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Notice of Intended Regulatory Action (NOIRA) Agency Background Document

Agency name	Board for Contractors
Virginia Administrative Code (VAC) citation(s)	18 VAC 50-22
Regulation title(s)	Board for Contractors Regulations
Action title	Amendments to Improve Application Integrity
Date this document prepared	December 30, 2014

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), Executive Orders 17 (2014) and 58 (1999), and the *Virginia Register Form, Style, and Procedure Manual*.

Subject matter and intent

The Board for Contractors seeks to amend the application requirements for licensure to improve the integrity of documentation received from applicants seeking licensure.

Legal basis

Section 54.1-1102 of the Code of Virginia provides the authority for the Board to promulgate regulations for the licensure of contractors in the Commonwealth. The content of the regulations is pursuant to the Board's discretion, but shall not be in conflict with the purposes of the statutory authority.

Purpose

During the past eighteen months, several instances involving the submission of false documentation, forged verification forms, and questionable identity have been brought to the attention of the Board for Contractors. The majority of these instances have resulted in disciplinary action being taken against the licensee, usually in the form of the revocation of the license and a monetary sanction. To date nearly 100 such cases have been adjudicated by the Board or are scheduled to be heard by the Board, and there are more than 100 currently in the investigative stages.

A review of these cases has found that the Board's current documentation requirements are insufficient to ensure that the information being provided by the applicant is valid. This includes, but is not limited to, verification of identification, experience documentation, determination of fiscal responsibility, and verification of employment status. The application process has been modified somewhat, in those areas that do not require an amendment of the regulations, but the Board has identified other requirements that should be implemented to reduce the instances of application fraud.

The Board is tasked with ensuring that contractors meet minimum competency standards as well as minimum financial standards to ensure that the public is protected from unqualified or incompetent contractors as well as to ensure that contractors have the fiscal health to enter into contracts that can be for hundreds of thousands of dollars. In order to ensure that these minimum standards are met it is critical that the documentation reviewed by the Board to determine license eligibility is accurate and trustworthy.

Substance

Section 18 VAC 50-22-10 – General Definitions: The Board will add definitions as required to clarify any amendments to the eligibility criteria or documentation requirements.

Sections 18 VAC 50-22-40, 50-22-50, and 50-22-60: The Board will amend these sections to include submission of identification, experience verification, verification of licensure from other localities, verification of fiscal standing (as applicable), and other documentation as deemed necessary by the Board to meet the statutory and regulatory requirements. Language will be added to clarify actions that can be taken by the Board in the event that an applicant for licensure violates the rules established with regard to conduct at the examination site or in the registration process for examinations.

Sections 18 VAC 50-22-120, 50-22-130, and 50-22-150: The Board will consider amending these sections to include documentation that must be submitted in order to ensure that a licensee meets the eligibility requirements to renew its license.

Sections 18 VAC 50-22-160 and 50-22-190: The Board will consider amending these sections to include documentation that must be submitted in order to ensure that a licensee meets the eligibility requirements to reinstate its license.

Sections 18 VAC 50-22-260: The Board will consider amending the prohibited acts to include violations that involve examination site conduct, submission or use of another's identity, and to amend existing prohibited acts to include the creation, submission, or attempted use of false, forged, or otherwise inaccurate documents.

Other sections may be amended, as required, to ensure the integrity of information, as determined by Board discussion or public comment.

Alternatives

No viable alternatives have been identified at this time.

Public participation

The agency is seeking comments on this regulatory action, including but not limited to: ideas to be considered in the development of this proposal, the costs and benefits of the alternatives stated in this background document or other alternatives and the potential impacts of the regulation.

The agency is also seeking information on impacts on small businesses as defined in § 2.2-4007.1 of the Code of Virginia. Information may include: projected reporting, recordkeeping and other administrative costs; the probable effect of the regulation on affected small businesses; and the description of less intrusive or costly alternatives for achieving the purpose of the regulation.

Anyone wishing to submit comments may do so via the Regulatory Town Hall website (<http://www.townhall.virginia.gov>), or by mail, email, or fax to Eric Olson, c/o Department of Professional and Occupational Regulation, 9960 Mayland Drive, Suite 400, Richmond, Virginia 23233; email: contractor@dpor.virginia.gov; fax (866) 430-1033. Written comments must include the name and address of the commenter. In order to be considered, comments must be received by midnight on the last day of the public comment period.

A public hearing will be held following the publication of the proposed stage of this regulatory action and notice of the hearing will be posted on the Virginia Regulatory Town Hall website (<http://www.townhall.virginia.gov>) and on the Commonwealth Calendar website (<https://www.virginia.gov/connect/commonwealth-calendar>). Both oral and written comments may be submitted at that time.

The agency is using the participatory approach in the development of the proposal. Pursuant to the Public Participation Guidelines, 18 VAC 50-11-10 *et seq.*, a panel will not be used.