



Periodic Review / Retain Regulation Agency Background Document

Agency name	Department of Behavioral Health and Developmental Services
Virginia Administrative Code (VAC) citation	12 VAC35-210
Regulation title	Regulations to Govern Temporary Leave from State Mental Health and Mental Retardation Facilities
Document preparation date	12/9/2012

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.

These regulations are required by Virginia Code §37.2-203 and §32.2-837. §37.2-203 authorizes the State Board of Behavioral Health and Developmental Services to promulgate regulations and §32.2-837 requires regulations for the temporary leave process for individuals served by state hospitals and training centers.

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.

Because the Virginia Code specifically requires these regulations, there is no alternative.

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.

Commenter	Comment	Agency response

No comments were received

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 regulations meet the criteria in EO 14 and have been used by DBHDS facilities for at least four years without incident.

Result

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

The State Board considered the regulatory comments of the OAG and the results of staff analysis and concluded that the regulations should be retained 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.

There is a continuing need for these regulations. No comments were received during the periodic review. The regulatory language is understandable and supports individuals served at state hospitals and training centers successfully return to their communities. The regulations have been in place for more than five years without issue. The regulations benefit small businesses by supporting a successful transition from institutional to community service.

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 families and support family stability by allowing individuals to return to their families or a community service provider temporarily to assure that a successful discharge can be realized.