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Periodic Review and Small Business Impact Findings Where Result is "Retain the Regulation As Is"

Agency name	Director of DPOR (Polygraph Examiners Advisory Board)
Virginia Administrative Code (VAC) citation	18 VAC 120-30
Regulation title	Regulations Governing Polygraph Examiners
Date	November 24, 2015

This information is required pursuant to Executive Order 17 (2014).

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.

Code of Virginia § 54.1-201.5 gives authority to the Director which states, in part, that the Director (acting as a regulatory board) has the power and duty "To promulgate regulations in accordance with the Administrative Process Act (§ [2.2-4000](#) et seq.) necessary to assure continued competency, to prevent deceptive or misleading practices by practitioners and to effectively administer the regulatory system administered by the regulatory board."

§ 54.1-1802 provides the Director of the Department of Professional and Occupational Regulation "promulgate regulations necessary to carry out the provisions of [Chapter 18 of Title 54.1 of the Code of Virginia] and Chapter 1 (§ 54.1-100 et seq.)."

18 VAC 120-30-30 provides the authority for the Director of the Department of Professional and Occupational Regulation to appoint a Board to advise the Department on any matters relating to the practice or licensure of polygraph examiners.

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.

No viable alternatives for achieving the purpose of the existing regulation could be determined. The statute enables the Director to fulfill the requirement established in Chapter 18 of Title 54.1 of the *Code of Virginia*. Further, the regulation is necessary to ensure that the statutory requirements are executed in the least burdensome and most efficient and cost effective manner possible while protecting the health, safety, and welfare of the citizens of Virginia.

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
N/A	N/A	N/A

No comments were received during the public comment period following publication of the Notice of Periodic Review. An informal advisory group was not formed for purposes of assisting in the periodic review.

Effectiveness

Please indicate whether the regulation meets the criteria set out in Executive Order 17 (2014), e.g., is necessary for the protection of public health, safety, and welfare, and is clearly written and easily understandable.

The regulation meets the criteria set forth in Executive Order 17 (2014). The regulation establishes the education, examination, and experience requirements to become a Virginia registered Polygraph Examiner Intern and a licensed Polygraph Examiner. The regulation requirements provide minimum competency standards to provide necessary public protection. The regulation is clearly written and understandable.

Result

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

The agency is recommending that the regulation 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 basis for the agency's determination to retain the regulation as is, consistent with the stated objectives of applicable law, to minimize the economic impact of regulations on small businesses.

1) Code of Virginia §§ 54.1-201.5 and 54.1-1802 mandates the Director of the Department of Professional and Occupational Regulation authority to promulgate regulations. The continued need for the regulation is established in statute. Repeal of the regulation would remove the current public protections provided by the regulation. The regulation does not have an adverse economic impact on small businesses nor individual licensure or registration. Rather, the regulation allows individuals who meet specific minimum competencies to become licensed or obtain intern registration in Virginia.

2) No complaints or comments were received.

3) The regulation is clearly written and is easily understandable.

4) The regulation does not overlap, duplicate or conflict with federal or state law or regulation.

5) The most recent evaluation occurred in 2011. No changes, including changes in technology and economic conditions, have been identified that would affect licensed individuals seeking registration as a polygraph examiner intern or licensure as a polygraph examiner.

The Director, for the reasons stated in this section, determined that the regulation should not be amended or repealed, but should be retained in its current form.