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Exempt Action: Final Regulation Agency Background Document

Agency name	Department of Professional and Occupational Regulation
Virginia Administrative Code (VAC) Chapter citation(s)	18 VAC 120-30-100
VAC Chapter title(s)	Regulations Governing Polygraph Examiners
Action title	Temporary Reduction of Renewal and Reinstatement Fees
Final agency action date	February 10, 2022
Date this document prepared	February 10, 2022

Although a regulatory action may be exempt from executive branch review pursuant to § 2.2-4002 or § 2.2-4006 of the *Code of Virginia*, the agency is still encouraged to provide information to the public on the Regulatory Town Hall using this form. However, the agency may still be required to comply with the Virginia Register Act, Executive Order 14 (as amended, July 16, 2018), the Regulations for Filing and Publishing Agency Regulations (1VAC7-10), and the *Form and Style Requirements for the Virginia Register of Regulations and Virginia Administrative Code*.

Brief Summary

Provide a brief summary (preferably no more than 2 or 3 paragraphs) of this regulatory change (i.e., new regulation, amendments to an existing regulation, or repeal of an existing regulation). Alert the reader to all substantive matters. If applicable, generally describe the existing regulation.

The Director has adopted a temporary reduction in renewal and reinstatement fees for Polygraph Examiner licenses on or before June 30, 2024, in order to be in compliance with the Callahan Act (§ 54.1-113 of the Code of Virginia).

This action is exempt from the Virginia Administrative Process Act in § 2.2-4006 A 6: "Regulations of the regulatory boards served by (i) the Department of Labor and Industry pursuant to Title 40.1 and (ii) the Department of Professional and Occupational Regulation or the Department of Health Professions pursuant to Title 54.1 that are limited to reducing fees charged to regulants and applicants."

Mandate and Impetus

Identify the mandate for this regulatory change and any other impetus that specifically prompted its initiation (e.g., new or modified mandate, internal staff review, petition for rulemaking, periodic review, or board decision). "Mandate" is defined as "a directive from the General Assembly, the federal government, or a court that requires that a regulation be promulgated, amended, or repealed in whole or part."

§ 54.1-113 of the Code of Virginia provides that: *"Following the close of any biennium, when the account for any regulatory board within the Department of Professional and Occupational Regulation or the Department of Health Professions maintained under § 54.1-308 or 54.1-2505 shows expenses allocated to it for the past biennium to be more than 10 percent greater or less than moneys collected on behalf of the board, it shall revise the fees levied by it for certification, licensure, registration, or permit and renewal thereof so that the fees are sufficient but not excessive to cover expenses."*

In 2020, the Board promulgated a temporary fee decrease to ensure compliance with § 54.1-113 of the Code of Virginia. This regulation will expire on June 30, 2022 and, without the promulgation of an adjusted temporary fee decrease, the Board will not be in compliance with the existing statutory requirement. These fees are below the current fee requirements, but are sufficient to allow the Board to remain in compliance.

Statement of Final Agency Action

Provide a statement of the final action taken by the agency including: 1) the date the action was taken; 2) the name of the agency taking the action; and 3) the title of the regulation.

The Director of the Department of Professional and Occupational Regulation, acting under the authority of § 54.1-1802 of the Code of Virginia, authorized an exemption action for the Regulations Covering Polygraph Examiners on February 10, 2022.