



Virginia  
Regulatory  
Town Hall

## Periodic Review and Notice of Intended Regulatory Action Agency Background Document

<b>Agency Name:</b>	State Board of Social Services
<b>VAC Chapter Number:</b>	22 VAC 40-740-10 et seq.
<b>Regulation Title:</b>	Adult Protective Services
<b>Action Title:</b>	Technical Amendments
<b>Date:</b>	December 18, 2002

This information is required pursuant to the Administrative Process Act § 9-6.14:25, Executive Order Twenty-Five (98), and Executive Order Fifty-Eight (99) which outline procedures for periodic review of regulations of agencies within the executive branch. Each existing regulation is to be reviewed at least once every three years and measured against the specific public health, safety, and welfare goals assigned by agencies during the promulgation process.

This form should be used where the agency is planning to amend or repeal an existing regulation and is required to be submitted to the Registrar of Regulations as a Notice of Intended Regulatory Action (NOIRA) pursuant to the Administrative Process Act § 9-6.14:7.1 (B).

### Summary

*Please provide a brief summary of the regulation. There is no need to state each provision; instead give a general description of the regulation and alert the reader to its subject matter and intent.*

This regulation establishes guidelines and expectations relative to (1) the receipt, investigation, and disposition of reports of adult abuse, neglect, and/or exploitation, and (2) the provision of protective services to adults found to need protection. The regulation describes authorized disclosure of confidential information from Adult Protective Services records.

### Basis

*Please identify the state and/or federal source of legal authority for the regulation. The discussion of this authority should include a description of its scope and the extent to which the authority is mandatory or*

*discretionary. Where applicable, explain where the regulation exceeds the minimum requirements of the state and/or federal mandate.*

Federal authority is found in Title XX of the Social Security Act, Section 2001, number (3). The State statute providing the mandate for this regulation is found in the *Code of Virginia* § 63.2-217 and § 63.2-1610.

### Public Comment

*Please summarize all public comment received as the result of the Notice of Periodic Review published in the Virginia Register and provide the agency response. Where applicable, describe critical issues or particular areas of concern in the regulation. Also please indicate if an informal advisory group was or will be formed for purposes of assisting in the periodic review or development of a proposal.*

Public comments were received as part of the mandated review. Public comment period was June 3, 2002 through June 23, 2002; notices were sent to interested parties. One comment was received.

The amendments to this regulation are technical in nature: removing words and phrases (“Committee” and “reason to suspect”) because of redundancy and/or to comply with *Code* changes, altering the name of “Department for Rights of the Disabled” to “Office of Protection and Advocacy” to comply with agency’s name change, and changing “Privacy Protection Act” to “Government Data Collection and Dissemination Practices Act” to comply with a previous change in the Act’s name. These changes will ensure that the regulation is clearly written and easily understood

### Effectiveness

*Please provide a description of the specific and measurable goals of the regulation. Detail the effectiveness of the regulation in achieving such goals and the specific reasons the agency has determined that the regulation is essential to protect the health, safety or welfare of citizens. In addition, please indicate whether the regulation is clearly written and easily understandable by the individuals and entities affected.*

The goal of this regulation is to set a base for statewide consistency and quality in implementing the Adult Protective Services program. The regulation is intended to facilitate timely intervention on behalf of vulnerable adults who are victims of abuse, neglect, or exploitation, and its effectiveness is assured through regional oversight and review and staff training. In FY 2002, more than 11,000 reports were received; 62 percent were investigated and substantiated. Making the recommended technical changes will help ensure that the regulation is clearly written and easily understood.

### Alternatives

*Please describe the specific alternatives for achieving the purpose of the existing regulation that have been considered as a part of the periodic review process. This description should include an explanation*

*of why such alternatives were rejected and this regulation reflects the least burdensome alternative available for achieving the purpose of the regulation.*

This regulation was developed with the assistance of representatives from local departments of social services. Nationally, and in Virginia, Adult Protective Services' philosophy is that the least restrictive and least intrusive intervention necessary to protect the adult and stabilize the situation is the most appropriate. This philosophy was a guide in the development of this regulation.

**Recommendation**

*Please state whether the agency is recommending the regulation be amended or terminated and the reasons such a recommendation is being made.*

Recommend that the regulation be amended, per comments received.

**Substance**

*Please detail any changes that would be implemented.*

In PART I DEFINITIONS:

Remove the word and definition of "Committee" to comply with changes in the *Code*.

In PART II POLICY: 22 VAC 40-740-40 Dispositions:

Remove the phrase "reason to suspect" because it is redundant. If there is "convincing evidence," then "reason to suspect" is not applicable. If there is no "convincing evidence," then the complaint is considered "unfounded."

22VAC 40-740-50 Disclosure of Adult Protective Services Information:

Change Department for Rights of the Disabled to Office of Protection and Advocacy to comply with agency's name change.

Change Privacy Protection Act §2.1-332 to Government Data Collection and Dissemination Practices Act, §2.2-3800 of the *Code of Virginia* to comply with the Act's name change.

22VAC40-740-60 Services Provided

Remove the phrase "reason to suspect" and move paragraph to 22 VAC 40-740-40 for better clarity and comprehension.