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## Periodic Review and Small Business Impact Review Report of Findings

<b>Agency name</b>	Board of Nursing, Department of Health Professions
<b>Virginia Administrative Code (VAC) Chapter citation(s)</b>	18VAC90-21
<b>VAC Chapter title(s)</b>	Medication Administration Training and Immunization Protocol
<b>Date this document prepared</b>	September 13, 2022

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*.

## Acronyms and Definitions

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

RMA = Registered Medication Aide

## 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 or 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.*

Regulations of the Board of Nursing are promulgated under the general authority of Chapter 24 of Title 54.1 of the Code of Virginia. Virginia Code § 54.1-2400(6) specifically states that the general powers and duties of health regulatory boards shall be "[t]o promulgate regulations in accordance with the Administrative

Process Act (§ 2.2-4000 et seq.) that are reasonable and necessary to administer effectively the regulatory system.”

Additionally, Virginia Code § 54.1-3305 requires the Board to prescribe minimum standards and approve curricula for education programs related to nursing, to approve programs that meet Board requirements, to periodically survey educational programs, and to deny or withdraw approval from educational programs.

### Alternatives to Regulation

*Describe any viable alternatives for achieving the purpose of the regulation that were considered as part of the periodic review. Include an explanation of why such alternatives were rejected and why this regulation is the least burdensome alternative available for achieving its purpose.*

The Board is required to regulate the education of nurses via regulation by statute. There is no alternative to regulation.

### Public Comment

*Summarize all comments received during the public comment period following the publication of the Notice of Periodic Review, and provide the agency’s response. Be sure to include all comments submitted: including those received on Town Hall, in a public hearing, or submitted directly to the agency. Indicate if an informal advisory group was formed for purposes of assisting in the periodic review.*

Commenter	Comment	Agency response
Kim Hurt, via Town Hall	Would like less wait time for RMAs to begin working. Would like to extend provisional license terms from 120 days to 150 days.	The registration of medication aides is not governed by Chapter 21. RMAs are regulated by Chapter 60. That chapter is scheduled for periodic review in mid-2023.
Rebecca Sturtz, Commonwealth Senior Living, via Town Hall	The length of time for RMAs to become registered is too long. Would like RMAs to either begin work prior to being registered or require the Board to issue registrations within 14 days of submission.	The registration of medication aides is not governed by Chapter 21. RMAs are regulated by Chapter 60. That chapter is scheduled for periodic review in mid-2023.

### Effectiveness

*Pursuant to § 2.2-4017 of the Code of Virginia, indicate whether the regulation meets the criteria set out in the ORM procedures, including why the regulation is (a) necessary for the protection of public health, safety, and welfare, and (b) is clearly written and easily understandable.*

This chapter of the regulations of the Board of Nursing is necessary for the protection of public health, safety and welfare because it establishes requirements for medication administration training programs. These regulations are necessary to continue to train individuals for medication administration and administration of adult immunizations, which the General Assembly determined is a necessary component of the provision of healthcare in the Commonwealth. These regulations are additionally necessary to protect public health, safety, and welfare by providing an accountability method for educational programs for

medication administration and immunization administration. The Board of Nursing has reviewed this chapter and determined that it is clearly written and understandable.

### Decision

*Explain the basis for the promulgating agency's decision (retain the regulation as is without making changes, amend the regulation, or repeal the regulation).*

*If the result of the periodic review is to retain the regulation as is, complete the ORM Economic Impact form.*

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The Board decided to retain Chapter 21 with amendments. Amendments will include, but are not limited to, elimination of outdated provisions and language, and updates to procedures and requirements.

### Small Business Impact

*As required by § 2.2-4007.1 E and F of the Code of Virginia, discuss the agency's consideration of: (1) the continued need for the regulation; (2) the nature of complaints or comments received concerning the regulation; (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. Also, discuss why the agency's decision, consistent with applicable law, will minimize the economic impact of regulations on small businesses.*

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(1) The agency realizes the continued need to approve and regulate educational programs related to the nursing profession for both public access to basic healthcare and protection of the public. (2) As stated above, the agency received two comments in response to the periodic review of this chapter. Those comments, however, involve concerns with Chapter 60, not Chapter 21. (3) The regulations are not unnecessarily complex. (4) There may be some overlap with state statutes or federal law. The agency will review those overlaps and likely eliminate them as it finalizes intended changes. (5) This chapter was created during a reorganization in 2014, and has been amended once since then. The Board of Nursing and the agency do not wait four years for periodic reviews to make regulatory changes as a whole; instead, the health regulatory boards promulgate changes, including those related to technology, economic conditions, and other factors, as needed. The Board will review any economic impact of the regulations on small businesses at the time it suggests amendments. These regulations, however, are minimal prior to any regulatory amendments.

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