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Regulatory
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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 VAC40-770
Regulation title	Adult Services Approved Providers
Action title	Establish New Regulation for Adult Services Providers
Document preparation date	April 20, 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.

This is a joint action to repeal the existing regulation, 22 VAC 40-770, and replace it with a new regulation. Regulation 22 VAC 40-770, Standards and Regulations for Agency Approved Providers, includes generic provisions that apply to all providers approved by local departments of social services, including adult services, child care, foster care and adoptive home providers. Because of the uniqueness of each type of provider, such a format is no longer effective. The new regulation, 22VAC40-771, Adult Services Approved Providers, will address only providers contracted through the adult services program. Separate regulations will be proposed for child care and permanency (foster care and adoptive home) providers.

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 legal basis for this regulation is the Code of Virginia, §§ 63.2-217. The regulation does not exceed the scope of what the Code allows.

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.

The new regulation differs from the current regulation in terms of format and lay-out. The current regulation was written in generic format, sectioned according to topics such as age, criminal records, home safety, etc. Users must read the entire regulation to determine if and how a particular standard applies to the program in which they work. The proposed regulation is reformatted and focuses only on adult services providers that are approved by local departments of social services. Specific changes include:

1. Adding of barrier crimes standards for adult providers.
2. Adding requirements regarding the handling of medications for adult foster care and adult day care.
3. Adding a new section on rights and responsibilities of adults in care.
4. Modifying provision for tuberculosis screening requirements to conform to Department of Health policies.

The regulation is necessary to protect the health, safety, and welfare of citizens by setting a base of quality in purchasing care and making placements for vulnerable adults. Because of these standards, assurances can be made that the care purchased or arranged meets health and safety standards and supports care that is conducive to the health, safety and well-being of elderly individuals and persons with disabilities. The goal of the new regulation is to maintain these assurances, while also ensuring conformity with all current federal and state laws and regulations.

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.

One alternative is to create separate sections in the current regulation to address each program area in which local departments of social services approve providers; i.e., child care, adult services, and permanency. This alternative was pursued through the regulatory process. However, extensive public comment revealed that individuals had concerns about the proposed regulation in relation to specific program areas, and there were no comments that addressed all three program areas. This finding led to the recommendation that provisions affecting child care, adult services, and permanency were dissimilar enough to warrant their own regulations rather than attempting to maintain one generic regulation that covers all three program areas.

Family impact

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

The proposed regulation impacts family stability in a positive way. The regulation prohibits adults who have been convicted of certain barrier crimes from becoming adult homebased, day care, or foster care providers, and the regulation lists the rights of adults in care. The proposed regulation, which replaces 22 VAC 40-770, enhances the quality of providers while assuring greater safety of clients.