



Virginia
Regulatory
Town Hall

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Notice of Intended Regulatory Action (NOIRA) Agency Background Document

Agency name	State Board of Social Services
Virginia Administrative Code (VAC) citation	22 VAC 40-80
Regulation title	General Procedures and Information for Licensure
Action title	Amend certain sections to adopt a permanent regulation to replace emergency regulation
Document preparation date	April 30, 2005

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), Executive Orders 21 (2002) 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 purpose of this regulatory action is to amend 22 VAC 40-80, General Procedures and Information for Licensure, to conform with legislative changes passed by the 2005 General Assembly. The legislation requires that the State Board of Social Services promulgate regulations to implement provisions of the legislation, to be effective within 280 days of enactment. To meet this timeframe, an emergency regulation will be promulgated, as well. The emergency regulation, limited to no more than 12 months in duration, will be replaced by the permanent regulation being promulgated through this action.

Legal basis

Please identify the state and/or federal legal authority to promulgate this proposed regulation, including (1) the most relevant law and/or regulation, including Code of Virginia citation and General Assembly chapter number(s), if applicable, and (2) promulgating entity, i.e., agency, board, or person. Describe the legal authority and the extent to which the authority is mandatory or discretionary.

The Code of Virginia gives the State Board of Social Services authority to adopt regulations for its licensed programs. Section 63.2-217 gives broad authority for the Board to adopt regulations as are

necessary or desirable to carry out the purpose of Title 63.2. Sections 63.2-1732, 63.2-1733 and 63.2-1734 give the Board authority to adopt and enforce regulations to carry out the provisions of Title 63.2 regarding assisted living facilities, adult day care centers and child welfare agencies respectively.

Substance

Please detail any changes that will be proposed. 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. Include the specific reasons why the agency has determined that the proposed regulatory action is essential to protect the health, safety, or welfare of citizens. Delineate any potential issues that may need to be addressed as the regulation is developed.

This regulatory action is being taken primarily to replace the emergency regulation that will be promulgated as a result of legislation passed by the 2005 General Assembly. Some of the amendments affect only assisted living facilities; others affect all licensed programs. The affected standards include:

- 22 VAC 40-80-120. Terms of the license.
- 22 VAC 40-80- 340. Administrative sanctions.
- 22 VAC 40-80-390 through 22 VAC 40-80-520. Hearings Procedures.

Additionally, changes will be made to the following standards for clarification:

- 22 VAC 40-80-60. General.
- 22 VAC 40-80-370. Appeal process.
- 22 VAC 40-80-420. Informal conferences.
- 22 VAC 40-80-430. Consent agreements.

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.

The regulation contains requirements that assisted living facilities, adult day care centers and child welfare agencies must meet that are not part of their programmatic regulations. It also includes information regarding the department’s responsibility in the licensing process. There is no alternative to the proposed action, as they are needed to comply with new legislation.

Family impact

Assess the potential impact of the proposed regulatory action on the institution of the family and family stability.

The amended regulation will have a positive impact on the family. Licensing standards ensure the health, safety and well being of adults and children who attend or reside in these licensed facilities, thereby strengthening the authority and rights of parents and family members in the nurturing and supervision of their elderly parents and/or children in care. The placement of adults and children in licensed facilities provides an opportunity for parents or family members to concentrate on resolving issues that would be

lead to self pride, responsibility for oneself, and economic self-sufficiency thereby increasing disposable family income.