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## Notice of Intended Regulatory Action (NOIRA) Agency Background Document

<b>Agency name</b>	Department for the Blind and Vision Impaired
<b>Virginia Administrative Code (VAC) citation(s)</b>	22VAC45-70 22VAC45-80
<b>Regulation title(s)</b>	22VAC45-70 Provision of Services in Rehabilitation Teaching 22VAC45-80 Provision of Independent Living Rehabilitation Services
<b>Action title</b>	Amend 22VAC45-70 while repealing 22VAC45-80
<b>Date this document prepared</b>	1/23/2020

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 (1 VAC 7-10), and the *Virginia Register Form, Style, and Procedure Manual for Publication of Virginia Regulations*.

### Brief Summary

*Please provide a brief summary (preferably no more than 2 or 3 paragraphs) of the subject matter, intent, and goals of this regulatory change (i.e., new regulation, amendments to an existing regulation, or repeal of an existing regulation).*

The Department for the Blind and Vision Impaired (DBVI) seeks to amend 22VAC45-70 (Provision of Services in Rehabilitation Teaching) while simultaneously repealing 22VAC45-80 (Provision of Independent Living Rehabilitation Services).

Virginia Administrative Code Sections 22VAC45-70 and 22VAC45-80 are outdated and include language that is identical or very similar regarding referral for, eligibility determination of, plan for, and scope of rehabilitation teaching and independent living services. DBVI does not operate independent living centers for the blind as described in the 22VAC45-80. Rather, DBVI coordinates and provides independent living services as part of its Rehabilitation Teaching/Independent Living Program and as ancillary services through its Vocational Rehabilitation Services Program.

This action updates 22VAC45-70 to reflect a change in title, correction of the agency name, and expands rehabilitation teaching services to include independent living services, which is current agency practice

and updates definitions and state and federal citations. 22VAC45-80 will be repealed because it is not necessary.

## Acronyms and Definitions

Please define all acronyms or technical definitions used in the Agency Background Document. .

“DBVI” means the Department for the Blind and Vision Impaired.

“RT/IL” means Rehabilitation Teaching/Independent Living.

## Mandate and Impetus

Please identify the mandate for this regulatory change, and any other impetus that specifically prompted its initiation (e.g., new or modified mandate, petition for rulemaking, periodic review, board decision, etc.). For purposes of executive branch review, “mandate” has the same meaning as defined in Executive Order 14 (as amended, July 16, 2018), “a directive from the General Assembly, the federal government, or a court that requires that a regulation be promulgated, amended, or repealed in whole or part.”

Executive Order 14 (as amended, July 16, 2018) requires that executive branch agencies consider, review, and promulgate regulations annually. As part of the required periodic review, DBVI staff determined that 22VAC45-70 and 22VAC45-80 should be combined to reflect current practice and the provision of RT/IL services to individuals who are blind, vision impaired, or deafblind. This regulatory action also contributes to Virginia’s regulatory reform efforts by eliminating a redundant and unnecessary regulation.

DBVI simultaneously will amend 22VAC45-70 and repeal 22VAC45-80.

## Legal Basis

Please identify (1) the agency or other promulgating entity, 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 entity to regulate this specific subject or program, as well as a reference to the agency or promulgating entity’s overall regulatory authority.

DBVI is the agency initiating this regulatory action. Statutory authority comes from § 51.5-65 of the Code of Virginia, which identifies the functions, duties, and powers of the Commissioner to adopt regulations to carry out the applicable provisions of the chapter.

## Purpose

*Please describe the specific reasons why the agency has determined that this regulation is essential to protect the health, safety, or welfare of citizens. In addition, please explain any potential issues that may need to be addressed as the regulation is developed.*

The purpose of this regulatory action is to amend 22VAC45-70 to accurately reflect DBVI's RT/IL program under which rehabilitation teaching and independent living services to eligible individuals who are blind, vision impaired, or deafblind are provided.

Additionally, this regulatory action will repeal an unnecessary Virginia Administrative Code section, 22VAC45-80. Among other services described in 22VAC45-80 is the operation of independent living centers for people who are blind and have secondary disabilities; DBVI does not operate independent living centers. DBVI provides independent living services through its RT/IL Program in each of six regional offices and its Virginia Rehabilitation Center for the Blind and Vision Impaired.

## Substance

*Please briefly identify and explain the new substantive provisions that are being considered, the substantive changes to existing sections that are being considered, or both.*

Amendments include:

- Changing the title of the regulation from "Provision of Services in Rehabilitation Teaching" to "Regulations Governing the Provision of Rehabilitation Teaching and Independent Living Services."
- Updating the agency name from "Department for the Visually Impaired" to the current name, "Department for the Blind and Vision Impaired".
- Removing outdated definitions and adding new definitions that more fully describe certain terms or that reflect rehabilitation teaching and independent living services as provided under DBVI's RT/IL Program.
- Adding the words, "independent living", throughout the regulation to clarify that those services are included along with rehabilitation teaching.
- Clarifying referral and application procedures, eligibility criteria and determination requirements, updating the name of the plan that specifies the services an individual will receive, updating the scope of services available to eligible individuals, and,
- Updating financial participation an individual may have in costs of services.

## Alternatives

*Please describe any viable alternatives to the regulatory change that were considered, and the rationale used by the agency to select the least burdensome or intrusive alternative that meets the essential purpose of the regulatory change. Also, include discussion of less intrusive or less costly alternatives for small businesses, as defined in § 2.2-4007.1 of the Code of Virginia, of achieving the purpose of the regulatory change.*

DBVI is the agency in the Commonwealth charged with updating and maintaining relevant Virginia Administrative Code sections that accurately identify and describe services for eligible individuals who are blind, vision impaired, or deafblind. DBVI considered not amending 22VAC45-70 and maintaining the separate regulation, 22VAC45-80. However, the two regulations contain redundant information and no longer accurately reflect the way DBVI provides rehabilitation teaching and independent living services. This regulatory action streamlines DBVI's Administrative Code regulations by amending 22VAC45-70 to

include relevant portions of 22VAC45-80 to reflect current practice, and repealing 22VAC45-80, which no longer will be necessary.

## Periodic Review and Small Business Impact Review Announcement

*If you wish to use this regulatory action to conduct, and this NOIRA to announce, a periodic review (pursuant to § 2.2-4017 of the Code of Virginia and Executive Order 14 (as amended, July 16, 2018)), and a small business impact review (§ 2.2-4007.1 of the Code of Virginia) of this regulation, keep the following text. Modify as necessary for your agency. Otherwise, delete the paragraph below and insert “This NOIRA is not being used to announce a periodic review or a small business impact review.”*

This NOIRA is not being used to announce a periodic review or a small business impact review.

## Public Participation

*Please indicate how the public should contact the agency to submit comments on this regulation, including ideas to assist the agency in the development of the regulation and the costs and benefits of the alternatives stated in this notice or other alternatives.*

*Also, indicate whether a public hearing is to be held to receive comments. Please include one of the following choices: 1) a panel will be appointed and the agency’s contact if you’re interested in serving on the panel is \_\_\_\_\_; 2) a panel will not be used; or 3) public comment is invited as to whether to use a panel to assist in the development of this regulation.*

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DBVI is seeking comments on this regulation, including but not limited to: ideas to be considered in the development of this regulation, the costs and benefits of the alternatives stated in this background document or other alternatives, and the potential impacts of the regulation.

Anyone wishing to submit written comments for the public comment file may do so through the Public Comment Forums feature of the Virginia Regulatory Town Hall web site at <https://www.townhall.virginia.gov>. Written comments must include the name and address of the commenter. Comments may also be submitted by mail, email or fax to Susan K. Davis, 397 Azalea Avenue, Richmond, Virginia 23227, 804-371-3184, (FAX 804-371-3157), [susan.davis@dbvi.virginia.gov](mailto:susan.davis@dbvi.virginia.gov). In order to be considered, comments must be received by 11:59 pm on the last day of the public comment period.

A public hearing will not be held following the publication of the proposed stage of this regulatory action.