



Virginia
Regulatory
Town Hall

Emergency Regulation Agency Background Document

Agency Name:	Board of Medicine, Department of Health Professions
VAC Chapter Number:	18 VAC 85-20-10 et seq.
Regulation Title:	Regulations Governing the Practice of Medicine, Osteopathy, Podiatry and Chiropractic
Action Title:	Education and training for doctors who practice acupuncture
Date:	6/15/00

Section 9-6.14:4.1(C)(5) of the Administrative Process Act allows for the adoption of emergency regulations. Please refer to the APA, Executive Order Twenty-Four (98), and the *Virginia Register Form, Style and Procedure Manual* for more information and other materials required to be submitted in the emergency regulation submission package.

Emergency Preamble

Please provide a statement that the emergency regulation is necessary and provide detail of the nature of the emergency. Section 9-6.14:4.1(C)(5) of the Administrative Process Act states that an "emergency situation" means: (i) a situation involving an imminent threat to public health or safety; or (ii) a situation in which Virginia statutory law, the Virginia appropriation act, or federal law requires that a regulation shall be effective in 280 days or less from its enactment, or in which federal regulation requires a regulation to take effect no later than 280 days from its effective date. The statement should also identify that the regulation is not otherwise exempt under the provisions of § 9-6.14:4.1(C)(4).

Please include a brief summary of the emergency action. There is no need to state each provision or amendment.

Amendments to regulation are required in order to conform to an enactment clause in Chapter 814 of the 2000 Acts of the Assembly requiring the Board to promulgate regulations within 280 days of enactment for the education and training of doctors who utilize acupuncture.

Basis

Please identify the state and/or federal source of legal authority to promulgate the emergency regulation. The discussion of this emergency statutory authority should: 1) describe its scope; and 2) include a brief statement relating the content of the statutory authority to the specific regulation. Full citations of legal authority and web site addresses, if available for locating the text of the cited authority, should be provided.

Please provide a statement that the Office of the Attorney General has certified that the agency has the statutory authority to promulgate the emergency regulation and that it comports with applicable state and/or federal law.

The legal authority to promulgate the emergency regulation is in second enactment clause of Chapter 814 of the 2000 Acts of the Assembly, which states: "That the Board of Medicine, in consultation with the Advisory Board on Acupuncture, shall promulgate regulations, including education and training requirements for doctors of medicine, osteopathy, chiropractic and podiatry who utilize acupuncture, and including the requirement for a standard form recommending a diagnostic examination for provision to the patient by the acupuncturist, to implement the provisions of this act within 280 days of enactment."

The Office of the Attorney General has certified that the "emergency situation" which exists is specified in § 9-6.14:4.1 (C)(5)(ii) of the Code of Virginia as one in which the agency is required by statutory law to have a regulation in effect within 280 days from the enactment of the law.

Substance

Please detail any changes, other than strictly editorial changes, that would be implemented. Please outline new substantive provisions, all substantive changes to existing sections, or both where appropriate. Please provide a cross-walk which includes citations to the specific sections of an existing regulation being amended and explain the consequences of the proposed changes. 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 Virginians. The statement should also delineate any potential issues that may need to be addressed as a permanent final regulation is developed.

Section 70 is being amended to comply with a statutory mandate for the Board to provide regulations for the education and training required of a doctor of medicine, osteopathy, podiatry or chiropractic in order to be authorized to use acupuncture as a modality of treatment. Current regulations require 200 hours of instruction in order to become licensed as a "physician acupuncturist." Chapter 814 eliminated the separate license for physicians who practice acupuncture but mandated that the Board establish qualifications necessary to practice with minimal competency. The requirement of 200 hours with 50 of those hours being clinical instruction under supervision by a person legally authorized to practice acupuncture is the least burdensome requirement considered which would continue to protect the public health and safety in seeking acupuncture treatment.

The issue involved in the development of this regulation centered on the amount and type of training that was necessary. Doctors of medicine, osteopathy, podiatry and chiropractic receive years of didactic education in subjects such as anatomy, but their training typically does not prepare them to perform acupuncture. For that reason, training in acupuncture treatment and technique has been post-graduate and post-licensure for most practitioners. Courses have been developed by individuals and health education systems to prepare physicians and equip them with the skills and necessary hours of training.

In an effort to standardize that training or to determine comparability and quality, the Board sought curriculum information from all providers of acupuncture education for physicians of which it was aware. Only a few responded with course outlines or other information. It appears that there is no national standard, no national credentialing, and no accreditation of programs for physician acupuncturists. Therefore, the Board elected to retain the hours-requirement but did not add a requirement for any accreditation or board approval of programs.

In the opinion of the Advisory Committee on Acupuncture, it is essential for physicians to receive supervised clinical training in the technique of acupuncture administration. While physicians have experience through their medical training with injections, appropriate and efficacious administration of acupuncture needles requires different knowledge and skills.

The Committee debated the necessary hours of training and compromised on 50 hours of supervised clinical experience in addition to the 200 hours of instruction. When the issue was considered by the full Board of Medicine, the 50 hours was included in the 200 hours as sufficient for public protection and minimal competency.

Alternatives

Please describe the specific alternatives that were considered and the rationale used by the agency to select the least burdensome or intrusive method to meet the essential purpose of the action.

There were no alternatives to adoption of a regulation as it was mandated by Chapter 814 of the 2000 Acts of the Assembly. The two issues considered in the development of regulations were: the quality and content of instruction and the amount of instruction necessary to adequately prepare a licensed physician to practice acupuncture. (See discussion above.)

In the opinion of the Board, acupuncture treatment is not unlike other new knowledge and skills acquired during the course of their practice. While there is no accreditation of acupuncture programs for physicians, their basic medical knowledge enables them to determine the adequacy of their training. Programs designed to provide such training are typically 200 hours in length, which is considered sufficient for minimal preparation to practice.

Family Impact Statement

Please provide a preliminary analysis of the potential impact of the emergency action on the institution of the family and family stability including to what extent the 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.

The Board has determined that there is no impact on the family or family stability as a result of amendments to regulations.