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Notice of Intended Regulatory Action (NOIRA) Agency Background Document

Agency name	Prescription Monitoring Program, Department of Health Professions
Virginia Administrative Code (VAC) Chapter citation(s)	18VAC76-20
VAC Chapter title(s)	Regulations Governing the Prescription Monitoring Program
Action title	2023 periodic review amendments to PMP regulations
Date this document prepared	11/29/2023

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), Executive Order 19 (2022) (EO 19), any instructions or procedures issued by the Office of Regulatory Management (ORM) or the Department of Planning and Budget (DPB) pursuant to EO 19, the Regulations for Filing and Publishing Agency Regulations (1 VAC 7-10), 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 the subject matter, intent, and goals of this regulatory change (i.e., new regulation, amendments to an existing regulation, or repeal of an existing regulation).

Following a periodic review, the agency amends regulations governing the Prescription Monitoring Program ("PMP") that update when information is submitted to the PMP, update required submission of information to reflect current practice, and make stylistic changes for clarity.

Acronyms and Definitions

Define all acronyms or technical definitions used in this form.

PMP – Prescription Monitoring Program

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, petition for rulemaking, periodic review, or board decision). For purposes of executive branch review, "mandate" has the same meaning as defined in the ORM procedures, "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the General Assembly, the federal government, or a court that requires that a regulation be promulgated, amended, or repealed in whole or part."

The impetus for this action is the periodic review of 18VAC76-20, initiated October 17th 2023, during which the agency determined the need to amend the regulations.

Legal Basis

Identify (1) the promulgating agency, and (2) the state and/or federal legal authority for the regulatory change, including the most relevant citations to the Code of Virginia and Acts of Assembly chapter number(s), if applicable. Your citation must include a specific provision, if any, authorizing the promulgating agency to regulate this specific subject or program, as well as a reference to the agency's overall regulatory authority.

Statutory authority for the Director of the Department of Health Professions to promulgate regulations for the prescription monitoring program is found under § 54.1-2520. Additionally regulatory authority is found under §54.1-2521 and 54.1-2505.

Purpose

Describe the specific reasons why the agency has determined that this regulation is essential to protect the health, safety, or welfare of citizens. In addition, explain any potential issues that may need to be addressed as the regulation is developed.

The purpose of this action is to update regulations contained within the chapter to better reflect current practice and ensure all information is included, which will better help regulate prescriptions and protect the public.

Substance

Briefly identify and explain the new substantive provisions that are being considered, the substantive changes to existing sections that are being considered, or both.

The changes being considered include the following:

- Elimination of attestation requirements where said attestations do not exist
- Elimination of unnecessary requirements
- Updates to what controlled substances are included
- Updates to reporting format requirements
- Stylistic changes to wording

Alternatives to Regulation

Describe any viable alternatives to the regulatory change that were considered, and the rationale used by the agency to select the least burdensome or intrusive alternative that meets the essential purpose of the regulatory change. Also, include discussion of less intrusive or less costly alternatives for small businesses, as defined in § 2.2-4007.1 of the Code of Virginia, of achieving the purpose of the regulatory change.

There is no alternative to regulation. To alter existing regulations, the Department must file a regulatory action.

Periodic Review and Small Business Impact Review Announcement

This NOIRA is not being used to announce a periodic review or a small business impact review.

Public Participation

Indicate how the public should contact the agency to submit comments on this regulation, and whether a public hearing will be held, by completing the text below. In addition, as required by § 2.2-4007.02 of the Code of Virginia, describe any other means that will be used to identify and notify interested parties and seek their input, such as regulatory advisory panels or general notices.

The Prescription Monitoring Program is providing an opportunity for comments on this regulatory proposal, including but not limited to (i) the costs and benefits of the regulatory proposal, (ii) any alternative approaches, and (iii) the potential impacts of the regulation.

Anyone wishing to submit written comments for the public comment file may do so through the Public Comment Forums feature of the Virginia Regulatory Town Hall web site at: <https://townhall.virginia.gov>. Comments may also be submitted by mail, email or fax to Erin Barrett, Agency Regulatory Coordinator, 9960 Mayland Drive, Henrico, VA 23233 or erin.barrett@dhp.virginia.gov or by fax to (804) 915-0382. In order to be considered, comments must be received by 11:59 pm on the last day of the public comment period.

A public hearing will be held following the publication of the proposed stage, and notice of the hearing will be posted on the Virginia Regulatory Town Hall website (<https://townhall.virginia.gov>) and on the Commonwealth Calendar website (<https://commonwealthcalendar.virginia.gov/>). Both oral and written comments may be submitted at that time.