



Virginia
Regulatory
Town Hall

**Notice of Intended Regulatory Action
Agency Background Document**

Agency Name:	Department of Mental Health, Mental Retardation and Substance Abuse Services
VAC Chapter Number:	12 VAC 35-140-10 et seq. 12 VAC 35-150-10 et seq 12 VAC 35-160-10 et seq. 12 VAC 35-20-10 et seq.
Regulation Title:	Mandatory Standards for Community Mental Health Programs; Mandatory Standards for Community Mental Retardation Programs; Mandatory Standards for the Community Substance Abuse Programs; and Mandatory Standards for the Certification of First Offender Drug Abuse Diversion and Education Programs
Action Title:	Repeal
Date:	September 11, 2000

This information is required prior to the submission to the Registrar of Regulations of a Notice of Intended Regulatory Action (NOIRA) pursuant to the Administrative Process Act § 9-6.14:7.1 (B). Please refer to Executive Order Twenty-Five (98) and Executive Order Fifty-Eight (99) for more information.

Purpose

Please describe the subject matter and intent of the planned regulation. This description should include a brief explanation of the need for and the goals of the new or amended regulation.

The purpose of this action is to repeal four existing regulations which were promulgated in the early 1980s. These regulations prescribe minimum standards for mental health, mental retardation and substance abuse programs of community services boards and first offender drug

abuse diversion and education programs which were designed to ensure the health, safety and welfare of clients of these programs. All of these community programs are now subject to the Board's licensing regulations which govern program operations and are intended to protect clients who receive services from these programs. The four regulations also duplicate many elements of the Department's contracts with community services boards which are monitored through routine performance reports and reviews. Therefore, these regulations are not necessary and are proposed for repeal.

Basis

Please identify the state and/or federal source of legal authority to promulgate the contemplated regulation. The discussion of this authority should include a description of its scope and the extent to which the authority is mandatory or discretionary. The correlation between the proposed regulatory action and the legal authority identified above should be explained. Full citations of legal authority and, if available, web site addresses for locating the text of the cited authority must be provided.

According to the Virginia's Office of the Attorney General, the Board of Mental Health, Mental Retardation and Substance Abuse Services (Board) has the authority to repeal these regulations under Va. Code §§ 37.1-10; 37.1-179.1; 37.1-181; and 37.1-182. The referenced sections of the Code provide the legal authority for the Board's licensing regulations. Va. Code § 37.1-179.1 states:

"The Commissioner, subject to rules and regulations promulgated by the Board, may license any suitable person to establish, maintain and operate, or to have charge of any facility or institution which provides care or treatment for mentally ill persons, mentally retarded persons or persons addicted to the intemperate use of narcotic drugs, alcohol or other stimulants..."

The Board promulgated *Rules and Regulations for the Licensure of Facilities and Providers of Mental Health, Mental Retardation and Substance Abuse Services*, 12 VAC 35-102-10 et seq., in January 1995. The regulations which the Board now is proposing to repeal (12 VAC 35-140-10 et seq., 12 VAC 35-150-10 et seq., 12 VAC 35-160-10 et seq. and 12 VAC 35-20-10 et seq.) are outdated and duplicate the intent and function of the existing licensing regulations.

Substance

Please detail any changes that would be implemented: this discussion should include a summary of the proposed regulatory action where a new regulation is being promulgated; where existing provisions of a regulation are being amended, the statement should explain how the existing regulation will be changed. The statement should set forth the specific reasons the agency has determined that the proposed regulatory action would be essential to protect the health, safety or welfare of citizens. In addition, a statement delineating any potential issues that may need to be addressed as the regulation is developed shall be supplied.

The repeal of these regulations would not adversely affect the health, safety and welfare of Virginia citizens. These regulations have been superseded by the licensing regulations that provide the means necessary to protect the citizens that receive services from community mental health, mental retardation and substance abuse programs. In addition, these regulations replicate

many of the elements in the Department's contracts with community services boards which are designed to ensure the accountability of community providers and protections for the clients who are served. On May 18, 2000, the Board voted to initiate the process to repeal these regulations.

Alternatives

Please describe, to the extent known, the specific alternatives to the proposal that have been considered or will be considered to meet the essential purpose of the action.

The Board's licensing regulations provide an alternative to the four sets of regulations proposed for repeal. These licensing regulations provide requirements for community programs which fulfill the intent and objectives of these four regulations. Therefore, these four regulations are superfluous and should be repealed.

Family Impact Statement

Please provide a preliminary analysis of the potential impact of the proposed regulatory action on the institution of the family and family stability including to what extent the regulatory action will: 1) strengthen or erode the authority and rights of parents in the education, nurturing, and supervision of their children; 2) encourage or discourage economic self-sufficiency, self-pride, and the assumption of responsibility for oneself, one's spouse, and one's children and/or elderly parents; 3) strengthen or erode the marital commitment; and 4) increase or decrease disposable family income.

These four regulations were designed to provide assurance to families that the community programs that provide mental health, mental retardation and substance abuse services would be held accountable for the health and safety of the clients that they serve. Because there are now alternative mechanisms in place to provide this function, the repeal of these four regulations should not have any adverse impact on families.