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Periodic Review and Small Business Impact Review Report of Findings

Agency name	State Board of Health
Virginia Administrative Code (VAC) Chapter citation(s)	12VAC5-550
VAC Chapter title(s)	Board of Health Regulations Governing Vital Records
Date this document prepared	7/19/2023

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), Executive Order 19 (2022) (EO 19), any instructions or procedures issued by the Office of Regulatory Management (ORM) or the Department of Planning and Budget (DPB) pursuant to EO 19, the Regulations for Filing and Publishing Agency Regulations (1 VAC 7-10), 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.

All acronyms and technical terms in this document are defined in the Definitions section of the regulation.

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 regulations are promulgated under the authority of §§ 32.1-12, 32.1-250, and 32.1-273 of the Code of Virginia.

- The Board of Health (Board) is the promulgating agency. Va. Code § 32.1-12 authorizes the Board to “make, adopt, promulgate and enforce such regulations...as may be necessary to carry out the provisions of Title 32.1 and other laws of the Commonwealth administered by it, the Commissioner, or the Department.”
- Section 32.1-250 of the Code of Virginia requires the Board to install, maintain and operate the only system of vital records throughout this Commonwealth.
- Section 32.1-273 of the Code of Virginia grants the Board the authority to prescribe fees for certified copies of vital records.

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 alternative was considered because (i) the General Assembly requires the Board to adopt regulations governing the administration of vital records, and promulgating regulation is the least burdensome method to accomplish this statutory mandate; and (ii) the regulations have not undergone an extensive review or comprehensive revision since 2004. As such, repealing or retaining the regulations are not viable alternatives.

Public Comment

Summarize all comments received during the public comment period following the publication of the Notice of Periodic Review, and provide the agency’s 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 following the publication of the Notice of Periodic Review. The Board did not form an informal advisory group for the purpose of assisting in the periodic review.

Effectiveness

[RIS1]

Pursuant to § 2.2-4017 of the Code of Virginia, indicate whether the regulation meets the criteria set out in the ORM procedures, 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 regulations meet the criteria set forth in Executive Order 19 (2022) and are necessary for the protection of public health, safety, and welfare because they protect members of the public and personal health information by providing the framework for the uniform administration and governance of the system of vital records. There is room for improvement in the clarity and understandability of the regulations.

Decision

[RIS2]

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

If the result of the periodic review is to retain the regulation as is, complete the ORM Economic Impact form.

The Board has decided to amend the regulations as they have not undergone a comprehensive revision for over ten years. Amendments are needed to (i) improve consistency within the chapter, (ii) incorporate statutory requirements, (iii) update language to provide clarity, and (iv) align with the current use of electronic technologies in the purview of vital records.

Small Business Impact

[RIS3]

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 regulations as the Board is mandated to install, maintain, and operate the only system of vital records throughout the Commonwealth, including the promulgation of regulations and the appointment of a State Registrar of Vital Records. No public comments were received during the comment period following the notice of periodic review.

The regulation is not overly complex and does not conflict, duplicate, or overlap with federal or state laws or regulations. Evaluations of 12VAC5-550 were conducted in 1995, 2003, and 2004 when amendments to processes and text language occurred. Subsequent amendment of 12VAC5-550-330 in 2009 specifically updated the regulatory text to reflect gender-neutral language and provided a gender-neutral form for birth certificates.

The Board approved a Fast Track regulatory action for select sections of 12VAC5-550 *Regulations Governing Vital Records* during the June 2023 Board of Health meeting to conform those sections to recent changes to the Code of Virginia.

Technology has changed since the last regulatory evaluations were conducted, with further digitization of vital records, online applications for vital record copy requests, and electronic submission processes for vital record forms. Commonwealth residents have experienced an overall rise in cost since the last evaluation of 12VAC5-550; however, the cost for amending a vital record or obtaining a copy for a vital record has remained unchanged at \$10.00 for an amendment to a vital record and \$12.00 for a certified copy of a vital record since 2004. There has been no change to the existing revenue share agreement between the system of vital records and local health departments since its implementation. The Board of Health may consider an increase to the administrative fee to amend a record to better align the fee charged for amendment with the service cost to amend a certified vital record.

There is no fiscal impact on small businesses in Virginia; however, there would be a fiscal impact on registrants and families if the administrative fee for an amendment to a vital record is changed. The Board will consider all opportunities to minimize any adverse fiscal impact of the regulations, including on small businesses, during the development of the regulatory action to implement this periodic review result.

[RIS4]