



Periodic Review / Retain Regulation Agency Background Document

Agency name	Board of Medicine, Department of Health Professions
Virginia Administrative Code (VAC) citation	18VAC85-15-10 et seq.
Regulation title	Regulations Governing Delegation to an Agency Subordinate
Document preparation date	2/22/13

This form is used when the agency has done a periodic review of a regulation and plans to retain the regulation without change. This information is required pursuant to Executive Orders 14 (2010) and 58 (1999).

Legal basis

Please identify the state and/or federal legal authority for the regulation, including (1) the most relevant law and/or regulation, and (2) promulgating entity, i.e., agency, board, or person.

Regulations are promulgated under the general authority of Chapter 24 of Title 54.1 of the Code of Virginia. Section 54.1-2400, which provides the Board of Medicine the authority to promulgate regulations to administer the regulatory system and to delegate informal fact-finding to an agency subordinate:

§ 54.1-2400 -General powers and duties of health regulatory boards

The general powers and duties of health regulatory boards shall be:

...

6. To promulgate regulations in accordance with the Administrative Process Act (§ 9-6.14:1 et seq.) which are reasonable and necessary to administer effectively the regulatory system. Such regulations shall not conflict with the purposes and intent of this chapter or of Chapter 1 (§ 54.1-100 et seq.) and Chapter 25 (§ 54.1-2500 et seq.) of this title. ...

10. To appoint a special conference committee, ... This subdivision shall not be construed to limit the authority of a board to delegate to an appropriately qualified agency subordinate, as defined in § 2.2-4001, the authority to conduct informal fact-finding

proceedings in accordance with § 2.2-4019, upon receipt of information that a practitioner may be subject to a disciplinary action. The recommendation of such subordinate may be considered by a panel consisting of at least five board members, or, if a quorum of the board is less than five members, consisting of a quorum of the members, convened for the purpose of issuing a case decision. Criteria for the appointment of an agency subordinate shall be set forth in regulations adopted by the board.

Alternatives

Please describe all viable alternatives for achieving the purpose of the existing regulation that have been considered as part of the periodic review process. Include an explanation of why such alternatives were rejected and why this regulation is the least burdensome alternative available for achieving the purpose of the regulation.

The regulation was thoroughly reviewed by staff of the Board of Medicine and the Department of Health Professions to identify any regulation that could be revised pursuant to the Governor's regulatory reform project. There were no problems identified with the understanding of or compliance with the existing regulations.

Public comment

Please summarize all comments received during the public comment period following the publication of the Notice of Periodic Review, and provide the agency response. Please indicate if an informal advisory group was formed for purposes of assisting in the periodic review.

Notice of Periodic Review was posted on the Virginia Regulatory Townhall and sent to interested parties with comment requested from November 5, 2013 to December 5, 2013. There were no comments received.

Effectiveness

Please 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.

Through its review of 18VAC85-15-10 et seq., Regulations Governing Delegation to an Agency Subordinate, the Board determined that the regulation is necessary to protect the public by setting out the criteria for appointment of a subordinate and delegation of certain disciplinary cases to a subordinate. Neither the staff of the Board nor any regulants identified any language that was not clearly written and easily understandable. The Board of Medicine has not utilized the agency subordinate process, so no changes are needed.

Result

Please state that the agency is recommending that the regulation should stay in effect without change.

As a result of the periodic review conducted in accordance with the Governor's regulatory reform project, the Board has determined that the regulation should stay in effect without change.

Small business impact

In order to minimize the economic impact of regulations on small business, please include, pursuant to § 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. Also, include a discussion of the agency's determination whether the regulation should be amended or repealed, consistent with the stated objectives of applicable law, to minimize the economic impact of regulations on small businesses.

- 1) In accordance with the § 54.1-2400 (10) of the Code of Virginia, the Board must adopt regulations: "*Criteria for the appointment of an agency subordinate shall be set forth in regulations adopted by the board.*" Therefore, there is a continued need for the regulation.
 - 2) There have been no complaints or comments received from the public, since agency subordinates have not yet been used by this Board to conduct informal conferences.
 - 3) The regulation is organized and written similarly to other chapters promulgated within the Department for delegation to an agency subordinate; it appears to be clear and easily understood.
 - 4) The regulation does not overlap with federal or state law.
 - 5) The regulation has not been implemented since its initial adoption in 2005.
- There is no economic impact of this regulation.

Family impact

Please provide an analysis of the regulation's impact on the institution of the family and family stability.

There is no impact on the institution of the family and family stability.