



Virginia  
Regulatory  
Town Hall

## Notice of Intended Regulatory Action Agency Background Document

<b>Agency Name:</b>	State Board of Social Services
<b>VAC Chapter Number:</b>	22 VAC 40-770
<b>Regulation Title:</b>	Standards and Regulations for Agency Approved Providers
<b>Action Title:</b>	Conform to Federal and State Law
<b>Date:</b>	October 16, 2002

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.*

The regulation establishes standards used by local departments of social services to approve and regulate service providers including home-based service providers; foster parents; family and in-home day care providers; adult foster care providers; adult day care providers; and adoptive parents. Previous federal and state regulatory actions have necessitated the need for amendments to this regulation. Amending the regulation would ensure that Virginia complies with applicable federal and state laws.

### 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.*

The *Code of Virginia*, §§ 63.2-217 and 63.2-900, are the sources of legal authority to promulgate the regulation. The regulation does not exceed the scope of the mandate.

## 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.*

The regulation is being amended to comply with previously promulgated regulations and changes in federal law. Proposed amendments would eliminate language relating to “reason-to-suspect” cases in Child Protective Services (CPS) and redefine the CPS central registry. Amendments are also necessary to align the section on criminal records checks with the federal Adoption and Safe Families Act, and to clarify that the regulation does not apply to adoptive parents after the final order of adoption is entered. Amendments will bring the regulation into compliance with State Fire Marshall requirements and Department of Health tuberculosis screening policy. Amendments will also clarify that the final decision to approve or not approve an adoptive parent applicant is based not on one factor, but on the totality of the applicant’s qualifications.

The regulation maintains uniform minimum standards for providers of care in order to protect the health, safety, and welfare of the children and adults who receive the services. The proposed amendments make the regulation consistent with current state and federal requirements and provides for practices that further the health and safety of children and adults.

## 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.*

An alternative would be to allow each local department of social services (local departments) to develop its own provider standards. However, providing a uniform set of minimum standards for all local departments reduces the risk of harm to clients and offers families assurance that providers and their homes meet reasonable qualifications.