serve as the individual's guardian, or conservator, or both, as applicable.

The Program has capacity to provide public guardianship services, public conservatorship services, or both to 1,049 incapacitated adult residents of Virginia who are found by a Virginia circuit court to be (i) incapacitated, and (ii) who meet the criteria for public guardianship as set forth in Virginia Code § 64.2-2010. These services are provided by 13 local public guardian programs, which are operated by local public guardian program contractors under contract with department.

With ever increasing attention on both public and private guardianships in the Commonwealth, the primary advantage of the proposed regulatory action is the increased protection and clarity it provides to clients and public guardian programs. The action is needed to protect the health, safety, and welfare of the vulnerable clients served by the Program. The new regulation also provides clear and consistent requirements for public guardian program contractors and public guardian programs and for department staff to use in monitoring compliance with standards.

In the proposed regulatory action, a fair and reasonable balance has been attempted to ensure adequate protection of clients while considering the impact on public guardian program contractors. While requirements have been added to the regulation, including volunteer drug screening, volunteer reporting of abuse, neglect and exploitation, face-to-face meetings with clients, and instructions for how to make recommendations for limited guardianship or conservatorships, these requirements are either already in place with contract provisions or are standard practices for the public guardian programs. Further, some requirements for public guardian programs that were deemed unnecessary, outdated, or burdensome have been removed. These include: distinctions between local and regional programs, local jurisdiction membership on the multidisciplinary panels of regional programs, and initial knowledge requirements for staff upon hire.

The regulation revisions were reviewed with the Virginia Public Guardian and Conservator Advisory Board and the 13 public guardian program contractors. During those discussions, no objections to the fast-track were received.

There are no disadvantages to the public or the Commonwealth.

Requirements More Restrictive than Federal

Identify and describe any requirement of the regulatory change which is more restrictive than applicable federal requirements. Include a specific citation for each applicable federal requirement, and a rationale for the need for the more restrictive requirements. If there are no applicable federal requirements, or no requirements that exceed applicable federal requirements, include a specific statement to that effect.

There are no federal requirements for the Virginia Public Guardian and Conservator Program. It is a state-established program operated in accordance with Virginia law and with Virginia general funds.

Agencies, Localities, and Other Entities Particularly Affected

Identify any other state agencies, localities, or other entities particularly affected by the regulatory change. "Particularly affected" are those that are likely to bear any identified disproportionate material impact which would not be experienced by other agencies, localities, or entities. "Locality" can refer to either local governments or the locations in the Commonwealth where the activities relevant to the regulation or regulatory change are most likely to occur. If no agency, locality, or entity is particularly affected, include a specific statement to that effect.

Other State Agencies Particularly Affected

While these regulations are specifically for public guardian program contractors, the public guardian program contractors do serve Virginia Department of Behavioral Health and Developmental Services' (DBHDS') clients under the Program. State general funds are allocated to DARS to provide Program services to DBHDS clients.

Localities Particularly Affected

No locality is disproportionately impacted by the proposed regulation.

Other Entities Particularly Affected

While these regulations are specifically for public guardian program contractors, the regulations require public guardian programs contractors to coordinate with community services boards (CSBs) and behavioral health authorities (BHAs) when Program clients are receiving DBHDS case management services.

There should be no impact on other entities as these regulatory revisions are designed to align Program regulations with Code of Virginia requirements, the provisions of DARS' contracts with public guardian program contractors, and current practices.

Economic Impact

Pursuant to § 2.2-4007.04 of the Code of Virginia, identify all specific economic impacts (costs and/or benefits), anticipated to result from the regulatory change. When describing a particular economic impact, specify which new requirement or change in requirement creates the anticipated economic impact. Keep in mind that this is change versus the status quo.

Impact on State Agencies

<p><i>For your agency:</i> projected costs, savings, fees or revenues resulting from the regulatory change, including: a) fund source / fund detail; b) delineation of one-time versus on-going expenditures; and</p>	<p>There is no projected additional cost for the department to implement and enforce the proposed regulation. Department staff would be responsible for updating the contracts and materials for public guardian programs, which are activities that are part of routine work</p>
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c) whether any costs or revenue loss can be absorbed within existing resources	responsibilities and performed with existing funding.
<i>For other state agencies:</i> projected costs, savings, fees or revenues resulting from the regulatory change, including a delineation of one-time versus on-going expenditures.	There is no projected cost or impact on other state agencies.
<i>For all agencies:</i> Benefits the regulatory change is designed to produce.	This regulation is designed to ensure the health, safety, and welfare of clients. This regulation provides clear and consistent requirements for public guardian program contractors and public guardian programs, and for state agency staff to use in monitoring compliance with standards.

Impact on Localities

Projected costs, savings, fees or revenues resulting from the regulatory change.	There is no projected cost or impact on localities.
Benefits the regulatory change is designed to produce.	N/A

Impact on Other Entities

Description of the individuals, businesses, or other entities likely to be affected by the regulatory change. If no other entities will be affected, include a specific statement to that effect.	This regulation will affect the 13 public guardian program contractors and 1,049 clients across the Commonwealth.
Agency's best estimate of the number of such entities that will be affected. Include an estimate of the number of small businesses affected. Small business means a business entity, including its affiliates, that: a) is independently owned and operated and; b) employs fewer than 500 full-time employees or has gross annual sales of less than \$6 million.	This regulation will affect the 13 public guardian program contractors currently under contract with the department to operate public guardian programs. All 13 of these contractors are small businesses.
All projected costs for affected individuals, businesses, or other entities resulting from the regulatory change. Be specific and include all costs including, but not limited to: a) projected reporting, recordkeeping, and other administrative costs required for compliance by small businesses; b) specify any costs related to the development of real estate for commercial or residential purposes that are a consequence of the regulatory change; c) fees; d) purchases of equipment or services; and e) time required to comply with the requirements.	Since the new requirements are either already required under contracts or are standard practices for the public guardian programs, there are no anticipated costs to implement the regulation for the public guardian program contractors. The regulatory action does not change any reporting or recordkeeping requirements. It has no impact on the development of real estate for commercial or residential purposes. It does not require fees, the purchase of equipment or services, or additional time to comply on the part of public guardian program contractors.
Benefits the regulatory change is designed to produce.	This regulation is designed to ensure the health, safety, and welfare of Program clients. This regulation provides clear and consistent requirements for public guardian program contractors and public guardian programs and for state agency staff to use in monitoring compliance with standards.

Alternatives to Regulation

Describe any viable alternatives to the regulatory change that were considered, and the rationale used by the agency to select the least burdensome or intrusive alternative that meets the essential purpose of the regulatory change. 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 regulatory change.

The regulatory requirements are designed to protect the health, welfare, and safety of incapacitated persons (“clients”) served by the Program.

DARS maintains contracts with all 13 public guardian program contractors. DARS could add or continue to maintain requirements in the contracts. However, in the interest of consistency, transparency, clarity, and clear enforcement of Program requirements, revisions to the regulations are the best course of action. The regulation represents the best alternative to minimize any adverse impact on public guardian program contractors while still ensuring the protection of Program clients.

The department shared the potential revisions with the Virginia Public Guardian and Conservator Advisory Board (§§ 51.5-149.1 and 51.5-149.2 of the Code of Virginia) and with the department’s 13 public guardian program contractors. The department received no objections from the entities for these revisions.

Regulatory Flexibility Analysis

Pursuant to § 2.2-4007.1B of the Code of Virginia, describe the agency’s analysis of alternative regulatory methods, consistent with health, safety, environmental, and economic welfare, that will accomplish the objectives of applicable law while minimizing the adverse impact on small business. Alternative regulatory methods include, at a minimum: 1) establishing less stringent compliance or reporting requirements; 2) establishing less stringent schedules or deadlines for compliance or reporting requirements; 3) consolidation or simplification of compliance or reporting requirements; 4) establishing performance standards for small businesses to replace design or operational standards required in the proposed regulation; and 5) the exemption of small businesses from all or any part of the requirements contained in the regulatory change.

The Program serves some of the Commonwealth’s most vulnerable citizens. Clear regulatory requirements are vital to protecting their health, welfare, and safety. Section 51.5-149 gives DARS the oversight for the provision of the Program. Section 51.5-150 B 3 requires the promulgation of Program regulations. The regulation represents the best alternative to minimize any adverse impact on public guardian program contractors while ensuring the protection of Program clients.

Public Participation

Indicate how the public should contact the agency to submit comments on this regulation, and whether a public hearing will be held, by completing the text below.

As required by § 2.2-4011 of the Code of Virginia, if an objection to the use of the fast-track process is received within the 30-day public comment period from 10 or more persons, any member of the applicable standing committee of either house of the General Assembly or of the Joint Commission on Administrative Rules, the agency shall: 1) file notice of the objections with the Registrar of Regulations for

publication in the Virginia Register and 2) proceed with the normal promulgation process with the initial publication of the fast-track regulation serving as the Notice of Intended Regulatory Action.

If you are objecting to the use of the fast-track process as the means of promulgating this regulation, please clearly indicate your objection in your comment. Please also indicate the nature of, and reason for, your objection to using this process.

DARS is providing an opportunity for comments on this regulatory proposal, including but not limited to (i) the costs and benefits of the regulatory proposal and any alternative approaches, (ii) the potential impacts of the regulation, and (iii) the agency’s regulatory flexibility analysis stated in this background document.

Anyone wishing to submit written comments for the public comment file may do so through the Public Comment Forums feature of the Virginia Regulatory Town Hall web site at: <https://townhall.virginia.gov>. Comments may also be submitted by mail, email or fax to Charlotte Arbogast, Policy Analyst, Virginia Department for Aging and Rehabilitative Services, 8004 Franklin Farms Drive, Henrico, VA 23228, Phone: 804-662-7093, Fax: 804-662-7663. In order to be considered, comments must be received by 11:59 pm on the last day of the public comment period.

Detail of Changes

List all regulatory changes and the consequences of the changes. Explain the new requirements and what they mean rather than merely quoting the text of the regulation. For example, describe the intent of the language and the expected impact. Describe the difference between existing requirement(s) and/or agency practice(s) and what is being proposed in this regulatory change. Use all tables that apply, but delete inapplicable tables.

If an existing VAC Chapter(s) is being amended or repealed, use Table 1 to describe the changes between existing VAC Chapter(s) and the proposed regulation. If existing VAC Chapter(s) or sections are being repealed and replaced, ensure Table 1 clearly shows both the current number and the new number for each repealed section and the replacement section.

Table 1: Changes to Existing VAC Chapter(s)

Current chapter-section number	New chapter-section number, if applicable	Current requirements in VAC	Change, intent, rationale, and likely impact of new requirements
10		Definitions	Advisory board - Updated Code references to reflect current Code (§§ 51.5-149.1 and 51.5-149.2). Client – Added terminology to clarify the definition. Conservator - Updated definition to align with definition in § 64.2-2000. Face-to-face - Added a new definition for face-to-face. Guardian - Updated definition to align with definition in § 64.2-2000.

			<p>Incapacitated person - Updated definition to align with definition in § 64.2-2000.</p> <p>Indigency - Revised term to “indigent” and updated the definition to reflect criteria found in §§ 51.5-149, 64.2-2010, and 19.2-159 B.</p> <p>Public guardian program – Revised term to “public guardian program contractor” and updated definition to reflect the entity with a contract with DARS to operate a public guardian program</p> <p>Public guardian program – Added term to define the program operated by public guardian program contractor. Clarified that local and regional programs are equivalent in terms of requirements.</p> <p>Volunteer – Added a new definition for volunteer.</p>
20		Introduction and purpose	<p>Revised A to align it with the requirements in § 51.5-149</p> <p>Struck the uses of local and regional programs. The requirements are equivalent for both.</p> <p>Clarified the role of the public guardian program contractor to operate a public guardian program.</p>
30		Public guardian programs	<p>Revised terminology to use the updated defined terms of public guardian program and public guardian program contractor throughout the section.</p> <p>Clarified public guardian program terminology throughout the section.</p> <p>Struck unnecessary and duplicative terminology throughout the section.</p> <p>Added clarifying language to A to provide that only those operations of the program by the contractor are subject to the requirements of this chapter and considered part of the public guardian program. Contractors may operate other services (e.g., case management and home care).</p> <p>Restructured C to provide an overview of all staff requirements (Program director, client to staff ratio, and volunteers).</p>

			<p>Revised C 1 to provide the requirement for the program director. Additional requirements for the program director were stricken and moved to section 40.</p> <p>Revised C2 - Removed requirements for the multidisciplinary panel, which were moved to later in the section.</p> <p>Added reference to notify sheriffs when in excess of the client-to-staff ratio to align with Code requirements found in 51.5-150 B 3 b and 51.5-151.</p> <p>Added a C3 to provide for requirements on volunteers. These requirements were moved here from section 40.</p> <p>Restructured D to provide clarified requirements for multidisciplinary panels. D 1 includes requirements previously found in the section C2.</p> <p>Not included to the new subsection D2 was the previous requirement for representatives from each jurisdiction to serve on the panel. This requirement was overly burdensome to programs and did not add specific value to the panel.</p> <p>Clarified the listing of members in D2. Split "physicians" out from "other community representatives".</p> <p>The existing language of 22VAC30-70-30.E.1.b. is unclear to the department and the programs. In the proposed regulation, DARS has moved all of E.1. from the existing regulation to D.3. of the proposed regulation and has revised the language that appears in D.3.b of the proposed regulation (E.1.b. of the current regulation) to conform to accepted practice.</p> <p>Added a new D4 to specifically require panels to consider when limited guardianship and/or conservatorship is appropriate. This requirement was previously found in C1. Added instructions to clarify what steps should be taken if a panel determines such limitations are advisable. This reflects best practice and the department's expectation of programs.</p>
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			<p>Restructured to add to D5, which is includes current requirements that were previously found under F5 (services). Moved here for logic and flow.</p> <p>Restructured to add a new subsection, E (Appointments) to include two current requirements on circuit court appointments.</p> <p>Restructured current F (Services). Added a new F2 with a requirement for a face-to-face meeting once per month. This is a best practice and longstanding contract requirement for public guardian program contractors.</p> <p>Clarified the requirement under F5d for coordination on clients receiving case management services through DBHDS. The current requirement was unclear and referenced the client's court order, which generally does not discuss planning goals in specificity.</p> <p>Struck current F5. This requirement was moved to the new D5 for improved logic and flow.</p> <p>Struck language in F8. The requirement did not fit within the context of the remaining text in F8 and it was moved to section 60 (Evaluation and monitoring of public guardian programs) for improved logic and flow.</p> <p>Added volunteers to the requirement to report suspected abuse, neglect, and exploitation in F9. This was likely an omission and adding volunteers is in keeping with best practice and ethical obligations.</p> <p>Struck the requirements found in F10. This requirement was moved to section 60 (Evaluation and monitoring of public guardian programs) for improved logic and flow.</p>
40		Personnel standards	<p>Revised terminology to use the updated defined terms of public guardian program and public guardian program contractor throughout the section.</p> <p>Clarified public guardian program terminology throughout the section.</p>

			<p>Struck unnecessary and duplicative terminology throughout the section.</p> <p>Restructured A to focus on the initial qualifications of paid staff. Struck A 1 with orientation requirements and moved them later under subsection B.</p> <p>Clarified the requirements for staff criminal record checks in A1.</p> <p>Clarified the requirements for staff drug testing in A2.</p> <p>Clarified the requirements for staff educational requirements in A3. Removed the "Virginia-specific" requirement for a diploma or GED from an accredited program for staff. Removed the requirements for knowledge and course work on guardianship prior to hire. This is best covered upon hire during training and orientation and it is not realistic to expect all new hires to have that knowledge upon hire.</p> <p>Added a new A5 for additional requirements for program directors. A5 includes current requirements previously found in Section 30 C1.</p> <p>Struck the current volunteer requirements found in B. The requirements were moved to Section 30 C3. This improved logic and flow of the chapter.</p> <p>Added new requirements under B, which identifies the requirements for training and orientation.</p> <p>B1 includes the requirement for guardianship and alternatives currently found in A4.</p> <p>B2 includes the requirement on surrogate and substituted decision making currently found in A4.</p> <p>B3 includes the requirement on mandatory reporting currently found in A4 with a clarification for the local department of social services reporting requirement.</p>
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			<p>B4 includes the requirement on working with special populations currently found in A4.</p> <p>B5 clarifies that staff shall receive training on the public guardian program, and its ensuing regulations and policies.</p> <p>B6 includes the requirements currently found in A1 with the exception of current A1d (“a historical and factual review about the needs of the elderly and people with disabilities”). The department believes the new B4 is sufficient to meet the training requirement of the current A1d.</p> <p>Added a new subsection C to discuss new hire and training and orientation requirements for volunteers with direct contact with clients and client estates.</p> <p>Added the requirement in C that volunteers receive a criminal record check, previously required under B3c, which was stricken. The new structure improves logic and flow.</p> <p>Added a new requirement in C that volunteers receive a drug screening. This is a new requirement. Public guardian program contractors have already been doing this as standard practice.</p>
50		Recordkeeping	<p>Revised terminology to use the updated defined terms of public guardian program and public guardian program contractor throughout the section.</p> <p>Struck the use of “legal representative” and replaced it with “public guardian or conservator” throughout the section. This is in keeping with consistency in terms used in the chapter.</p> <p>Restructured the clauses in A to clarify the intent. For the client records:</p> <ul style="list-style-type: none"> - Clarified in B that the client’s UAI or other instrument should be a “current” version. - Clarified in B that the care plan required should be the guardian program care plan. This is consistent with the intent of § 51.5-150 B6.

			<ul style="list-style-type: none"> - Clarified in B that the values history should be current. - Clarified in B that the guardian report to the court should be the most recent one filed. - Clarified in B that the conservator report to the court should be the most recent one filed.
60		Evaluation and monitoring of public guardian programs	<p>Revised terminology to use the updated defined terms of public guardian program and public guardian program contractor throughout the section.</p> <p>Added a new A to reflect the current requirement previously found in Section 30 F10.</p> <p>Added a new B to reflect the current requirement previously found in Section 30 F8 and F10.</p>

If a new VAC Chapter(s) is being promulgated and is not replacing an existing Chapter(s), use Table 2.

Table 2: Promulgating New VAC Chapter(s) without Repeal and Replace

New chapter-section number	New requirements	Other regulations and law that apply	Intent and likely impact of new requirements

If the regulatory change is replacing an **emergency regulation**, and the proposed regulation is identical to the emergency regulation, complete Table 1 and/or Table 2, as described above.

If the regulatory change is replacing an **emergency regulation**, but changes have been made since the emergency regulation became effective, also complete Table 3 to describe the changes made since the emergency regulation.

Table 3: Changes to the Emergency Regulation

Emergency chapter-section number	New chapter-section number, if applicable	Current <u>emergency</u> requirement	Change, intent, rationale, and likely impact of new or changed requirements since emergency stage