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Fast-Track Regulation
Agency Background Document

Agency name	Department of Medical Assistance Services
Virginia Administrative Code (VAC) Chapter citation(s)	12VAC30-20-110, 12VAC30-20-272, 12VAC30-20-274, 12VAC30-20-275, 12VAC30-20-277, 12VAC30-20-278
VAC Chapter title(s)	Nursing facility resident drug utilization review; Survey and certification education program; Process for the investigation of allegations of resident neglect and abuse and misappropriation of resident property; Procedures for scheduling and conduct of standards surveys; Programs to measure and reduce inconsistency; Process for investigations of complaints and monitoring.
Action title	Repeal of Nursing Facility-Specific Drug Utilization Review and Updates to Nursing Facility Survey and Certification
Date this document prepared	May 6, 2026

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 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.

This regulatory action repeals nursing facility (NF)-specific drug utilization review (DUR) language from the Virginia Administrative Code. This text is obsolete and the requirement for this text was repealed by the Centers for Medicare and Medicaid (CMS) in 1994. In accordance with 42 CFR 456.703(b), the Department of Medical Assistance Services (DMAS) has a DUR Board that monitors nursing facilities' drug regimen review procedures.

This regulatory action will also amend the nursing facility state survey text to reflect that the Division of Licensure and Certification within the Virginia Department of Health has changed its name to the Office of Licensure and Certification (OLC). In addition, the changes reflect that the OLC no longer contracts with the State Fire Marshall's Office.

The changes in this regulatory package were already made in the state plan in SPA 25-020, which was approved by CMS on January 26, 2026.

Acronyms and Definitions

Define all acronyms used in this form, and any technical terms that are not also defined in the "Definitions" section of the regulation.

DMAS = Department of Medical Assistance Services
CMS = Centers for Medicare and Medicaid
NF = Nursing Facility
OLC = Office of Licensure and Certification
DUR = Drug Utilization Review
VAC = Virginia Administrative Code

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) that the agency has "adopted final amendments" to the regulation; 3) the name of the agency taking the action; and 4) the title of the regulation. A suggested statement is, "On [insert date] the Board/Department of [insert name] adopted final amendments to the [title of regulation(s)]."

On May 6, 2026, the Department of Medical Assistance Services adopted final amendments to the "Repeal of Nursing Facility-Specific Drug Utilization Review and Updates to Nursing Facility Survey and Certification" regulation.

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."

Consistent with Virginia Code § 2.2-4012.1, also explain why this rulemaking is expected to be noncontroversial and therefore appropriate for the fast-track rulemaking process.

The Code of Virginia § 32.1-325, grants to the Board of Medical Assistance Services the authority to administer and amend the Plan for Medical Assistance and to promulgate regulations. The Code of Virginia § 32.1-324, grants the Director of the Department of Medical Assistance Services the authority of the Board when it is not in session.

This rulemaking is expected to be non-controversial and appropriate for the fast-track rulemaking process because it removes outdated sections from the VAC that were repealed by CMS in 1994.

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.

The Code of Virginia § 32.1-325, grants to the Board of Medical Assistance Services the authority to administer and amend the Plan for Medical Assistance and to promulgate regulations. The Code of Virginia § 32.1-324, grants the Director of the Department of Medical Assistance Services the authority of the Board when it is not in session.

Purpose

Explain the need for the regulatory change, including a description of: (1) the rationale or justification, (2) the specific reasons the regulatory change is essential to protect the health, safety or welfare of citizens, and (3) the goals of the regulatory change and the problems it is intended to solve.

This regulatory action is being promulgated to repeal obsolete, out-of-date, and unnecessary regulations with the goal of aligning DMAS' current practices and regulations with the State Plan and Federal law.

This regulatory change protects the health, safety, and welfare of Medicaid recipients by ensuring that DMAS regulations and DMAS practices are aligned while maintaining nursing facility patients' quality of care.

Substance

Briefly identify and explain the new substantive provisions, the substantive changes to existing sections, or both. A more detailed discussion is provided in the "Detail of Changes" section below.

This regulatory action removes obsolete language related to the NF DUR program. This regulatory action will also amend sections to reflect that the Division of Licensure and Certification is now referred to as the Office of Licensure and Certification (OLC).

Issues

Identify the issues associated with the regulatory change, including: 1) the primary advantages and disadvantages to the public, such as individual private citizens or businesses, of implementing the new or amended provisions; 2) the primary advantages and disadvantages to the agency or the Commonwealth; and 3) other pertinent matters of interest to the regulated community, government officials, and the public. If there are no disadvantages to the public or the Commonwealth, include a specific statement to that effect.

These changes create no disadvantages to the public, the Agency, the Commonwealth, or the regulated community.

The primary advantages of this action, to both the public and the Agency, are the removal of outdated, unnecessary regulations from the Virginia Administrative Code, and that these changes align DMAS regulations with the state plan.

Requirements More Restrictive than Federal

Identify and describe any requirement of the regulatory change which is more restrictive than applicable federal requirements. Include a specific citation for each applicable federal requirement, and a rationale for the need for the more restrictive requirements. If there are no applicable federal requirements, or no requirements that exceed applicable federal requirements, include a specific statement to that effect.

There are no requirements in this regulation that are more restrictive than applicable federal requirements.

Agencies, Localities, and Other Entities Particularly Affected

Consistent with § 2.2-4007.04 of the Code of Virginia, identify any other state agencies, localities, or other entities particularly affected by the regulatory change. Other entities could include local partners such as tribal governments, school boards, community services boards, and similar regional organizations. "Particularly affected" are those that are likely to bear any identified disproportionate material impact which would not be experienced by other agencies, localities, or entities. "Locality" can refer to either local governments or the locations in the Commonwealth where the activities relevant to the regulation or regulatory change are most likely to occur. If no agency, locality, or entity is particularly affected, include a specific statement to that effect.

No state agencies, localities or other entities are particularly affected by this change.

Economic Impact

Consistent with § 2.2-4007.04 of the Code of Virginia, identify all specific economic impacts (costs and/or benefits), anticipated to result from the regulatory change. When describing a particular economic impact, specify which new requirement or change in requirement creates the anticipated economic impact. Keep in mind that this is the proposed change versus the status quo.

Impact on State Agencies

For your agency: projected costs, savings, fees or revenues resulting from the regulatory change, including: a) fund source / fund detail; b) delineation of one-time versus on-going expenditures; and c) whether any costs or revenue loss can be absorbed within existing resources	There are no costs associated with these regulatory changes.
For other state agencies: projected costs, savings, fees or revenues resulting from the regulatory change, including a delineation of one-time versus on-going expenditures.	There are no costs to other state agencies.

For all agencies: Benefits the regulatory change is designed to produce.	The benefits of this action are outdated language will be repealed and updated, and the VAC will align with DMAS' current practices and the State Plan.

Impact on Localities

If this analysis has been reported on the ORM Economic Impact form, indicate the tables (1a or 2) on which it was reported. Information provided on that form need not be repeated here.

Projected costs, savings, fees or revenues resulting from the regulatory change.	There are no costs to localities as a result of these changes.
Benefits the regulatory change is designed to produce.	The benefits of this action are outdated language will be repealed and updated, and the VAC will align with DMAS' current practices and the State Plan.

Impact on Other Entities

If this analysis has been reported on the ORM Economic Impact form, indicate the tables (1a, 3, or 4) on which it was reported. Information provided on that form need not be repeated here.

Description of the individuals, businesses, or other entities likely to be affected by the regulatory change. If no other entities will be affected, include a specific statement to that effect.	There are no individuals, businesses or other entities likely to be affected by the regulatory change.
Agency's best estimate of the number of such entities that will be affected. Include an estimate of the number of small businesses affected. Small business means a business entity, including its affiliates, that: a) is independently owned and operated and; b) employs fewer than 500 full-time employees or has gross annual sales of less than $6 million.	None
All projected costs for affected individuals, businesses, or other entities resulting from the regulatory change. Be specific and include all costs including, but not limited to: a) projected reporting, recordkeeping, and other administrative costs required for compliance by small businesses; b) specify any costs related to the development of real estate for commercial or residential purposes that are a consequence of the regulatory change; c) fees; d) purchases of equipment or services; and e) time required to comply with the requirements.	None
Benefits the regulatory change is designed to produce.	The benefits of this action are outdated language will be repealed and updated, and the VAC will align with DMAS' current practices and the State Plan.

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.

No alternatives can achieve the purpose of this regulatory change.

Regulatory Flexibility Analysis

Consistent with § 2.2-4007.1 B of the Code of Virginia, describe the agency's analysis of alternative regulatory methods, consistent with health, safety, environmental, and economic welfare, that will accomplish the objectives of applicable law while minimizing the adverse impact on small business. Alternative regulatory methods include, at a minimum: 1) establishing less stringent compliance or reporting requirements; 2) establishing less stringent schedules or deadlines for compliance or reporting requirements; 3) consolidation or simplification of compliance or reporting requirements; 4) establishing performance standards for small businesses to replace design or operational standards required in the proposed regulation; and 5) the exemption of small businesses from all or any part of the requirements contained in the regulatory change.

No alternatives can achieve the objective of aligning DMAS regulations to the state plan. This regulatory action is not expected to affect or impact small businesses.

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.

Consistent with § 2.2-4011 of the Code of Virginia, if an objection to the use of the fast-track process is received within the 30-day public comment period from 10 or more persons, any member of the applicable standing committee of either house of the General Assembly or of the Joint Commission on Administrative Rules, the agency shall: 1) file notice of the objections with the Registrar of Regulations for publication in the Virginia Register and 2) proceed with the normal promulgation process with the initial publication of the fast-track regulation serving as the Notice of Intended Regulatory Action.

If you are objecting to the use of the fast-track process as the means of promulgating this regulation, please clearly indicate your objection in your comment. Please also indicate the nature of, and reason for, your objection to using this process.

DMAS is providing an opportunity for comments on this regulatory proposal, including but not limited to (i) the costs and benefits of the regulatory proposal and any alternative approaches, (ii) the potential impacts of the regulation, and (iii) the agency's regulatory flexibility analysis stated in this background document.

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 Syreeta Stewart, DMAS, 600 E. Broad Street,

Richmond, VA 23219, 804-839-7282, Syreeta.Stewart@dmas.virginia.gov. In order to be considered, comments must be received by 11:59 pm on the last day of the public comment period.

Detail of Changes

List all regulatory changes and the consequences of the changes. Explain the new requirements and what they mean rather than merely quoting the text of the regulation. For example, describe the intent of the language and the expected impact. Describe the difference between existing requirement(s) and/or agency practice(s) and what is being proposed in this regulatory change. Use all tables that apply, but delete inapplicable tables.

If an existing VAC Chapter(s) is being amended or repealed, use Table 1 to describe the changes between existing VAC Chapter(s) and the proposed regulation. If existing VAC Chapter(s) or sections are being repealed and replaced, ensure Table 1 clearly shows both the current number and the new number for each repealed section and the replacement section.

Table 1: Changes to Existing VAC Chapter(s)

Current chapter-section number	New chapter-section number, if applicable	Current requirements in VAC	Change, intent, rationale, and likely impact of new requirements
12VAC30-20-110		Includes definitions and requirements for NF-specific DUR.	Requirements for NF-specific DUR are repealed. Language is added reflecting that NF-DUR is not required.
12VAC30-20-272		Includes references to the Division of Licensure and Certification as “the state survey agency”	References to the Division of Licensure and Certification are replaced with the Office of Licensure and Certification.
12VAC30-20-274		Includes references to the Division of Licensure and Certification as “the state survey agency”.	References to the Division of Licensure and Certification are replaced with the Office of Licensure and Certification.
12VAC30-20-275		Includes references to the Division of Licensure and Certification as “the state survey agency”.	References to the Division of Licensure and Certification are replaced with the Office of Licensure and Certification.
12VAC30-20-277		Includes reference to the Division of Licensure and Certification as “the state survey agency”.	Reference to the Division of Licensure and Certification is replaced with the Office of Licensure and Certification.
12VAC30-20-278		Includes reference to the Virginia Department of Health, Office of Health Facilities Regulation.	Reference to the Virginia Department of Health, Office of Health Facilities Regulation is replaced with the Office of Licensure and Certification.