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## Exempt Action: Final Regulation Agency Background Document

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| <b>Agency name</b>  | State Board of Health  |
| <b>Virginia Administrative Code (VAC) Chapter citation(s)</b> | 12VAC5-410-10 <i>et seq.</i>   |
| <b>VAC Chapter title(s)</b>                                   | Regulations for the Licensure of Hospitals in Virginia                           |
| <b>Action title</b>   | Amend Regulation to Conform to Chapters 714 and 942 of the 2020 Acts of Assembly |
| <b>Final agency action date</b>                               | May 23, 2020   |
| <b>Date this document prepared</b>                            | April 16, 2020   |

Although 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 (1VAC7-10), 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 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.*

Chapter 714 of the 2020 Acts of Assembly amends Va. Code § 32.1-127(B), requiring the State Board of Health to promulgate regulations that “establish protocols to ensure that any patient scheduled to receive an elective surgical procedure for which the patient can reasonably be expected to require outpatient physical therapy as a follow-up treatment after discharge is informed that he (i) is expected to require outpatient physical therapy as a follow-up treatment and (ii) will be required to select a physical therapy provider prior to being discharged from the hospital.”

Chapter 942 of the 2020 Acts of Assembly amends Va. Code § 32.1-127(B), requiring the State Board of Health to promulgate regulations that “require each hospital with an emergency department to establish a protocol for treatment of individuals experiencing a substance use-related emergency to include the completion of appropriate assessments or screenings to identify medical interventions necessary for the treatment of the individual in the emergency department. The protocol may also include a process for

patients that are discharged directly from the emergency department for the recommendation of follow-up care following discharge for any identified substance use disorder, depression, or mental health disorder, as appropriate, which may include instructions for distribution of naloxone, referrals to peer recovery specialists and community-based providers of behavioral health services, or referrals for pharmacotherapy for treatment of drug or alcohol dependence or mental health diagnoses.”

This exempt action is being utilized to conform 12VAC5-410-10 *et seq.* to the Code of Virginia.

### **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, internal staff review, petition for rulemaking, periodic review, or board decision). “Mandate” is defined as “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.”*

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The mandate for these changes is found in Chapters 714 and 942 of the 2020 Acts of Assembly.

### **Statement of Final Agency Action**

*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.*

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The State Health Commissioner approved this Final Action regarding the Regulations for the Licensure of Hospitals in Virginia, on behalf of the State Board of Health while the board was not in session on May 23, 2020.