



Virginia  
Regulatory  
Town Hall

Notice of Intended Regulatory Action  
Agency Background Document

<b>Agency Name:</b>	Department of Health (State Board of)
<b>VAC Chapter Number:</b>	12 VAC 5-408
<b>Regulation Title:</b>	Regulations of the Certification of Quality Assurance for Managed Care Health Insurance Plan Licensees
<b>Action Title:</b>	Amendments to clarify the regulation
<b>Date:</b>	October 31, 2000

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) and Executive Order Fifty-Eight (99) 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 the new or amended regulation.*

With the expanding influence of managed care, the number of managed care health insurance plans (MCHIPs) and persons enrolled in them will increase the need for standards assuring the quality of care provided by MCHIP licensees. The current regulation, effective January 20, 2000, helps allay public concerns over quality in the managed health care market by, among other things, assuring MCHIP licensees have in place and comply with the systems and procedures outlined in section 32.1-137.2 of the *Code of Virginia* and assessing the effectiveness of the MCHIP licensee's complaint system to have issues regarding quality of care appropriately resolved.

With implementation of the regulations this past Spring, it became apparent that the regulations should be revised to provide better clarification of expectations of licensees, especially as the regulations relate to preferred provider organizations (PPOs). Therefore, the board and the department intend to amend the regulations where necessary for clarification.

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

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Section 32.1-137.3 of the *Code of Virginia* grants the authority for the regulations, and the intended amendments to them. That section provides that the State Board of Health shall “promulgate regulations, consistent with . . . [Article 1.1 of Chapter 5 of Title 32.1 of the *Code*], governing the quality of care provided to covered persons by a managed care health insurance plan licensee through its managed care health insurance plans on or before December 31, 1999.” This authority is mandatory, and the intended amendments will be designed to address issues raised by implementation of the regulations, within the authority granted by law.

Section 32.1-137.3 of the *Code* is available from the *Code of Virginia* searchable database in the Virginia Legislative Information System (LIS) at <http://leg1.state.va.us/lis.htm>. The current text of the MCHIP regulation (12 VAC 5-408) is also available from that site.

## 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.*

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The Department plans to amend the regulation where necessary, including, but not limited to: (i) providing criteria to grant variances, (ii) clarifying the exemptions regarding preferred provider organizations (PPOs) to better address the unique aspects of this type of managed care health insurance plan, (iii) providing better distinction between the plan and the plan’s licensees, (iv) reviewing the Utilization Review and Management section to ensure appropriate application. The intended amendments will be designed to respond to affected parties’ concerns, to resolve identified issues, and clarify the protections that assure the quality of care and services provided to MCHIP enrollees.

## Alternatives

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

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The existing regulations are clearly and directly mandated by law. Overall, they honor the department's statutory charge to certify the quality of health care services provided by MCHIP licensees and comprise the least burdensome alternative available for adequately carrying out the mandate of the law. The non-regulatory alternative, used prior to the regulatory mandate, was deemed inappropriate and helped demonstrate that there are no less burdensome or intrusive alternatives to protecting public health other than implementing a sound and effective regulatory program that addresses public concerns.

## Family Impact Statement

*Please provide a preliminary analysis of the potential impact of the proposed regulatory action on the institution of the family and family stability including to what extent the regulatory action will: 1) strengthen or erode the authority and rights of parents in the education, nurturing, and supervision of their children; 2) encourage or discourage economic self-sufficiency, self-pride, and the assumption of responsibility for oneself, one's spouse, and one's children and/or elderly parents; 3) strengthen or erode the marital commitment; and 4) increase or decrease disposable family income.*

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The intended action should not have any direct effect on the institution of the family and its stability. Therefore, the proposed amendments do not erode the authority and rights of parents in the education, nurturing, and supervision of their children; encourage or discourage economic self-sufficiency, self-pride, and the assumption of responsibility for oneself, one's spouse, one's children and/or one's parents; it does not strengthen or erode the marital commitment nor does it increase or decrease a family's disposable income.