

Virginia Regulatory Town Hall

Notice of Intended Regulatory Action Agency Background Document

Agency Name:	Department of Health
VAC Chapter Number:	65
Regulation Title:	Rules and Regulations of the State Board of Health Governing Durable Do Not Resuscitate Orders
Action Title:	Permanent Regulation
Date:	December 16, 1999

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) 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 a new or amended regulation.

The proposed regulations governing Durable Do Not Resuscitate Orders specify the requirements for qualified health care personnel to withhold resuscitation measures from patients who have documented their decision not to be resuscitated. These regulations are necessary to provide for easy identification of these patients in a uniform and consistent manner by all health care personnel.

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 web site addresses, if available, for locating the text of the cited authority must be provided.

Section 54.1-2991 of the Code of Virginia contains mandatory language authorizing the State Board of Health to promulgate the proposed regulations. Specifically, the Code

states "That the Board of Health shall promulgate regulations to implement the provisions of this act related to Durable Do Not Resuscitate Orders.

(<http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+54.1-2991>)

Section 54.1-2987 C of the Code specifies that qualified emergency medical services personnel and licensed health care practitioners in any facility, program or organization operated or licensed by the Board of Health or by the Department of Mental Health, Mental Retardation and Substance Abuse Services or operated, licensed or owned by another state agency are authorized to follow Durable Do Not Resuscitate Orders that are issued in accordance with statute and regulations promulgated by the Board of Health and available to them in a form approved by the Board.

(<http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+54.1-2987.1>)

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.

These regulations make permanent the provisions of emergency regulations enacted under direction of Senate Bill 1174 (1999 General Assembly). No changes to the provisions of the emergency regulations are proposed. There are no known potential issues that may need to be addressed at this time.

Alternatives

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

In light of the clear, specific and mandatory authority of the State Board of Health to promulgate the proposed regulations, the Board has not considered any alternatives to the proposed regulations, nor is any warranted. The Board has, however, carefully drafted the proposed regulations to ensure that they embody the most appropriate, least burdensome and least intrusive framework for effectively administering the Durable Do Not Resuscitate Program.