

**State Board of Health  
Orientation for New Board Members  
March 20, 2014 – 8:00 a.m.  
Perimeter Center – Hearing Room 3  
9960 Mayland Drive  
Richmond, Virginia 23233**

**State of Board of Health  
Agenda  
March 20, 2014 – 9:00 a.m.  
Perimeter Center – Boardroom 1**

Call to Order and Welcome	Bruce Edwards, Chair
Pledge of Allegiance	Mr. Edwards
Introductions	Mr. Edwards
Review of Agenda	Joseph Hilbert Director of Governmental and Regulatory Affairs
Election of Vice Chair	Mr. Edwards
Approval of December 5, 2013 Minutes	Mr. Edwards
Commissioner's Report	Marissa Levine, MD, MPH Interim State Health Commissioner
Budget Update	Michael McMahon, Deputy Director Office of Financial Management
Legislative Update	Mr. Hilbert
Break	
Abortion Facility Licensure Status Report	Erik Bodin, Director Office of Licensure and Certification
Regulatory Action Update	Mr. Hilbert
List of No Cost Ultrasound Providers – Update	Dev Nair, PhD, MPH, Acting Director Office of Family Health Services
Public Comment Period	
Working Lunch	

Lunch Speaker – Robert Croonenberghs, Phd, Director, VDH Division of Shellfish Sanitation  
Topic – Shellfish Sanitation in Virginia

Regulatory Action Items

Regulations for Disease Reporting and Control  
12VAC5-90  
(Final Amendments)

Laurie Forlano, DO, MPH, Acting Director  
Office of Epidemiology

Nursing Scholarship and  
Loan Repayment Program Requiring  
Service in a Long Term Care Facility  
(12VAC5-507)  
(Final Regulation)

Adrienne McFadden, MD, JD, Director  
Office of Minority Health and Health Equity

Advance Healthcare Directive Registry  
(12VAC5-67)  
(Fast Track Amendments)

Debbie Condrey, CIO and Director  
Office of Information Management and Health IT

Appointment of Nominating Committee

Mr. Edwards

Member Reports

Other Business

Adjourn

## MEMORANDUM

DATE: February 25, 2014

TO: Virginia State Board of Health

FROM: Laurie Forlano, DO, MPH  
Acting Director, Office of Epidemiology

SUBJECT: Regulations for Disease Reporting and Control (12VAC5-90).

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Enclosed for your review are the final amendments to the Regulations for Disease Reporting and Control (12VAC5-90) pertaining to healthcare-associated infection reporting.

Hospitals enter data into the CDC's National Healthcare Safety Network in order to report healthcare-associated infections to the Centers for Medicare and Medicaid Services. These amendments will allow VDH staff access to hospital data within the CDC's system in order to track healthcare-associated infection information. Hospitals will be able to comply with the requirement without any extra effort on the part of hospital staff.

The proposed amendments were published in the Virginia Register of Regulations on October 21, 2013. The Virginia Department of Health conducted a 60 day public comment period that closed on December 18, 2013. Nine comments were received. Seven of the comments were supportive of the amendment. Two raised questions that did not necessitate a change in regulatory language. The final amendments are substantively similar to the proposed amendments.

The Board of Health is requested to approve the final amendments. Should the Board of Health approve the final amendments, they will be submitted to the Office of the Attorney General to begin the executive branch review process, as specified by the Administrative Process Act. Following executive branch review and approval, the final amendments will be published in the Virginia Register of Regulations and on the Virginia Regulatory Town Hall website, and a 30 day final adoption period will begin, after which the amendments will become effective.



## Final Regulation Agency Background Document

<b>Agency name</b>	Department of Health (State Board of)
<b>Virginia Administrative Code (VAC) citation</b>	12VAC5-90
<b>Regulation title</b>	Regulations for Disease Reporting and Control
<b>Action title</b>	Expanded Requirements for Reporting Healthcare-Associated Infections
<b>Date this document prepared</b>	February 28, 2014

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), Executive Orders 14 (2010) and 58 (1999), and the *Virginia Register Form, Style, and Procedure Manual*.

### Brief summary

*Please provide a brief summary (no more than 2 short paragraphs) of the proposed new regulation, proposed amendments to the existing regulation, or the regulation proposed to be repealed. Alert the reader to all substantive matters or changes. If applicable, generally describe the existing regulation. Also, please include a brief description of changes to the regulation from publication of the proposed regulation to the final regulation.*

The Agency is proposing that data reported into the Centers for Disease Control and Prevention's National Healthcare Safety Network (NHSN) for the Centers for Medicare and Medicaid Services (CMS) Hospital Inpatient Quality Reporting Program shall be shared, through the NHSN, with the department.

### Statement of final agency action

*Please 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 or board taking the action, and (3) the title of the regulation.*

The State Board of Health approved the final amendment to the Regulations for Disease Reporting and Control on March 20, 2014.

### Legal basis

*Please identify the state and/or federal legal authority to promulgate this proposed regulation, including (1) the most relevant citations to the Code of Virginia or General Assembly chapter number(s), if applicable, and (2) promulgating entity, i.e., agency, board, or person. Your citation should include a specific provision authorizing the promulgating entity to regulate this specific subject or program, as well as a reference to the agency/board/person's overall regulatory authority.*

The *Code of Virginia*, § 32.1-35.1, requires acute care hospitals to report infection information to the CDC's National Healthcare Safety Network (NHSN) and for the State Board of Health to define infections to be reported and the patient populations to be included.

### Purpose

*Please explain the need for the new or amended regulation. Describe the rationale or justification of the proposed regulatory action. Detail the specific reasons it is essential to protect the health, safety or welfare of citizens. Discuss the goals of the proposal and the problems the proposal is intended to solve.*

The regulatory action provides the Virginia Department of Health (VDH) with additional measures related to healthcare-associated infections (HAIs) from acute care hospitals without increasing the burden on the hospitals to provide the information. Data that hospitals entered into the Centers for Disease Control and Prevention's (CDC) HAI reporting system to meet hospital quality monitoring requirements of CMS would be made available to authorized staff members of VDH. Access to these data will allow VDH to have a means of measuring patient safety in hospitals, with the goal of helping to reduce the occurrence of healthcare-associated infections, without adding new reporting requirements for Virginia hospitals.

### Substance

*Please identify and explain the new substantive provisions, the substantive changes to existing sections, or both where appropriate. A more detailed discussion is required under the "All changes made in this regulatory action" section.*

The Agency is finalizing an amendment to 12 VAC 5-90-370, pertaining to the Reporting of Healthcare-Associated Infections. The amendment simply states that, "Data reported into the Centers for Disease Control and Prevention's National Healthcare Safety Network (NHSN) for the Centers for Medicare and Medicaid Services Hospital Inpatient Quality Reporting Program shall be shared, through the NHSN, with the department."

**Issues**

*Please identify the issues associated with the proposed regulatory action, 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, please indicate.*

The primary advantage to the public of implementing the amended provision is greater access to information about infections associated with hospitals in Virginia. No disadvantages to the public have been identified because the data will be confidential and will be presented in as clear and understandable a manner as possible. The primary advantages to the agency are greater access to information about infections occurring in Virginia hospitals and an increased ability to communicate with hospitals about potential means to improve surveillance for infections or prevent infections in their facilities. The primary disadvantage to the agency is increased workload in analyzing the additional data; however, gaining access to the data by way of the CDC system is the most efficient means identified for collecting the information. Another pertinent matter of interest to the regulated community is that, rather than adding more reporting requirements, potentially not aligned with those of the federal government, and increasing the reporting burden on hospitals in Virginia, VDH will receive data from Virginia hospitals by having them share the data they are already providing to CMS through the system they are using to report the data. This will provide VDH with additional data on the performance of Virginia hospitals through the system the hospitals already use, thus achieving the goal of measuring progress toward preventing infections without adding reporting burdens to an already stressed system.

**Changes made since the proposed stage**

*Please describe all changes made to the text of the proposed regulation since the publication of the proposed stage. For the Registrar’s office, please put an asterisk next to any substantive changes.*

<b>Section number</b>	<b>Requirement at proposed stage</b>	<b>What has changed</b>	<b>Rationale for change</b>
12VAC5-90-999	Showed erroneous information about a Document Incorporated by Reference	Deleted this section	No documents are being incorporated by reference in this action

**Public comment**

*Please summarize all comments received during the public comment period following the publication of the proposed stage, and provide the agency response. If no comment was received, please so indicate.*

<b>Commenter</b>	<b>Comment</b>	<b>Agency response</b>
Halifax Regional Hospital	Support the amendment as written – it allows VDH to acquire the information needed without further burdening hospital staff	Accept comment; no changes necessary
Association for Professionals in Infection Control & Epidemiology, Virginia Chapter	Support the amendment as written – it provides VDH with additional measures related to healthcare-associated infections without increasing the reporting burden on hospitals	Accept comment; no changes necessary
Sentara-Rockingham Memorial Hospital	No issues granting rights to VDH to view hospital infection data mandated by CMS and reported to NHSN	Accept comment; no changes necessary
Augusta Health	Do not see the added value in allowing access to NHSN data – need clarity of how data would be utilized or how it would help the health department. Do not want to hinder/automate the relationship with the health department.	Considered the comment. Hospital-health department relationships would continue as they do now with respect to other disease reporting and investigations. VDH would use the data to track specific hospital infections in the state, guide prevention and educational efforts, and assist hospitals with reporting.
Virginia Department of Health, District Health Director	This requirement should be designed to ensure it does not interfere with hospital personnel calling the health department or limit the involvement of local public health officials.	Considered the comment. Hospital-health department relationships would continue as they do now with respect to other disease reporting and investigations. VDH would use the data to track specific hospital infections in the state, guide prevention and educational efforts, and assist hospitals with reporting.
Eastern State Hospital	Agree with the proposal – it should reduce or prevent duplicate reporting	Accept comment; no changes necessary
Danville Regional Medical Center	Support the proposed changes – they meet the charge for more data in a way that should not increase the burden on hospital staff	Accept comment; no changes necessary
John Randolph Medical Center	In favor of the amendment – it will be a good change	Accept comment; no changes necessary
LewisGale Medical Center	Responding with a personal opinion, not that of the health system – VDH intends to use the information responsibly in alignment with best practices. The data are very specific and could be misinterpreted – hope that VDH will present the SIR as a measure of infection as CMS does.	Accept comment; VDH plans to report the Standardized Infection Ratio (SIR), as CMS does.

**All changes made in this regulatory action**

*Please list all changes that are being proposed and the consequences of the proposed changes. Describe new provisions and/or all changes to existing sections.*

<b>Current section number</b>	<b>Proposed new section number, if applicable</b>	<b>Current requirement</b>	<b>Proposed change and rationale</b>
12VAC5-90-370.B.	12VAC5-90-370.A.	Hospitals must report central line-associated bloodstream infections (CLABSI) in adult intensive care units	Data reported into the Centers for Disease Control and Prevention's National Healthcare Safety Network (NHSN) for the Centers for Medicare and Medicaid Services (CMS) Hospital Inpatient Quality Reporting Program shall be shared, through the NHSN, with the department,

Note: Definition deletions noted in the regulatory text designate changes made between an initial proposed amendment and a repropoed amendment. No changes were made after the repropoal, and no existing definitions included in the regulations are being amended in this action.

**Project 2109 - Reproposed**

**DEPARTMENT OF HEALTH**

**Expanded Requirements for Reporting Healthcare-Associated Infections**

Part I

Definitions

**12VAC5-90-10. Definitions.**

The following words and terms when used in this chapter shall have the following meanings unless the context clearly indicates otherwise:

"Acute care hospital" means a hospital as defined in § 32.1-123 of the Code of Virginia that provides medical treatment for patients having an acute illness or injury or recovering from surgery.

"Adult" means a person 18 years of age or more.

"Adult intensive care unit" means a nursing care area that provides intensive observation, diagnosis, and therapeutic procedures for persons 18 years of age or more who are critically ill. Such units may also provide intensive care to pediatric patients. An intensive care unit excludes nursing areas that provide step-down, intermediate care, or telemetry only.

"Affected area" means any part or the whole of the Commonwealth, which has been identified as where persons reside, or may be located, who are known to have been exposed to or infected with, or who are reasonably suspected to have been exposed to or infected with, a communicable disease of public health threat. "Affected area" shall include, but not be limited to, cities, counties, towns, and subsections of such areas, public and private property, buildings, and other structures.

"Arboviral infection" means a viral illness that is transmitted by a mosquito, tick, or other arthropod. This includes, but is not limited to, chikungunya, dengue, eastern equine encephalitis (EEE), LaCrosse encephalitis (LAC), St. Louis encephalitis (SLE), and West Nile virus (WNV) infection.

"Board" means the State Board of Health.

"Cancer" means all carcinomas, sarcomas, melanomas, leukemias, and lymphomas excluding localized basal and squamous cell carcinomas of the skin, except for lesions of the mucous membranes.

"Central line-associated bloodstream infection" means a primary bloodstream infection identified by laboratory tests, with or without clinical signs or symptoms, in a patient with a central line device, and meeting the current Centers for Disease Control and Prevention (CDC) surveillance definition for laboratory-confirmed primary bloodstream infection.

"Central line device" means a vascular infusion device that terminates at or close to the heart or in one of the greater vessels. The following are considered great vessels for the purpose of reporting central line infections and counting central line days: aorta, pulmonary artery, superior vena cava, inferior vena cava, brachiocephalic veins, internal jugular veins, subclavian veins, external iliac veins, and common femoral veins.

"Child care center" means a child day center, child day program, family day home, family day system, or registered family day home as defined by § 63.2-100 of the Code of Virginia, or a similar place providing day care of children by such other name as may be applied.

"Clinic" means any facility, freestanding or associated with a hospital, that provides preventive, diagnostic, therapeutic, rehabilitative, or palliative care or services to outpatients.

~~"Clostridium difficile infection, laboratory-identified event" means laboratory testing on unformed stool that yields a positive result for Clostridium difficile toxin A or B or a toxin-~~

~~producing Clostridium difficile organism detected in the stool sample by culture or other laboratory means, with duplicate reports on a patient ruled out according to CDC definitions in the NHSN Patient Safety Component Manual, MDRO and CDAD Module (June 2010).~~

"Commissioner" means the State Health Commissioner or his duly designated officer or agent, unless stated in a provision of these regulations that it applies to the State Health Commissioner in his sole discretion.

"Communicable disease" means an illness due to an infectious agent or its toxic products which is transmitted, directly or indirectly, to a susceptible host from an infected person, animal, or arthropod or through the agency of an intermediate host or a vector or through the inanimate environment.

"Communicable disease of public health significance" means an illness caused by a specific or suspected infectious agent that may be transmitted directly or indirectly from one individual to another. This includes but is not limited to infections caused by human immunodeficiency viruses, bloodborne pathogens, and tubercle bacillus. The State Health Commissioner may determine that diseases caused by other pathogens constitute communicable diseases of public health significance.

"Communicable disease of public health threat" means an illness of public health significance, as determined by the State Health Commissioner in accordance with these regulations, caused by a specific or suspected infectious agent that may be reasonably expected or is known to be readily transmitted directly or indirectly from one individual to another and has been found to create a risk of death or significant injury or impairment; this definition shall not, however, be construed to include human immunodeficiency viruses or the tubercle bacilli, unless used as a bioterrorism weapon.

"Companion animal" means any domestic or feral dog, domestic or feral cat, nonhuman primate, guinea pig, hamster, rabbit not raised for human food or fiber, exotic or native animal, reptile, exotic or native bird, or any feral animal or any animal under the care, custody, or ownership of a person or any animal that is bought, sold, traded, or bartered by any person. Agricultural animals, game species, or any animals regulated under federal law as research animals shall not be considered companion animals for the purpose of this regulation.

"Condition" means any adverse health event, such as a disease, an infection, a syndrome, or as indicated by a procedure (including but not limited to the results of a physical exam, laboratory test, or imaging interpretation) suggesting that an exposure of public health importance has occurred.

"Contact" means a person or animal known to have been in such association with an infected person or animal as to have had an opportunity of acquiring the infection.

"Contact services" means a broad array of services that are offered to persons with infectious diseases and their contacts. Contact services include contact tracing, providing information about current infections, developing risk reduction plans to reduce the chances of future infections, and connecting to appropriate medical care and other services.

"Contact tracing" means the process by which an infected person or health department employee notifies others that they may have been exposed to the infected person in a manner known to transmit the infectious agent in question.

"Decontamination" means the use of physical or chemical means to remove, inactivate, or destroy hazardous substances or organisms from a person, surface, or item to the point that such substances or organisms are no longer capable of causing adverse health effects and the surface or item is rendered safe for handling, use, or disposal.

"Department" means the State Department of Health.

"Designee" or "designated officer or agent" means any person, or group of persons, designated by the State Health Commissioner, to act on behalf of the commissioner or the board.

"Ehrlichiosis/anaplasmosis" means human infections caused by *Ehrlichia chaffeensis* (formerly included in the category "human monocytic ehrlichiosis" or "HME"), *Ehrlichia ewingii* or *Anaplasma phagocytophilum* (formerly included in the category "human granulocytic ehrlichiosis" or "HGE").

"Epidemic" means the occurrence in a community or region of cases of an illness clearly in excess of normal expectancy.

"Essential needs" means basic human needs for sustenance including but not limited to food, water, and health care, e.g., medications, therapies, testing, and durable medical equipment.

"Exceptional circumstances" means the presence, as determined by the commissioner in his sole discretion, of one or more factors that may affect the ability of the department to effectively control a communicable disease of public health threat. Factors to be considered include but are not limited to: (i) characteristics or suspected characteristics of the disease-causing organism or suspected disease-causing organism such as virulence, routes of transmission, minimum infectious dose, rapidity of disease spread, the potential for extensive disease spread, and the existence and availability of demonstrated effective treatment; (ii) known or suspected risk factors for infection; (iii) the potential magnitude of the effect of the disease on the health and welfare of the public; and (iv) the extent of voluntary compliance with public health recommendations. The determination of exceptional circumstances by the commissioner may take into account the experience or results of investigation in Virginia, another state, or another country.

"Foodborne outbreak" means two or more cases of a similar illness acquired through the consumption of food contaminated with chemicals or an infectious agent or its toxic products. Such illnesses include but are not limited to heavy metal intoxication, staphylococcal food poisoning, botulism, salmonellosis, shigellosis, Clostridium perfringens food poisoning, hepatitis A, and Escherichia coli O157:H7 infection.

"Healthcare-associated infection" (also known as nosocomial infection) means a localized or systemic condition resulting from an adverse reaction to the presence of an infectious agent or agents or its toxin or toxins that (i) occurs in a patient in a healthcare setting (e.g., a hospital or outpatient clinic), (ii) was not found to be present or incubating at the time of admission unless the infection was related to a previous admission to the same setting, and (iii) if the setting is a hospital, meets the criteria for a specific infection site as defined by CDC in the NHSN Patient Safety Component Manual, Key Terms (June 2010).

~~"Healthcare-associated outbreak" means any group of illnesses of common etiology occurring in patients of a healthcare setting acquired by exposure of those patients to the disease agent while in such a facility.~~

"Hepatitis C, acute" means the following clinical characteristics are met: (i) discrete onset of symptoms indicative of viral hepatitis and (ii) jaundice or elevated serum aminotransferase levels and the following laboratory criteria are met: (a) serum alanine aminotransferase levels (ALT) greater than 400 IU/L; (b) IgM anti-HAV negative (if done); (c) IgM anti-HBc negative (if done); and (d) hepatitis C virus antibody (anti-HCV) screening test positive with a signal-to-cutoff ratio predictive of a true positive as determined for the particular assay as defined by CDC, HCV antibody positive by immunoblot (RIBA), or HCV RNA positive by nucleic acid test.

"Hepatitis C, chronic" means that the laboratory criteria specified in clauses (b), (c) and (d) listed above for an acute case are met but clinical signs or symptoms of acute viral hepatitis are

not present and serum alanine aminotransferase (ALT) levels do not exceed 400 IU/L. This category will include cases that may be acutely infected but not symptomatic.

"Immunization" means a procedure that increases the protective response of an individual's immune system to specified pathogens.

"Independent pathology laboratory" means a nonhospital or a hospital laboratory performing surgical pathology, including fine needle aspiration biopsy and bone marrow specimen examination services, which reports the results of such tests directly to physician offices, without reporting to a hospital or accessioning the information into a hospital tumor registry.

"Individual" means a person or companion animal. When the context requires it, "person or persons" shall be deemed to include any individual.

"Infection" means the entry and multiplication or persistence of a disease-causing organism (prion, virus, bacteria, fungus, parasite, or ectoparasite) in the body of an individual. An infection may be inapparent (i.e., without recognizable signs or symptoms but identifiable by laboratory means) or manifest (clinically apparent).

"Influenza A, novel virus" means infection of a human with an influenza A virus subtype that is different from currently circulating human influenza H1 and H3 viruses. Novel subtypes include H2, H5, H7, and H9 subtypes or influenza H1 and H3 subtypes originating from a nonhuman species.

"Invasive" means the organism is affecting a normally sterile site, including but not limited to blood or cerebrospinal fluid.

"Investigation" means an inquiry into the incidence, prevalence, extent, source, mode of transmission, causation of, and other information pertinent to a disease occurrence.

"Isolation" means the physical separation, including confinement or restriction of movement, of an individual or individuals who are infected with, or are reasonably suspected to be infected

with, a communicable disease in order to prevent or limit the transmission of the communicable disease to uninfected and unexposed individuals.

"Isolation, complete" means the full-time confinement or restriction of movement of an individual or individuals infected with, or reasonably suspected to be infected with, a communicable disease in order to prevent or limit the transmission of the communicable disease to uninfected and unexposed individuals.

"Isolation, modified" means a selective, partial limitation of freedom of movement or actions of an individual or individuals infected with, or reasonably suspected to be infected with, a communicable disease. Modified isolation is designed to meet particular situations and includes but is not limited to the exclusion of children from school, the prohibition or restriction from engaging in a particular occupation or using public or mass transportation, or requirements for the use of devices or procedures intended to limit disease transmission.

"Isolation, protective" means the physical separation of a susceptible individual or individuals not infected with, or not reasonably suspected to be infected with, a communicable disease from an environment where transmission is occurring, or is reasonably suspected to be occurring, in order to prevent the individual or individuals from acquiring the communicable disease.

"Laboratory" as used herein means a clinical laboratory that examines materials derived from the human body for the purpose of providing information on the diagnosis, prevention, or treatment of disease.

"Laboratory director" means any person in charge of supervising a laboratory conducting business in the Commonwealth of Virginia.

"Law-enforcement agency" means any sheriff's office, police department, adult or youth correctional officer, or other agency or department that employs persons who have law-enforcement authority that is under the direction and control of the Commonwealth or any local

governing body. "Law-enforcement agency" shall include, by order of the Governor, the Virginia National Guard.

"Lead, elevated blood levels" means a confirmed blood level greater than or equal to 10 micrograms of lead per deciliter ( $\mu\text{g}/\text{dL}$ ) of whole blood in a child or children 15 years of age and younger, a venous blood lead level greater than or equal to 25  $\mu\text{g}/\text{dL}$  in a person older than 15 years of age, or such lower blood lead level as may be recommended for individual intervention by the department or the Centers for Disease Control and Prevention.

"Least restrictive" means the minimal limitation of the freedom of movement and communication of an individual while under an order of isolation or an order of quarantine that also effectively protects unexposed and susceptible individuals from disease transmission.

"Medical care facility" means any hospital or nursing home licensed in the Commonwealth, or any hospital operated by or contracted to operate by an entity of the United States government or the Commonwealth of Virginia.

"Midwife" means any person who is licensed as a nurse midwife by the Virginia Boards of Nursing and Medicine or who is licensed by the Board of Medicine as a certified professional midwife.

"National Healthcare Safety Network (NHSN)" means a surveillance system created by the CDC for accumulating, exchanging, and integrating relevant information on infectious adverse events associated with healthcare delivery.

"Nucleic acid detection" means laboratory testing of a clinical specimen to determine the presence of deoxyribonucleic acid (DNA) or ribonucleic acid (RNA) specific for an infectious agent using any method, including hybridization, sequencing, or amplification such as polymerase chain reaction.

"Nurse" means any person licensed as a professional nurse or as a licensed practical nurse by the Virginia Board of Nursing.

"Occupational outbreak" means a cluster of illness or disease that is indicative of a work-related exposure. Such conditions include but are not limited to silicosis, asbestosis, byssinosis, pneumoconiosis, and tuberculosis.

"Outbreak" means the occurrence of more cases of a disease than expected.

"Period of communicability" means the time or times during which the etiologic agent may be transferred directly or indirectly from an infected person to another person, or from an infected animal to a person.

"Physician" means any person licensed to practice medicine or osteopathy by the Virginia Board of Medicine.

"Quarantine" means the physical separation, including confinement or restriction of movement, of an individual or individuals who are present within an affected area or who are known to have been exposed, or may reasonably be suspected to have been exposed, to a communicable disease and who do not yet show signs or symptoms of infection with the communicable disease in order to prevent or limit the transmission of the communicable disease of public health threat to unexposed and uninfected individuals.

"Quarantine, complete" means the full-time confinement or restriction of movement of an individual or individuals who do not have signs or symptoms of infection but may have been exposed, or may reasonably be suspected to have been exposed, to a communicable disease of public health threat in order to prevent the transmission of the communicable disease of public health threat to uninfected individuals.

"Quarantine, modified" means a selective, partial limitation of freedom of movement or actions of an individual or individuals who do not have signs or symptoms of the infection but

have been exposed to, or are reasonably suspected to have been exposed to, a communicable disease of public health threat. Modified quarantine may be designed to meet particular situations and includes but is not limited to limiting movement to the home, work, and/or one or more other locations, the prohibition or restriction from using public or mass transportation, or requirements for the use of devices or procedures intended to limit disease transmission.

"Reportable disease" means an illness due to a specific toxic substance, occupational exposure, or infectious agent, which affects a susceptible individual, either directly, as from an infected animal or person, or indirectly through an intermediate host, vector, or the environment, as determined by the board.

"SARS" means severe acute respiratory syndrome (SARS)-associated coronavirus (SARS-CoV) disease.

"School" means (i) any public school from kindergarten through grade 12 operated under the authority of any locality within the Commonwealth; (ii) any private or parochial school that offers instruction at any level or grade from kindergarten through grade 12; (iii) any private or parochial nursery school or preschool, or any private or parochial child care center licensed by the Commonwealth; and (iv) any preschool handicap classes or Head Start classes.

"Serology" means the testing of blood, serum, or other body fluids for the presence of antibodies or other markers of an infection or disease process.

~~"Surgical Care Improvement Project (SCIP)" means a national quality initiative supported by The Joint Commission, the Centers for Medicare and Medicaid Services, and other partners in healthcare that is designed to improve surgical care in hospitals.~~

"Surveillance" means the ongoing systematic collection, analysis, and interpretation of outcome-specific data for use in the planning, implementation, and evaluation of public health practice. A surveillance system includes the functional capacity for data analysis as well as the

timely dissemination of these data to persons who can undertake effective prevention and control activities.

"Susceptible individual" means a person or animal who is vulnerable to or potentially able to contract a disease or condition. Factors that affect an individual's susceptibility include but are not limited to physical characteristics, genetics, previous or chronic exposures, chronic conditions or infections, immunization history, or use of medications.

"Toxic substance" means any substance, including any raw materials, intermediate products, catalysts, final products, or by-products of any manufacturing operation conducted in a commercial establishment, that has the capacity, through its physical, chemical or biological properties, to pose a substantial risk of death or impairment either immediately or over time, to the normal functions of humans, aquatic organisms, or any other animal but not including any pharmaceutical preparation which deliberately or inadvertently is consumed in such a way as to result in a drug overdose.

"Tubercle bacilli" means disease-causing organisms belonging to the *Mycobacterium tuberculosis* complex and includes *Mycobacterium tuberculosis*, *Mycobacterium bovis*, and *Mycobacterium africanum* or other members as may be established by the commissioner.

"Tuberculin skin test (TST)" means a test for demonstrating infection with tubercle bacilli, performed according to the Mantoux method, in which 0.1 ml of 5 TU strength tuberculin purified protein derivative (PPD) is injected intradermally on the volar surface of the arm. Any reaction is observed 48-72 hours after placement and palpable induration is measured across the diameter transverse to the long axis of the arm. The measurement of the indurated area is recorded in millimeters and the significance of the measured induration is based on existing national and department guidelines.

"Tuberculosis" means a disease caused by tubercle bacilli.

"Tuberculosis, active disease" (also "active tuberculosis disease" and "active TB disease"), as defined by § 32.1-49.1 of the Code of Virginia, means a disease caused by an airborne microorganism and characterized by the presence of either (i) a specimen of sputum or other bodily fluid or tissue that has been found to contain tubercle bacilli as evidenced by culture or nucleic acid amplification, including preliminary identification by rapid methodologies; (ii) a specimen of sputum or other bodily fluid or tissue that is suspected to contain tubercle bacilli as evidenced by smear, and where sufficient clinical and radiographic evidence of active tuberculosis disease is present as determined by a physician licensed to practice medicine in Virginia; or (iii) sufficient clinical and radiographic evidence of active tuberculosis disease as determined by the commissioner is present, but a specimen of sputum or other bodily fluid or tissue containing, or suspected of containing, tubercle bacilli is unobtainable.

"Tuberculosis infection in children age less than 4 years" means a significant reaction resulting from a tuberculin skin test (TST) or other approved test for latent infection without clinical or radiographic evidence of active tuberculosis disease, in children from birth up to their fourth birthday.

"Vaccinia, disease or adverse event" means vaccinia infection or serious or unexpected events in persons who received the smallpox vaccine or their contacts, including but not limited to bacterial infections, eczema vaccinatum, erythema multiforme, generalized vaccinia, progressive vaccinia, inadvertent inoculation, post-vaccinial encephalopathy or encephalomyelitis, ocular vaccinia, and fetal vaccinia.

"Waterborne outbreak" means two or more cases of a similar illness acquired through the ingestion of or other exposure to water contaminated with chemicals or an infectious agent or its toxic products. Such illnesses include but are not limited to giardiasis, viral gastroenteritis, cryptosporidiosis, hepatitis A, cholera, and shigellosis. A single case of laboratory-confirmed

primary amebic meningoencephalitis or of waterborne chemical poisoning is considered an outbreak.

## Part XIII

### Report Reporting of Healthcare-Associated Infections

#### **12VAC5-90-370. Reporting of healthcare-associated infections.**

A. Reportable infections and method and timing of reporting. ~~1. Acute care hospitals shall collect enter data on the following healthcare-associated infection infections in the specified patient population: into CDC's National Healthcare Safety Network according to CDC protocols in the NHSN Patient Safety Component Manual Modules: Identifying HAIs (November 2009), Device-associated Module CLABSI Events (June 2010), MDRO and CDAD Module (June 2010), and CDC Locations and Descriptions (July 2010). Acute care hospitals shall ensure that accurate and complete data are entered at least quarterly within one month of the close of the calendar year quarter and shall authorize the department to have access to hospital-specific data contained in the NHSN database.~~

~~central 1. Central line-associated bloodstream infections in adult intensive care units, including the number of central-line days in each population at risk, expressed per 1,000 catheter-days.~~

~~2. Central line-associated bloodstream infections outside intensive care, including in one adult inpatient medical ward and one adult inpatient surgical ward. Wards selected should be those with the longest length of stay during the previous calendar year, excluding cardiology, obstetrics, psychiatry, hospice, and step-down units. Data shall include the number of central-line days in each population at risk.~~

~~3. Clostridium difficile infection, laboratory-identified events on inpatient units, with the exceptions recommended by CDC protocol in the NHSN Patient Safety Component~~

~~Manual, MDRO and CDAD Module (June 2010). Data shall be collected year-round at the overall facility-wide level. Data shall include patient days.~~

~~2. All acute care hospitals with adult intensive care units shall (i) participate in CDC's National Healthcare Safety Network by July 1, 2008, (ii) submit data on the above named infection to the NHSN according to CDC protocols and ensure that all data from July 1, 2008, to December 31, 2008, are entered into the NHSN by January 31, 2009, and (iii) ensure accurate and complete data are available quarterly thereafter according to a schedule established by the department.~~

~~3. All acute care hospitals reporting the information noted above shall authorize the department to have access to hospital-specific data contained in the NHSN database.~~

~~B. Reportable process measures. Acute care hospitals shall report to the department quarterly, within one month of the close of the calendar year quarter, aggregate counts of the Surgical Care Improvement Project (SCIP) Core Measures pertaining to the following surgical procedures: hip arthroplasty, knee arthroplasty, and coronary artery bypass graft. Data shall be collected in accordance with the Specification Manual for National Hospital Inpatient Quality Measures (Version 3.3) and shall include counts of the patient population and the applicable SCIP measures for each of the above designated surgical procedures. Reports shall be submitted to the department's Division of Surveillance and Investigation. Data reported into the Centers for Disease Control and Prevention's National Healthcare Safety Network (NHSN) for the Centers for Medicare and Medicaid Services Hospital Inpatient Quality Reporting Program shall be shared, through the NHSN, with the department.~~

B. Liability protection and data release. Any person making such report as authorized herein shall be immune from liability as provided by § 32.1-38 of the Code of Virginia. Infection rate

data may be released to the public by the department upon request. Data shall be aggregated to ensure that no individual patient may be identified.

## **MEMORANDUM**

DATE: February 25, 2014

TO: Virginia State Board of Health

FROM: Adrienne McFadden, MD, JD, FACEP, FAAEM, FCLM  
Director Office of Minority Health and Health Equity

SUBJECT: Regulations for the Nursing Scholarship and Loan Repayment Program Requiring Service in a Long-Term Care Facility (12VAC5-507).

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Enclosed for your review are final Regulations for the Nursing Scholarship and Loan Repayment Program Requiring Service in a Long-Term Care Facility (12VAC5-507).

Chapter 240 of the 2000 Virginia Acts of Assembly amended and reenacted §32.1-122.6:01 of the Code of Virginia to require the establishment of a nursing scholarship and loan repayment program for registered nurses, licensed practical nurses and certified nurse aides who agree to perform a period of service in a Commonwealth long-term care facility and mandated the Board of Health in cooperation with the Board of Nursing adopt regulations governing the implementation of such a scholarship and program within 280 days of its enactment. For that reason, the Board utilized the emergency rulemaking process authorized by the Administrative Process Act for promulgating emergency regulations. Following that regulatory action, the Virginia Department of Health issued a Notice for Intended Regulatory Action and has developed final permanent regulations to replace the emergency regulations which expired on January 16th, 2002. There are no regulations currently in effect. The permanent regulations are necessary to support the implementation of the amendments to §32.1-122.6:01 enacted by Chapter 240 (2000). The final regulations contain provisions pertaining to definition, eligibility for scholarships, conditions of scholarships, the process to apply, deadlines, selection criteria and repayment information.

The proposed regulations pertaining to the currently submitted final regulations were published in the Virginia Register of Regulations on October 22, 2012. The Virginia Department of Health conducted a 60 day public comment period from October 22, 2012 until December 21, 2012. No public comment was received. However, further review of the proposed regulations by the Virginia Department of Health revealed the proposed language was unclear in certain respects. The agency drafted some amendments to the proposed regulations in the final Regulations for the Nursing Scholarship and Loan Repayment Program Requiring Service in a Long-Term Care Facility (12VAC5-507). The final regulations are substantively similar to the proposed regulations, and have simply been amended for clarity.

The Board of Health is requested to approve the final regulations. Should the Board of Health approve the final regulations, they will be submitted to the Office of the Attorney General to begin the executive branch review process, as specified by the Administrative Process Act. Following executive branch review and approval, the final regulations will be published in the Virginia Register of Regulations and on the Virginia Regulatory Town Hall website, and a 30 day final adoption period will begin.



Virginia

Regulatory  
Town Hall  
townhall.virginia.gov

## Final Regulation Agency Background Document

<b>Agency name</b>	Department of Health
<b>Virginia Administrative Code (VAC) citation</b>	12VAC5-507
<b>Regulation title</b>	Regulations for Nursing Scholarship and Loan Repayment Program Requiring Service in a Long-Term Care Facility
<b>Action title</b>	Implement Regulations on Scholarships and Loans Requiring Long Term-Nursing Care Service
<b>Date this document prepared</b>	February 26, 2014

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), Executive Orders 14 (2010) and 58 (1999), and the *Virginia Register Form, Style, and Procedure Manual*.

### Brief summary

*Please provide a brief summary (no more than 2 short paragraphs) of the proposed new regulation, proposed amendments to the existing regulation, or the regulation proposed to be repealed. Alert the reader to all substantive matters or changes. If applicable, generally describe the existing regulation. Also, please include a brief description of changes to the regulation from publication of the proposed regulation to the final regulation.*

Chapter 240 of the 2000 Virginia Acts of Assembly amended and reenacted § 32.1-122.6:01 of the Code of Virginia to require the establishment of a nursing scholarship and loan repayment program for registered nurses, licensed practical nurses and certified nurse aides who agree to perform a period of service in a Commonwealth long-term care facility and mandated the Board of Health in cooperation with the Board of Nursing to adopt regulations governing the implementation of such a scholarship and loan repayment program within 280 days of its enactment. For that reason, the Board utilized the emergency rulemaking process authorized by the Administrative Process Act for promulgating emergency regulations. Following that regulatory action, the Virginia Department of Health issued a Notice for Intended Regulatory Action and has developed final permanent regulations to replace the emergency regulations which expired on January 16th, 2002. There are no regulations currently in effect. Permanent regulations are necessary to support the implementation of the amendments to § 32.1-122.6:01 enacted by Chapter 240 (2000). The final regulations contain provisions pertaining to definitions, eligibility for scholarships and the loan repayment program, conditions of scholarships and the loan repayment program, the process to apply, deadlines, selection criteria and repayment information.

**Statement of final agency action**

*Please 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 or board taking the action, and (3) the title of the regulation.*

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The Final Regulations for Nursing Scholarship and Loan Repayment Program Requiring Service in a Long-Term Care Facility were approved by the Board of Health on March 20, 2014.

**Legal basis**

*Please identify the state and/or federal legal authority to promulgate this proposed regulation, including (1) the most relevant citations to the Code of Virginia or General Assembly chapter number(s), if applicable, and (2) promulgating entity, i.e., agency, board, or person. Your citation should include a specific provision authorizing the promulgating entity to regulate this specific subject or program, as well as a reference to the agency/board/person's overall regulatory authority.*

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Section 32.1-122.6:01 of the Code of Virginia, as amended by Chapter 240 of 2000 Acts of Assembly, mandated the State Board of Health to promulgate regulations. Chapter 240 (2000) further authorized the Board of Health to continue to regulate the establishment of a nursing scholarship and loan repayment program for registered nurses, licensed practical nurses and certified nurse aides who agree to perform a period of service in a Commonwealth long-term care facility.

**Purpose**

*Please explain the need for the new or amended regulation. Describe the rationale or justification of the proposed regulatory action. Detail the specific reasons it is essential to protect the health, safety or welfare of citizens. Discuss the goals of the proposal and the problems the proposal is intended to solve.*

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The statutory language of § 32.1-122.6:01 of the Code of Virginia as amended by Chapter 240 (2000) mandates the creation of a nursing scholarship and loan repayment program for registered nurses, licensed practical nurses and certified nurse aids who are bona fide residents of Virginia and agree to perform a period of nursing service in a long-term care facility in the Commonwealth. The intent of this regulatory action is to implement the program required by § 32.1-122.6:01 and address the shortage of trained medical professionals in the Commonwealth. The Nursing Scholarship and Loan Repayment Program addresses the workforce shortage by providing financial assistance for education expenses for individuals who are enrolled in or have completed a registered nursing, licensed practical nursing or certified nurse aid program. Decreasing the workforce shortage of trained medical professionals in the Commonwealth helps protect the health of Virginians by increasing primary care services to underserved areas and populations.

**Substance**

*Please identify and explain the new substantive provisions, the substantive changes to existing sections, or both where appropriate. A more detailed discussion is required under the "All changes made in this regulatory action" section.*

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The majority of the provisions in this regulatory action were contained in the Emergency Regulations. Changes were made to the proposed regulations to add clarification to the final regulations. The following is a summary of the key provisions of the final regulations:

General information

Definitions

Provides clarification on key or frequently used terms in the regulatory text.

Nursing Scholarship Advisory Committee

Establishes that the Nursing Scholarship Advisory Committee as appointed by the Board of Health shall make all scholarship and loan repayment award recommendations.

Administration of Nursing Scholarship Program

Provides guidance on the following sections in the regulation: Eligibility; Conditions of scholarships; Number of applications per student; Amounts of scholarships; How to apply; and Reporting Requirements.

Eligibility

Provides requirements regarding Virginia residency, approved educational background, program enrollment, a 2.5 cumulative GPA in core nursing classes if already enrolled in a program, school transcripts, financial need and no active military obligations.

Conditions of Scholarship

Provides guidance and provisions on the contract requirements, calculation of the service obligation, terms of service, employment requirements, reporting, transfer of practice site, default, waiver, partial fulfillment, hardship, and default payments.

Number of applications, Amounts of scholarships & How to apply

Provides information and provisions regarding applicant renewals, minimum and maximum award amounts, location of application form, and deadline dates for submission of applications.

Reporting Requirements of Scholarship Participants

Provides information on the reporting requirements of scholarship participants including verification of employment once every six months and prompt notification in the event of the following changes: name, address, practice site, intention to fulfill service obligation, or if the participant ceases to practice as a RN, LPN or CNA.

Administration of the Nursing Loan Repayment Program

Provides guidance on the following sections in the regulation: Eligibility; Application requirements; Selection criteria; Loan repayment amount; Loans qualified for repayment; Release of information; Effective date for start of service; Repayment policy; Compensation during service; Monitoring during service; Terms of service; Loan repayment contract; Breach of contract; Postponement or waiver of service; Cash reimbursement and penalty; and Reporting Requirements of loan repayment participants.

Eligibility

Provides requirements and provisions regarding Virginia residency, licensure, approved educational background, application submission, no other contractual service obligation, no active military obligation; the applicant's contract, no federal or state debt; no history of noncompliance or waiver and verifiable educational loan balance.

Application requirement & Selection criteria

Provides general information on the requirement for application, deadline dates, competitive review, preference, and selection for award in the loan repayment program.

Functional elements of the repayment program

Provides program information regarding amount of award, qualifying loans, release of information to the Department, effective date of service, repayment policy, compensation during service, monitoring during service, terms of service, contract requirements, breach of contract, waiver, postponement, disability, penalty, interest, and reporting requirements.

**Issues**

*Please identify the issues associated with the proposed regulatory action, 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, please indicate.*

The primary advantage of the proposed regulatory action to the public will be an increase in the availability of adequate quality nursing care in long-term care facilities in the Commonwealth. Further, long term care facilities will be better positioned to retain qualified nurses because of the obligation created by accepting the scholarship or loan repayment funds. The Virginia Department of Health sees no disadvantage to the public, the agency or the Commonwealth associated with the proposed regulatory action.

**Changes made since the proposed stage**

*Please describe all changes made to the text of the proposed regulation since the publication of the proposed stage. For the Registrar's office, please put an asterisk next to any substantive changes.*

In order to improve the clarity of final regulations the organization of certain sections of the regulatory chapter has been rearranged. These organizational changes constitute a majority of the changes in this regulatory action. Some other minor clarifying technical amendments have been made. No substantive changes have been made.

Section number	Requirement at proposed stage	What has changed	Rationale for change
<p>10 - <del>Legislative authority and general information -</del> <u>Definitions</u></p>	<p>Sections 32.1-122.6:01 provides the Board of Health the authority to award certain nursing scholarships and loan repayment funds. Fee requirements are specified in § 54.1-3011.1, and § 54.1-3011.2 to establish the nursing scholarship and loan repayment fund.</p> <p>All scholarship and loan repayment award recommendations will be made by the Nursing</p>	<p><u>The following words and terms when used in this chapter shall have the following meanings:</u></p> <p><u>"Board" or "Board of Health" means the State Board of Health.</u></p> <p><u>"Certified nurse aide" or "CNA" means a person who is certified by the Board of Nursing under the provisions of Chapter 30 of Title 54.1 of the Code of Virginia.</u></p> <p><u>"Commercial loans" means loans made by banks, credit unions, savings and loan associations, insurance</u></p>	<p>Removal of the unnecessary legislative authority section. Moved the Definitions section to the forefront of the regulations for clarity of the chapter. A few definitions have been modified to more closely reflect the definition of terms within the Code of Virginia.</p>

	<p>Scholarship Advisory Committee appointed by the State Board of Health. The Commissioner may act for the Board of Health when it is not in session. The committee shall consist of eight members: four deans or directors of schools of nursing, two former scholarship participants, and two members with experience in the administration of student financial aid programs. Committee appointments are for two-year terms and members may not serve for more than two successive terms.</p> <p>The Virginia Department of Health serves as the staff element to the Advisory Committee and plays no role in the determination of scholarship or loan repayment participants.</p> <p>After scholarships are awarded, depending upon availability of funds, nursing educational loans will be repaid for those registered nurses, licensed practical nurses, and certified nurse aides applying and meeting eligibility criteria as set forth in these regulations.</p> <p>These regulations set forth the criteria for eligibility for the scholarship and loan repayment program for registered nurses, licensed practical nurses, or certified nurse aides; the general terms and conditions applicable to the obligation of each scholarship and loan</p>	<p><u>companies, schools, and either financial or credit institutions that are subject to examination and supervision in their capacity as lenders by an agency of the United States or of the state in which the lender has its principal place of business.</u></p> <p><u>"Commissioner" means the State Health Commissioner.</u></p> <p><u>"Department" means Virginia Department of Health.</u></p> <p><u>"Full-time" means at least 32 hours per week for 45 weeks per year.</u></p> <p><u>"Licensed practical nurse" or "LPN" means a person who is licensed or holds a multistate licensure privilege under the provisions of Chapter 30 of Title 54.1 of the Code of Virginia to practice practical nursing as defined in § 54.1-3000.</u></p> <p><u>"Long-term care facility" means a certified nursing facility or nursing home as defined by § 32.1-123 of the Code of Virginia.</u></p> <p><u>"Participant/recipient" means an eligible registered nurse, licensed practical nurse, or certified nurse aide student or graduate of an approved nursing education program or an approved nurse aide education program who enters into a contract with the commissioner and participates in the scholarship or loan repayment program.</u></p> <p><u>"Interest" means the legal rate of interest pursuant to § 6.2-302 of the Code of Virginia.</u></p> <p><u>"Penalty" means twice the amount of all monetary payments to the scholarship or loan repayment participant, less any service obligation completed.</u></p> <p><u>"Reasonable educational expenses" means the costs of education, exclusive of tuition, that are considered to be required by the school's degree program or an eligible program of</u></p>	
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	<p>repayment participant to practice in a long-term-care facility in the Commonwealth; and penalties for a participant's failure to fulfill the practice requirements.</p>	<p><u>study, such as fees for room, board, transportation and commuting costs, books, supplies, educational equipment and materials, and travel that was a part of the estimated student budget of the school in which the participant is or was enrolled.</u></p> <p><u>"Registered nurse" or "RN" means a person who is licensed or holds a multistate licensure privilege under the provisions Chapter 30 of Title 54.1 of the Code of Virginia to practice professional nursing as defined in § 54.1-3000.</u></p>	
<p>15</p>	<p>The following words and terms, when used in this chapter, shall have the following meaning unless the context clearly indicates otherwise:</p> <p>"Board" or "Board of Health" means the State Board of Health.</p> <p>"Certified Nurse Aide or CNA" means an individual that have completed a nurse aide education program that is approved by the Board of Nursing, successfully passed the competency evaluation, and has made application and been given certification by the Board of Nursing in the Commonwealth of Virginia.</p> <p>"Commercial loans" means loans made by banks, credit unions, savings and loan associations, insurance companies, schools, and either financial or credit institutions which are subject to examination and supervision in their capacity as lenders by an agency of the United States or of the State in</p>		<p>Removed Section number 15 to ensure uniformity of numbering of the chapter and clarity of the regulations.</p>

	<p>which the lender has its principal place of business.</p> <p>"Commissioner" means the State Health Commissioner.</p> <p>"Department" means Virginia Department of Health.</p> <p>"Full-time" means at least thirty-two (32) hours per week for forty-five (45) weeks per year.</p> <p>"Licensed Practical Nurse or LPN" means a nurse who has completed a practical nurse program and is licensed by the Commonwealth of Virginia to provide routine care under the supervision of a licensed medical practitioner, a professional nurse, registered nurse or registered professional nurse or other licensed health professional authorized by regulations of the Board of Nursing.</p> <p>"Long-Term Care Facility" means a licensed facility in the Commonwealth traditionally known as a nursing home, including both skilled nursing facilities and intermediate care facilities depending on the extent of nursing and related medical care provided.</p> <p>"Participant" or "loan repayment participant" means an eligible registered nurse, licensed practical nurse, or certified nurse aide student or graduate who enters into a contract</p>		
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	<p>with the Commissioner and participates in the scholarship or loan repayment program.</p> <p>"Interest" means the legal rate of interest pursuant to the Code of Virginia.</p> <p>"Penalty" means the amount of money equal to twice the amount of all monetary payments to the scholarship or loan repayment participant, less any service obligation completed.</p> <p>"Reasonable educational expenses" means the costs of education, exclusive of tuition, which are considered to be required by the school's degree program or an eligible program of study, such as fees for room, board, transportation and commuting costs, books, supplies, educational equipment and materials, and travel, which was a part of the estimated student budget of the school in which the participant was enrolled.</p> <p>"Registered Nurse or RN" means a nurse who has passed a state registration examination and has been licensed to practice nursing by the Board of Nursing in the Commonwealth of Virginia.</p>		
<p>20 - Eligibility for <u>scholarships Nursing Scholarship Advisory Committee</u></p>	<p>In order to be considered for a scholarship, applicants must meet the following criteria:</p> <ol style="list-style-type: none"> <li>1. Be a bona fide resident of Virginia for at least one year, as determined by Va. Code</li> </ol>	<p><u>All scholarship and loan repayment award recommendations shall be made by the Nursing Scholarship Advisory Committee appointed by the State Board of Health. The committee shall consist of eight members: four deans or directors</u></p>	<p>Renumbering to ensure uniformity of the chapter and clarity of the regulations. Removed unnecessary language regarding legislative authority and the Commissioner's authority to act on</p>

	<p>§ 23-7.4.</p> <p>2. Be accepted for enrollment or enrolled in approved nursing education programs preparing them for examination for licensure as practical nurses or registered nurses or accepted for enrollment or enrolled in approved nurse aide education programs preparing them for certification.</p> <p>3. Submit a completed application form and appropriate grade transcript prior to the established deadline dates.</p> <p>4. Demonstrate financial need which is verified by the Financial Aid Officer/authorized person.</p> <p>Failure to comply with all of these criteria will cause the applicant to be ineligible for a scholarship.</p>	<p><u>of schools of nursing, two former scholarship recipients (CNA, RN, LPN), and two members with experience in the administration of student financial aid programs. Committee appointments are for two-year terms and members may not serve for more than two successive terms.</u></p> <p><u>The basis for determining scholarship and loan repayment recipients is established by the Advisory Committee. Nursing scholarships shall take priority.</u></p>	<p>behalf of the Board when the Board is not in session. Also removed unnecessary language regarding the Office of Minority Health and Health Equity staffing the Advisory Committee and playing no role in determining scholarship recipients. Clarifying language that former scholarship recipients must be a CNA, RN or LPN. Clarifying language that department staff plays no role in the determination of scholarship or loan repayment recipients and that nursing scholarships shall take priority.</p>
<p>30 - <u>Conditions of scholarships Eligibility for scholarships</u></p>	<p>For each \$100 of scholarship money received, the participant agrees to engage in the equivalent of one month of full-time nursing practice in a long-term care facility in the Commonwealth. Employment must begin within 90 days of the participant's graduation date. Voluntary military service, even if stationed in Virginia, cannot be used to repay the service obligation required when a scholarship is awarded.</p> <p>The participant shall notify the Department in writing of his/her</p>	<p><u>In order to be considered for a scholarship, an applicant shall:</u></p> <p><u>1. Be a United States citizen, national, or an alien holding an immigration visa or classified as a political refugee;</u></p> <p><u>2. Be a bona fide resident of Virginia by being domiciled in the Commonwealth for at least one year as defined by § 23-7.4 of the Code of Virginia;</u></p> <p><u>3. Be accepted for enrollment or enrolled in an approved nursing education program in the Commonwealth of Virginia preparing him for examination for licensure as practical nurses or registered nurses, or accepted</u></p>	<p>Renumbering to ensure uniformity of the chapter and clarity of the regulations. Minor rewording to ensure clarity. Addition of eligibility requirements such as the minimum requirement of a cumulative grade point average of 2.5 in core nursing classes of already enrolled students, and no active military obligation.</p>

	<p>employment location within 30 days of his/her employment at a long-term care facility in the Commonwealth.</p> <p>The participant may request approval of a change of employment. The Board in its discretion may approve such a request.</p> <p>If a participant fails to complete his/her studies, the full amount of scholarship(s) received, plus applicable interest charge, must be repaid.</p> <p>If upon graduation a participant leaves the State, or fails to engage or ceases to engage in nursing practice in a long-term care facility in Virginia before all employment conditions of the scholarship award are fulfilled, the participant must repay the award amount reduced by the proportion of obligated years served plus applicable interest and penalty.</p> <p>If the participant is in default due to death or permanent disability so as not to be able to engage in nursing practice in a long-term care facility, the participant, or his personal representative, may be relieved of this obligation under the contract to engage in nursing practice upon repayment of the total amount of scholarship or loan repayment funds received plus applicable interest. For participants</p>	<p><u>for enrollment or enrolled in an approved nurse aide education program in the Commonwealth of Virginia preparing him for certification;</u></p> <p><u>4. If already enrolled in an approved nursing education program in the Commonwealth of Virginia or an approved nurse aide education program in the Commonwealth of Virginia the student must have a cumulative grade point average of 2.5 in core nursing classes;</u></p> <p><u>5. Submit a completed application form and appropriate grade transcript prior to the established deadline dates;</u></p> <p><u>6. Demonstrate financial need which is verified by the school's financial aid officer/authorized person as part of the application process; and</u></p> <p><u>7. Not have an active military obligation.</u></p> <p><u>Failure to comply with all of these requirements will cause the applicant to be ineligible for a scholarship.</u></p>	
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	<p>completing part of the nursing obligation prior to becoming permanently disabled, or in the event of death, the total amount of scholarship or loan repayment funds owed shall be reduced by the proportion of obligated years served. The obligation to make restitution may be waived by the Board upon application of the participant or the participant's estate to the Board.</p> <p>Individual cases of hardship may be considered by the Board for forgiveness of payment or service.</p> <p>Partial fulfillment of the participant's obligation shall reduce the amount of restitution plus penalty and applicable interest due by an amount of money equal to the same percentage of time employed.</p> <p>All refund checks should be made payable to the Commonwealth of Virginia.</p> <p>Before any scholarship is awarded, the applicant must sign a written contract agreeing to the terms established by law and the Board of Health.</p>		
<p>40 - <u>Number of applications per students</u> <u>Conditions of scholarships.</u></p>	<p>Scholarships are awarded for single academic years. However, the same student may after demonstrating satisfactory progress in his studies, apply for and receive scholarship awards for any succeeding academic year or years. No student may receive scholarships for</p>	<p><u>A. Prior to becoming a participant in the nursing scholarship program, the applicant shall enter into a contract with the commissioner agreeing to the terms and conditions upon which the scholarship is granted.</u></p> <p><u>B. For each \$100 of scholarship money received, the</u></p>	<p>Renumbering to ensure uniformity of the chapter and clarity of the regulations. Minor changes to remove unnecessary language, provide clarity and ensure proper terminology is utilized. Reorganization of the text within the section in</p>

	<p>more than a total of four years.</p>	<p><u>participant agrees to engage in the equivalent of one month of full-time nursing practice in a long-term care facility in the Commonwealth. The recipient shall notify the department, within 180 days of being awarded a nursing diploma or degree, of the type of nursing practice to be performed and give the name and address of the employer for approval. Voluntary military service, even if stationed in Virginia, cannot be used to repay the service obligation required when a scholarship is awarded.</u></p> <p><u>The participant may request approval of a change of practice site. Such requests shall be made in writing. The department in its discretion may approve such a request.</u></p> <p><u>C. If a participant fails to complete his studies, the full amount of the scholarship or scholarships received, plus the applicable interest charge, shall be repaid.</u></p> <p><u>D. If upon graduation a participant leaves the Commonwealth or fails to engage or ceases to engage in nursing practice in a long-term care facility in Virginia before all employment conditions of the scholarship award are fulfilled, the participant shall repay the award amount reduced by the proportion of obligated years served plus the applicable interest and penalty.</u></p> <p><u>E. If the participant is in default due to death or permanent disability so as not to be able to engage in nursing practice in a long-term care facility, the participant or his personal representative may be relieved of his obligation under the contract to engage in nursing practice, upon repayment of the total amount of scholarship or loan repayment funds received plus applicable interest. For</u></p>	<p>order to ensure greater clarity of the section.</p>
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		<p><u>participants completing part of the nursing obligation prior to becoming permanently disabled or in the event of death, the total amount of scholarship or loan repayment funds owed shall be reduced by the proportion of obligated years served. The obligation to make restitution may be waived by the board upon application of the participant or the participant's personal representative to the board.</u></p> <p><u>F. Individual cases of undue hardship may be considered for a variance by the board of payment or service pursuant to § 32.1-12 of the Code of Virginia.</u></p> <p><u>G. All default payments shall be made payable to the Commonwealth of Virginia.</u></p>	
<p><u>50 - Amounts of scholarships Number of applications per student.-</u></p>	<p>The amount of each scholarship award is dependent upon the amount of money appropriated by the General Assembly and the number of qualified applicants. No participant will receive an award for less than \$150.</p>	<p><u>Scholarships are awarded for single academic years. However, the same student may, after demonstrating satisfactory progress in his studies, which is demonstrated by a cumulative grade point average of 2.5 in core nursing classes, apply for and receive scholarship awards for a succeeding academic year or years. No student shall receive scholarships for more than a total of four years.</u></p>	<p>Renumbering to ensure uniformity of the chapter and clarity of the regulations. Clarifying language to elaborate what benchmark will qualify as demonstrating satisfactory progress in studies.</p>
<p><u>60 - How to apply Amounts of scholarships.</u></p>	<p>Application, guidelines and additional information may be available from the Dean/Director of a nursing program or from the Financial Aid Office or from the Department.</p> <p>It is preferred that applications are completed online by going to the Department's website.</p>	<p><u>The amount of each scholarship award shall be dependent upon the amount of money appropriated by the General Assembly, the amount of the funds available within the Nursing Scholarship and Loan Repayment Fund administered by the Board of Nursing pursuant to § 54.1-3011.2 of the Code of Virginia, and the number of qualified applicants. No participant shall receive an award of less than \$150 or more than \$2,000 per year.</u></p>	<p>Renumbering to ensure uniformity of the chapter and clarity of the regulations. Minor changes made for clarification including the source of funding and the maximum amount of award.</p>
<p><u>70 - Deadline dates How to apply.</u></p>	<p>Applications will not be accepted more than two months in advance of the deadline, which is June</p>	<p><u>Eligible applicants shall submit a complete application made available by the</u></p>	<p>Renumbering to ensure uniformity of the chapter and clarity of</p>

	<p>30. Applications and/or transcripts received after 5:00 p.m. on the above date will not be considered for scholarship awards.</p>	<p><u>department on the department's website. A complete application shall include documentation of all eligibility requirements. The deadline for submission of the application shall be announced by the department on the department's website.</u></p>	<p>the regulations. Rewrote the section for clarity and flexibility to ensure changes to the regulations are not needed when there are changes to the deadline dates. Specification that the application and application date will be published on the department's website. Clarification that a complete application will include documentation of all eligibility requirements.</p>
<p><del>80- Administration of the nursing loan repayment program. Reporting Requirements</del></p>	<p>The commissioner, as executive officer of the department shall administer this program. Any requests for variance from this chapter shall be considered on an individual basis by the board.</p>	<p><u>1. Each participant shall provide information as required by the department to verify compliance with the practice requirements of the nursing scholarship program (e.g., verification of employment in a long-term care facility by submitting a Verification of Employment form once every six months).</u></p> <p><u>2. Each participant shall promptly notify the department in writing within 30 days if any of the following events occur:</u></p> <p><u>a. Participant changes name;</u></p> <p><u>b. Participant changes address;</u></p> <p><u>c. Participant changes practice site. (Participant is required to request in writing and obtain prior approval of changes in practice site.);</u></p> <p><u>d. Participant no longer intends to fulfill service obligation as a nurse in the Commonwealth in a long-term care facility;</u></p> <p><u>e. Participant ceases to practice as a registered nurse, licensed practical nurse, or certified nurse aide; or</u></p> <p><u>f. Participant ceases or no longer intends to complete their nursing</u></p>	<p>Renumbering to ensure uniformity of the chapter and clarity of the regulations. Section 80 of the proposed regulations was deleted due to the fact that it was unnecessary. The newly proposed section 80 is modeled on the reporting requirements of the loan repayment program, with clarification that a Verification of Employment form must be submitted once every six months and that participants will notify the board in writing if any of the following changes occur: name, address, practice site, intention to fulfill obligation or ceasing to practice as a RN, LPN or CNA.</p>

<p>90 - Eligible applicants.</p>	<p>An eligible applicant for the Nursing Loan Repayment Program must:</p> <ol style="list-style-type: none"> <li>1. Be a bona fide resident of Virginia for at least one year, as determined by Va Code § 23-7.4.;</li> <li>2. Be a registered nurse, licensed practical nurse, or certified nurse aide;</li> <li>3. Have graduated from an approved educational program pursuant to Chapter 30 (§ 54.1-3000 et seq.) of Title 54.1;</li> <li>3. Have a valid unrestricted Virginia license to practice nursing or be certified as a nurse aide, a copy of which shall be furnished to the Nursing Loan Repayment Program;</li> <li>4. Have submitted a completed application to participate in the Nursing Loan Repayment Program; and</li> <li>5. Have signed and submitted, a written contract agreeing to repay educational loans and to serve in a long-term care facility for the applicable period of obligated service in the Commonwealth.</li> </ol>	<p><u>school program.</u></p> <p>An eligible applicant for the nursing loan repayment program shall:</p> <ol style="list-style-type: none"> <li><u>1. Be a United States citizen, national, or an alien holding an immigration visa or classified as a political refugee;</u></li> <li><u>2. Be domiciled in Virginia for at least one year as determined by § 23-7.4 of the Code of Virginia;</u></li> <li><u>3. Be a registered nurse, licensed practical nurse, or certified nurse aide;</u></li> <li><u>4. Have graduated from an approved educational program pursuant to Chapter 30 (§ 54.1-3000 et seq.) of Title 54.1 of the Code of Virginia;</u></li> <li><u>5. Have a valid unrestricted Virginia license to practice nursing as an RN, LPN or CNA., a copy of which shall be furnished to the nursing loan repayment program;</u></li> <li>6. Have submitted a completed application to participate in the nursing loan repayment program;</li> <li><u>7. Have no other contractual service obligation unless completely satisfied before the nursing loan repayment program contract has been signed;</u></li> <li><u>8. Not have an active military obligation;</u></li> <li><u>9. Be employed or have a contract for employment in a long term care facility within a month of the application date;</u></li> <li><u>10. Have no federal or state debt;</u></li> <li><u>11. Not have a history of noncompliance or waiver within</u></li> </ol>	<p>Clarify that eligible applicants must be US citizens. Update language of the regulations to reflect the language of the Code. Addition of several eligibility requirements such as the requirement that applicants have no other contractual service obligation, no active military obligation, be employed or have a contract for employment in a long term care facility within a month of the application date, have no federal or state debt, have no history of noncompliance or waiver within any other state or federal scholarship or loan repayment program and have a verifiable educational loan balance. These additional eligibility requirements will lead to greater functionality of the program.</p>
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		<p><u>any other state or federal scholarship or loan repayment program; and</u></p> <p><u>12. Have an educational loan balance that can be verified.</u></p>	
<p>100- Application requirement and restrictions</p>	<p>The applicant must submit a completed application for loan repayment for the Nursing Loan Repayment Program, and the application must be received in the Department between the dates of January 1 and May 1 of the year in which the applicant intends to initiate practice in the Commonwealth. The applicant must agree to serve a minimum of one year for a loan amount up to \$1,200 to a maximum of four years for a loan amount up to \$4,800.</p>	<p>The applicant <del>must shall</del> submit a completed application for loan repayment, including documentation of eligibility requirements, <del>for to</del> the Nursing Loan Repayment Program, and the application must be received in the department <u>by the deadline date published on the department's website. The application form shall be available on the department's website.</u> <del>between the dates of January 1 and May 1 of the year in which the applicant intends to initiate practice in the Commonwealth. The applicant must agree to serve a minimum of one year for a loan amount up to \$1,200 to a maximum of four years for a loan amount up to \$4,800.</del></p>	<p>Clarifying language which reflects current office policy and states that deadlines and the application will be published on the department's website.</p>
<p>110- Selection criteria</p>	<p>Applicants shall be competitively reviewed and selected for participation in the nursing loan repayment program based upon the following criteria:</p> <ol style="list-style-type: none"> <li>1. Commitment to serve in a long-term care facility. The individual's stated commitment to serve in a long-term care facility in the Commonwealth.</li> <li>2. Virginia graduates. Preferential consideration will be given to individuals who are graduates of Virginia nursing school (verification will be obtained by the nursing loan repayment program).</li> <li>3. Availability for service. Individuals who are immediately eligible and available for service in a long-term care facility will be given preferential</li> </ol>	<p>Applicants shall be competitively reviewed and selected <u>by an advisory committee appointed by the board</u> for participation in the nursing loan repayment program based upon the following criteria:</p> <ol style="list-style-type: none"> <li><del>1. Commitment to serve in a long-term care facility. The individual's stated commitment to serve in a long-term care facility in the Commonwealth.</del></li> <li><u>21. Virginia graduates. Preferential consideration will shall be given to individuals who are graduates of Virginia nursing school (verification will be obtained by the nursing loan repayment program).</u></li> <li><del>3. Availability for service. Individuals who are immediately eligible and available for service in a long-term care facility will be given preferential consideration.</del></li> <li><del>4. Length of proposed</del></li> </ol>	<p>Removal of eligibility criteria. These elements have been moved to Section 30. Addition of the selection for participation section. Greater clarity of the regulations.</p>

	<p>consideration.</p> <p>4. Length of proposed commitment. Preferential consideration will be given to individuals who commit to longer periods of service in a long-term care facility.</p> <p>5. Selection for participation. All of an individual's professional qualifications and competency to practice will be considered, including but not limited to certification in a specialty, professional achievements, and other indicators of competency received from supervisors and program directors.</p> <p>6. No other obligation. Individuals shall have no other obligation for health professional service to the federal government or state government unless such obligation will be completely satisfied prior to the beginning of service under the nursing loan repayment program.</p>	<p><del>commitment. Preferential consideration will be given to individuals who commit to longer periods of service in a long-term care facility.</del></p> <p><del>5. Selection for participation. All of an individual's professional qualifications and competency to practice will be considered, including but not limited to certification in a specialty, professional achievements, and other indicators of competency received from supervisors and program directors.</del></p> <p><del>6. No other obligation. Individuals shall have no other obligation for health professional service to the federal government or state government unless such obligation will be completely satisfied prior to the beginning of service under the nursing loan repayment program.</del></p> <p><u>2. Selection for participation. The basis for determining loan repayment recipients shall be determined by the Nursing Scholarship Advisory Committee.</u></p>	
<p>120- Loan repayment amount</p>	<p>The amount that the State agrees to repay will depend upon availability of funds and the applicant's indebtedness, but no amount will exceed the total indebtedness. The Nursing Loan Repayment Program requires one year of service in a long-term care facility in the Commonwealth for up to \$1,200 in loans paid by this program</p>	<p><u>The applicant shall agree to serve a minimum of one year for a loan amount up to \$2,000 with an option for renewal in the 2nd, 3rd, and 4th year upon submitting a new application, with a potential maximum award amount of \$8,000. Renewals shall only be granted if an applicant can show a reduction in their educational loan balances. The loan repayment amount shall depend upon availability of funds and the applicant's indebtedness, but no amount shall exceed the total indebtedness.</u></p>	<p>Addition of clarifying language. Greater clarity of the regulations. Correction of award amounts.</p>
<p>130 - Loans qualifying for repayment</p>	<p>Based on the availability of funds, the loan repayment program will pay for the</p>	<p><u>A. Based on the availability of funds, the loan repayment program shall pay toward the</u></p>	<p>Clarifying language and removal of unnecessary language. Greater</p>

	<p>cost of education necessary to obtain a nursing certificate, diploma or degree. The program will pay toward the outstanding principal, interest, and related expense of federal, state, or local government loans and commercial loans obtained by the participant for:</p> <ol style="list-style-type: none"> <li>1. School tuition and required fees incurred by the participant;</li> <li>2. Other reasonable educational expenses, and</li> <li>3. Reasonable living expenses as determined by the Board.</li> </ol>	<p><u>outstanding principal, interest, and related expenses of verifiable federal, state, or local government loans and commercial loans obtained by the participant for the following:</u></p> <ol style="list-style-type: none"> <li><u>1. Tuition expenses;</u></li> <li><u>2. Other reasonable educational expenses; and</u></li> <li><u>3. Reasonable living expenses as estimated by the school as part of the school's standard student budget and determined reasonable by the department.</u></li> </ol> <p><u>B. All loan award payments shall be applied only to outstanding educational loans secured while attending a qualified nurse training program which led to RN, LPN or CNA licensure. Qualifying outstanding education loans shall:</u></p> <ol style="list-style-type: none"> <li><u>1. Have sufficient documentation verifying the educational use of the loans;</u></li> <li><u>2. Not exceed the "reasonable" level as determined by the school's standard budget in the year the loan was made; and</u></li> <li><u>3. Not include loans from friends and relatives.</u></li> </ol> <p><u>C. The department shall be the final authority in determining qualifying educational loans.</u></p>	<p>organization of the section.</p>
<p>140 - <u>Repayment restrictions. Release of information</u></p>	<p>A. The following financial debts or service obligations are not qualified for repayment by the loan repayment program:</p> <ol style="list-style-type: none"> <li>1. Public Health Service Nursing Shortage Area Scholarship;</li> <li>2. Public Health and National Health Service Corps Scholarship</li> </ol>	<p><u>Applicants shall agree to execute a release of information to allow the department access to loan records, credit information, and information from lenders necessary to verify eligibility and to determine loan repayments. To facilitate the process, applicants shall submit payment statements from each lending institution.</u></p> <p><u>Participants who have</u></p>	<p>Removal of an unnecessary section. Renumbering to ensure uniformity of the chapter and clarity of the regulations. Minor changes made in order to insert clarifying language.</p>

	<p>Training Program;</p> <p>3. Indian Health Service Scholarship Program;</p> <p>4. Armed Forces Health Professions Scholarship Programs; and</p> <p>5. National Health Service Corps Scholarship Program financial damages or loans obtained to repay such damages;</p> <p>6. Indian Health Corps Scholarship or loan obtained to repay such damages;</p> <p>7. Financial damages or loans obtained to repay damages incurred as a result of breach of contract with any other federal, state, local agency or commercial institution;</p> <p>8. Loans for which documentation verifying the educational use of the loans is not available or is not sufficient;</p> <p>9. Loans, or part of loans, obtained for educational or personal expenses during the participant's education, which exceed the reasonable level, as determined by the school" standard budget in the year the loan was made;</p> <p>10. Loans that have been repaid in full; and loans that incur their own obligation for service which has not yet been performed;</p> <p>11. Loans from friends and relatives;</p> <p>12. The Mary Marshall Nursing Scholarship Program; and.</p> <p>13. The Nursing Scholarship Program with</p>	<p><u>consolidated qualifying loans with other loans shall submit on request other documentation, such as copies of original loan applications, to verify the portion of the loan that qualifies for repayment.</u></p> <p><u>The applicant shall submit all requested loan documentation prior to approval by the department.</u></p>	
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	<p>a commitment to service in a long-term care facility.</p> <p>B. The Board will be the final authority in determining qualifying educational loans.</p>		
<p><u>150 - Release of information Effective date for start of service.</u></p>	<p>Applicants shall agree to execute a release to allow the Board access to loan records, credit information, and information from lenders necessary to verify eligibility and to determine loan repayments. To facilitate the process, applicants should submit pay-off statements from each lending institution.</p> <p>Participants who have consolidated qualifying loans with other loans may be asked to submit other documentation, such as copies of original loan applications, to verify the portion of the loan that qualifies for repayment.</p> <p>The applicant is required to submit all requested loan documentation prior to approval by the Board.</p>	<p><u>Applicants become participants in the loan repayment program only when the applicant and the commissioner or his designee has signed the loan repayment program contract. The effective start date of the obligated service under contract shall begin on or after the date of the commissioner's signature.</u></p>	<p>Renumbering to ensure uniformity of the chapter and clarity of the regulations. Minor changes made in order to insert clarifying language.</p>
<p><u>160 - Effective date for start of service. Repayment procedure</u></p>	<p>Applicants become participants in the loan repayment program only when the applicant and the Commissioner or his/her designee have signed the loan repayment program contract. The effective start date of the obligated service under contract is the date of employment in a long-term care facility or the date of the Commissioner's signature, whichever is later.</p>	<p><u>Loan repayment shall be limited to loans covering reasonable educational and living expenses and shall include principal and interest. Repayment of loans shall begin after the Commissioner has received notification that the participant has officially accepted placement and has begun the required service obligation. Payment shall be a lump-sum payment based on availability of funds. Payment shall be made to the recipient. Verification of payment made to the lender shall be required and submitted to the Department. It shall be the responsibility of the participant to negotiate with each lending institution the terms of the educational loan repayments.</u></p>	<p>Renumbering to ensure uniformity of the chapter and clarity of the regulations. Minor changes made in order to insert clarifying language and removal of unnecessary language.</p>

<p>170 - <u>Repayment policy Compensation during service</u></p>	<p>It will be the responsibility of the participant to negotiate with each lending institution for the terms of the educational loan repayments. Each lending institution must certify that the participant's debt is a valid educational loan prior to payment by the loan repayment program. Any penalties associated with early repayment shall be the responsibility of the participant.</p>	<p><u>Each participant is responsible for negotiating his own compensation package directly with the site where he will provide nursing services in a long-term care facility.</u></p>	<p>Renumbering to ensure uniformity of the chapter and clarity of the regulations. Minor changes made in order to insert clarifying language.</p>
<p>180 - <u>Disbursement procedure Monitoring during service</u></p>	<p>The financial institution holding the educational loan will be paid one lump sum payment. This payment will be credited to the account of the participant in an amount up to \$1,200 for a one year commitment within forty-five days of the contract being signed by the applicant and the Commissioner or her/his designee. If a participant wishes to commit to another year of service, he will be required to sign another contract. Depending on availability of funds, the Nursing Loan Repayment Program will pay the applicable financial institution another lump sum payment up to \$1,200 for the additional year commitment. Payment will be made approximately forty-five days after the beginning of the subsequent year. The maximum number of loans a participant can receive is four.</p>	<p><u>Monitoring of the recipient's service obligation shall be conducted on an ongoing basis by department staff. Service verification forms shall be submitted by the participant to the department semi-annually (every six months) and countersigned by a representative of the service site (e.g., the medical director, human resource coordinator, chief executive officer, etc.) certifying continuous full-time service by participants.</u></p> <p><u>The participant shall maintain practice records in a manner that will allow the department to readily determine if the individual has complied with or is complying with the terms and conditions of the contract.</u></p>	<p>Renumbering to ensure uniformity of the chapter and clarity of the regulations. Minor changes made in order to insert clarifying language.</p>
<p>190 - <u>Compensation during service Terms of service</u></p>	<p>Each participant is responsible for negotiating his own compensation package directly with the site where he will provide nursing services in a long-term care facility.</p>	<p><u>The following are the terms of service for the loan repayment program:</u></p> <p><u>1. The applicant shall agree to serve a minimum of one year of service with an option for renewal</u></p>	<p>Renumbering to ensure uniformity of the chapter and clarity of the regulations. Minor changes made in order to insert clarifying language. Removal of</p>

		<p><u>in the 2nd, 3rd, and 4th year upon submitting a new application, with a potential to serve up to 4 years. Additional years of service beyond the one year commitment are dependent upon the availability of state funds for the nursing loan repayment program.</u></p> <p><u>2. The participant shall provide full-time service; and</u></p> <p><u>3. No period of advanced training shall count toward satisfying a period of obligated service under this loan repayment program.</u></p>	<p>unnecessary language.</p>
<p>200 - <u>Monitoring during service. Loan repayment contract.</u></p>	<p>Monitoring of the service by participants shall be conducted on an on-going basis by Department staff. Service verification forms shall be submitted by the participant to the Department semi-annually (every six months), countersigned by a representative of the service site, e.g., the Medical Director, Human Resource Coordinator, Chief Executive Officer, etc., certifying continuous full-time service by participants.</p> <p>The participant is required to maintain practice records in a manner that will allow the Department to readily determine if the individual has complied with or is complying with the terms and conditions of the participation agreement.</p>	<p><u>Prior to becoming a participant in the nursing loan repayment program, the applicant shall enter into a contract with the commissioner agreeing to the terms and conditions upon which the loan repayment is granted. The contract shall:</u></p> <p><u>1. Include the terms and conditions to carry out the purposes and intent of this program;</u></p> <p><u>2. Provide that the participant shall provide full-time nursing services as an RN, LPN or CNA in a long-term care facility in the Commonwealth for a minimum period of one year;</u></p> <p><u>3. Provide for repayment of all amounts paid by the board, plus interest and penalties, less any service time if the participant is found to be in breach of contract;</u></p> <p><u>4. Be signed by the applicant; and</u></p> <p><u>5. Be signed by the commissioner or his designee.</u></p>	<p>Renumbering to ensure uniformity of the chapter and clarity of the regulations. Minor changes made in order to insert clarifying language.</p>
<p>210 - <u>Terms of service-Breach of contract</u></p>	<p>The following are the terms of service for the loan repayment program:</p>	<p><u>The following may constitute breach of contract:</u></p>	<p>Renumbering to ensure uniformity of the chapter and clarity of</p>

	<p>1. The participant shall contract to provide one year of service with a maximum of up to four years in whole year increments. Additional service beyond the one year commitment is dependent upon the availability of state funds for the Nursing Loan Repayment Program. An existing contract may be renewed for one year at a time up to a maximum of four years, as funds become available;</p> <p>2. The participant shall begin service within 90 days from entering into the contract;</p> <p>3. The participant shall provide full-time service. Time spent in an "on-call" status will not count toward the number of hours worked per week. Any exceptions to the "on-call" provisions of this policy must be approved in advance by the Board prior to acceptance in the Loan Repayment Program.</p> <p>4. No period of advanced training may count toward satisfying a period of obligated service under this loan repayment program;</p>	<p><u>1. Participant's failure to begin or complete his term of obligated service in a long-term care facility under the terms and conditions of the nursing loan repayment contract;</u></p> <p><u>2. Participant's falsification or misrepresentation of information on the program application or verification forms or other required documents;</u></p> <p><u>3. Participant's employment being terminated for good cause as determined by the employer and confirmed by the department. If employment is terminated for reasons beyond the participant's control (e.g., closure of site), the participant must transfer to another long-term care facility site approved by the board in the Commonwealth within six months of termination. Failure of participant to transfer to another site shall be deemed to be a breach of the contract; and</u></p> <p><u>4. Participant's failure to provide all reasonable, usual, and customary full-time health care service in a long-term care facility.</u></p>	<p>the regulations. Minor changes made in order to insert clarifying language.</p>
<p><u>220- Loan repayment contract Postponement or waiver of service, or both.</u></p>	<p>Prior to becoming a participant in the Nursing Loan Repayment Program, the applicant shall enter into a contract with the Board agreeing to the terms and conditions upon which the loan repayment is granted. The contract shall:</p> <p>1. Include the terms and conditions to carry out the purposes and intent of this program;</p>	<p><u>Participants have the obligation to complete full-time continuous service for the period of their entire commitment. Under unusual circumstances (e.g., illness), a participant may request that the board agree to a postponement of the service obligation. This postponement, if granted, shall not relieve the participant of the responsibility to complete the remaining portion of the obligation. Such postponement shall not be</u></p>	<p>Renumbering to ensure uniformity of the chapter and clarity of the regulations. Minor changes made in order to insert clarifying language.</p>

	<p>2. Provide that the participant will be required to provide nursing services in a long-term care facility in the Commonwealth for a minimum period of one year.</p> <p>3. Provide for repayment of all amounts paid, plus interest, and penalties, less any service time, if the participant is found to be in breach of contract;</p> <p>4. Be signed by the applicant;</p> <p>5. Be signed by the Commissioner or her/his designee.</p>	<p><u>permitted as a matter of course, but may be allowed in the most compelling cases.</u></p> <p><u>If the participant is in default due to death or permanent disability, the participant or the participant's personal representative may request that the board agree to a waiver of the service obligation.</u></p>	
<p><b>230 - <del>Breach of contract</del> Cash reimbursement and penalty.</b></p>	<p>The following may constitute breach of contract:</p> <p>1. Participant's failure to begin or complete his/her term of obligated service in a long-term care facility under the terms and conditions of the Nursing Loan Repayment contract, regardless of the length of the agreed period of obligated service;</p> <p>2. Participant's falsification or misrepresentation of information or misrepresentation of information on the program application or verification forms or other required document;</p> <p>3. Participant's employment being terminated for good cause, as determined by the employer and confirmed by the Department. If employment is terminated for reasons beyond the participant's control (e.g., closure of site), the participant must transfer to another long-term care facility site in the Commonwealth within six</p>	<p><u>Participants who serve less than their obligated service are liable to make repayment, including interest and penalty to the Commonwealth as stated in the contract, reduced by the proportion of obligated years served.</u></p>	<p>Renumbering to ensure uniformity of the chapter and clarity of the regulations. Minor changes made in order to insert clarifying language.</p>

	<p>months of termination. Failure of participant to transfer to another site shall be deemed to be a breach of the contract; and</p> <p>4. Participant's failure to provide all reasonable, usual and customary full-time health care service in a long-term care facility for at least forty-five (45) weeks per year.</p>		
<p>240. <del>Waiver and suspension of both.</del> <u>Reporting requirements of loan repayment participants.</u></p>	<p>Participants have the obligation to complete full-time continuous service for the period of their entire commitment. Under unusual circumstances (e.g., illness), a participant may request that the Board agree to a postponement of the service obligation. This postponement, if granted, will not relieve the participant of the responsibility to complete the remaining portion of the obligation. Such postponement will not be permitted as a matter of course, but may be allowed in the most compelling cases.</p> <p>If the participant is in default due to death or permanent disability, the obligation to make restitution may be waived by the Board upon application of the participant or the participant's estate to the Board.</p>	<p><u>Reporting requirements of the loan repayment participant are as follows:</u></p> <p><u>1. Each participant shall provide information as required by the department to verify compliance with the practice requirements of the nursing loan repayment program (e.g., verification of employment in a long-term care facility by submitting a Verification of Employment form once every six months).</u></p> <p><u>2. Each participant shall promptly notify the department in writing within 30 days if any of the following events occur:</u></p> <ul style="list-style-type: none"> <li><u>a. Participant changes name;</u></li> <li><u>b. Participant changes address;</u></li> <li><u>c. Participant changes practice site. (Participant is required to request and obtain in writing prior approval of changes in practice site.);</u></li> <li><u>d. Participant no longer intends to fulfill service obligation as a nurse in the Commonwealth in a long-term care facility; or</u></li> <li><u>e. Participant ceases to practice as a registered nurse, licensed practical nurse, or certified nurse aide.</u></li> </ul>	<p>Renumbering to ensure uniformity of the chapter and clarity of the regulations. Minor changes made in order to insert clarifying language.</p>
<p>250. <del>Cash reimbursement and penalty</del></p>	<p>Participants who serve less than their obligated service are liable to pay</p>		<p>Removal of an unnecessary section</p>

	<p>monetary damages to the Commonwealth as stated in the contract, reduced by the proportion of obligated years served. The default penalty will require the participant to repay twice the total amount of the award received. For example, if a participant owes \$1,200, he would have to repay at total of \$2,400.</p> <p>Participants who serve less than their obligated service due to permanent disability or in the event of death, shall have the total amount of scholarship or loan repayment funds owed reduced by the proportion of obligated years served.</p>		
<p><b>260 Reporting requirements</b></p>	<p>Reporting requirements of the loan repayment participant are as follows:</p> <p>A. Each participant shall at any time provide information as required by the Board to verify compliance with the practice requirements of the Nursing Loan Repayment Program, e.g. verification of employment in a long-term care facility.</p> <p>B. Each participant shall promptly notify the Board, in writing, within 30 days before any of the following events occur:</p> <ol style="list-style-type: none"> <li>1. Participant changes name;</li> <li>2. Participant changes address;</li> <li>3. Participant changes practice site;</li> <li>4. Participant no longer intends to fulfill service obligation as a nurse in</li> </ol>		<p>Removal of an unnecessary section</p>

	<p>the Commonwealth in a long-term care facility; or</p> <p>5. Participant ceases to practice as a registered nurse, licensed practical nurse, or certified nurse aide.</p>		
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**Public comment**

*Please summarize all comments received during the public comment period following the publication of the proposed stage, and provide the agency response. If no comment was received, please so indicate.*

The Virginia Department of Health conducted a 60 day public comment period from October 22, 2012 until December 21, 2012. No public comment was received.

**All changes made in this regulatory action**

*Please list all changes that are being proposed and the consequences of the proposed changes. Describe new provisions and/or all changes to existing sections.*

The emergency regulations expired on January 16th, 2002. There are currently no regulations in place for this program.

<b>Current section number</b>	<b>Proposed new section number, if applicable</b>	<b>Current requirement</b>	<b>Proposed change and rationale</b>
N/A	12VAC5-507-10 - Definitions	N/A	<p>The following words and terms when used in this chapter shall have the following meanings:</p> <p>"Board" or "Board of Health" means the State Board of Health.</p> <p>"Certified nurse aide" or "CNA" means a person who is certified by the Board of Nursing under the provisions of Chapter 30 of Title 54.1 of the Code of Virginia.</p> <p>"Commercial loans" means loans made by banks, credit unions, savings and loan associations, insurance companies, schools, and either financial or credit institutions that are subject to examination and supervision in their capacity as lenders by an agency of the United States or of the state in which the lender has its principal place of business.</p> <p>"Commissioner" means the State Health Commissioner.</p> <p>"Department" means Virginia Department</p>

		<p>of Health.</p> <p>"Full-time" means at least 32 hours per week for 45 weeks per year.</p> <p>"Licensed practical nurse" or "LPN" means a person who is licensed or holds a multistate licensure privilege under the provisions of Chapter 30 of Title 54.1 of the Code of Virginia to practice practical nursing as defined in § 54.1-3000.</p> <p>"Long-term care facility" means a certified nursing facility or nursing home as defined by § 32.1-123 of the Code of Virginia.</p> <p>"Participant/recipient" means an eligible registered nurse, licensed practical nurse, or certified nurse aide student or graduate of an approved nursing education program or an approved nurse aide education program who enters into a contract with the commissioner and participates in the scholarship or loan repayment program.</p> <p>"Interest" means the legal rate of interest pursuant to § 6.2-302 of the Code of Virginia.</p> <p>"Penalty" means twice the amount of all monetary payments to the scholarship or loan repayment participant, less any service obligation completed.</p> <p>"Reasonable educational expenses" means the costs of education, exclusive of tuition, that are considered to be required by the school's degree program or an eligible program of study, such as fees for room, board, transportation and commuting costs, books, supplies, educational equipment and materials, and travel that was a part of the estimated student budget of the school in which the participant is or was enrolled.</p> <p>"Registered nurse" or "RN" means a person who is licensed or holds a multistate licensure privilege under the provisions Chapter 30 of Title 54.1 of the Code of Virginia to practice professional nursing as defined in § 54.1-3000.</p> <p>Rationale: Define key terms used in regulations.</p>
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<p>N/A</p>	<p>12VAC5-507-20 Nursing Scholarship Advisory Committee.</p>	<p>N/A</p>	<p>All scholarship and loan repayment award recommendations shall be made by the Nursing Scholarship Advisory Committee appointed by the State Board of Health. The committee shall consist of eight members: four deans or directors of schools of nursing, two former scholarship recipients (CNA, RN, LPN), and two members with experience in the administration of student financial aid programs. Committee appointments are for two-year terms and members may not serve for more than two successive terms.</p> <p>The basis for determining scholarship and loan repayment recipients is established by the Advisory Committee. Nursing scholarships shall take priority.</p> <p>Rationale: Establishing the elements of the Nursing Scholarship Advisory Committee.</p>
<p>N/A</p>	<p>12VAC5-507-30 Eligibility for scholarships.</p>	<p>N/A</p>	<p>In order to be considered for a scholarship, an applicant shall:</p> <ol style="list-style-type: none"> <li>1. Be a United States citizen, national, or an alien holding an immigration visa or classified as a political refugee;</li> <li>2. Be a bona fide resident of Virginia by being domiciled in the Commonwealth for at least one year as defined by § 23-7.4 of the Code of Virginia;</li> <li>3. Be accepted for enrollment or enrolled in an approved nursing education program in the Commonwealth of Virginia preparing him for examination for licensure as practical nurses or registered nurses, or accepted for enrollment or enrolled in an approved nurse aide education program in the Commonwealth of Virginia preparing him for certification;</li> <li>4. If already enrolled in an approved nursing education program in the Commonwealth of Virginia or an approved nurse aide education program in the Commonwealth of Virginia the student must have a cumulative grade point average of 2.5 in core nursing classes;</li> <li>5. Submit a completed application form and appropriate grade transcript prior to the established deadline dates;</li> <li>6. Demonstrate financial need which is verified</li> </ol>

			<p>by the school's financial aid officer/authorized person as part of the application process; and</p> <p>7. Not have an active military obligation.</p> <p>Failure to comply with all of these requirements will cause the applicant to be ineligible for a scholarship.</p> <p>Rationale: Specify the eligibility requirements of the scholarship recipients.</p>
N/A	12VAC5-507-40 Conditions of scholarships	N/A	<p>A. Prior to becoming a participant in the nursing scholarship program, the applicant shall enter into a contract with the commissioner agreeing to the terms and conditions upon which the scholarship is granted.</p> <p>B. For each \$100 of scholarship money received, the participant agrees to engage in the equivalent of one month of full-time nursing practice in a long-term care facility in the Commonwealth. The recipient shall notify the department, within 180 days of being awarded a nursing diploma or degree, of the type of nursing practice to be performed and give the name and address of the employer for approval. Voluntary military service, even if stationed in Virginia, cannot be used to repay the service obligation required when a scholarship is awarded.</p> <p>The participant may request approval of a change of practice site. Such requests shall be made in writing. The department in its discretion may approve such a request.</p> <p>C. If a participant fails to complete his studies, the full amount of the scholarship or scholarships received, plus the applicable interest charge, shall be repaid.</p> <p>D. If upon graduation a participant leaves the Commonwealth or fails to engage or ceases to engage in nursing practice in a long-term care facility in Virginia before all employment conditions of the scholarship award are fulfilled, the participant shall repay the award amount reduced by the proportion of obligated years served plus the applicable interest and penalty.</p> <p>E. If the participant is in default due to death or permanent disability so as not to be able to engage in nursing practice in a long-term care facility, the participant or his personal representative may be relieved of his obligation under the contract to engage in nursing</p>

			<p>practice, upon repayment of the total amount of scholarship or loan repayment funds received plus applicable interest. For participants completing part of the nursing obligation prior to becoming permanently disabled or in the event of death, the total amount of scholarship or loan repayment funds owed shall be reduced by the proportion of obligated years served. The obligation to make restitution may be waived by the board upon application of the participant or the participant's personal representative to the board.</p> <p>F. Individual cases of undue hardship may be considered for a variance by the board of payment or service pursuant to § 32.1-12 of the Code of Virginia.</p> <p>G. All default payments shall be made payable to the Commonwealth of Virginia.</p> <p>Rationale: Specify the conditions of the scholarships.</p>
N/A	12VAC5-507-50. Number of applications per student.	N/A	<p>Scholarships are awarded for single academic years. However, the same student may, after demonstrating satisfactory progress in his studies, which is demonstrated by a cumulative grade point average of 2.5 in core nursing classes, apply for and receive scholarship awards for a succeeding academic year or years. No student shall receive scholarships for more than a total of four years.</p> <p>Rationale: Specify the number of applications permitted per student.</p>
N/A	12VAC5-507-60 Amounts of scholarships	N/A	<p>The amount of each scholarship award shall be dependent upon the amount of money appropriated by the General Assembly, the amount of the funds available within the Nursing Scholarship and Loan Repayment Fund administered by the Board of Nursing pursuant to § 54.1-3011.2 of the Code of Virginia, and the number of qualified applicants. No participant shall receive an award of less than \$150 or more than \$2,000 per year.</p> <p>Rationale: Specify the scholarship amount. Specifically, the amount available each year shall be as provided by the Virginia General Assembly in the Appropriations Act.</p>
N/A	12VAC5-507-70 How to apply	N/A	<p>Eligible applicants shall submit a complete application made available by the department on the department's website. A complete application shall include documentation of all eligibility requirements. The deadline for</p>

			<p>submission of the application shall be announced by the department on the department's website.</p> <p>Rationale: Specify the scholarship application information.</p>
N/A	12VAC5-507-80 Reporting requirements of Scholarship Participants	N/A	<p>1. Each participant shall provide information as required by the department to verify compliance with the practice requirements of the nursing scholarship program (e.g., verification of employment in a long-term care facility by submitting a Verification of Employment form once every six months).</p> <p>2. Each participant shall promptly notify the department in writing within 30 days if any of the following events occur:</p> <ul style="list-style-type: none"> <li>a. Participant changes name;</li> <li>b. Participant changes address;</li> <li>c. Participant changes practice site. (Participant is required to request in writing and obtain prior approval of changes in practice site.);</li> <li>d. Participant no longer intends to fulfill service obligation as a nurse in the Commonwealth in a long-term care facility;</li> <li>e. Participant ceases to practice as a registered nurse, licensed practical nurse, or certified nurse aide; or</li> <li>f. Participant ceases or no longer intends to complete their nursing school program.</li> </ul> <p>Rationale: Specify the reporting requirements of scholarship participants.</p>
N/A	12VAC5-507-90 Eligible applicants	N/A	<p>An eligible applicant for the nursing loan repayment program shall:</p> <ul style="list-style-type: none"> <li>1. Be a United States citizen, national, or an alien holding an immigration visa or classified as a political refugee;</li> <li>2. Be domiciled in Virginia for at least one year as determined by § 23-7.4 of the Code of Virginia;</li> </ul>

			<p>3. Be a registered nurse, licensed practical nurse, or certified nurse aide;</p> <p>4. Have graduated from an approved educational program pursuant to Chapter 30 (§ 54.1-3000 et seq.) of Title 54.1 of the Code of Virginia;</p> <p>5. Have a valid unrestricted Virginia license to practice nursing as an RN, LPN or CNA, a copy of which shall be furnished to the nursing loan repayment program;</p> <p>6. Have submitted a completed application to participate in the nursing loan repayment program;</p> <p>7. Have no other contractual service obligation unless completely satisfied before the nursing loan repayment program contract has been signed;</p> <p>8. Not have an active military obligation;</p> <p>9. Be employed or have a contract for employment in a long term care facility within a month of the application date;</p> <p>10. Have no federal or state debt;</p> <p>11. Not have a history of noncompliance or waiver within any other state or federal scholarship or loan repayment program; and</p> <p>12. Have an educational loan balance that can be verified.</p> <p>Rationale: Specify the eligibility requirements of the loan repayment program.</p>
N/A	12VAC5-507-100 Application requirement	N/A	<p>The applicant shall submit a completed application, including documentation of eligibility requirements, to the nursing loan repayment program, and the application must be received in the department by the deadline date published on the department's website. The application form shall be available on the department's website.</p> <p>Rationale: Specify the application requirement of the loan repayment program.</p>
N/A	12VAC5-507-110 Selection criteria	N/A	<p>Applicants shall be competitively reviewed and selected by an advisory committee,</p>

			<p>appointed by the board, for participation in the nursing loan repayment program based upon the following criteria:</p> <ol style="list-style-type: none"> <li>1. Virginia graduates. Preferential consideration shall be given to individuals who are graduates of Virginia nursing schools (verification shall be obtained by the nursing loan repayment program).</li> <li>2. Selection for participation. The basis for determining loan repayment recipients shall be determined by the Nursing Scholarship Advisory Committee.</li> </ol> <p>Rationale: Specify the loan repayment program selection criteria.</p>
N/A	12VAC5-507-120 Loan repayment amount.	N/A	<p>The applicant shall agree to serve a minimum of one year for a loan amount up to \$2,000 with an option for renewal in the 2nd, 3rd, and 4th year upon submitting a new application, with a potential maximum award amount of \$8,000. Renewals shall only be granted if an applicant can show a reduction in their educational loan balances. The loan repayment amount shall depend upon availability of funds and the applicant's indebtedness, but no amount shall exceed the total indebtedness.</p> <p>Rationale: Specify the loan repayment amount.</p>
N/A	12VAC5-507-130 Loans qualifying for repayment.	N/A	<p>A. Based on the availability of funds, the loan repayment program shall pay toward the outstanding principal, interest, and related expenses of verifiable federal, state, or local government loans and commercial loans obtained by the participant for the following:</p> <ol style="list-style-type: none"> <li>1. Tuition expenses;</li> <li>2. Other reasonable educational expenses; and</li> <li>3. Reasonable living expenses as estimated by the school as part of the school's standard student budget and determined reasonable by the department.</li> </ol> <p>B. All loan award payments shall be applied only to outstanding educational loans secured while attending a qualified nurse training program which led to RN, LPN or CNA licensure. Qualifying outstanding education loans shall:</p>

			<p>1. Have sufficient documentation verifying the educational use of the loans;</p> <p>2. Not exceed the "reasonable" level as determined by the school's standard budget in the year the loan was made; and</p> <p>3. Not include loans from friends and relatives.</p> <p>C. The department shall be the final authority in determining qualifying educational loans.</p> <p>Rationale: Specify the types of loans that qualify for repayment.</p>
N/A	12VAC5-507-140 Release of information.	N/A	<p>Applicants shall agree to execute a release of information to allow the department access to loan records, credit information, and information from lenders necessary to verify eligibility and to determine loan repayments. To facilitate the process, applicants shall submit payment statements from each lending institution.</p> <p>Participants who have consolidated qualifying loans with other loans shall submit on request other documentation, such as copies of original loan applications, to verify the portion of the loan that qualifies for repayment.</p> <p>The applicant shall submit all requested loan documentation prior to approval by the department.</p> <p>Rationale: Specify the requirement of an application to agree to execute a release to allow the department access to loan information.</p>
N/A	12VAC5-507-150 Effective date for start of service.	N/A	<p>Applicants shall become participants in the loan repayment program only when the applicant and the commissioner or his designee have signed the loan repayment program contract. The effective start date of the obligated service under the contract shall begin on or after the date of the commissioner's signature.</p> <p>Rationale: Specify the effective start date of service in the loan repayment program.</p>
N/A	12VAC5-507-160 Repayment policy	N/A	<p>Loan repayment shall be limited to loans covering reasonable educational and living expenses and shall include principal and interest. Repayment of loans shall begin after the Commissioner has received notification that the participant has officially accepted</p>

			<p>placement and has begun the required service obligation. Payment shall be a lump-sum payment based on availability of funds. Payment shall be made to the recipient. Verification of payment made to the lender shall be required and submitted to the Department. It shall be the responsibility of the participant to negotiate with each lending institution the terms of the educational loan repayments.</p> <p>Rationale: Specify the effective start date of service in the loan repayment program.</p>
N/A	12VAC5-507-170 Compensation during service.	N/A	<p>Each participant is responsible for negotiating his own compensation package directly with the site where he will provide nursing services in a long-term care facility.</p> <p>Rationale: Specify compensation during service of each participant in the loan repayment program.</p>
N/A	12VAC5-507-180 Monitoring during service.	N/A	<p>Monitoring of the recipient's service obligation shall be conducted on an ongoing basis by department staff. Service verification forms shall be submitted by the participant to the department semi-annually (every six months) and countersigned by a representative of the service site (e.g., the medical director, human resource coordinator, chief executive officer, etc.) certifying continuous full-time service by participants.</p> <p>The participant shall maintain practice records in a manner that will allow the department to readily determine if the individual has complied with or is complying with the terms and conditions of the contract.</p> <p>Rationale: Specify the monitoring requirement during service in the loan repayment program.</p>
N/A	12VAC5-507-190 Terms of service	N/A	<p>The following are the terms of service for the loan repayment program:</p> <ol style="list-style-type: none"> <li>1. The applicant shall agree to serve a minimum of one year of service with an option for renewal in the 2nd, 3rd, and 4th year upon submitting a new application, with a potential to serve up to 4 years. Additional years of service beyond the one year commitment are dependent upon the availability of state funds for the nursing loan repayment program.</li> <li>2. The participant shall provide full-time</li> </ol>

			<p>service; and</p> <p>3. No period of advanced training shall count toward satisfying a period of obligated service under this loan repayment program.</p> <p>Rationale: Specify the terms of service in the loan repayment program.</p>
N/A	12VAC5-507-200 Loan repayment contract.	N/A	<p>Prior to becoming a participant in the nursing loan repayment program, the applicant shall enter into a contract with the commissioner agreeing to the terms and conditions upon which the loan repayment is granted. The contract shall:</p> <p>1. Include the terms and conditions to carry out the purposes and intent of this program;</p> <p>2. Provide that the participant shall provide full-time nursing services as an RN, LPN or CNA in a long-term care facility in the Commonwealth for a minimum period of one year;</p> <p>3. Provide for repayment of all amounts paid by the board, plus interest and penalties, less any service time if the participant is found to be in breach of contract;</p> <p>4. Be signed by the applicant; and</p> <p>5. Be signed by the commissioner or his designee.</p> <p>Rationale: Specify the contract provisions in the loan repayment program.</p>
N/A	12VAC5-507-210 Breach of contract.	N/A	<p>The following may constitute breach of contract:</p> <p>1. Participant's failure to begin or complete his term of obligated service in a long-term care facility under the terms and conditions of the nursing loan repayment contract;</p> <p>2. Participant's falsification or misrepresentation of information on the program application or verification forms or other required documents;</p> <p>3. Participant's employment being terminated for good cause as determined by the employer and confirmed by the department. If employment is terminated for reasons beyond</p>

			<p>the participant's control (e.g., closure of site), the participant must transfer to another long-term care facility site approved by the board in the Commonwealth within six months of termination. Failure of participant to transfer to another site shall be deemed to be a breach of the contract; and</p> <p>4. Participant's failure to provide all reasonable, usual, and customary full-time health care service in a long-term care facility.</p> <p>Rationale: Specify breach of contract provisions of the loan repayment recipients.</p>
N/A	12VAC5-507-220 Postponement or waiver of service.	N/A	<p>Participants have the obligation to complete full-time continuous service for the period of their entire commitment. Under unusual circumstances (e.g., illness), a participant may request that the board agree to a postponement of the service obligation. This postponement, if granted, shall not relieve the participant of the responsibility to complete the remaining portion of the obligation. Such postponement shall not be permitted as a matter of course, but may be allowed in the most compelling cases.</p> <p>If the participant is in default due to death or permanent disability, the participant or the participant's personal representative may request that the board agree to a waiver of the service obligation.</p> <p>Rationale: Specify the waiver and postponement guidelines of the loan repayment recipients.</p>
N/A	12VAC5-507-230 Cash reimbursement and penalty.	N/A	<p>Participants who serve less than their obligated service are liable to make repayment, including interest and penalty to the Commonwealth as stated in the contract, reduced by the proportion of obligated years served.</p> <p>Rationale: Specify the cash reimbursement and penalty information of the loan repayment recipients who serve less than their service obligation.</p>
N/A	12VAC5-507-240 Reporting requirements of loan repayment participants.	N/A	<p>Reporting requirements of the loan repayment participant are as follows:</p> <p>1. Each participant shall provide information as required by the department to verify compliance with the practice requirements of the nursing loan repayment program (e.g., verification of employment in a long-term care</p>

		<p>facility by submitting a Verification of Employment form once every six months).</p> <p>2. Each participant shall promptly notify the department in writing within 30 days if any of the following events occur:</p> <ul style="list-style-type: none"><li>a. Participant changes name;</li><li>b. Participant changes address;</li><li>c. Participant changes practice site. (Participant is required to request and obtain in writing prior approval of changes in practice site.);</li><li>d. Participant no longer intends to fulfill service obligation as a nurse in the Commonwealth in a long-term care facility; or</li><li>e. Participant ceases to practice as a registered nurse, licensed practical nurse, or certified nurse aide.</li></ul> <p>Rationale: Specify the reporting requirements of the recipients in the loan repayment program.</p>
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**Project 1890 - Proposed**

**DEPARTMENT OF HEALTH**

**Implement Regulations on Scholarships and Loans Requiring Long-Term Nursing Care  
Service**

NURSING SCHOLARSHIP AND LOAN REPAYMENT PROGRAM REQUIRING SERVICE IN A  
LONG-TERM CARE FACILITY

Part I

[ ~~Legislative Authority and~~ ] General Information

**12VAC5-507-10. [ ~~Legislative authority and general information.~~ ] [ Definitions. ]**

[ Sections 32.1-122.6:01 provides the Board of Health the authority to award certain nursing scholarships and loan repayment funds. Fee requirements are specified in §54.1-3011.1, and §54.1-3011.2 to establish the nursing scholarship and loan repayment fund.

All scholarship and loan repayment award recommendations will be made by the Nursing Scholarship Advisory Committee appointed by the State Board of Health. The Commissioner may act for the Board of Health when it is not in session. The committee shall consist of eight members: four deans or directors of schools of nursing, two former scholarship participants, and two members with experience in the administration of student financial aid programs. Committee appointments are for two-year terms and members may not serve for more than two successive terms.

The Virginia Department of Health serves as the staff element to the Advisory Committee and plays no role in the determination of scholarship or loan repayment participants.

After scholarships are awarded, depending upon availability of funds, nursing educational loans will be repaid for those registered nurses, licensed practical nurses, and certified nurse aides applying and meeting eligibility criteria as set forth in these regulations.

~~These regulations set forth the criteria for eligibility for the scholarship and loan repayment program for registered nurses, licensed practical nurses, or certified nurse aides; the general terms and conditions applicable to the obligation of each scholarship and loan repayment participant to practice in a long-term-care facility in the Commonwealth; and penalties for a participant's failure to fulfill the practice requirements.-]~~

[ The following words and terms when used in this chapter shall have the following meanings:

"Board" or "Board of Health" means the State Board of Health.

"Certified nurse aide" or "CNA" means a person who is certified by the Board of Nursing under the provisions of Chapter 30 of Title 54.1 of the Code of Virginia.

"Commercial loans" means loans made by banks, credit unions, savings and loan associations, insurance companies, schools, and either financial or credit institutions that are subject to examination and supervision in their capacity as lenders by an agency of the United States or of the state in which the lender has its principal place of business.

"Commissioner" means the State Health Commissioner.

"Department" means Virginia Department of Health.

"Full-time" means at least 32 hours per week for 45 weeks per year.

"Licensed practical nurse" or "LPN" means a person who is licensed or holds a multistate licensure privilege under the provisions of Chapter 30 of Title 54.1 of the Code of Virginia to practice practical nursing as defined in § 54.1-3000.

"Long-term care facility" means a certified nursing facility or nursing home as defined by § 32.1-123 of the Code of Virginia.

"Participant/recipient" means an eligible registered nurse, licensed practical nurse, or certified nurse aide student or graduate of an approved nursing education program or an approved nurse aide education program who enters into a contract with the commissioner and participates in the scholarship or loan repayment program.

"Interest" means the legal rate of interest pursuant to § 6.2-302 of the Code of Virginia.

"Penalty" means twice the amount of all monetary payments to the scholarship or loan repayment participant, less any service obligation completed.

"Reasonable educational expenses" means the costs of education, exclusive of tuition, that are considered to be required by the school's degree program or an eligible program of study, such as fees for room, board, transportation and commuting costs, books, supplies, educational equipment and materials, and travel that was a part of the estimated student budget of the school in which the participant is or was enrolled.

"Registered nurse" or "RN" means a person who is licensed or holds a multistate licensure privilege under the provisions Chapter 30 of Title 54.1 of the Code of Virginia to practice professional nursing as defined in § 54.1-3000. ]

**12VAC5-507-15. [ Definitions. ]**

~~[ The following words and terms, when used in this chapter, shall have the following meaning unless the context clearly indicates otherwise:~~

~~"Board" or "Board of Health" means the State Board of Health.~~

~~"Certified Nurse Aide or CNA" means an individual that have completed a nurse aide education program that is approved by the Board of Nursing, successfully passed the competency evaluation, and has made application and been given certification by the Board of Nursing in the Commonwealth of Virginia.~~

~~"Commercial loans" means loans made by banks, credit unions, savings and loan associations, insurance companies, schools, and either financial or credit institutions which are subject to examination and supervision in their capacity as lenders by an agency of the United States or of the State in which the lender has its principal place of business.~~

~~"Commissioner" means the State Health Commissioner.~~

~~"Department" means Virginia Department of Health.~~

~~"Full time" means at least thirty-two (32) hours per week for forty-five (45) weeks per year.~~

~~"Licensed Practical Nurse or LPN" means a nurse who has completed a practical nurse program and is licensed by the Commonwealth of Virginia to provide routine care under the supervision of a licensed medical practitioner, a professional nurse, registered nurse or registered professional nurse or other licensed health professional authorized by regulations of the Board of Nursing.~~

~~"Long-Term Care Facility" means a licensed facility in the Commonwealth traditionally known as a nursing home, including both skilled nursing facilities and intermediate care facilities depending on the extent of nursing and related medical care provided.~~

~~"Participant" or "loan repayment participant" means an eligible registered nurse, licensed practical nurse, or certified nurse aide student or graduate who enters into a contract with the Commissioner and participates in the scholarship or loan repayment program.~~

~~"Interest" means the legal rate of interest pursuant to the Code of Virginia.~~

~~"Penalty" means the amount of money equal to twice the amount of all monetary payments to the scholarship or loan repayment participant, less any service obligation completed.~~

~~"Reasonable educational expenses" means the costs of education, exclusive of tuition, which are considered to be required by the school's degree program or an eligible program of study, such as fees for room, board, transportation and commuting costs, books, supplies, educational equipment and materials, and travel, which was a part of the estimated student budget of the school in which the participant was enrolled.~~

~~"Registered Nurse or RN" means a nurse who has passed a state registration examination and has been licensed to practice nursing by the Board of Nursing in the Commonwealth of Virginia. ]~~

[ Part 2

Administration of Nursing Scholarship Program ]

**12VAC5-507-20. [ Eligibility for scholarships. ] [ Nursing Scholarship Advisory Committee. ]**

[ In order to be considered for a scholarship, applicants must meet the following criteria:

~~1. Be a bona fide resident of Virginia for at least one year, as determined by Va. Code §23-7.4.~~

~~2. Be accepted for enrollment or enrolled in approved nursing education programs preparing them for examination for licensure as practical nurses or registered nurses or accepted for enrollment or enrolled in approved nurse aide education programs preparing them for certification.~~

~~3. Submit a completed application form and appropriate grade transcript prior to the established deadline dates.~~

~~4. Demonstrate financial need which is verified by the Financial Aid Officer/authorized person.~~

~~Failure to comply with all of these criteria will cause the applicant to be ineligible for a scholarship. ]~~

[ All scholarship and loan repayment award recommendations shall be made by the Nursing Scholarship Advisory Committee appointed by the State Board of Health. The committee shall consist of eight members: four deans or directors of schools of nursing, two former scholarship recipients (CNA, RN, LPN), and two members with experience in the administration of student financial aid programs. Committee appointments are for two-year terms and members may not serve for more than two successive terms.

The basis for determining scholarship and loan repayment recipients is established by the Advisory Committee. Nursing scholarships shall take priority. ]

## [ Part II

### Administration of Nursing Scholarship Program ]

#### **12VAC5-507-30 [ Conditions of scholarships. ] [ Eligibility for scholarships. ]**

~~[ For each \$100 of scholarship money received, the participant agrees to engage in the equivalent of one month of full-time nursing practice in a long-term care facility in the~~

~~Commonwealth. Employment must begin within 90 days of the participant's graduation date. Voluntary military service, even if stationed in Virginia, cannot be used to repay the service obligation required when a scholarship is awarded.~~

~~The participant shall notify the Department in writing of his/her employment location within 30 days of his/her employment at a long-term care facility in the Commonwealth.~~

~~The participant may request approval of a change of employment. The Board in its discretion may approve such a request.~~

~~If a participant fails to complete his/her studies, the full amount of scholarship(s) received, plus applicable interest charge, must be repaid.~~

~~If upon graduation a participant leaves the State, or fails to engage or ceases to engage in nursing practice in a long-term care facility in Virginia before all employment conditions of the scholarship award are fulfilled, the participant must repay the award amount reduced by the proportion of obligated years served plus applicable interest and penalty.~~

~~If the participant is in default due to death or permanent disability so as not to be able to engage in nursing practice in a long-term care facility, the participant, or his personal representative, may be relieved of this obligation under the contract to engage in nursing practice upon repayment of the total amount of scholarship or loan repayment funds received plus applicable interest. For participants completing part of the nursing obligation prior to becoming permanently disabled, or in the event of death, the total amount of scholarship or loan repayment funds owed shall be reduced by the proportion of obligated years served. The obligation to make restitution may be waived by the Board upon application of the participant or the participant's estate to the Board.~~

~~Individual cases of hardship may be considered by the Board for forgiveness of payment or service.~~

~~Partial fulfillment of the participant's obligation shall reduce the amount of restitution plus penalty and applicable interest due by an amount of money equal to the same percentage of time employed.~~

~~All refund checks should be made payable to the Commonwealth of Virginia.~~

~~Before any scholarship is awarded, the applicant must sign a written contract agreeing to the terms established by law and the Board of Health. ]~~

[ In order to be considered for a scholarship, an applicant shall:

1. Be a United States citizen, national, or an alien holding an immigration visa or classified as a political refugee;
2. Be a bona fide resident of Virginia by being domiciled in the Commonwealth for at least one year as defined by § 23-7.4 of the Code of Virginia;
3. Be accepted for enrollment or enrolled in an approved nursing education program in the Commonwealth of Virginia preparing him for examination for licensure as practical nurses or registered nurses, or accepted for enrollment or enrolled in an approved nurse aide education program in the Commonwealth of Virginia preparing him for certification;
4. If already enrolled in an approved nursing education program in the Commonwealth of Virginia or an approved nurse aide education program in the Commonwealth of Virginia the student must have a cumulative grade point average of 2.5 in core nursing classes;
5. Submit a completed application form and appropriate grade transcript prior to the established deadline dates;
6. Demonstrate financial need which is verified by the school's financial aid officer/authorized person as part of the application process; and
7. Not have an active military obligation.

Failure to comply with all of these requirements will cause the applicant to be ineligible for a scholarship. ]

**12VAC5-507-40. [ Number of applications per student. ] [ Conditions of scholarships. ]**

~~[ Scholarships are awarded for single academic years. However, the same student may, after demonstrating satisfactory progress in his/her studies, apply for and receive scholarship awards for any succeeding academic year or years. No student may receive scholarships for more than a total of four years. ]~~

[ A. Prior to becoming a participant in the nursing scholarship program, the applicant shall enter into a contract with the commissioner agreeing to the terms and conditions upon which the scholarship is granted.

B. For each \$100 of scholarship money received, the participant agrees to engage in the equivalent of one month of full-time nursing practice in a long-term care facility in the Commonwealth. The recipient shall notify the department, within 180 days of being awarded a nursing diploma or degree, of the type of nursing practice to be performed and give the name and address of the employer for approval. Voluntary military service, even if stationed in Virginia, cannot be used to repay the service obligation required when a scholarship is awarded.

The participant may request approval of a change of practice site. Such requests shall be made in writing. The department in its discretion may approve such a request.

C. If a participant fails to complete his studies, the full amount of the scholarship or scholarships received, plus the applicable interest charge, shall be repaid.

D. If upon graduation a participant leaves the Commonwealth or fails to engage or ceases to engage in nursing practice in a long-term care facility in Virginia before all employment conditions of the scholarship award are fulfilled, the participant shall repay the award amount reduced by the proportion of obligated years served plus the applicable interest and penalty.

E. If the participant is in default due to death or permanent disability so as not to be able to engage in nursing practice in a long-term care facility, the participant or his personal representative may be relieved of his obligation under the contract to engage in nursing practice, upon repayment of the total amount of scholarship or loan repayment funds received

plus applicable interest. For participants completing part of the nursing obligation prior to becoming permanently disabled or in the event of death, the total amount of scholarship or loan repayment funds owed shall be reduced by the proportion of obligated years served. The obligation to make restitution may be waived by the board upon application of the participant or the participant's personal representative to the board.

F. Individual cases of undue hardship may be considered for a variance by the board of payment or service pursuant to § 32.1-12 of the Code of Virginia.

G. All default payments shall be made payable to the Commonwealth of Virginia. ]

**12VAC5-507-50. [ Amounts of scholarships. ] [ Number of applications per student. ]**

[ The amount of each scholarship award is dependent upon the amount of money appropriated by the General Assembly and the number of qualified applicants. No participant will receive an award for less than \$150. ]

[ Scholarships are awarded for single academic years. However, the same student may, after demonstrating satisfactory progress in his studies, which is demonstrated by a cumulative grade point average of 2.5 in core nursing classes, apply for and receive scholarship awards for a succeeding academic year or years. No student shall receive scholarships for more than a total of four years. ]

**12VAC5-507-60. [ How to apply. ] [ Amounts of scholarships. ]**

[ Application, guidelines and additional information may be available from the Dean/Director of a nursing program or from the Financial Aid Office or from the Department.

It is preferred that applications are completed online by going to the Department's website. ]

[ The amount of each scholarship award shall be dependent upon the amount of money appropriated by the General Assembly, the amount of the funds available within the Nursing Scholarship and Loan Repayment Fund administered by the Board of Nursing pursuant to § 54.1-3011.2 of the Code of Virginia, and the number of qualified applicants. No participant shall receive an award of less than \$150 or more than \$2,000 per year. ]

**12VAC5-507-70. [ ~~Deadline dates.~~ ] [ ~~How to apply.~~ ]**

~~[ Applications will not be accepted more than two months in advance of the deadline, which is June 30.~~

~~Applications and/or transcripts received after 5:00 p.m. on the above date will not be considered for scholarship awards. ]~~

~~[ Eligible applicants shall submit a complete application made available by the department on the department's website. A complete application shall include documentation of all eligibility requirements. The deadline for submission of the application shall be announced by the department on the department's website. ]~~

~~[ Part 3~~

~~Administration of the Nursing Loan Repayment Program]~~

**12VAC5-507-80. [ ~~Administration of the nursing loan repayment program.~~ ] [ ~~Reporting Requirements of Scholarship Participants.~~ ]**

~~[The Commissioner, as executive officer of the Board of Health, shall administer this program. Any requests for variance from these regulations shall be considered on an individual basis by the Board.]~~

~~[ Reporting requirements of the scholarship participant are as follows:~~

~~1. Each participant shall provide information as required by the department to verify compliance with the practice requirements of the nursing scholarship program (e.g., verification of employment in a long-term care facility by submitting a Verification of Employment form once every six months).~~

~~2. Each participant shall promptly notify the department in writing within 30 days if any of the following events occur:~~

~~a. Participant changes name;~~

~~b. Participant changes address;~~

c. Participant changes practice site. (Participant is required to request in writing and obtain prior approval of changes in practice site.);

d. Participant no longer intends to fulfill service obligation as a nurse in the Commonwealth in a long-term care facility;

e. Participant ceases to practice as a registered nurse, licensed practical nurse, or certified nurse aide; or

f. Participant ceases or no longer intends to complete their nursing school program. ]

### **[ Part III**

#### **Administration of the Nursing Loan Repayment Program ]**

##### **12VAC5-507-90. Eligible applicants.**

An eligible applicant for the nursing loan repayment program [ ~~must~~ ] [ shall ] :

~~[ 1. Be a bona fide resident of Virginia for at least one year, as determined by Va Code §23-7.4.;~~

~~2. Be a registered nurse, licensed practical nurse, or certified nurse aide;~~

~~3. Have graduated from an approved educational program pursuant to Chapter 30 (§54.1-3000 et seq.) of Title 54.1;~~

~~3. Have a valid unrestricted Virginia license to practice nursing or be certified as a nurse aide, a copy of which shall be furnished to the Nursing Loan Repayment Program;~~

~~4. Have submitted a completed application to participate in the Nursing Loan Repayment Program; and~~

~~5. Have signed and submitted, a written contract agreeing to repay educational loans and to serve in a long-term care facility for the applicable period of obligated service in the Commonwealth.]~~

[ 1. Be a United States citizen, national, or an alien holding an immigration visa or classified as a political refugee;

2. Be domiciled in Virginia for at least one year as determined by § 23-7.4 of the Code of Virginia;
3. Be a registered nurse, licensed practical nurse, or certified nurse aide;
4. Have graduated from an approved educational program pursuant to Chapter 30 (§ 54.1-3000 et seq.) of Title 54.1 of the Code of Virginia;
5. Have a valid unrestricted Virginia license to practice nursing as an RN, LPN or CNA, a copy of which shall be furnished to the nursing loan repayment program;
6. Have submitted a completed application to participate in the nursing loan repayment program;
7. Have no other contractual service obligation unless completely satisfied before the nursing loan repayment program contract has been signed;
8. Not have an active military obligation;
9. Be employed or have a contract for employment in a long term care facility within a month of the application date;
10. Have no federal or state debt;
11. Not have a history of noncompliance or waiver within any other state or federal scholarship or loan repayment program; and
12. Have an educational loan balance that can be verified. ]

**12VAC5-507-100. Application requirement. [ and restrictions ]**

~~[ The applicant must submit a completed application for loan repayment for the Nursing Loan Repayment Program, and the application must be received in the Department between the dates of January 1 and May 1 of the year in which the applicant intends to initiate practice in the Commonwealth. The applicant must agree to serve a minimum of one year for a loan amount up to \$1,200 to a maximum of four years for a loan amount up to \$4,800. ]~~

[ The applicant shall submit a completed application, including documentation of eligibility requirements, to the nursing loan repayment program, and the application must be received in

the department by the deadline date published on the department's website. The application form shall be available on the department's website. ]

**12VAC5-507-110. Selection criteria.**

~~[ Applicants shall be competitively reviewed and selected for participation in the Nursing Loan Repayment Program based upon the following criteria:~~

~~1. Commitment to serve in a long-term care facility. The individual's stated commitment to serve in a long-term care facility in the Commonwealth.~~

~~2. Virginia graduates. Preferential consideration will be given to individuals who are graduates of Virginia nursing schools (verification will be obtained by the Nursing Loan Repayment Program).~~

~~3. Availability for service. Individuals who are immediately eligible and available for service in a long-term care facility will be given preferential consideration.~~

~~4. Length of proposed commitment. Preferential consideration will be given to individuals who commit to longer periods of service in a long-term care facility.~~

~~5. Selection for participation. All of an individual's professional qualifications and competency to practice will be considered, including but not limited to certification in a specialty, professional achievements, and other indicators of competency received from supervisors and program directors.~~

~~6. No other obligations. Individuals shall have no other obligation for health professional service to the federal government or state government, unless such obligation will be completely satisfied prior to the beginning of service under the Nursing Loan Repayment Program. ]~~

[ Applicants shall be competitively reviewed and selected by an advisory committee, appointed by the board, for participation in the nursing loan repayment program based upon the following criteria:

1. Virginia graduates. Preferential consideration shall be given to individuals who are graduates of Virginia nursing schools (verification shall be obtained by the nursing loan repayment program).

2. Selection for participation. The basis for determining loan repayment recipients shall be determined by the Nursing Scholarship Advisory Committee. ] .

**12VAC5-507-120. Loan repayment amount.**

[ ~~The amount that the State agrees to repay will depend upon availability of funds and the applicant's indebtedness, but no amount will exceed the total indebtedness. The Nursing Loan Repayment Program requires one year of service in a long-term care facility in the Commonwealth for up to \$1,200 in loans paid by this program.~~ ]

[ The applicant shall agree to serve a minimum of one year for a loan amount up to \$2,000 with an option for renewal in the 2nd, 3rd, and 4th year upon submitting a new application, with a potential maximum award amount of \$8,000. Renewals shall only be granted if an applicant can show a reduction in their educational loan balances. The loan repayment amount shall depend upon availability of funds and the applicant's indebtedness, but no amount shall exceed the total indebtedness. ]

**12VAC5-507-130. Loans qualifying for repayment.**

A. Based on the availability of funds, the loan repayment program [ ~~will pay for the cost of education necessary to obtain a nursing certificate, diploma or degree. The program will pay toward the outstanding principal, interest, and related expense of federal, state, or local government loans and commercial loans obtained by the participant for:~~

- ~~1. School tuition and required fees incurred by the participant;~~
- ~~2. Other reasonable educational expenses, and~~

~~3. Reasonable living expenses as determined by the Board.] [ shall pay toward the outstanding principal, interest, and related expenses of verifiable federal, state, or local government loans and commercial loans obtained by the participant for the following:~~

1. Tuition expenses;

2. Other reasonable educational expenses; and

3. Reasonable living expenses as estimated by the school as part of the school's standard student budget and determined reasonable by the department.

B. All loan award payments shall be applied only to outstanding educational loans secured while attending a qualified nurse training program which led to RN, LPN or CNA licensure.

Qualifying outstanding education loans shall:

1. Have sufficient documentation verifying the educational use of the loans;

2. Not exceed the "reasonable" level as determined by the school's standard budget in the year the loan was made; and

3. Not include loans from friends and relatives.

C. The department shall be the final authority in determining qualifying educational loans. ] \_

**12VAC5-507-140. [ Repayment restrictions. ] [ Release of information. ]**

~~[ A. The following financial debts or service obligations are not qualified for repayment by the loan repayment program:~~

~~1. Public Health Service Nursing Shortage Area Scholarship;~~

~~2. Public Health and National Health Service Corps Scholarship Training Program;~~

~~3. Indian Health Service Scholarship Program;~~

~~4. Armed Forces Health Professions Scholarship Programs; and~~

~~5. National Health Service Corps Scholarship Program financial damages or loans obtained to repay such damages;~~

~~6. Indian Health Corps Scholarship or loan obtained to repay such damages;~~

~~7. Financial damages or loans obtained to repay damages incurred as a result of breach of contract with any other federal, state, local agency or commercial institution;~~

~~8. Loans for which documentation verifying the educational use of the loans is not available or is not sufficient;~~

~~9. Loans, or part of loans, obtained for educational or personal expenses during the participant's education, which exceed the "reasonable" level, as determined by the school's standard budget in the year the loan was made;~~

~~10. Loans that have been repaid in full; and loans that incur their own obligation for service which has not yet been performed;~~

~~11. Loans from friends and relatives;~~

~~12. The Mary Marshall Nursing Scholarship Program; and.~~

~~13. The Nursing Scholarship Program with a commitment to service in a long-term care facility.~~

~~B. The Board will be the final authority in determining qualifying educational loans. ]~~

[ Applicants shall agree to execute a release of information to allow the department access to loan records, credit information, and information from lenders necessary to verify eligibility and to determine loan repayments. To facilitate the process, applicants shall submit payment statements from each lending institution.

Participants who have consolidated qualifying loans with other loans shall submit on request other documentation, such as copies of original loan applications, to verify the portion of the loan that qualifies for repayment.

The applicant shall submit all requested loan documentation prior to approval by the department. ]

**12VAC5-507-150. [ Release of information. ] [ Effective date for start of service. ]**

~~[ Applicants shall agree to execute a release to allow the Board access to loan records, credit information, and information from lenders necessary to verify eligibility and to determine loan repayments. To facilitate the process, applicants should submit pay-off statements from each lending institution.~~

~~Participants who have consolidated qualifying loans with other loans may be asked to submit other documentation, such as copies of original loan applications, to verify the portion of the loan that qualifies for repayment.~~

~~The applicant is required to submit all requested loan documentation prior to approval by the Board. ]~~

~~[ Applicants shall become participants in the loan repayment program only when the applicant and the commissioner or his designee have signed the loan repayment program contract. The effective start date of the obligated service under the contract shall begin on or after the date of the commissioner's signature. ]~~

**12VAC5-507-160. [ ~~Effective date for start of service.~~ ] [ Repayment procedure. ]**

~~[ Applicants become participants in the loan repayment program only when the applicant and the Commissioner or his/her designee have signed the loan repayment program contract. The effective start date of the obligated service under contract is the date of employment in a long-term care facility or the date of the Commissioner's signature, whichever is later. ]~~

~~[ Loan repayment shall be limited to loans covering reasonable educational and living expenses and shall include principal and interest. Repayment of loans shall begin after the Commissioner has received notification that the participant has officially accepted placement and has begun the required service obligation. Payment shall be a lump-sum payment based on availability of funds. Payment shall be made to the recipient. Verification of payment made to the lender shall be required and submitted to the Department. It shall be the responsibility of the participant to negotiate with each lending institution the terms of the educational loan repayments. ]~~

**12VAC5-507-170. [ ~~Repayment policy.~~ ] [ Compensation during service. ]**

~~[ It will be the responsibility of the participant to negotiate with each lending institution for the terms of the educational loan repayments. Each lending institution must certify that the~~

~~participant's debt is a valid educational loan prior to payment by the loan repayment program. Any penalties associated with early repayment shall be the responsibility of the participant. ]~~

~~[ Each participant is responsible for negotiating his own compensation package directly with the site where he will provide nursing services in a long-term care facility. ]~~

**12VAC5-507-180. [ Disbursement procedure. ] [ Monitoring during service. ]**

~~[ The financial institution holding the educational loan will be paid one lump sum payment. This payment will be credited to the account of the participant in an amount up to \$1,200 for a one year commitment within forty five days of the contract being signed by the applicant and the Commissioner or her/his designee. If a participant wishes to commit to another year of service, he will be required to sign another contract. Depending on availability of funds, the Nursing Loan Repayment Program will pay the applicable financial institution another lump sum payment up to \$1,200 for the additional year commitment. Payment will be made approximately forty five days after the beginning of the subsequent year. The maximum number of loans a participant can receive is four. ]~~

~~[ Monitoring of the recipient's service obligation shall be conducted on an ongoing basis by department staff. Service verification forms shall be submitted by the participant to the department semi-annually (every six months) and countersigned by a representative of the service site (e.g., the medical director, human resource coordinator, chief executive officer, etc.) certifying continuous full-time service by participants.~~

~~The participant shall maintain practice records in a manner that will allow the department to readily determine if the individual has complied with or is complying with the terms and conditions of the contract. ]~~

**12VAC5-507-190. [Compensation during service.] [ Terms of service. ]**

~~[ Each participant is responsible for negotiating his own compensation package directly with the site where he will provide nursing services in a long-term care facility. ]~~

~~[ The following are the terms of service for the loan repayment program:~~

1. The applicant shall agree to serve a minimum of one year of service with an option for renewal in the 2nd, 3rd, and 4th year upon submitting a new application, with a potential to serve up to 4 years. Additional years of service beyond the one year commitment are dependent upon the availability of state funds for the nursing loan repayment program.
2. The participant shall provide full-time service; and
3. No period of advanced training shall count toward satisfying a period of obligated service under this loan repayment program. ]

**12VAC5-507-200. [ Monitoring during service. ] [ Loan repayment contract. ]**

~~[ Monitoring of the service by participants shall be conducted on an on-going basis by Department staff. Service verification forms shall be submitted by the participant to the Department semi-annually (every six months), countersigned by a representative of the service site, e.g., the Medical Director, Human Resource Coordinator, Chief Executive Officer, etc., certifying continuous full-time service by participants.~~

~~The participant is required to maintain practice records in a manner that will allow the Department to readily determine if the individual has complied with or is complying with the terms and conditions of the participation agreement. ]~~

[ Prior to becoming a participant in the nursing loan repayment program, the applicant shall enter into a contract with the commissioner agreeing to the terms and conditions upon which the loan repayment is granted. The contract shall:

1. Include the terms and conditions to carry out the purposes and intent of this program;
2. Provide that the participant shall provide full-time nursing services as an RN, LPN or CNA in a long-term care facility in the Commonwealth for a minimum period of one year;
3. Provide for repayment of all amounts paid by the board, plus interest and penalties, less any service time if the participant is found to be in breach of contract;
4. Be signed by the applicant; and
5. Be signed by the commissioner or his designee. ]

**12VAC5-507-210. [ Terms of service-] [ Breach of contract. ]**

[ The following are the terms of service for the loan repayment program:

1. ~~The participant shall contract to provide one year of service with a maximum of up to four years in whole year increments. Additional service beyond the one year commitment is dependent upon the availability of state funds for the Nursing Loan Repayment Program. An existing contract may be renewed for one year at a time up to a maximum of four years, as funds become available;~~

2. ~~The participant shall begin service within 90 days from entering into the contract;~~

3. ~~The participant shall provide full-time service. Time spent in an "on-call" status will not count toward the number of hours worked per week. Any exceptions to the "on-call" provisions of this policy must be approved in advance by the Board prior to acceptance in the Loan Repayment Program.~~

4. ~~No period of advanced training may count toward satisfying a period of obligated service under this loan repayment program; ]~~

[ The following may constitute breach of contract:

1. Participant's failure to begin or complete his term of obligated service in a long-term care facility under the terms and conditions of the nursing loan repayment contract;

2. Participant's falsification or misrepresentation of information on the program application or verification forms or other required documents;

3. Participant's employment being terminated for good cause as determined by the employer and confirmed by the department. If employment is terminated for reasons beyond the participant's control (e.g., closure of site), the participant must transfer to another long-term care facility site approved by the board in the Commonwealth within six months of termination. Failure of participant to transfer to another site shall be deemed to be a breach of the contract; and

4. Participant's failure to provide all reasonable, usual, and customary full-time health care service in a long-term care facility. ]

**12VAC5-507-220. [ ~~Loan repayment contract.~~ ] [ Postponement or waiver of service. ]**

~~[ Prior to becoming a participant in the Nursing Loan Repayment Program, the applicant shall enter into a contract with the Board agreeing to the terms and conditions upon which the loan repayment is granted. The contract shall:~~

- ~~1. Include the terms and conditions to carry out the purposes and intent of this program;~~
- ~~2. Provide that the participant will be required to provide nursing services in a long-term care facility in the Commonwealth for a minimum period of one year.~~
- ~~3. Provide for repayment of all amounts paid, plus interest, and penalties, less any service time, if the participant is found to be in breach of contract;~~
- ~~4. Be signed by the applicant;~~
- ~~5. Be signed by the Commissioner or her/his designee.]~~

[ Participants have the obligation to complete full-time continuous service for the period of their entire commitment. Under unusual circumstances (e.g., illness), a participant may request that the board agree to a postponement of the service obligation. This postponement, if granted, shall not relieve the participant of the responsibility to complete the remaining portion of the obligation. Such postponement shall not be permitted as a matter of course, but may be allowed in the most compelling cases.

If the participant is in default due to death or permanent disability, the participant or the participant's personal representative may request that the board agree to a waiver of the service obligation. ]

**12VAC5-507-230. [ ~~Breach of contract.~~ ] [ Cash reimbursement and penalty. ]**

~~[ The following may constitute breach of contract:~~

1. ~~Participant's failure to begin or complete his/her term of obligated service in a long-term care facility under the terms and conditions of the Nursing Loan Repayment contract, regardless of the length of the agreed period of obligated service;~~
2. ~~Participant's falsification or misrepresentation of information or misrepresentation of information on the program application or verification forms or other required document;~~
3. ~~Participant's employment being terminated for good cause, as determined by the employer and confirmed by the Department. If employment is terminated for reasons beyond the participant's control (e.g., closure of site), the participant must transfer to another long-term care facility site in the Commonwealth within six months of termination. Failure of participant to transfer to another site shall be deemed to be a breach of the contract; and~~
4. ~~Participant's failure to provide all reasonable, usual and customary full-time health care service in a long-term care facility for at least forty-five (45) weeks per year. ]~~

[ Participants who serve less than their obligated service are liable to make repayment, including interest and penalty to the Commonwealth as stated in the contract, reduced by the proportion of obligated years served. ] .

**12VAC5-507-240. [ Waiver and suspension or both. ] [ Reporting requirements of loan repayment participants. ]**

~~[ Participants have the obligation to complete full-time continuous service for the period of their entire commitment. Under unusual circumstances (e.g., illness), a participant may request that the Board agree to a postponement of the service obligation. This postponement, if granted, will not relieve the participant of the responsibility to complete the remaining portion of the obligation. Such postponement will not be permitted as a matter of course, but may be allowed in the most compelling cases.~~

~~If the participant is in default due to death or permanent disability, the obligation to make restitution may be waived by the Board upon application of the participant or the participant's estate to the Board. ]~~

[ Reporting requirements of the loan repayment participant are as follows:

1. Each participant shall provide information as required by the department to verify compliance with the practice requirements of the nursing loan repayment program (e.g., verification of employment in a long-term care facility by submitting a Verification of Employment form once every six months).

2. Each participant shall promptly notify the department in writing within 30 days if any of the following events occur:

a. Participant changes name;

b. Participant changes address;

c. Participant changes practice site. (Participant is required to request and obtain in writing prior approval of changes in practice site.);

d. Participant no longer intends to fulfill service obligation as a nurse in the Commonwealth in a long-term care facility; or

e. Participant ceases to practice as a registered nurse, licensed practical nurse, or certified nurse aide. ]

**12VAC5-507-250. [ ~~Cash reimbursement and penalty.~~ ]**

~~[ Participants who serve less than their obligated service are liable to pay monetary damages to the Commonwealth as stated in the contract, reduced by the proportion of obligated years served. The default penalty will require the participant to repay twice the total amount of the award received. For example, if a participant owes \$1,200, he would have to repay a total of \$2,400.~~

~~Participants who serve less than their obligated service due to permanent disability or in the event of death, shall have the total amount of scholarship or loan repayment funds owed reduced by the proportion of obligated years served. ]~~

**12VAC5-507-260. [ ~~Reporting requirements.~~ ]**

[ ~~Reporting requirements of the loan repayment participant are as follows:~~

~~A. Each participant shall at any time provide information as required by the Board to verify compliance with the practice requirements of the Nursing Loan Repayment Program, e.g. verification of employment in a long-term care facility.~~

~~B. Each participant shall promptly notify the Board, in writing, within 30 days before any of the following events occur:~~

~~1. Participant changes name;~~

~~2. Participant changes address;~~

~~3. Participant changes practice site;~~

~~4. Participant no longer intends to fulfill service obligation as a nurse in the Commonwealth in a long-term care facility; or~~

~~5. Participant ceases to practice as a registered nurse, licensed practical nurse, or certified nurse aide.]~~

## **MEMORANDUM**

**DATE:** Tuesday, March 04, 2014

**TO:** Virginia State Board of Health

**FROM:** Debbie Condrey, Chief Information Officer, Director of the Office of Information Management and Health IT

**SUBJECT:** Advance Healthcare Directive Registry (12VAC5-67)

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Enclosed for your review is a Fast Track Action for the Advance Healthcare Directive Registry (12VAC5-67).

To fulfill the statutory mandate to review regulations and to protect the citizens of the Commonwealth, the Department conducted a periodic review of the Advance Healthcare Directive Registry (12VAC5-67) pursuant to Executive Order (EO) 14 (2010). As a result of this review, the Department determined it was necessary to use the regulatory process to amend these regulations. The proposed Fact Track action intends to amend these regulations to add a definition section, add a document that may be filed in the Registry and remove restrictive language which would prevent physicians who have patients who are incapable of communication from searching the Registry to determine whether their patient has submitted and advance directive to the Registry. This restriction is not required by the Code.

The Board of Health is requested to approve the Fast Track Action. Should the Board of Health approve the Fast Track Action, it will be submitted to the Office of the Attorney General to begin the Executive Branch review as specified in the Administrative Process Act. Following Executive Branch review and approval the Fast Track will be published in the Virginia Register of Regulations and on the Virginia Regulatory Town Hall website and a 30 day public comment period will begin. Fifteen days after the close of the public comment period, the regulation becomes effective unless during the public comment period ten or more objections to the fast track regulation are received.



Virginia  
Regulatory  
Town Hall

[townhall.virginia.gov](http://townhall.virginia.gov)

## Fast Track Proposed Regulation Agency Background Document

<b>Agency name</b>	Virginia Department of Health
<b>Virginia Administrative Code (VAC) citation</b>	12 VAC5-67
<b>Regulation title</b>	Advance Healthcare Directive Registry
<b>Action title</b>	Amend Regulation as a result of a Periodic Review
<b>Date this document prepared</b>	February 11, 2014

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), Executive Orders 14 (2010) and 58 (1999), and the *Virginia Register Form, Style, and Procedure Manual*.

### Brief summary

*Please provide a brief summary (no more than 2 short paragraphs) of the proposed new regulation, proposed amendments to the existing regulation, or the regulation proposed to be repealed. Alert the reader to all substantive matters or changes.*

The State Board of Health (board) proposes to amend 12VAC5-67 Advance Healthcare Directive Registry by adding a definition section, adding an additional document that may be filed in the Registry and removing restrictive language which would prevent physicians who have patients who are incapable of communication from searching the Registry to determine whether their patient has submitted an advance directive to the Registry.

### Acronyms and Definitions

*Please define all acronyms used in the Agency Background Document. Also, please define any technical terms that are used in the document that are not also defined in the "Definition" section of the regulations.*

No acronyms are used in this Agency Background Document. No technical terms are utilized in this document.

**Statement of final agency action**

*Please 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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These amendments to the Advance Healthcare Directive Registry Regulations (12VAC5-67) were approved by the Board of Health on March 20, 2014.

**Legal basis**

*Please identify the state and/or federal legal authority to promulgate this proposed regulation, including (1) the most relevant citations to the Code of Virginia or General Assembly chapter number(s), if applicable, and (2) promulgating entity, i.e., agency, board, or person. Your citation should include a specific provision authorizing the promulgating entity to regulate this specific subject or program, as well as a reference to the agency/board/person's overall regulatory authority.*

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The board pursuant to §§54.1-2994 through 54.1-2996 of the Code of Virginia, is required to make available a secure online central registry for advance health care directives. Section 54.1-2995 of the Code of Virginia directs the board to promulgate regulations to carry out the provisions of this article.

**Purpose**

*Please explain the need for the new or amended regulation. Describe the rationale or justification of the proposed regulatory action. Detail the specific reasons the regulation is essential to protect the health, safety or welfare of citizens. Discuss the goals of the proposal and the problems the proposal is intended to solve.*

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To fulfill the statutory mandate to review regulations and to protect the citizens of the Commonwealth, the Virginia Department of Health conducted a periodic review of 12VAC5-67 "Advance Healthcare Directive Registry" pursuant to Executive Order (EO) 12 (2010). As a result of the Periodic Review, it was noted the regulations did not specify that a psychiatric advance directive may be filed in the Registry, and had existing language which prevents physicians who have patients who are incapable of communication from searching the Registry to determine whether their patient has submitted an advance directive to the Registry. This restriction is not required by the Code. This regulatory action will protect the health and welfare of Virginians by ensuring that the medical wishes of individuals who have submitted an Advance Health Care Directive to the Registry are honored if they are incapacitated and unable to manage their own care.

**Rationale for using fast track process**

*Please explain the rationale for using the fast track process in promulgating this regulation. Why do you expect this rulemaking to be noncontroversial?*

*Please note: 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 (i) file notice of the objections with the Registrar of Regulations for publication in the Virginia Register, and*

*(ii) proceed with the normal promulgation process with the initial publication of the fast-track regulation serving as the Notice of Intended Regulatory Action.*

These amendments update the regulations to reflect current practice and changes to the Code created by SB575 (2014). The Department does not expect that this regulatory action will be controversial because the action simply brings the regulatory language into conformity with statutory language and current practice.

**Substance**

*Please briefly identify and explain the new substantive provisions, the substantive changes to existing sections, or both where appropriate. (Provide more detail about these changes in the "Detail of changes" section.) Please be sure to define any acronyms.*

12VAC5-67-15 - Provides the definition "Health care professional" which is utilized within the regulations

12VAC5-67-20 - Criteria for submission of an advance directive to the registry. - Add the psychiatric advanced directive to the list of documents that may be submitted to the registry. Add language which allows authorized representatives to submit documents to the Registry.

12VAC5-67-30- Access to the registry.- Removal of restrictive language which would prevent physicians who have patients who are incapable of communication from searching the Registry to determine whether their patient has submitted an advance directive to the Registry. Insertion of clarifying language stating physicians have the authority to query the Registry for directive information of patients incapable of communication.

**Issues**

*Please identify the issues associated with the proposed regulatory action, 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, please indicate.*

The primary advantage of the regulatory action is greater clarity of the regulations and allowing physicians with non-communicative patients the ability to search the registry to determine if their patient has submitted an advance directive to the Registry. There are no disadvantages to the agency, the public or the Commonwealth.

**Requirements more restrictive than federal**

*Please identify and describe any requirement of the proposal which is more restrictive than applicable federal requirements. Include 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 statement to that effect.*

There are no requirements in this proposal that exceed federal requirements.

**Localities particularly affected**

*Please identify any locality particularly affected by the proposed regulation. Locality particularly affected means any locality which bears any identified disproportionate material impact which would not be experienced by other localities.*

No locality will be particularly affected by the proposed regulation.

**Regulatory flexibility analysis**

*Pursuant to §2.2-4007.1B of the Code of Virginia, please 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) the establishment of less stringent compliance or reporting requirements; 2) the establishment of less stringent schedules or deadlines for compliance or reporting requirements; 3) the consolidation or simplification of compliance or reporting requirements; 4) the establishment of 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 proposed regulation.*

The alternative regulatory methods are not applicable.

**Economic impact**

*Please identify the anticipated economic impact of the proposed new regulations or amendments to the existing regulation. When describing a particular economic impact, please specify which new requirement or change in requirement creates the anticipated economic impact. Please keep in mind that we are looking at the impact of the proposed changes to the status quo.*

<p><b>Description of the individuals, businesses or other entities likely to be affected (positively or negatively) by this regulatory proposal.</b> Think broadly, e.g., these entities may or may not be regulated by this board</p>	<p>Physicians and patients who have submitted an advance directive to the registry.</p>
<p><b>Agency's best estimate of the number of (1) entities that will be affected, including (2) small businesses affected.</b> Small business means a business, including affiliates, that is independently owned and operated, employs fewer than 500 full-time employees, or has gross annual sales of less than \$6 million.</p>	<p>There are approximately 34,000 licensed physicians in the Commonwealth of Virginia and 2,505 individuals who have submitted to the registry.</p>
<p><b>Benefits expected as a result of this regulatory proposal.</b></p>	<p>Physicians will have greater access to the Registry in appropriate situations.</p>
<p><b>Projected cost to the state to implement and enforce this regulatory proposal.</b></p>	<p>None</p>

<b>Projected cost to <u>localities</u> to implement and enforce this regulatory proposal.</b>	None
<b>All projected costs of this regulatory proposal for <u>affected individuals, businesses, or other entities</u>.</b> Please be specific and include all costs, including projected reporting, recordkeeping, and other administrative costs required for compliance by small businesses, and costs related to real estate development.	None

**Alternatives**

*Please describe any viable alternatives to the proposal considered and the rationale used by the agency to select the least burdensome or intrusive alternative that meets the essential purpose of the action. 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 regulation.*

There are no other viable alternatives other than the proposed amendments to obtain the objectives of the board.

**Periodic review and small business impact review report of findings**

***If this fast-track regulation is not the result of a periodic review and/or small business impact review report of the regulation, please delete this entire section.***

*If this fast-track regulation is the result of a periodic review, please (1) summarize all comments received during the public comment period following the publication of the Notice of Periodic Review, and (2) indicate whether the regulation meets the criteria set out in Executive Order 14 (2010), e.g., is necessary for the protection of public health, safety, and welfare, and is clearly written and easily understandable.*

*If this fast-track regulation is also a small business impact review report of the regulation, pursuant to § 2.2-4007.1 E and F, a discussion of the agency’s consideration of: (1) the continued need for the regulation; (2) the nature of complaints or comments received concerning the regulation from the public; (3) the complexity of the regulation; (4) the extent to the 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 is required.*

No comments were received from the public during the recent periodic review. There is a continued need for the regulation as it is mandated by law. The Department has not received any complaints or comments concerning the regulation from the public. The regulation is clearly written and easily understandable and the Department is confident based on this most recent review that the regulation does not overlap, duplicate or conflict with federal state law or regulation.

**Family impact**

*Please assess the impact of the proposed regulatory action on the institution of the family and family stability including to what extent the regulatory action will: 1) strengthen or erode the authority and rights*

of parents in the education, nurturing, and supervision of their children; 2) encourage or discourage economic self-sufficiency, self-pride, and the assumption of responsibility for oneself, one’s spouse, and one’s children and/or elderly parents; 3) strengthen or erode the marital commitment; and 4) increase or decrease disposable family income.

The board has assessed the impact the proposed amendments will have on the institution of the family and family stability. The board anticipates no impact to the family or family stability.

**Detail of changes**

*Please list all changes that are being proposed and the consequences of the proposed changes. If the proposed regulation is a new chapter, describe the intent of the language and the expected impact. Please describe the difference between existing regulation(s) and/or agency practice(s) and what is being proposed in this regulatory action.*

*If the proposed regulation is intended to replace an emergency regulation, please list separately (1) all differences between the **pre-emergency** regulation and this proposed regulation, and (2) only changes made since the publication of the emergency regulation.*

For changes to existing regulation(s) or regulations that are being repealed and replaced, use this chart:

Current section number	Proposed new section number, if applicable	Current requirement	Proposed change, intent, rationale, and likely impact of proposed requirements
	15		<p><u>"Health care professional" means any professional who is licensed, certified or registered to practice by a board within the Department of Health Professions under Title 54.1 or is licensed, certified or registered by a nationally recognized professional organization specified in Board regulations.</u></p> <p>Intent: Adds a definition of term that is utilized within the regulations.</p>
20		<p>A. Documents that may be submitted to the registry include:</p> <ol style="list-style-type: none"> <li>1. A health care power of attorney.</li> <li>2. An advance directive created pursuant to Article 8 (§ 54.1-2981 et seq.) of Chapter 29 of Title 54.1 of the Code of Virginia or a subsequent act of the General Assembly.</li> <li>3. A declaration of an anatomical gift made pursuant to the Revised Uniform Anatomical Gift Act</li> </ol>	<p>A. Documents that may be submitted to the registry include:</p> <ol style="list-style-type: none"> <li>1. A health care power of attorney.</li> <li>2. An advance directive created pursuant to Article 8 (§ 54.1-2981 et seq.) of Chapter 29 of Title 54.1 of the Code of Virginia or a subsequent act of the General Assembly.</li> <li>3. A declaration of an anatomical gift made pursuant to the Revised Uniform Anatomical Gift Act (§ 32.1-291.1 et seq. of the Code of Virginia).</li> <li>4. A <u>Psychiatric Advance Directive (PAD)</u>.</li> </ol> <p>B. The document shall be submitted for filing only by the person who executed the document <u>or his legal representative or designee.</u></p>

		<p>(§ 32.1-291.1 et seq. of the Code of Virginia).                  B. The document shall be submitted for filing only by the person who executed the document.                  C. The person submitting documents to the registry shall be responsible for payment of any fee required by the contracted vendor, public-private partnership, or any other entity through which the department has made the registry available to citizens of the Commonwealth. Fees associated with the registry shall not exceed the direct costs associated with the development and maintenance of the registry and with the education of the public about the availability of the registry.</p>	<p>C. The person submitting documents to the registry shall be responsible for payment of any fee required by the contracted vendor, public-private partnership, or any other entity through which the department has made the registry available to citizens of the Commonwealth. Fees associated with the registry shall not exceed the direct costs associated with the development and maintenance of the registry and with the education of the public about the availability of the registry.</p> <p>Intent: Adds the Psychiatric Advance Directive to the list of documents that may be submitted to the registry. Allows authorized representatives to submit documents to the Registry, reflecting changes to the Code made by SB575 (2014). Reflects current practice. Greater clarity.</p>
<p>30</p>		<p>The person registering documents may specify a legal representative or other persons to have access to such documents. It shall be the responsibility of the person registering to provide all such persons with the information necessary to access the registry. In accordance with patient authorization, health care professionals may have access to the registry.</p>	<p>The person registering documents may specify a legal representative or other persons to have access to such documents. It shall be the responsibility of the person registering to provide <del>all</del> such persons with the information necessary to access the registry. <u>Health care professionals shall have access to the registry for the purpose of a query for advance directive information on patients who are comatose, incapacitated or otherwise mentally or physically incapable of communication.</u> <del>In accordance with patient authorization, health care professionals may have access to the registry.</del></p> <p>Intent: Removal of restrictive language which would prevent physicians who have patients who are incapable of communication from searching the Registry to determine whether their patient has submitted an advance directive to the Registry. Insertion of clarifying language stating physicians have the authority to query the Registry for directive information of patients incapable of communication.</p>

Project 3891 - none

**DEPARTMENT OF HEALTH**  
**Chapter 67 Amend regulations following periodic review**

**12VAC5-67-10. General provisions.**

A. In accordance with Article 9 (§ 54.1-2994 et seq.) of Chapter 29 of Title 54.1 of the Code of Virginia and this chapter, the Department of Health shall make available to the public an Advance Health Care Directive Registry by (i) contracting with a vendor, (ii) publicizing the availability of an existing registry maintained by another entity, or (iii) entering into a public-private partnership.

B. The department shall ensure that the contracted vendor, public-private partnership, or any other entity through which the department has made the registry available to citizens of the Commonwealth annually contacts persons who have registered documents to remind them of which documents they have registered.

**12VAC5-67-15. Definitions.**

"Health care professional" means any professional who is licensed, certified or registered to practice by a board within the Department of Health Professions under Title 54.1 or is licensed, certified or registered by a nationally recognized professional organization specified in Board regulations.

**12VAC5-67-20. Criteria for submission of an advance directive to the registry.**

A. Documents that may be submitted to the registry include:

1. A health care power of attorney.
2. An advance directive created pursuant to Article 8 (§ 54.1-2981 et seq.) of Chapter 29 of Title 54.1 of the Code of Virginia or a subsequent act of the General Assembly.
3. A declaration of an anatomical gift made pursuant to the Revised Uniform Anatomical Gift Act (§ 32.1-291.1 et seq. of the Code of Virginia).
4. A Psychiatric Advance Directive (PAD).

B. The document shall be submitted for filing ~~only~~ by the person who executed the document or his legal representative or designee.

C. The person submitting documents to the registry shall be responsible for payment of any fee required by the contracted vendor, public-private partnership, or any other entity through which the department has made the registry available to citizens of the Commonwealth. Fees associated with the registry shall not exceed the direct costs associated with the development and maintenance of the registry and with the education of the public about the availability of the registry.

**12VAC5-67-30. Access to the registry.**

The person registering documents may specify a legal representative or other persons to have access to such documents. It shall be the responsibility of the person registering to provide ~~all~~ such persons with the information necessary to access the registry. Health care professionals shall have access to the registry for the purpose of a query for advance directive information on patients who are comatose, incapacitated or otherwise mentally or physically incapable of communication ~~In accordance with patient authorization, health care professionals may have access to the registry.~~