



Periodic Review / Retain Regulation Agency Background Document

Agency name	Department of Health Professions
Virginia Administrative Code (VAC) citation	18VAC76-10-10 et seq.
Regulation title	Regulations Governing the Health Practitioners' Monitoring Program
Document preparation date	3/13/13

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.

18VAC76-10-10 et seq. Regulations Governing the Health Practitioners' Monitoring Program is promulgated by the Director of the Department of Health Professions under the legal authority of Chapter 25.1 of Title 54.1 of the Code of Virginia:

§ 54.1-2516. Program established; practitioner participation; disciplinary action stayed under certain conditions.

A. The Director of the Department of Health Professions shall maintain a health practitioners' monitoring program that provides an alternative to disciplinary action for impaired health practitioners. The Director shall promulgate such regulations as are necessary for the implementation of this program after consulting with the various health regulatory boards.

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.

The regulation was reviewed by staff of the Health Practitioners' Monitoring Program (HPMP) and by the Health Practitioners' Monitoring Committee to identify any regulation that could be revised pursuant to the Governor's regulatory reform project. There were no problems identified with the understanding of or compliance with the existing regulations.

In 2009, consistent with passage of HB2407 (Chapter 472 of the 2009 Acts of the Assembly), regulations governing the Health Practitioners' Intervention Program were amended to change the name to the Health Practitioners' Monitoring Program to more accurately reflect the intent and scope of the program. Other amendments include:

- 1) Changes in the organization of the committee to delete outdated language and allow more flexibility in scheduling meetings as necessary;
- 2) Changes in eligibility requirements to stipulate that a person must hold a current, active Virginia license, certification, registration or multistate licensure privilege or be an applicant in order to focus program services on licensees who are or will be practicing in Virginia. The intent of the program is to monitor impaired practitioners to ensure that they are safe to engage in practice in Virginia. If someone does not hold a license (suspended, revoked or lapsed) or if he is not currently practicing in Virginia, they will not be eligible for the Program;
- 3) Changes to allow the committee to designee staff to perform some of its functions in order to expedite decisions and actions, so the duties of the committee can be more policy oriented and less involved in routine operations of the program; and
- 4) Changes to amend terminology that is outdated or inconsistent with the amended name of the Program.

Since the program and its regulatory requirements were significantly revised in 2009, there were no other changes recommended as a result of this review.

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.

Notice of Periodic Review was posted on the Virginia Regulatory Townhall and sent to interested parties with comment requested from November 5, 2013 to December 5, 2013. There were no comments 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.

Through its review of 18VAC76-10-10 et seq., Regulations Governing the Health Practitioners’ Monitoring Program, the Department determined that the regulation is necessary to protect the public. Neither the staff of the Department nor affected entities identified any language that was not clearly written and easily understandable.

The goal of the program is to assist impaired practitioners in a recovery program that will not only enable them to continue practicing their professions with safety and skill but will also address the consequences of that impairment on their personal lives. By taking action to remove the stay of disciplinary action or probation, the Committee will ensure that a practitioner who is no longer in compliance with the conditions of the program does not continue to practice his profession impaired and possibly do harm to the public.

Result

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

As a result of the periodic review conducted in accordance with the Governor’s regulatory reform project, the Department has determined that the regulation should 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 the 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.

- 1) In accordance with the § 54.1-25160 of the Code of Virginia, the Director of the Department must adopt regulations: *The Director shall promulgate such regulations as are necessary for the implementation of this program after consulting with the various health regulatory boards. program....*” Therefore, there is a continued need for the regulation.
- 2) There have been no complaints or comments received from the public.
- 3) The regulation is organized and clearly written.
- 4) The regulation is consistent with federal and state law but does not overlap such laws.
- 5) The regulation has been amended three times since the Program’s inception in response to issues identified by implementation of the law.

Family impact

Please provide an analysis of the regulation's impact on the institution of the family and family stability.

Entry into HPMP will allow health care practitioners to continue practicing their professions with safety and skill but will also address the consequences of that impairment on their personal lives. Therefore, the regulation and the Program have a positive impact on the family.