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Periodic Review and Small Business Impact Review Report of Findings

Agency name	Virginia Department of Health
Virginia Administrative Code (VAC) Chapter citation(s)	12VAC5-80
VAC Chapter title(s)	Regulations for Administration of the Virginia Hearing Impairment Identification and Monitoring Systems
Date this document prepared	August 6, 2021

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**.

Acronyms and Definitions

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

VDH – Virginia Department of Health

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 or 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 State Board of Health is authorized to make, adopt, promulgate and enforce regulations by Section 32.1-12 of the Code of Virginia.

Section 32.1-64.1 of the Code of Virginia requires the State Health Commissioner to establish and maintain the Virginia Hearing Impairment Identification and Monitoring System.

Part F of Section 32.1-64.1 requires that the Board of Health with assistance from the advisory committee promulgate rules and regulations as may be necessary to implement this identification and monitoring system. This part states: “These rules and regulations shall include criteria, including current screening methodology, for the identification of infants (i) with hearing impairment and (ii) at risk of hearing impairment and shall include the scope of the information to be reported, reporting forms, screening protocols, appropriate mechanisms for follow-up, relationships between the identification and monitoring system and other state agency programs or activities and mechanisms for review and evaluation of the activities of the system. The identification and monitoring system shall collect the name, address, sex, race, and any other information determined to be pertinent by the Board, for infants who are screened pursuant to this section.”

Alternatives to Regulation

Describe any viable alternatives for achieving the purpose of the regulation that were considered as part of the periodic review. Include an explanation of why such alternatives were rejected and why this regulation is the least burdensome alternative available for achieving its purpose.

No viable alternatives which would comply with the current Code of Virginia Section 32.1- 64.1 for achieving the purpose of the existing regulation could be determined.

Public Comment

Summarize all comments received during the public comment period following the publication of the Notice of Periodic Review, and provide the agency response. Be sure to include all comments submitted: including those received on Town Hall, in a public hearing, or submitted directly to the agency. Indicate if an informal advisory group was formed for purposes of assisting in the periodic review.

No public comments were received as the result of the Notice of Periodic Review which began June 21, 2021 and ended July 12, 2021.

Commenter	Comment	Agency response

Effectiveness

Pursuant to § 2.2-4017 of the Code of Virginia, indicate whether the regulation meets the criteria set out in Executive Order 14 (as amended, July 16, 2018), including why the regulation is (a) necessary for the protection of public health, safety, and welfare, and (b) is clearly written and easily understandable.

The regulation meets the criteria set out in Executive Order 14 (2018) as it is necessary for the protection of public health, safety and welfare of infants born in the Commonwealth of Virginia and their families. The regulation is clearly written and understandable.

Decision

Explain the basis for the promulgating agency's decision (retain the regulation as is without making changes, amend the regulation, or repeal the regulation).

VDH is recommending the regulation be amended to reflect updated language and current program practices relevant to the regulation.

Small Business Impact

As required by § 2.2-4007.1 E and F of the Code of Virginia, discuss the agency's consideration of: (1) the continued need for the regulation; (2) the nature of complaints or comments received concerning the regulation; (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, discuss why the agency's decision, consistent with applicable law, will minimize the economic impact of regulations on small businesses.

There is a continued need for the regulation because newborn hearing screenings are conducted on infants born in the Commonwealth of Virginia, and this regulation establishes the requirements for conducting these tests. No public comments were received concerning the regulation during the public comment period. The regulation is clearly written and easily understandable. The regulation does not overlap, duplicate or conflict with any known federal or state law or regulation. Regulations are evaluated on an ongoing basis and this regulation was last amended effective December 2013 as a result of a periodic review. The regulation was amended to include screening for congenital cytomegalovirus in newborns who fail the newborn hearing screen through a final exempt regulatory action effective September 2020. VDH does not anticipate that amending the regulation will have an adverse economic impact on small businesses in the Commonwealth of Virginia.
