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Exempt Action Final Regulation Agency Background Document

Agency name	Virginia Department of Health
Virginia Administrative Code (VAC) citation(s)	12VAC5-391-190
Regulation title(s)	Regulations for the Licensure of Hospice
Action title	Amend regulations to conform to Chapter95 of 2018
Final agency action date	9/24/2018
Date this document prepared	9/13/2018

While a regulatory action may be exempt from executive branch review pursuant to § 2.2-4002 or § 2.2-4006 of the *Code of Virginia*, the agency is still encouraged to provide information to the public on the Regulatory Town Hall using this form. However, the agency may still be required to comply with the Virginia Register Act, Executive Order 14 (as amended, July 16, 2018), the Regulations for Filing and Publishing Agency Regulations (1 VAC7-10), and the *Virginia Register Form, Style, and Procedure Manual for Publication of Virginia Regulations*.

Brief Summary

Please provide a brief summary (preferably no more than 2 or 3 paragraphs) of this regulatory change (i.e., new regulation, amendments to an existing regulation, or repeal of an existing regulation). Alert the reader to all substantive matters. If applicable, generally describe the existing regulation.

House Bill 501 enacted by the 2018 General Assembly, and approved by the Governor on March 2, 2018, amends and reenacts Va. Code §§ 32.1-162.5:1 and 54.1-3411.2. HB 501 requires the Board of Health to include in the Regulations for the Licensure of Hospice that hospice programs establish policies and procedures for the disposal of drugs dispensed as part of the hospice plan of care, which shall include requirements that such disposal be (i) performed in a manner that complies with all state and federal requirements for the safe disposal of drugs by a licensed nurse, physician assistant, or physician who is employed by or has entered into a contract with the hospice program; (ii) witnessed by a member of the patient's family or a second employee of the hospice program who is licensed by a health regulatory board within the Department of Health Professions; and (iii) documented in the patient's medical record.

The Virginia Board of Health is utilizing this exempt action to amend the Regulations for the Licensure of Hospice (12VAC5-391 et seq.) to reflect this new requirement.

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.

The Commissioner approved this Final Action regarding the Regulations for the Licensure of Hospice, on behalf of the State Board of Health while the board was not in session on September 24, 2018.

Periodic Review Small Business Impact Review Report of Findings

If you are using this form to report the result of a periodic review/small business impact review that is being conducted as part of this regulatory action, and was announced during the proposed stage, please indicate whether the regulatory change meets the criteria set out in Executive Order 14 (as amended, July 16, 2018), e.g., is necessary for the protection of public health, safety, and welfare; minimizes the economic impact on small businesses consistent with the stated objectives of applicable law; and is clearly written and easily understandable.

In addition, as required by § 2.2-4007.1 E and F of the Code of Virginia, include a discussion of the agency's consideration of: (1) the continued need for the regulation; (2) the nature of complaints or comments received concerning the regulation from the public; (3) the complexity of the regulation; (4) the extent to which the regulation overlaps, duplicates, or conflicts with federal or state law or regulation; and (5) the length of time since the regulation has been evaluated or the degree to which technology, economic conditions, or other factors have changed in the area affected by the regulation.

A Periodic Review was not performed. This is a legislative mandate.