



## Final Regulation Agency Background Document

<b>Agency name</b>	Department of Health (State Board of)
<b>Virginia Administrative Code (VAC) citation</b>	12 VAC 5-508
<b>Regulation title</b>	Virginia Physician Loan Repayment Program
<b>Action title</b>	Make emergency Virginia Physician Loan Repayment Program regulations permanent
<b>Date this document prepared</b>	March 27, 2009 (revised 7/28/09)

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), Executive Orders 36 (2006) 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of the proposed new regulation, proposed amendments to the existing regulation, or the regulation proposed to be repealed.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. Also, please include a brief description of changes to the regulation from publication of the proposed regulation to the final regulation.*

These new regulations set forth the criteria for eligibility for the Virginia Physician Loan Repayment Program for primary care physicians and psychiatrists; the general terms and conditions applicable to the obligation of each loan repayment recipient to practice in a designated medically underserved area or an approved state or local institution; and penalties for a recipient's failure to fulfill the practice requirements of the Virginia Physician Loan Repayment Program.

### 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.*

Under a prior regulatory action, the Board of Health unanimously approved the adoption of an earlier version of this final regulation on October 21, 2006. The Secretary of Health and Human Resources approved the final regulation on April 3, 2007 and was waiting for the Governor's action. In the interim months between April and July 2007, text changes were recommended by the Office of the Attorney General. In July 2007, VDH withdrew the regulation in order to incorporate text changes from the Office of the Attorney General (OAG). Due to staff turnover and vacancies, the incorporation of recommended text changes were not made in a timely fashion. The title of the regulation is Final Adoption of the Virginia Physician Loan Repayment Program Regulations. At its April 2009 meeting, the State Board of Health incorporated the changes recommended by the OAG.

### 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.*

Legal authority to promulgate this regulation is in §32.1-122.6:1 of the *Code of Virginia* and the Appropriation Act of 2000, Item 300 C. The scope of these regulations is to regulate a loan repayment program for physicians and psychiatrists willing to practice their profession in designated medically underserved areas of the Commonwealth in exchange for payment of their medical educational loans.

See the following web site addresses:

<http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+32.1-122.6C1>, §32.1-122.6:1, *Code of Virginia*  
<http://leg1.state.va.us/001/bud/SubCom/HB30.pdf>, Appropriation Act of 2000, Item 300 C

### 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.*

These regulations set forth the criteria for eligibility for the Virginia Physician Loan Repayment Program; the general terms and conditions applicable to the obligation of each loan repayment recipient to practice in a Virginia Medically Underserved Area (VMUA), as identified by the Board of Health by regulation or a federal Health Professional Shortage Area (HPSA) in Virginia, designated by the Bureau of Primary Health Care, Health Resources and Services Administration; and penalties for a recipient's failure to fulfill the practice requirements of the Virginia Physician Loan Repayment Program.

These regulations are intended to increase access to health care in medically underserved areas of

the Commonwealth. The goal is to reduce the number of medical shortage areas in the Commonwealth and reduce health disparities that exist between race, gender, socio-economic, and age groups that are found within these medically underserved areas.

**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.*

These regulations govern the Virginia Physician Loan Repayment Program. The program will provide a positive incentive to recruit primary care physicians and psychiatrists to practice in designated medically underserved areas or in approved state or local institutions of the Commonwealth.

**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.*

The primary advantage to the citizens of the designated underserved areas is that they can stay within their communities for health care. Another advantage is that the communities will be strengthened by having health practitioners living and working in their area. In addition, state and local institutions seeking practitioners will now have a pool of applicants from which they can hire for their physician positions. This regulation has no disadvantages to the citizens of the Commonwealth.

**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.*

<b>Section number</b>	<b>Requirement at proposed stage</b>	<b>What has changed</b>	<b>Rationale for change</b>
10	No inclusion.	Inclusion of “accredited residency”	To delineate the criteria for eligibility.
10	N/A	Deletion of “medically underserved area”	Language was redundant.
10	N/A	Deletion of “or an eligible medical	Several technical

		student” under the “participant/loan repayment” definition	changes have made within the document to ensure consistency
10	N/A	Deletion of “Mental Health, Mental Retardation, and Substance Abuse” under the “State or local institution” definition	Several technical changes have made within the document to ensure consistency
15	N/A	This section was added and became the “Authority for regulations” section	Several technical changes have made within the document to ensure consistency
20	N/A	This section became the “General information and purpose of chapter” section	Several technical changes have made within the document to ensure consistency
30	N/A	This section became the “Compliance with the Administrative Process Act” section. “Article 2” was deleted.	Several technical changes have made within the document to ensure consistency
40	N/A	This section became the “Administration” section	Several technical changes have made within the document to ensure consistency
50	N/A	This section became the “Eligible applicants” section. “Or a medical student pursuing a degree as M.D. or D.O” was deleted. Letters “A,B, C...” delineating the requirements were replaced with numbers.	Several technical changes have made within the document to ensure consistency
60	N/A	This section became “Application requirements and restrictions”	Several technical changes have made within the document to ensure consistency
70	N/A	This section became “Selection criteria” and letters “A,B, C...” delineating the requirements were replaced with numbers. “Ect” was deleted from (5).	Several technical changes have made within the document to ensure consistency
80	N/A	This section became “loan repayment amount”.	Several technical changes have made within the document to ensure consistency
90	N/A	This section became “loans qualifying for repayment” and letters “A,B, C...” delineating the requirements were replaced with numbers.	Several technical changes have made within the document to ensure consistency
100	N/A	This section became “payment restrictions”	Several technical changes have made within the document to ensure consistency
110 - 160	N/A	Starting with 110 the section became “Release of information” and ended with 160 being renamed as “ Compensation during service”	Several technical changes have made within the document to ensure consistency

170	N/A	This section became “tax implications” and “seek the advice of” was omitted from the section.	Several technical changes have made within the document to ensure consistency changes have made within the document to ensure consistency
180	N/A	This section became “monitoring during service” and “e.g., the,” “ect.” and “participants” were deleted from the section.	Several technical changes have made within the document to ensure consistency
190-200	N/A	Starting with 190 the section became “Change of practice site” and ended with 200 being renamed as “ Terms of service”	Several technical changes have made within the document to ensure consistency
210	N/A	This section became “conditions of practice” and the language “or both was omitted from the section.	Several technical changes have made within the document to ensure consistency
220	N/A	This section became “Loan repayment contract”	Several technical changes have made within the document to ensure consistency
230	N/A	This section became “breach of contract” and the language “ or misrepresentation of information” was omitted. “Document” was omitted in favor of “Documents”	Several technical changes have made within the document to ensure consistency
240	N/A	This section became “Collection procedures” and the language “withholding” was omitted in favor of “withheld”.	Several technical changes have made within the document to ensure consistency
250	N/A	This section became “waiver and suspension or both”,	Several technical changes have made within the document to ensure consistency
260	N/A	This section became “Cash reimbursement and penalty” and the language “Article 4” was deleted in favor of “Part IV”	Several technical changes have made within the document to ensure consistency
270	N/A	This section became “reporting requirements”. The letters and numbers used for bulleting were transcribed with one another.	Several technical changes have made within the document to ensure consistency

**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.*

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Commenter	Comment	Agency response

Enter any other statement here

**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
10	N/A	Inclusion of “accredited residency”	
10	NA	Deletion of “medically underserved area”	Several technical changes have made within the document to ensure consistency.
10	N/A	Deletion of “or an eligible medical student” under the “participant/loan repayment” definition	Several technical changes have made within the document to ensure consistency.
10	N/A	Deletion of “Mental Health, Mental Retardation, and Substance Abuse” under the “State or local institution” definition	Several technical changes have made within the document to ensure consistency.
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Enter any other statement here

**Regulatory flexibility analysis**

*Please describe the agency’s analysis of alternative regulatory methods, consistent with health, safety, environmental, and economic welfare, that will accomplish the objectives of applicable law while minimizing the adverse impact on small business. Alternative regulatory methods include, at a minimum: 1) the establishment of less stringent compliance or reporting requirements; 2) the establishment of less stringent schedules or deadlines for compliance or reporting requirements; 3) the consolidation or simplification of compliance or reporting requirements; 4) the establishment of performance standards for small businesses to replace design or operational standards required in the proposed regulation; and 5) the exemption of small businesses from all or any part of the requirements contained in the proposed regulation.*

The final regulations have been promulgated in the least burdensome regulatory method. They have no adverse impact on small business. To the contrary, health care facilities in underserved communities may also be considered small business, so in effect regulations that provide for scholarship and loan repayment rendered to satisfy work obligations in underserved communities benefits these small businesses by reducing the burden of recruitment.

**Family impact**

*Please assess the 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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Overall this regulation will have a positive impact on the institution of the family and family stability. Placing medical practitioners in designated underserved communities will save disposable family income by reducing travel costs because travel distance to seek medical care is reduced. Individuals will seek care for their children, their parents, or themselves when needed, and therefore will miss less time from work. Families will have a greater opportunity to be part of a “medical home” within their own community, enhancing continuity of care as well as health outcomes.