



Virginia
Regulatory
Town Hall

townhall.virginia.gov

Final Regulation Agency Background Document

Agency name	Boards of Nursing and Medicine, Department of Health Professions
Virginia Administrative Code (VAC) citation	18 VAC 90-30
Regulation title	Regulations Governing the Licensure of Nurse Practitioners
Action title	Authorization by practice agreement with supervising physician for nurse practitioner to sign certain documents
Document preparation date	May 17, 2005

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), Executive Orders 21 (2002) and 58 (1999), and the *Virginia Register Form, Style, and Procedure Manual*.

Brief summary

Please provide a brief summary (no more than 2 short paragraphs) of the proposed new regulation, proposed amendments to the existing regulation, or the regulation proposed to be repealed. Alert the reader to all substantive matters or changes. If applicable, generally describe the existing regulation.

The adoption of an “emergency” regulation by the Boards of Nursing and Medicine was required to comply with the third enactment clause of Chapter 855 of the 2004 Acts of the Assembly. Proposed regulations replacing emergency regulations require inclusion of the nurse practitioner's authority for signatures, certifications, stamps, verifications, affidavits and endorsements in the written protocol between the supervising physician and the nurse practitioner.

Subsection C is added to section 120, which establishes the criteria for practice by a nurse practitioner. The new rule will require that the written protocol between the supervising physician and the nurse practitioner must include the nurse practitioner's authority for signatures, certifications, stamps, verifications, affidavits and endorsements provided the signing of documents is 1) In accordance with the specialty license of the nurse practitioner and with the scope of practice of the supervising physician; 2) Permitted by § 54.1-2957.02 or applicable sections of the Code of Virginia; and 3) Not in conflict with federal law or regulation.

Statement of final agency action

Please 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.

Final regulations for 18VAC90-30-10 et seq. to establish requirements for a written protocol to include authorization for a nurse practitioner to sign certain documents in lieu of his supervising physician were adopted by the Board of Nursing on May 17, 2005 and by the Board of Medicine on May 20, 2005.

Legal basis

Please identify the state and/or federal legal authority to promulgate this proposed regulation, including (1) the most relevant law and/or regulation, including Code of Virginia citation and General Assembly chapter numbers, if applicable, and (2) promulgating entity, i.e., agency, board, or person. Describe the legal authority and the extent to which the authority is mandatory or discretionary.

Regulations are promulgated under the general authority of Chapter 24 of Title 54.1 of the Code of Virginia. Section 54.1-2400, which provides the Board of Nursing the authority to promulgate regulations to administer the regulatory system:

§ 54.1-2400 -General powers and duties of health regulatory boards

The general powers and duties of health regulatory boards shall be:

...

6. To promulgate regulations in accordance with the Administrative Process Act (§ 9-6.14:1 et seq.) which are reasonable and necessary to administer effectively the regulatory system. Such regulations shall not conflict with the purposes and intent of this chapter or of Chapter 1 (§ [54.1-100](#) et seq.) and Chapter 25 (§ [54.1-2500](#) et seq.) of this title. ...

The specific legal mandate to promulgate the regulation for the licensure of nurse practitioners is found in §§ 54.1-2957 and 54.1-2957.02.

§ 54.1-2957. Licensure of nurse practitioners.

The Board of Medicine and the Board of Nursing shall jointly prescribe the regulations governing the licensure of nurse practitioners. It shall be unlawful for a person to practice as a nurse practitioner in this Commonwealth unless he holds such a joint license.

The Boards may issue a license by endorsement to an applicant to practice as a nurse practitioner if the applicant has been licensed as a nurse practitioner under the laws of another state and, in the opinion of the Boards, the applicant meets the qualifications for licensure required of nurse practitioners in this Commonwealth.

Pending the outcome of the next National Specialty Examination, the Boards may jointly grant temporary licensure to nurse practitioners.

§ 54.1-2957.02. *When nurse practitioner signature accepted.*

Whenever any law or regulation requires a signature, certification, stamp, verification, affidavit or endorsement by a physician, it shall be deemed to include a signature, certification, stamp, verification, affidavit or endorsement by a nurse practitioner.

The Office of the Attorney General has certified that the agency has the statutory authority to promulgate the proposed regulation and that it comports with applicable state and/or federal law.

Purpose

Please explain the need for the new or amended regulation. Describe the rationale or justification of the proposed regulatory action. Detail the specific reasons it is essential to protect the health, safety or welfare of citizens. Discuss the goals of the proposal and the problems the proposal is intended to solve.

The purpose of the legislation and the enabling regulation is to permit licensed nurse practitioners to sign various forms and certificates and provide medical information or treatment in certain situations, including situations involving the immunization of children, examination of persons suspected of having tuberculosis, prenatal tests, nursing homes, release of certain privileged medical information, competency for driver licenses, release of certain veterinary records, and assisted living facilities. In many circumstances, it is the nurse practitioner who has performed the evaluation or examination upon which an attestation is made or a form signed. Therefore, it is reasonable that the nurse practitioner rather than the physician (who has not seen the patient) be the one authorized to sign certain papers. Public health and safety are sufficiently balanced with greater access to health care by nurse practitioners who are practicing within their specialty training and licensure and working in collaboration with supervising physicians who must periodically review their care of the patients.

Substance

Please identify and explain the new substantive provisions, the substantive changes to existing sections, or both where appropriate. A more detailed discussion is required under the "All changes made in this regulatory action" section.

Proposed regulations require that the written protocol between the supervising physician and the nurse practitioner must include the nurse practitioner's authority for signatures, certifications, stamps, verifications, affidavits and endorsements provided the signing of documents is 1) In accordance with the specialty license of the nurse practitioner and with the scope of practice of the supervising physician; 2) Permitted by § 54.1-2957.02 or applicable sections of the Code of Virginia; and 3) Not in conflict with federal law or regulation.

Issues

Please identify the issues associated with the proposed regulatory action, including:

- 1) the primary advantages and disadvantages to the public, such as individual private citizens or businesses, of implementing the new or amended provisions;
 - 2) the primary advantages and disadvantages to the agency or the Commonwealth; and
 - 3) other pertinent matters of interest to the regulated community, government officials, and the public. If there are no disadvantages to the public or the Commonwealth, please indicate.
-

Advantages or disadvantages to the public:

There are no disadvantages to the public; the proposed rules will allow a nurse practitioner to sign certain documents and attestations on which previous law required the signature of a physician. Provided the nurse practitioner is the one that has performed the physical or treated the patient, it is logical that he or she be the person who signed the appropriate form since the physician may not have personal knowledge of the patient's condition. Proposed rules will ensure that there is a clear understanding, as reflected in the written protocol, about which documents requiring a signature may be signed by the nurse practitioner instead of the supervising physician. The only disadvantage may be a lack of understanding on the part of practitioners about the statutory responsibilities of a physician, who may mistakenly believe he can delegate certain medical acts that are specifically reserved for a licensed physician.

Advantages or disadvantages to the agency:

There are no specific advantages or disadvantages to the agency or the Commonwealth. Rules about the written protocol would appear to be understandable and provide appropriate guidance to licensees.

Changes made since the proposed stage

Please describe all changes made to the text of the proposed regulation since the publication of the proposed stage. For the Registrar's office, please put an asterisk next to any substantive changes.

There were no changes made to the text of the regulation since publication of the proposed stage.

Public comment

Please summarize all comments received during the public comment period following the publication of the proposed stage, and provide the agency response. If no comment was received, please so indicate.

Proposed regulations were published on January 10, 2005 with a 60-day comment period ending on March 11, 2005. A public hearing on proposed regulations was held on January 25, 2005. The Virginia Council of Nurse Practitioners was supportive of the proposed regulations to implement HB855 of the 2004 General Assembly. The Board appreciates the comment by the VCNP and made no changes in the proposed regulation.

All changes made in this regulatory action

Please detail all changes that are being proposed and the consequences of the proposed changes. Detail new provisions and/or all changes to existing sections.

Current section number	Proposed new section number, if applicable	Current requirement	Proposed change and rationale
120	New subsection C	Sets out the requirements for the practice of a nurse practitioner in collaboration with and under the medical supervision and direction of a supervising physician. Requires practice in accordance with a written protocol with the supervising physician (s).	Adds a provision that the written protocol must include authorization for the nurse practitioner to sign certain documents in lieu of the physician. Sets out the legal and practice-specific requirements for such authorization to include that it must be: 1) In accordance with the specialty license of the nurse practitioner and with the scope of practice of the supervising physician; 2) Permitted by § 54.1-2957.02 or applicable sections of the Code of Virginia; and 3) Not in conflict with federal law or regulation..

Family impact

Please assess the impact of the proposed regulatory action on the institution of the family and family stability.

There is no impact of the proposed regulatory action on the institution of the family and family stability.