



## Periodic Review / Retain Regulation Agency Background Document

<b>Agency name</b>	Department of Behavioral and Developmental Services
<b>Virginia Administrative Code (VAC) citation</b>	12 VAC35-105
<b>Regulation title</b>	Rules and Regulations for Licensing Providers by the Department of Behavioral Health and Developmental Services
<b>Document preparation date</b>	4/22/13

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.*

§37.2-203 outlines the duties and responsibilities of the State Board, which includes promulgation of regulations and §37.2 Chapter 4, Article 2 requires that the Board adopt regulations establishing minimum standards for services providers.

### 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.*

There is no alternative to regulation to protect the health and safety of individuals served by providers licensed by the Department.

### 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.*

<b>Commenter</b>	<b>Comment</b>	<b>Agency response</b>
Virginia Hospital & Healthcare Association	12 VAC 105 20 Modify the definitions of recovery and serious injury.	While DBHDS does agree with the commenter that the definition of recovery is inspirational in nature, but disagrees that it needs to be changed. The definition of serious injury is consistent across regulations.
	12 VAC 105 400 Recommended that criminal records check not be required for students and volunteers.	DBHDS feels that this is a health and safety protection that should not be removed.
	12 VAC 105 580, 650 & 691 Suggested language or clarification	DBHDS is satisfied with the current provisions.
	12 VAC 105 800 Remove "supports" from the provision.	DBHDS is satisfied with the current provisions.

**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.*

The provisions of 12 VAC35-105 are necessary for the health, safety and welfare of the individuals served by public and private providers of services licensed by the Department.

**Result**

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

At an April 9<sup>th</sup> meeting, the State Board reviewed the OAG opinions, public comments, and other information resulting from the periodic review of 12 VAC35-105 and determined that the regulations 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.*

---

Many of the entities regulated by 12 VAC35-105 are small businesses. Achieving and maintaining licensing credentials have a positive impact for these small businesses, by allowing them to seek reimbursement for services provided.

### Family impact

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

---

The regulations have a positive impact on individuals and families, by establishing minimum standards for providers to assure the protection of the safety, health and welfare for the individuals served.