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## Periodic Review and Small Business Impact Review Report of Findings

<b>Agency name</b>	Virginia Department of Health
<b>Virginia Administrative Code (VAC) Chapter citation(s)</b>	12VAC5-216
<b>VAC Chapter title(s)</b>	Methodology to Measure Efficiency and Productivity of Health Care Institutions
<b>Date this document prepared</b>	July 1, 2024

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.*

"Board" means the State Board of Health

"Commissioner" means the State Health Commissioner

### 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.*

§ 32.1-12 of the Code of Virginia authorizes the Board to make, adopt, promulgate and enforce such regulations and provide for reasonable variances and exemptions therefrom 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.

§ 32.1-276.2 of the Code of Virginia requires that the Board administer the health care data reporting initiatives established by Chapter 7.2, Title 32.1 of the Code of Virginia.

§ 32.1-276.4 directs the Commissioner to “negotiate and enter into contracts or agreements with a nonprofit organization for the compilation, storage, analysis, and evaluation of data submitted by health care providers pursuant to this chapter; for the operation of the All-Payer Claims Database pursuant to § 32.1-276.7:1; and for the development and administration of a methodology for the measurement and review of the efficiency and productivity of health care providers.”

### 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.*

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No viable alternatives for achieving the purpose of this regulation have been identified as part of this periodic review. These regulations specify the requirements for a system to review and measure the efficiency and productivity of health care providers as required by § 32.1-276.4.

### 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.*

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The Board did not convene an informal advisory group for the purposes of assisting in the periodic review. No comments were received during the public comment period following publication of the periodic review.

### Effectiveness

*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.*

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These regulations meet the criteria set out in Executive Order 19 (2022) as they are necessary for the protection of public health, safety, and welfare of the citizens of the Commonwealth. The establishment of effective health care data analysis and reporting initiatives is essential to improving the quality and efficiency of health care, fostering competition among health care providers, and increasing consumer choice with regard to health care services in the Commonwealth. Accurate and valuable health care data can best be identified by representatives of state government and the consumer, provider, insurance, and business communities.

As written, the regulations included in Chapter 216 are not clear or easily understandable. Outdated regulatory language, as well as technical deficiencies have been identified and should be addressed through regulatory action.

### 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).*

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

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The Board is recommending that 12VAC5-216 be repealed and the provisions of 12VAC5-216 be incorporated into 12VAC5-215 – Rules and Regulations Governing Health Data Reporting. After review, the need for several significant amendments to 12VAC5-216 has been identified. Repealing this chapter is necessary to better align regulatory requirements with current practice, to overhaul existing regulatory language to conform to the form and style requirements of the Virginia Registrar of Regulations, and to identify opportunities for regulatory reduction, while continuing to fulfill the Board's statutory mandate to protect the citizens of the Commonwealth. The Board believes that repealing 12VAC5-216 and incorporating provisions into 12VAC5-215 will be more efficient and effective than amending the current chapter.

### 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.*

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These regulations are necessary for Board to provide members of the public and health service purchasers vital information to help identify the most efficient and productive health care providers. No complaints or comments have been received concerning these regulations. The regulations do not conflict with any known federal or state law or regulation. Regulations are evaluated on an ongoing basis and these regulations were last amended in September 2012 as a result of periodic review. The Board does not anticipate that amending the regulations will have an adverse economic impact on small businesses in the Commonwealth of Virginia.

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