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Notice of Intended Regulatory Action (NOIRA) Agency Background Document

Agency name	Department for Aging and Rehabilitative Services
Virginia Administrative Code (VAC) Chapter citation(s)	22 VAC 30-30
VAC Chapter title(s)	Provision of Independent Living Rehabilitation Services
Action title	Amend IL due to WIOA and Periodic Review
Date this document prepared	October 7, 2025

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), Executive Order 19 (2022) (EO 19), any instructions or procedures issued by the Office of Regulatory Management (ORM) or the Department of Planning and Budget (DPB) pursuant to EO 19, the Regulations for Filing and Publishing Agency Regulations (1 VAC 7-10), 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 the subject matter, intent, and goals of this regulatory change (i.e., new regulation, amendments to an existing regulation, or repeal of an existing regulation).

This action seeks to revise 22VAC30-30 (Provision of Independent Living Rehabilitation Services) in the Virginia Administrative Code (VAC). This chapter regulates the delivery of independent living (IL) services in the Commonwealth. These important services assist individuals with disabilities to live more independently and support their improved quality of life.

The goal of this regulatory action will be to update the chapter to include revisions as a result of public comments from the 2017 Periodic Review, updates related to changes in the relevant federal law and federal regulations, the removal of outdated federal regulatory content, and a reorganization of the chapter for a more logical, efficient, and clearer structure.

Acronyms and Definitions

Define all acronyms or technical definitions used in this form.

ACL = Administration for Community Living
 DARS = Virginia Department for Aging and Rehabilitative Services
 CFR = Code of Federal Regulations
 CIL = Center for Independent Living
 ED = U.S. Department of Education
 HHS = U.S. Department of Health and Human Services
 IL = Independent Living
 RSA = Rehabilitation Services Agency
 SGF = State General Funds
 SILC – Statewide Independent Living Council
 USC = United States Code
 VAC = Virginia Administrative Code
 VACIL = Virginia Association of Centers for Independent Living
 WIOA = Workforce Innovation and Opportunity Act of 2014

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, petition for rulemaking, periodic review, or board decision). For purposes of executive branch review, “mandate” has the same meaning as defined in the ORM procedures, “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.”

In 2017, DARS conducted a Periodic Review (#1573) of the chapter. During that Periodic Review, the Virginia Association of Centers for Independent Living (VACIL) submitted comments to the agency on suggested changes.

As a result of the Periodic Review, the agency determined that the chapter should be amended, and a Notice of Intended Regulatory Action (NOIRA) was subsequently issued.

In 2018, the agency withdrew the [NOIRA stage](#) as it awaited the delayed release of anticipated federal guidance on the delivery of IL services with federal funding. While that federal guidance has not been issued, the agency has concluded that it should move forward with updating state regulations as it pertains to the delivery of IL services with state general funds (SGF).

Legal Basis

Identify (1) the promulgating agency, and (2) the state and/or federal legal authority for the regulatory change, including the most relevant citations to the Code of Virginia and Acts of Assembly chapter number(s), if applicable. Your citation must include a specific provision, if any, authorizing the promulgating agency to regulate this specific subject or program, as well as a reference to the agency’s overall regulatory authority.

Generally, section 51.5-131 of the Code of Virginia authorizes the Commissioner of DARS to promulgate regulations necessary to carry out the provisions of the laws of the Commonwealth of Virginia.

More specifically, section 51.5-161 of the Code of Virginia directs DARS to “make grants or enter into contracts, in accordance with rules and regulations of the Commissioner,” with centers for independent living (CILs). Section 51.5-162 states that “independent living services provided pursuant to this article

shall be provided in accordance with the federal Rehabilitation Act of 1973 (29 U.S.C. § 701 et seq.), as amended.” Lastly, in alignment with the federal structure of IL services, § 51.5-163 identifies the core IL services that are to be provided by Virginia CILs and the desired management structure for Virginia CILs.

The federal Rehabilitation Act of 1973 (29 U.S.C. § 701 et seq.) provides the authority for federal funding for IL services. The Rehabilitation Act of 1973 was last amended through the adoption of the Workforce Innovation and Opportunity Act (WIOA, Public Law. 113–128) of 2014. Through WIOA, the federal oversight and administration of federal funding for IL services was shifted from the U.S. Department of Education (ED) Rehabilitation Services Administration (RSA) to the U.S. Department of Health and Human Services (HHS) Administration for Community Living (ACL). Following the passage of WIOA, regulatory oversight of federally-funded IL services was updated and shifted from 34 CFR Parts 364, 365, and 366 to [45 CFR Part 1329](#). Subpart B delineates the requirements for federal funding that is provided to the Statewide Independent Living Council (SILC), which in turn allocates the federal funding to support IL services in Virginia, and Subpart C delineates the requirements for federal funding that is provided directly to certain Virginia-based CILs by ACL.

Over the years, the Virginia General Assembly has also appropriated SGF to supplement federal funding and support IL services provided by Virginia CILs (see 2025 Appropriation Act [Item 314 K](#)). This regulatory chapter (22VAC30-30) governs the delivery of IL services with SGF. The regulatory chapter was last amended in 2012 to update the state agency name (changed from “Department of Rehabilitative Services” to “Department for Aging and Rehabilitative Services). Prior to that, the last substantial amendments made to the chapter were completed in 2004 to align state regulations with the federal regulations that were in place at the time.

Purpose

Describe the specific reasons why the agency has determined that this regulation is essential to protect the health, safety, or welfare of citizens. In addition, explain any potential issues that may need to be addressed as the regulation is developed.

The regulatory chapter protects the health, safety and welfare of Virginia citizens because it ensures the effective and efficient use of SGF in the delivery of IL services for individuals with disabilities.

Among the issues that need to be addressed as the regulatory chapter is updated are:

- inconsistencies between state regulations and federal law and regulations that do not support effective or efficient IL service delivery,
- the lingering inclusion of outdated federal law and regulatory provisions that do not apply, and
- the need to account for current service delivery and operational practices that are used by DARS and CILs.

Substance

Briefly identify and explain the new substantive provisions that are being considered, the substantive changes to existing sections that are being considered, or both.

DARS seeks to repeal 22VAC30-30 and replace it with a new chapter, 22VAC30-31.

The action will seek general alignment between the to-be-updated state regulations and recently updated federal law (i.e., WIOA) and federal regulations (45 CFR Part 1329) as stipulated in § 51.5-162 of the Code of Virginia, thus allowing for maximum efficiency and delivery of IL services by Virginia CILs that receive both federal funding and SGF.

In addition, the chapter will be rewritten and reorganized to present a more logical, efficient, and clearer structure while also removing outdated federal regulatory provisions that do not apply (e.g., provisions previously found at 34 CFR Parts 364, 365, and 366).

Lastly, the chapter will be updated to reflect current service delivery and operational practices used by DARS and CILs.

Alternatives to Regulation

Describe any viable alternatives to the regulatory change that were considered, and the rationale used by the agency to select the least burdensome or intrusive alternative that meets the essential purpose of the regulatory change. Also, include discussion of less intrusive or less costly alternatives for small businesses, as defined in § 2.2-4007.1 of the Code of Virginia, of achieving the purpose of the regulatory change.

There are no alternatives to this action that would: (i) allow for the general alignment between state regulations and federal laws and regulations, (ii) eliminate regulatory provisions that are not applicable, and (iii) update the chapter to reflect current service delivery and operational practices used by DARS and CILs.

Virginia CILs would be considered small businesses and nonprofit organizations. In seeking to update state regulations for IL services, the agency will consult with CILs and VACIL to ensure proposed regulatory provisions are least intrusive and least costly to them while also adhering to the agency’s role in the oversight of IL services funded with SGF.

Periodic Review and Small Business Impact Review Announcement

If you wish to use this regulatory action to conduct, and this NOIRA to announce, a periodic review (pursuant to § 2.2-4017 of the Code of Virginia and the ORM procedures), and a small business impact review (§ 2.2-4007.1 of the Code of Virginia) of this regulation, keep the following text. Modify it as necessary for your agency. Otherwise, delete the paragraph below and insert “This NOIRA is not being used to announce a periodic review or a small business impact review.”

This NOIRA is not being used to announce a periodic review or a small business impact review.

Public Participation

Indicate how the public should contact the agency to submit comments on this regulation, and whether a public hearing will be held, by completing the text below. In addition, as required by § 2.2-4007.02 of the Code of Virginia, describe any other means that will be used to identify and notify interested parties and seek their input, such as regulatory advisory panels or general notices.

The Virginia Department for Aging and Rehabilitative Services is providing an opportunity for comments on this regulatory proposal, including but not limited to (i) the costs and benefits of the regulatory proposal, (ii) any alternative approaches, and (iii) the potential impacts of the regulation.

Anyone wishing to submit written comments for the public comment file may do so through the Public Comment Forums feature of the Virginia Regulatory Town Hall web site at: <https://townhall.virginia.gov>. Comments may also be submitted by mail, email or fax to Charlotte Arbogast, Senior Policy Analyst/Regulatory Coordinator, Virginia Department for Aging and Rehabilitative Services, 8004 Franklin Farms Drive, Henrico, VA 23228, Phone: 804-662-7093, Fax: 804-662-7663, Email: charlotte.arbogast@dars.virginia.gov. In order to be considered, comments must be received by 11:59 pm on the last day of the public comment period.

A public hearing will not be held following the publication of the proposed stage of this regulatory action.

A regulatory action panel (RAP) will be assembled to provide professional specialization and technical assistance on the development of the regulations. RAP membership will include individuals who have expertise in providing IL services or advocating for individuals with disabilities. Members will assist the Department in careful consideration of proposed regulation content. If you are interested in serving on the RAP, please contact Charlotte Arbogast. The Department will appoint RAP members.