

**State of Board of Health
Agenda
March 15, 2018 – 9:00 a.m.
Perimeter Center – Boardroom 2**

Call to Order and Welcome	Faye Prichard, Chair
Pledge of Allegiance	Benita Miller, DDS
Introductions	Ms. Prichard
Review of Agenda	Joseph Hilbert Director of Governmental and Regulatory Affairs
Approval of November 30, 2017 Minutes	Ms. Prichard
Commissioner’s Report	Marissa Levine, MD, MPH, FAAFP State Health Commissioner
Regulatory Action Update	Mr. Hilbert
Budget Update	Stephanie Gilliam, Budget Manager Office of Financial Management
Break	
Legislative Update	Mr. Hilbert
Immunization Overview	Christy Gray, Director, MPH, CHES, CHTS-CP Division of Immunization
Public Comment Period	
Working Lunch	
Overview of the Central Virginia Health District – Kerry Gateley, MD, MPH, CPE, District Director	

Regulatory Action Items

Virginia Cancer Registry Regulations 12VAC5-101 (Proposed Regulations)	Vanessa Walker Harris, MD, Director Office of Family Health Services
Board of Health Regulations Governing Vital Records 12VAC5-550 (Fast Track Amendments – administrative and technical changes)	Debbie Condrey, Chief Information Officer and Director Office of Information Management

Board of Health Regulations
Governing Vital Records
12VAC5-550
(Proposed Amendments –
gender changes)

Ms. Condrey

Appointment of Nominating Committee

Ms. Prichard

Member Reports

Other Business

Adjourn



COMMONWEALTH of VIRGINIA

Department of Health

P O BOX 2448
RICHMOND, VA 23218

TTY 7-1-1 OR
1-800-828-1120

Marissa J. Levine, MD, MPH, FAAFP
State Health Commissioner

MEMORANDUM

DATE: February 13, 2018

TO: Virginia Board of Health

FROM: Vanessa Walker Harris, MD
Director, Office of Family Health Services

SUBJECT: Proposed Amendments to the Regulations for Disease Reporting and Control (12VAC5-90) and Proposed Virginia Cancer Registry Regulations (12VAC5-101)

Enclosed for your review are proposed amendments to the Regulations for Disease Reporting and Control (12VAC5-90) and proposed regulations for the Virginia Cancer Registry (12VAC5-101). The Virginia State Board of Health is requested to approve the proposed amendments to remove provisions related to the Virginia Cancer Registry from 12VAC5-90 and establish a new, separate chapter for the Virginia Cancer Registry at 12VAC5-101. Should the State Board of Health approve these amendments, the regulatory package will then be submitted for executive branch review. Following the review and approval, the proposed amendments will be published in the Virginia Register of Regulations and on the Virginia Regulatory Town Hall for a 60-day public comment period.

The Notice of Intended Regulatory Action (NOIRA) was published on September 19, 2016 in the Virginia Register of Regulations and on the Virginia Regulatory Town Hall. No comments were received during the public comment period which ended October 19, 2016. The proposed amendments reflect the organizational structure and operating procedures of the Virginia Department of Health and update and clarify the Virginia Cancer Registry regulations.

Thank you for your consideration. I look forward to discussing these proposed amendments with you at the March meeting.



townhall.virginia.gov

Proposed Regulation Agency Background Document

Agency name	Virginia Department of Health
Virginia Administrative Code (VAC) citation(s)	12VAC5-90 & 12VAC5-101
Regulation title(s)	Regulations for Disease Reporting and Control; Virginia Cancer Registry Regulations
Action title	Repeal the Virginia Cancer Registry Sections of the Disease Reporting Regulations and Establish a New Regulatory Chapter for Cancer Reporting
Date this document prepared	February 12, 2018

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), Executive Orders 17 (2014) and 58 (1999), and the *Virginia Register Form, Style, and Procedure Manual*.

Brief summary

Please provide a brief summary (preferably no more than 2 or 3 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.

The Regulations for Disease Reporting and Control provide information about the process and procedures for reporting diseases to the Virginia Department of Health (VDH) including what diseases must be reported, who must report them and other provisions. The regulatory chapter includes provisions related to the Virginia Cancer Registry. VDH is proposing amendments to the regulations to create a separate regulatory chapter for the Virginia Cancer Registry and to update those regulations.

The amendments being proposed are necessary to ensure the regulations reflect the organizational structure of VDH, to clarify regulatory language, to ensure regulatory language is clearly written and

easily understandable and ensure the regulations are efficient. Finally some minor formatting edits are necessary.

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.

VCR – Virginia Cancer Registry

VDH – Virginia Department of Health

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.

Section 32.1-12 of the Code of Virginia authorizes the State Board of Health to make, adopt, promulgate and enforce such regulations and provide for reasonable variances and exemptions therefrom as may be necessary to carry out the provisions of Title 32.1 of the Code of Virginia. Section 32.1-70 of the Code of Virginia establishes the Virginia Cancer Registry, requiring each hospital, clinic, independent pathology laboratory and physicians in the Commonwealth of Virginia to make available to the Commissioner information on patients having malignant tumors or cancers.

Purpose

Please explain the need for the new or amended regulation. Describe the rationale or justification of the proposed regulatory action. Describe 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.

Section 32.1-70 of the Code of Virginia establishes the Virginia Cancer Registry and requires each hospital, clinic, independent pathology laboratory and physician in the Commonwealth of Virginia to make available to the Commissioner information on patients having malignant tumors or cancers. Currently regulatory provisions related to the Virginia Cancer Registry are within the Regulations for Disease Reporting and Control. While the Virginia Cancer Registry is related to disease reporting, the Virginia Cancer Registry does not operate within the Office of Epidemiology which administers the Disease Reporting and Control Regulations but rather within the Office of Family Health Services. Therefore VDH proposes creating a separate regulatory chapter for the Virginia Cancer Registry to reflect the current operating procedure of VDH. VDH also, in order to protect the health and welfare of citizens, proposes updating the regulations as they have not been amended in over ten years.

Substance

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

VDH proposes that the Virginia Cancer Registry regulatory provisions be repealed from 12VAC5-90 and promulgated in a new regulatory chapter.

The following substantive amendments are being considered to the existing regulatory language:

Those Required to Report – Clarification of language which qualifies when physicians are required to report. The current regulatory language causes confusion and contributes to a lack of reporting among required reporters. Currently the regulations state that physicians are only required to report if it has been determined that a medical care facility, clinic, or in-state pathology laboratory has not reported. VDH has proposed language which clarifies that physicians are required to report.

Report Contents and Procedures- Change formatting for ease of reading. Add language which clarifies that when report information is missing the report shall be rejected. Add language to require electronic reporting. Add language stating that in the event the reporter does not report, the department may enter a consenting facility and obtain the information as permitted by § 32.1-70.2 of the Code of Virginia.

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 is increased reporting of malignant tumors and cancer information, leading to more accurate data and more effective programs to respond to cancer across the Commonwealth. VDH does not foresee any disadvantages to the public, the agency or the Commonwealth associated with the proposed regulatory action.

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 applicable 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.

Public participation

Please include a statement that in addition to any other comments on the proposal, the agency is seeking comments on the costs and benefits of the proposal and the impacts of the regulated community.

In addition to any other comments, the State Board of Health is seeking comments on the costs and benefits of the proposal and the potential impacts of this regulatory proposal. Also, the Board is seeking information on impacts on small businesses as defined in § 2.2-4007.1 of the Code of Virginia. Information may include 1) projected reporting, recordkeeping and other administrative costs, 2) probable effect of the regulation on affected small businesses, and 3) description of less intrusive or costly alternative methods of achieving the purpose of the regulation.

Anyone wishing to submit written comments for the public comment file may do so by mail at: Robin Buskey, 109 Governor Street, Richmond VA, 23219, by phone at: 804-864-7253, and email at robin.buskey@vdh.virginia.gov. Comments may also be submitted through the Public Forum feature of the Virginia Regulatory Town Hall web site at: <http://www.townhall.virginia.gov>. Written comments must include the name and address of the commenter. In order to be considered, comments must be received by 11:59 pm on the last day of the public comment period.

A public hearing will not be held following the publication of this stage of this regulatory action.

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.

<p>Projected cost to the state to implement and enforce the proposed regulation, including: a) fund source / fund detail; and b) a delineation of one-time versus on-going expenditures</p>	<p>The projected cost to the state is negligible.</p>
<p>Projected cost of the new regulations or changes to existing regulations on localities.</p>	<p>This regulatory change is not projected to cause any cost to localities.</p>
<p>Description of the individuals, businesses, or other entities likely to be affected by the new regulations or changes to existing regulations.</p>	<p>Hospitals, clinics and independent pathology laboratories reporting cancers and malignant tumors, physicians treating patients with cancers and malignant tumors, and patients suffering from malignant tumors and cancers within the Commonwealth shall be affected by the new regulations.</p>
<p>Agency’s best estimate of the number of such entities that will be affected. Please include an estimate of the number of small businesses affected. Small business means a business entity, including its affiliates, that: a) is independently owned and operated and; b) employs fewer than 500 full-time employees or has gross annual sales of less than \$6 million.</p>	<ul style="list-style-type: none"> • 11,300 independent and group labs and imaging centers (hospitals, nursing homes, or those associated or co-located with other healthcare facilities) • 416 urgent and emergent care facilities • 3,100 physicians (oncologists, internal medicine, family medicine) • 33,498 cancer patients diagnosed in 2015 (this is incidence for one year and does not reflect the total number of cancer cases in Virginia)

<p>All projected costs of the new regulations or changes to existing regulations for affected individuals, businesses, or other entities. Please be specific and include all costs including: a) the projected reporting, recordkeeping, and other administrative costs required for compliance by small businesses; and b) specify any costs related to the development of real estate for commercial or residential purposes that are a consequence of the proposed regulatory changes or new regulations.</p>	<p>This regulatory change is not projected to create any costs for affected entities.</p>
<p>Beneficial impact the regulation is designed to produce.</p>	<p>The regulatory action shall make the regulatory chapter conform with the general principle of Executive Order 17 (2014) and increase the accuracy of the data within the Virginia Cancer Registry thus resulting in more effective programming to respond to cancer across the Commonwealth</p>

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.

Section 32.1-70 of the Code of Virginia establishes the Virginia Cancer Registry and requires each hospital, clinic, independent pathology laboratory and physician in the Commonwealth of Virginia to make available to the Commissioner information on patients having malignant tumors or cancers. Section 32.1-12 of the Code of Virginia authorizes the State Board of Health to make, adopt, promulgate and enforce such regulations and provide for reasonable variances and exemptions therefrom as may be necessary to carry out the provision of Title 32.1 of the Code of Virginia. This regulatory action is necessary in order for the regulatory chapter to be in compliance with the general principles of Executive Order 17 (2014), which requires that regulations be clearly written and easily understandable and that regulations shall be designed to achieve their intended objective in the most efficient and cost effective manner. The regulations are mandated by law, and there are no viable alternatives to the proposed regulatory action to achieve the necessary regulatory changes determined to be appropriate.

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. The regulations are mandated by law and there are no viable alternatives to the proposed regulatory action to achieve the necessary regulatory changes determined to be appropriate.

Public comment

Please summarize all comments received during the public comment period following the publication of the NOIRA, and provide the agency response.

No public comments were received during the public comment period following the publication of the Notice of Intended Regulatory Action.

Family impact

Please assess the impact of this 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.

VDH has assessed the impact the proposed amendments will have on the institution of the family and family stability. VDH 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; explain the new requirements and what they mean rather than merely quoting the proposed text of the regulation. 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 follow the instructions in the text following the three chart templates below.

If an existing regulation or regulations (or parts thereof) are being repealed and replaced by one or more new regulations, please use the following chart:

Current chapter-section number	Proposed new chapter-section number, if applicable	Current requirement	Proposed change, intent, rationale, and likely impact of proposed requirements
	12VAC5-101-10		Creation of a definition section for the new regulatory chapter. The section shall include definitions of the terms cancer, clinic, independent pathology laboratory, medical care facility and physician. These definitions have been copied from

			<p>the existing Regulations for Disease Reporting and Control and the Code of Virginia.</p> <p>The likely impact of this section will be clarity for members of the public when reading the new regulatory chapter.</p>
12VAC5-90-150	12VAC5-101-20	Article 9 (§ 32.1-70 et seq.) of Title 32.1 of the Code of Virginia authorizes the establishment of a statewide cancer registry.	<p>No change to the existing regulatory language simply moving it into the new regulatory chapter.</p> <p>Likely no impact.</p>
12VAC5-90-160	12VAC5-101-30	Clinically or pathologically diagnosed cancers, as defined in 12VAC5-101-10, and benign brain and central nervous system tumors shall be reported to the Virginia Cancer Registry. Carcinoma in situ of the cervix is not reportable.	<p>No change to the existing regulatory language simply moving it into the new regulatory chapter.</p> <p>Likely no impact.</p>
12VAC5-90-170	12VAC-101-40	Any person in charge of a medical care facility, clinic, or independent pathology laboratory which diagnoses or treats cancer patients is required to report. Physicians are required to report cases of cancer in those instances when it has been determined that a medical care facility, clinic, or instate pathology laboratory has not reported. Any person making such report shall be immune from liability as provided by § 32.1-38 of the Code of Virginia.	<p>Clarification of language which qualifies when physicians are required to report. As stated, the current regulatory language causes confusion and contributes to a lack of reporting among required reporters. Currently the regulations state that physicians are only required to report if it has been determined that a medical care facility, clinic, or instate pathology laboratory has not reported. VDH has proposed language stating more clearly that physicians are required to report. The intent of this language is to encourage reporting and to receive more accurate data.</p> <p>Likely impact: Increased reporting of malignant tumor and cancer information. Greater clarity of the regulations.</p>
12VAC5-90-180	12VAC5-101-50	Each report shall include the patient's name, address (including county or independent city of residence), age, date of birth, sex, date of diagnosis, date of admission or first contact, primary site of cancer, histology (including type, behavior, and grade), basis of diagnosis, social security number, race, ethnicity, marital status, usual occupation, usual industry, sequence number, laterality,	<p>Changes proposed to format for ease of reading. Adding language which clarifies that when report information is missing the report shall be rejected. Adding language to require electronic reporting. Adding language stating that in the event the reporter does not report, the department may enter a consenting facility and obtain the information as permitted by § 32.1-70.2 of the Code of Virginia.</p> <p>The intent of these changes is to increase electronic reporting therefore reducing the amount of VDH staff time</p>

		<p>stage, treatment, recurrence information (when applicable), name of reporting facility, vital status, cause of death (when applicable), date of last contact, history of tobacco and alcohol use, and history of service in Vietnam and exposure to dioxin-containing compounds, when applicable.</p> <p>Reporting shall be by electronic means where possible. Output file formats shall conform to the most recent version of the North American Association of Central Cancer Registries' standard data file layout. Facilities without electronic reporting means and physicians shall submit the required information on the Virginia Cancer Registry Reporting Form. A copy of the pathology report(s) should accompany each completed reporting form, when available. Medical care facilities and clinics reporting via the reporting form should also submit a copy of the admission form and discharge summary.</p> <p>Reports shall be made within six months of the diagnosis of cancer and submitted to the Virginia Cancer Registry on a monthly basis. Cancer programs conducting annual follow-up on patients shall submit follow-up data monthly in an electronic format approved by the Virginia Cancer Registry.</p>	<p>for performing data entry and also including a provision stating that should a reporter fail to report VDH staff may come to the facility to collect the information. This right of entry and collection is currently permitted by the Code but has not been utilized by VDH staff due to the lack of regulatory language regarding right of entry.</p> <p>Likely impact: More data entered into the Virginia Cancer Registry and therefore greater accuracy of the registry overall.</p>
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Project 4857 - NOIRA

DEPARTMENT OF HEALTH

Repeal Cancer Registry sections, Establish New Regulatory Chapter for Cancer Reporting

Part VIII

Cancer Reporting

12VAC5-90-150. Authority. (Repealed.)

~~Article 9 (§ 32.1-70 et seq.) of Title 32.1 of the Code of Virginia authorizes the establishment of a statewide cancer registry.~~

12VAC5-90-160. Reportable cancers and tumors. (Repealed.)

~~Clinically or pathologically diagnosed cancers, as defined in 12VAC5-90-10, and benign brain and central nervous system tumors shall be reported to the Virginia Cancer Registry in the department. Carcinoma in situ of the cervix is not reportable.~~

12VAC5-90-170. Those required to report. (Repealed.)

~~Any person in charge of a medical care facility, clinic, or independent pathology laboratory which diagnoses or treats cancer patients is required to report. Physicians are required to report cases of cancer in those instances when it has been determined that a medical care facility, clinic, or instate pathology laboratory has not reported. Any person making such report shall be immune from liability as provided by § 32.1-38 of the Code of Virginia.~~

12VAC5-90-180. Report contents and procedures. (Repealed.)

~~Each report shall include the patient's name, address (including county or independent city of residence), age, date of birth, sex, date of diagnosis, date of admission or first contact, primary site of cancer, histology (including type, behavior, and grade), basis of diagnosis, social security number, race, ethnicity, marital status, usual occupation, usual industry, sequence number, laterality, stage, treatment, recurrence information (when applicable), name of reporting facility, vital status, cause of death (when applicable), date of last contact, history of tobacco and alcohol use, and history of service in Vietnam and exposure to dioxin-containing compounds, when applicable.~~

~~Reporting shall be by electronic means where possible. Output file formats shall conform to the most recent version of the North American Association of Central Cancer Registries' standard data file layout. Facilities without electronic reporting means and physicians shall submit the required information on the Virginia Cancer Registry Reporting Form. A copy of the pathology report(s) should accompany each completed reporting form, when available. Medical care~~

~~facilities and clinics reporting via the reporting form should also submit a copy of the admission form and discharge summary.~~

~~Reports shall be made within six months of the diagnosis of cancer and submitted to the Virginia Cancer Registry on a monthly basis. Cancer programs conducting annual follow-up on patients shall submit follow-up data monthly in an electronic format approved by the Virginia Cancer Registry.~~

CHAPTER 101

VIRGINIA CANCER REGISTRY REGULATIONS

1 12VAC5-101-10. Definitions.

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

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

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

11 “Medical care facility” means any hospital or nursing home licensed in the Commonwealth,
12 or any hospital operated by or contracted to operate by an entity of the United State government
13 or the Commonwealth of Virginia.

14 “Physician” means any person licensed to practice medicine or osteopathy by the Virginia
15 Board of Medicine.

16 12VAC5-101-20. Authority.

17 Article 9 (§ 32.1-70 et seq.) of Title 32.1 of the Code of Virginia authorizes the establishment
18 of a statewide cancer registry.

19 12VAC5-101-30. Reportable Cancers and Tumors.

20 Clinically or pathologically diagnosed cancers, as defined in 12VAC5-101-10, and benign
21 brain and central nervous system tumors shall be reported to the Virginia Cancer Registry.
22 Carcinoma in situ of the cervix is not reportable.

23 12VAC5-101-40. Required Reporters.

24 Any person in charge of a medical care facility, clinic, or independent pathology laboratory
25 which diagnoses or treats cancer patients is required to report. Physicians are required to report

26 cases of cancer. Any person making such report shall be immune from liability as provided by §
27 32.1-38 of the Code of Virginia.

28 **12VAC5-101-50. Report Contents and Procedures.**

29 A. Each report shall include the patient's:

30 1. Name;

31 2. Address (including county or independent city of residence);

32 3. Age;

33 4. Date of birth;

34 5. Sex;

35 6. Date of diagnosis;

36 7. Date of admission or first contact;

37 8. Primary site of cancer;

38 9. Histology (including type, behavior, and grade);

39 10. Basis of diagnosis;

40 11. Social security number;

41 12. Race;

42 13. Ethnicity;

43 14. Marital status;

44 15. Usual occupation;

45 16. Usual industry;

46 17. Sequence number;

47 18. Laterality;

48 19. Stage;

49 20. Treatment;

50 21. Name of reporting facility;

51 22. Vital status;

52 23. Cause of death (when applicable);

53 24. Date of last contact;

54 25. History of tobacco and alcohol use; and

55 26. History of service in Vietnam and exposure to dioxin containing compounds.

56 Should any of the elements within this subpart be missing the report shall be rejected.

57 B. Reporting shall be by electronic means. Output file formats shall conform to the most recent
58 version of the North American Association of Central Cancer Registries' standard data file layout.

59 C. In the event that a required reporter as defined within 12VAC5-101-40 is not capable of
60 making electronic reports, the required reporter shall submit the information detailed within
61 12VAC5-101-50 (A) on the Virginia Cancer Registry Reporting Form. The department shall
62 abstract these cases.

63 D. Reports shall be made within six months of the diagnosis of cancer and submitted to the
64 Virginia Cancer Registry on a monthly basis.

65 E. If a required reporter as defined within 12VAC5-101-40 fails to report in a format prescribed
66 within 12VAC5-101-50 (B) or (C), authorized department personnel may enter the consenting
67 facility, access the information and report it in the appropriate format.



COMMONWEALTH of VIRGINIA

Department of Health

P O BOX 2448
RICHMOND, VA 23218

Marissa J. Levine, MD, MPH, FAAFP
STATE HEALTH COMMISSIONER

TTY 7-1-1 OR
1-800-828-1120

MEMORANDUM

DATE: February 13, 2018

TO: Virginia State Board of Health

FROM: Debbie Condrey, Chief Information Officer

SUBJECT: Fast Track and Proposed Amendments to the Board of Health Regulations Governing Vital Records (12VAC5-550)

Enclosed for your review are fast track amendments to the Board of Health Regulations Governing Vital Records (12VAC5-550), as well as a separate set of proposed amendments to the same regulatory chapter.

To fulfill the statutory mandate to review regulations and to protect the citizens of the Commonwealth, the Virginia Department of Health (VDH) conducted a periodic review of 12VAC5-550 *et seq.* "Regulations Governing Vital Records" in 2013 pursuant to Executive Order (EO) 14 (2010). As a result of this review, VDH began the regulatory process to amend these regulations.

Several necessary amendments have been identified which are presented as the fast track amendments. The purpose of these fast track amendments is to identify correct statutory authority, improve clarity and accuracy of the regulations, and add several necessary sections. These amendments make corrections and improvements to the regulations that are reasonable, prudent, do not impose any unnecessary burdens on VDH or the public, and are expected to be non-controversial with external stakeholders.

The Board of Health is requested to approve the fast track amendments. Should the Board of Health approve the fast track 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, 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. The amendments will become effective fifteen days after the close of the public comment period, unless ten or more members of the public object to the fast track amendments, in which case the fast track action will revert to a Notice of Intended Regulatory Action.

The purpose of the proposed amendments is to revise a section of the regulation with regard to requirements needed to amend the birth certificate of a person who has had a medical procedure to change their gender. This is necessary to conform the requirements of this section to the provisions of § 32.1-269 of the Code of Virginia.

The Board of Health is requested to approve the proposed amendments. Should the Board of Health approve the proposed amendments, the amendments will undergo Executive Branch review process. The proposed amendments will then be published in the Virginia Register of Regulations and on the Virginia Regulatory Town Hall and a 60-day public comment will begin. Following the public comment period, the proposed amendments and comments will be reviewed and final amendments will be submitted to the Board of Health for approval at a future meeting.



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Fast-Track Regulation Agency Background Document

Agency name	Virginia Department of Health
Virginia Administrative Code (VAC) citation(s)	12VAC5-550
Regulation title(s)	Board of Health Regulations Governing Vital Records
Action title	Amend Vital Records Regulations Following Periodic Review
Date this document prepared	February 13, 2018

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), Executive Orders 17 (2014) and 58 (1999), and the *Virginia Register Form, Style, and Procedure Manual*.

Brief summary

Please provide a brief summary (preferably no more than 2 or 3 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.

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 12VAC5-550 *et seq.* "Regulations Governing Vital Records" in 2013 pursuant to Executive Order (EO) 14 (2010). These regulations govern the process by which vital records are recorded. As a result of this review, the Virginia Department of Health began the regulatory process to amend these regulations. The purpose of the fast track amendments is to identify correct statutory authority and improve clarity and accuracy of the regulations. The fast track amendments also add necessary sections, such as regulations governing birth certificates for foreign-born children, and the requirements for amending or correcting birth and death certificates.

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.

There are no acronyms or technical terms used in this Agency Background 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.

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 regulation is promulgated under the authority of §§ 32.1-12 and 32.17-250 of the Code of Virginia. Section 32.1-12 grants the Board of Health the legal authority to make, adopt, promulgate and enforce such regulations necessary to carry out the provisions of Title 32.1 of the Code and other laws of the Commonwealth administered by it. Section 32.1-250 of the Code of Virginia requires the Board of Health to install, maintain and operate the only system of vital records throughout this Commonwealth.

Purpose

Please explain the need for the new or amended regulation. Describe the rationale or justification of the proposed regulatory action. Describe 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.

This regulatory action is essential to ensure the clarity, accuracy and completeness of the Regulations Governing Vital Records. These amendments are essential to protecting the welfare of citizens of the Commonwealth because they ensure the integrity of the Commonwealth's system of vital records.

The purpose of the fast track amendments is to identify correct statutory authority, improve clarity of language and to add necessary sections, such as regulations governing birth certificates created under the authority established in § 63.2-1200.1(B) of the Code of Virginia for foreign-born children, and the requirements for amending or correcting birth and death certificates.

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?

These amendments simply make the regulations more clear and accurate and are not expected to be controversial with stakeholders.

Substance

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

12VAC5-550-5. Definitions. – Clarifies language. Adds necessary terms and definitions. Amends the definitions of "primary evidence" and "secondary evidence" to include documentation established before the registrant's 25th birthday.

12VAC5-550-30. Administration of chapter. – Corrects current name of Vital Records office.

12VAC5-550-50. Application of Administrative Process Act. – Corrects statutory authority.

12VAC5-550-70. State Registrar. – Clarifies language pertaining to the current name of the Vital Records office.

12VAC5-550-100. Birth certificate items. – Clarifies language for better readability and increased security of documents. Expands the list of items for this certificate to "include but not be limited to" the listed items. Corrects Certificate of Live Home Birth requirement.

12VAC5-550-110. Death certificate items. – Clarifies language for better organization, readability and continuity. Inserts language regarding cause of death certifications to adhere to changes within § 32.1-263. Expands the list of items for this certificate to "include but not be limited to" the listed items.

12VAC5-550-120. Fetal death or induced termination of pregnancy report items. – Clarifies language for better organization, readability and continuity. Expands the list of items for this certificate to "include but not be limited to" the listed items.

12VAC5-550-125. Certificate of birth resulting in a stillbirth. – Clarifies language.

12VAC5-550-130. Marriage return and certificate items. – Clarifies language. Expands the list of items for this certificate to "include but not be limited to" the listed items.

12VAC5-550-140. Report of divorce or annulment items. – Clarifies language. Expands the list of items for this certificate to "include but not be limited to" the listed items.

12VAC5-550-150. Requirements for completion. – Clarifies language.

12VAC5-550-190. Local Records. – Clarifies language.

12VAC5-550-210. Promotion of registration. – Clarifies language.

12VAC5-550-220. Procedure. – Clarifies language. Inserts statutory authority.

12VAC5-550-230. Late registration and delayed registration defined. – Clarifies language.

12VAC5-550-240. Who may file a late of delayed birth certificate and conditions. – Clarifies language.

12VAC5-550-260. Procedure and requirements for delayed birth registration seven or more years after date of birth. – Clarifies language.

12VAC5-550-270. Cancellation records. – Clarifies language. Corrects Code citation.

12VAC5-550-280. Adoptions. – Adds subsection regarding adoptions of foreign-born children.

- 12VAC5-550-290. Legitimation. – Clarifies language.
- 12VAC5-550-300. Acknowledgement of paternity. – Clarifies language.
- 12VAC5-550-310. Court determination of paternity. – Corrects language.
- 12VAC5-550-340. Sealed files. – Clarifies language.
- 12VAC5-550-350. A proper and complete medical certification of cause of death defined. – Clarifies language.
- 12VAC5-550-360. Responsibility of the attending physician. – Clarifies language and ensures conformity with the Code of Virginia.
- 12VAC5-550-370. Responsibility of the medical examiner. – Clarifies language.
- 12VAC5-550-390. Responsibility of the funeral service licensee. – Clarifies language.
- 12VAC5-550-400. Out-of-state transit permits. – Clarifies language.
- 12VAC5-550-410. Emergency cases; Filing of death certificates elsewhere. – Clarifies language.
- 12VAC5-550-420. Forwarding “pending cause” death certificates. – Clarifies language.
- 12VAC5-550-430. Disinterment permits. – Clarifies language.
- 12VAC5-550-440. Applications for correction. – Clarifies language.
- 12VAC5-550-450. Evidence required for corrections or amendments. – Adds requirements. Clarifies requirement.
- 12VAC5-550-470. Individual requests. – Clarifies language. Adds authority to the Department of Motor Vehicles as permitted by the Code of Virginia.
- 12VAC5-550-480. Research requests. – Clarifies language.
- 12VAC5-550-490. Official requests. – Simplifies language.
- 12VAC5-550-500. Application for records. – Clarifies language.
- 12VAC5-550-510. Certified copies; how prepared. – Adds authority to the Department of Motor Vehicles as permitted by the Code of Virginia.
- 12VAC5-550-520. Fees. – Clarifies language. Updates fee cost.

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 advantages to the public, the agency and the Commonwealth include the enhanced integrity of the Regulations Governing Vital Records and in turn the system of vital records within the Commonwealth. There are no known disadvantages to the public, regulated entities, business entities 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 of this proposal which are more restrictive than applicable 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 particular locality will be disproportionately affected by the fast track amendments.

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.

No other alternative regulatory methods are available to the agency. These regulations do not address compliance or reporting requirements. These regulations do not impact small businesses.

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.

Projected cost to the state to implement and enforce the proposed regulation, including: a) fund source / fund detail; and	Projected cost to the state to implement and enforce this regulatory proposal is negligible.
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b) a delineation of one-time versus on-going expenditures	
Projected cost of the new regulations or changes to existing regulations on localities.	There is no projected cost to localities to implement and enforce this regulatory proposal.
Description of the individuals, businesses, or other entities likely to be affected by the new regulations or changes to existing regulations.	The Division of Vital Records will be affected, as well as individuals who have Virginia vital records, or seek to obtain a Virginia vital record in the future.
Agency's best estimate of the number of such entities that will be affected. Please include an estimate of the number of small businesses affected. Small business means a business entity, including its affiliates, that: a) is independently owned and operated and; b) employs fewer than 500 full-time employees or has gross annual sales of less than \$6 million.	The Division of Vital Records will be affected. No small business will be affected.
All projected costs of the new regulations or changes to existing regulations for affected individuals, businesses, or other entities. Please be specific and include all costs including: a) the projected reporting, recordkeeping, and other administrative costs required for compliance by small businesses; and b) specify any costs related to the development of real estate for commercial or residential purposes that are a consequence of the proposed regulatory changes or new regulations.	There are no projected costs of this regulatory proposal for affected individuals, businesses or other entities.
Beneficial impact the regulation is designed to produce.	Greater clarity and accuracy of the regulations.

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 viable alternatives to the proposal considered. Regulatory action is necessary to make corrections to the existing regulations, provide clarification to regulatory language, and add additional regulatory sections required by changes to the Code of Virginia.

Public participation notice

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

Periodic review and small business impact review report of findings

If this fast-track is the result of a periodic review/small business impact review, use this form to report the agency's findings. 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 17 (2014), e.g., is necessary for the protection of public health, safety, and welfare, and is clearly written and easily understandable. In addition, as required by 2.2-4007.1 E and F, please include 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 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.

No comments were received during the public comment period following the publication of the Notice of Periodic Review. Without the regulation, the State Registrar will have no provisions to administer the Commonwealth's vital records system. Although there have been various amendments to the regulations over the years in response to legislation enacted by the General Assembly, and in response to certain litigation, the last major revision to the regulations occurred in October 2003..

Family impact

Please assess the impact of this 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 fast track amendments will have no direct impact on the institution of the family and family stability.

Detail of changes

Please list all changes that are being proposed and the consequences of the proposed changes; explain the new requirements and what they mean rather than merely quoting the proposed text of the regulation. 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 follow the instructions in the text following the three chart templates below.

For changes to existing regulation(s), please use the following chart:

Current section number	Proposed new section number, if applicable	Current requirement	Proposed change, intent, rationale, and likely impact of proposed requirements
12VAC5-550-5: Definitions.		In addition to the words and terms defined in § 32.1-249 of the Code of Virginia, the	The fast track amendments add the definitions of "certified nurse midwife" and "certified professional

		<p>following words and terms when used in this chapter shall have the following meanings unless the context clearly indicates otherwise:</p> <p>"Board" means the State Board of Health.</p> <p>"Commissioner" means the State Health Commissioner.</p> <p>"Department" means Virginia Department of Health.</p> <p>"Immediate family" means a registrant mother, father (name must be shown on the certification), sibling, current spouse and adult children.</p> <p>"Informant" means person providing information to complete the filing of a vital record in order to document a vital event.</p> <p>"Midwife" means a registered nurse who has met the additional requirements of education and examination for licensure as a nurse practitioner in the Commonwealth.</p> <p>"Primary evidence" means valid first-hand documentation established before the registrant's 18th birthday, such as school admission records, physician's records, immunization records, passport, federal census abstracts, baptismal records and insurance applications.</p> <p>"Registrant" means the person whose personal information is registered and filed in the systems of vital records.</p> <p>"Secondary evidence" means valid documentation established after the registrant's eighteenth birthday such as marriage records, child's birth certificate, school records, social security records, driver's records, work permit and employment records. Such evidence must be at least five years old.</p>	<p>midwife", while removing the more general definition of "midwife". They also add the definitions of "correction or amendment" and "maiden name". Additionally, the fast track amendments make minor clarifying changes to the definitions of "Immediate family", "Primary evidence", "Registrant" and "Secondary evidence". The definitions of "Primary evidence" and "Secondary evidence" are amended to include documentation established before the registrant's 25th birthday, as opposed to the 18th birthday in the current regulation. This gives more opportunity for information to be used as evidence for a vital record.</p> <p>The fast track amendments will make the regulations more clear. The addition of "Certified Nurse Midwife" and "Certified Professional Midwife" distinguishes the two types and will make the regulations more accurate and functional, as the Code of Virginia requires the certification of midwives within the Commonwealth of Virginia.</p>
<p>12VAC5-550-30 Administration of chapter</p>		<p>This chapter is administered by the board, the commissioner, and the State Registrar of Vital Records and Health Statistics.</p>	<p>This section is amended by removing "and Health Statistics", to correct the current name of the Vital Records office. This will provide</p>

		The State Registrar shall carry out the provisions of Chapter 7 (§ 32.1-249 et seq.) of Title 32.1 of the Code of Virginia and the regulations of the board.	greater clarity and accuracy in the regulations.
12VAC5-550-50 Application of Administrative Process Act		Except where specifically provided otherwise by statute, the provisions of the Virginia Administrative Process Act, which is codified as Chapter 1.1:1 of Title 9 of the Code of Virginia, shall govern the adoption, amendment, modification, and revision, of this chapter, and the conduct of all proceedings hereunder.	The fast track amendments to this section change the Code of Virginia citation to Chapter 40 of Title 2.2. This corrects the statutory authority cited in the regulations and provides greater accuracy.
12VAC5-550-70 State Registrar		The State Registrar shall prepare, print, and supply all blanks and forms to be used in registering, recording, and preserving data of vital records and health statistics or in otherwise carrying out the purpose of the statutes governing vital statistics. He shall prepare and issue such detailed instructions concerning use of all forms, approved electronic media and supplies as may be required to secure the uniform observance of the statutes and the maintenance of an adequate system for the collection, registration, and preservation of data of vital records and health statistics throughout the Commonwealth.	This section is amended by removing two instances of “and health statistics”, to more accurately reflect the current name of the Vital Records office. This will provide greater clarity and accuracy in the regulations.
12VAC5-550-100: Birth certificate items		A. Certificate of Live Birth, Commonwealth of Virginia, for registrations at time of birth, shall contain the following items: child’s full name; place of birth; usual residence of mother; sex of child; single or plural birth, and birth order of plural birth; date of birth; full name of father (except when mother is not married to the father); age of father (except when mother is not married to the father); birthplace of father (except when mother is not married to the father); full maiden name of mother; age of mother; birthplace of mother; certification of parent (if	These amendments are intended to improve the organization and readability of the regulations. The lists of items to be included on a birth certificate and delayed birth certificate are expanded to “include but not be limited to” the listed items, which will allow the Department to collect necessary data elements as prescribed by the National Center for Health Statistics without having to first change the associated regulations. The amendments also add language to acknowledge the addition of the terms “certified nurse midwife” and “certified professional midwife” to this chapter. The amendments also correct the requirement that a Certificate of Live

	<p>available); certification of attendant at the birth, including title, address and date signed; date the certificate was received by the registrar; registrar's signature; registration area and certificate numbers; state birth number; and supplemental confidential data to consist of the following items: medical record and social security numbers of the mother; medical record number of the child; hispanic origin, if any, and race of mother; education of mother; mother transferred prior to delivery; hispanic origin, if any, and race of father (except when mother is not married to the father); social security numbers of the father; education of father (except when mother is not married to the father); pregnancy history of mother, including date of last live birth and date of last other termination of pregnancy; date of last normal menses and physician's or midwife's estimate of gestation; month of pregnancy prenatal care began; source of prenatal care; number of prenatal visits; birthweight of child in grams; mother married to father of child; Apgar score of child at one minute and five minutes; obstetric procedures and method of delivery; newborn conditions and congenital malformations or anomalies of child, if any; infant transferred; medical history for this pregnancy; other history for this pregnancy; events of labor and delivery, and an optional item for the parent to request the State Registrar to report the birth to the Social Security Administration for account number issuance.</p> <p>B. Delayed Certificate of Birth, Commonwealth of Virginia, for delayed registrations of birth, shall contain the following items: full name at time of birth; sex; place of birth; date of birth;</p>	<p>Home Birth must be registered within 7 days to accurately reflect the requirement in § 32.1-257 of the Code of Virginia. This section is also amended to clarify that certification from an informant, rather than simply a parent, is required for certificates of live births and home births as well. The fast track amendments also clarify that supporting documents shall be required to be filed in order to obtain a Certificate of Live Home Birth. This change will help prevent the filing of fraudulent birth certificates. These amendments will improve the organization and clarity of the regulations.</p>
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	<p>name of father (except when mother was not married to father at the time of birth or during the 10 months next preceding the birth); race of father (except when mother was not married to the father); birthplace of father (except when mother was not married to the father); full maiden name of mother; race of mother; birthplace of mother; certification and signature of applicant; address of applicant; relationship of applicant to registrant; statement and signature of notary public (or other official authorized to administer oaths); description of documentary evidence submitted; certification and authorized signature of the State Registrar; date certificate filed by the State Registrar; and number of certificate.</p> <p>C. Certificate of Live Home Birth, Commonwealth of Virginia, is required to be registered within 30 days after time of birth and shall be registered with the local health department in which the birth occurred. The local registrar or the deputy registrar shall forward such registration of Live Home Birth filed within 30 days to the State Registrar. The Certificate of Live Home Birth, Commonwealth of Virginia, for registrations at time of birth, shall contain the following items: child's full name; place of birth; usual residence of mother; sex of child; single or plural birth and birth order of plural birth; date of birth; full name of father (except when the mother is not married to the father); age of father (except when the mother is not married to the father); birthplace of father (except when the mother is not married to the father); full maiden name of mother; age of mother; birthplace of mother; certification of parent (if</p>	
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	<p>available); certification of attendant at birth, including title, address, and date signed; date the certificate was received by the registrar; registrar's signature; registration area and certificate numbers; state birth number; and supplemental confidential data to consist of the following items: medical record and social security numbers of the mother; hispanic origin, if any, and race of mother; education of mother; mother transferred prior to delivery; hispanic origin, if any, and race of father (except when mother is not married to the father); social security number of the father; education of father (except when mother is not married to the father); pregnancy history of the mother, including date of last live birth and date of last other termination of pregnancy; date of last normal menses and physician's or midwife's estimate of gestation; month of pregnancy prenatal care began; source of prenatal care; number of prenatal visits; birth weight of child in grams; mother married to father of child; Apgar score of child at one minute and five minutes; obstetric procedures and method of delivery; newborn conditions and congenital malformations or anomalies of child, if any, infant transferred; medical history of this pregnancy; other history of this pregnancy; events of labor and delivery and an optional item for the parent to request the State Registrar to report the birth to the Social Security Administration for account number issuance. If the Certificate of Live Home Birth is not filed at the time of birth or within 30 days, supporting documents to establish a registration may be required and shall be as follows:</p>	
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		<ol style="list-style-type: none"> 1. Evidence of pregnancy, such as but not limited to: <ol style="list-style-type: none"> a. Prenatal record; b. A statement from a physician or other health care provider qualified to determine pregnancy; c. A home visit by a public health nurse or other health care provider; or d. Other evidence acceptable to the State Registrar. 2. Evidence that the infant was born alive, such as but not limited to: <ol style="list-style-type: none"> a. A statement from the physician or other health care provider who saw or examined the infant; b. An observation of the infant during a home visit by a public health nurse; or c. Other evidence acceptable to the State Registrar. 3. Evidence of the mother's presence in the Commonwealth of Virginia on the date of the birth, such as but not limited to: <ol style="list-style-type: none"> a. If the birth occurred in the mother's residence; <ol style="list-style-type: none"> (1) A driver's license or state-issued identification card that includes the mother's current residence on the face of the license/card; (2) A rent receipt that includes the mother's name and address; (3) Any type of utility, telephone, or other bill that includes the mother's name and address; or (4) Other evidence acceptable to the State Registrar. b. If the birth occurred outside of the mother's place of residence and the mother is a resident of the Commonwealth of Virginia, such evidence shall consist of the following: <ol style="list-style-type: none"> (1) An affidavit from the owner, supervisor, manager and tenant of the premises where the birth occurred stating that the mother was present on those premises at the time of the birth; (2) Evidence of the affiants' residence similar to that 	
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		<p>required in subdivision 3 of this subsection; and (3) Evidence of the mother's residence in the Commonwealth of Virginia similar to that required in subdivision 3 a of this subsection. c. If the mother is not a resident of the Commonwealth of Virginia, evidence that the home birth took place in Virginia must consist of clear and convincing evidence acceptable to the State Registrar, such as affidavits of the persons present at the time of the birth, proof of such affiants' residence as set out in subdivision 3 a of this subsection, ambulance records, police records, or the like.</p>	
<p>12VAC5-550-110: Death certificate items</p>		<p>The certificate of death to be used shall be the Certificate of Death, Commonwealth of Virginia, and shall contain the following items: full name of decedent; place of death; usual residence; date of death; sex; hispanic origin, if any, and race; education; date of birth; age; birthplace; citizenship; usual occupation and industry; veteran status; social security number or control number issued by the Department of Motor Vehicles; father's name; mother's maiden name; marital status and name of spouse, if married or widowed; informant's name and relationship to decedent; medical certification of cause of death; autopsy; if female, was there a pregnancy during past three months; and supplementary data concerning death due to external causes; certification of attending physician or medical examiner, including title, address, and date signed; disposition of the body; signature of funeral service licensee; name and address of funeral home; date received by registrar; registrar's signature; registration area and certificate numbers; and state file number.</p>	<p>The fast track amendments are intended to provide greater organization and readability of the regulations. These are minor changes that will promote continuity and clarity across the regulations. The list of items to be included on a death certificate is expanded to "include but not be limited to" the listed items, which will allow the Department to collect necessary data elements as prescribed by the National Center for Health Statistics without having to first change the associated regulations. Language is inserted regarding those permitted to certify the cause of death due to changes within § 32.1-263 C of the Code of Virginia, which now also includes physician assistants supervised by the physician, physicians' designees under certain circumstances, and nurse practitioners. These amendments will improve the accuracy of the regulations.</p>

<p>12VAC5-550-120: Fetal death or induced termination of pregnancy report items.</p>		<p>A. The Report of Fetal Death Commonwealth of Virginia, and shall contain the following items for spontaneous fetal deaths: place of occurrence; usual residence of patient (mother); full maiden name of patient; medical record number and social security number of patient; hispanic origin, if any, and race of patient; age of patient; education of patient; sex of fetus; patient married to father; previous deliveries to patient; single or plural delivery and order of plural delivery; date of delivery; date of last normal menses and physician's estimate of gestation; weight of fetus in grams; month of pregnancy care began; number of prenatal visits; when fetus died; congenital malformations, if any; events of labor and delivery; medical history for this pregnancy; other history for this pregnancy; obstetric procedures and method of delivery; autopsy; medical certification of cause of spontaneous fetal death; signature of attending physician or medical examiner including title, address and date signed; method of disposal of fetus; signature and address of funeral service licensee or hospital representative; date received by registrar; registrar's signature; registration area and report numbers.</p> <p>B. The Report of Induced Termination of Pregnancy, Commonwealth of Virginia, and shall contain the following items for induced terminations of pregnancy: place of occurrence; usual residence of patient; patient identification number; age of patient; hispanic origin, if any, and race of patient; education of patient; patient married to father; date of pregnancy termination; pregnancy history of patient; date of last normal menses and physician's estimate of</p>	<p>These fast track amendments correct language to now read "Spontaneous Fetal Death", and make other various amendments to improve the organization and readability of the regulations. These minor amendments will provide greater clarity and continuity across the regulations. The list of items to be included on a report of spontaneous fetal death is expanded to "include but not be limited to" the listed items, which will allow the Department to collect necessary data elements as prescribed by the National Center for Health Statistics without having to first change the associated regulations.</p>
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		<p>gestation; type of termination procedures; pregnancy terminated because of genetic defect; signature, title, and address of person completing this report; registration area and report numbers.</p>	
<p>12VAC5-550-125: Certificate of birth resulting in a stillbirth.</p>		<p>In accordance with § 32.1-258.1 of the Code of Virginia, a certificate of birth resulting in a stillbirth shall be issued upon request from the parent for a fetal death of 20 weeks or more gestation and payment of the appropriate fee for a vital record. This certificate shall contain the following information; name (optional), mother's maiden name, father's name (if indicated), date of event, and hospital of occurrence. When no report of spontaneous fetal death is available to establish the event, documentation from the following sources is acceptable: physician or licensed nurse midwife who provided care to the mother, documentation from the medical record maintained at the hospital of occurrence, copy of the report of spontaneous fetal death or documentation from funeral service director (if such services were provided).</p>	<p>The fast track amendments clarify that a certificate of birth resulting in a stillbirth shall be issued in accordance with this section upon request from either parent listed on the report of spontaneous fetal death record. They also add language to acknowledge the addition of the terms "certified nurse midwife" and "certified professional midwife" to this chapter. These amendments and other minor changes are intended to provide greater organization, readability and clarity of the regulations.</p>
<p>12VAC5-550-130: Marriages return and certificate items</p>		<p>The record of marriage to be used shall be the Marriage Return and Certificate, Commonwealth of Virginia, and shall contain the following items: city or county of the court of issuance; court clerk's number; for the groom: full name, age, date and place of birth, social security number or control number issued by the Department of Motor Vehicles, race, marital status if previously married, number of marriage, education, usual residence, the names of parents; for the bride: full name, maiden name, age, date and place of birth, social security number or control number issued by the</p>	<p>The fast track amendments are intended to improve the organization and readability of the regulations. The list of items to be included on a marriage certificate is expanded to "include but not be limited to" the listed items, which will allow the Department to collect necessary data elements as prescribed by the National Center for Health Statistics without having to first change the associated regulations. The amendments will provide greater clarity and accuracy to the regulations.</p>

		<p>Department of Motor Vehicles, race, marital status if previously married, number of marriage, education, usual residence, and names of parents; signature of clerk of court and date of license; date and place of marriage; whether civil or religious ceremony; certification and signature of officiant indicating title, address, and year and court of qualification; date received by clerk of court from officiant; and state file number.</p>	
<p>12VAC5-550-140: Report of divorce or annulment items.</p>		<p>The report of divorce or annulment to be used shall be the Report of Divorce or Annulment, Commonwealth of Virginia, and shall contain the following items: city or county of court of issuance; for the husband: full name, date and place of birth, social security number or control number issued by the Department of Motor Vehicles, education, number of marriage, usual residence; for the wife: full maiden name, date and place of birth, social security number or control number issued by the Department of Motor Vehicles, education, number of the marriage, usual residence; date and place of marriage; identity of plaintiff and to whom divorce granted; number and custody of children under 18 in this family; date of separation; date of divorce; legal grounds or cause of divorce; signature of attorney or petitioner; certification and signature of clerk of court indicating type of decree; court file number; date final order entered; and state file number.</p>	<p>The fast track amendments make minor clarifying edits intended to improve the organization and readability of the regulations. The list of items to be included on a report of divorce or annulment is expanded to "include but not be limited to" the listed items, which will allow the Department to collect necessary data elements as prescribed by the National Center for Health Statistics without having to first change the associated regulations. The amendments will provide greater clarity and accuracy to the regulations.</p>
<p>12VAC5-550-150: Requirements for completion.</p>		<p>All certificates and records provided for in the statutes governing vital event registration shall be prepared on a typewriter with a black ribbon whenever possible or shall be printed legibly in black ink or written legibly in black unfading ink or entered on electronic</p>	<p>The fast track amendments make minor edits and specify that medical certification on death certificates may be completed in black or dark blue ink. This will clarify the regulations and correct the language regarding the color ink used for medical certifications.</p>

		<p>media approved by the State Registrar. All signatures required shall be entered in black ink. No certificate shall be considered as complete and correct and acceptable for filing that:</p> <ol style="list-style-type: none"> 1. Does not supply all items of information called for thereon or satisfactorily account for their omission. 2. Contains alterations or erasures. 3. Does not contain original signatures. 4. Is marked "copy" or "duplicate." 5. Is a carbon copy or photocopy. 6. Is prepared on an improper form. 7. Contains obviously improper or inconsistent data. 8. Contains any data relative to the putative father of a child born out of wedlock without his written consent or unless determined by a court of competent jurisdiction as required by § 32.1-257 of the Code of Virginia. 9. Contains an indefinite cause of death denoting only symptoms of disease or conditions resulting from disease. 10. Is not prepared in conformity with these regulations or instructions issued by the State Registrar. 	
<p>12VAC5-550-190 Local Records</p>		<p>On forms furnished by the State Registrar or on electronic media approved by the State Registrar, each registrar shall record the following information from the original records before forwarding such original records to the State Registrar:</p> <ol style="list-style-type: none"> 1. For birth records: the full name of the child, sex and race of child, date of birth, place of birth, names of parents, residence of parents, date filed, and local certificate number. 2. For death records: the full name of the decedent, race and 	<p>The fast track amendments add clarifying language, including specifying that the full names of both parents and the maiden name of the mother shall be provided on birth records. This will ensure greater clarity and accuracy of the regulations.</p>

		sex of decedent, date of death and place of death, date filed, and local certificate number. 3. For spontaneous fetal death records: surname of family, race and sex of fetus, date and place of delivery, date filed, and local report number.	
12VAC5-550-210 – Promotion of registration		Each registrar is to familiarize himself with the statutes, regulations, and instructions so that he may promote and stimulate complete and accurate registration. Lists of hospitals, physicians, medical examiners, funeral service licensee, and midwives should be maintained where necessary for reference purposes.	The fast track amendment adds clarifying language to note that instructions regarding registration will originate from the State Registrar. This will provide greater clarity to the regulations.
12VAC5-550-220- Procedure		Whoever assumes custody of a living infant of unknown parentage shall on a blank certificate of live birth report the required facts. The certificate shall be plainly marked "foundling registration" in the top margin and data required will be determined by approximation. Parentage data shall be left blank, and the certification of the informant shall be signed by the custodian indicating title, if any. The item "Certification of the attendant," shall be signed by the physician who examines the foundling child. On the reverse of the form shall be listed the name and address of the persons or institution with whom such child has been placed for care and the date and place the child was found.	The fast track amendments make minor edits for clarification and notes the Code citation for the statutory authority of the regulatory requirement. This will ensure greater clarity and accuracy in the regulations.
12VAC5-550-230 Late registration and delayed registration defined		A. The registration of a nonrecorded birth after the statutory time prescribed for filing but within one year from the date of birth shall be a "late birth registration." As such, its filing shall be subject to the requirements of 12VAC5-550-250 but shall not be considered a "delayed registration." The registration of a nonrecorded birth after one year from the date of birth shall be a "delayed birth registration."	The fast track amendments make minor language changes in order to make the section more accurate and clear.

		<p>B. For those births occurring more than one year but less than seven years prior to the date of filing, the birth registrations shall be prepared and filed on the certificate of live birth form in use at the time of birth and shall be plainly marked in the upper margin "delayed registration." Such certificates shall be subject to the requirements of 12VAC5-550-250 and not subject to 12VAC5-550-260.</p> <p>C. The registration of a nonrecorded birth seven or more years after the date of birth shall be a "delayed birth registration" and shall be registered by the State Registrar on special forms provided for such purposes and shall be subject to the requirements of 12VAC5-550-260.</p>	
<p>12VAC5-550-240 Who may file a late or delayed birth certificate and conditions</p>		<p>A. A person born in the Commonwealth of Virginia whose birth is not recorded, or his parent or guardian, legal representative, or an older person having knowledge of the facts of birth, may file a certificate of birth after the time prescribed for filing subject to the procedures and requirements established by these regulations and instructions issued by the State Registrar.</p> <p>B. No delayed Certificate of Birth shall be registered for a deceased person.</p> <p>C. Application for delayed certificates that have not been completed within one year from the date of application may be dismissed at the discretion of the State Registrar. Upon dismissal, the State Registrar shall so advise the applicant and all documents submitted in support of such registration shall be returned to the applicant.</p>	<p>The fast track amendments clarify that if someone is not yet eighteen years old or is incapacitated, a late or delayed birth certificate may be filed. The amendments also remove "legal representative" from the list of who may file this type of record, but clarify that the guardian must be a "legal guardian". This clarifying language is intended to bring greater clarity and legal accuracy to the regulations.</p>
<p>12VAC5-550-260: Procedure and</p>		<p>A. Application for a delayed birth registration after seven</p>	<p>The fast track amendments make edits for clarification, including</p>

<p>requirements for delayed birth registration seven or more years after date of birth.</p>		<p>years have elapsed since the date of birth shall be made to the State Registrar and shall be filed according to instructions issued by the State Registrar.</p> <p>B. If a prior birth certificate is located for the registrant, a delayed birth certificate shall not be filed. The final acceptance of a delayed birth certificate for filing shall remain in a pending status until evidence is submitted in support thereof satisfactory to the State Registrar as outlined in subsection E of this section, or until one year from the date of application, in which event the application shall lapse.</p> <p>C. The following facts concerning the person whose birth is to be registered must be established:</p> <ol style="list-style-type: none"> 1. The full name of the person at the time of birth, except that the delayed certificate may reflect a name established by adoption or legitimation when such evidence is submitted; 2. The date and place of birth; and 3. The names of the parents, except that if the mother of the child was not married to the father of the child at the time of birth, or during the 10 months preceding such birth, the name of the father shall not be entered on the delayed certificate unless the child has been adopted or legitimated, or parentage has been determined by a court of competent jurisdiction pursuant to § 32.1-257 of the Code of Virginia, or both natural parents present a sworn acknowledgement of paternity. <p>D. Delayed birth certificates shall be prepared on forms supplied by the State Registrar. Each such delayed certificate shall be signed and sworn to before an official authorized to administer oaths by the person whose birth is to be registered if</p>	<p>specifying that the mother and father must provide their full names, including maiden name, on this type of vital record, and specifying that a "legal guardian" rather than legal representative must sign such form. These changes are intended to make the regulations more accurate and clear.</p>
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		<p>registration, the delayed birth certificate shall not be accepted and the applicant shall be advised of its deficiencies.</p> <p>1. If a delayed birth certificate is acceptable for filing, the State Registrar or his designated representative shall abstract on the delayed birth certificate form a description of each document submitted in support of the delayed registration, including the kind and title of the document; the name and relationship of the affiant if the document is an affidavit of personal knowledge; the date the document was originally established; and</p> <p>2. The State Registrar or his designated representative shall then enter the date of filing of the delayed registration, and by his signature thereto shall certify:</p> <p>a. That no prior birth certificate is on file for the person whose birth is to be registered.</p> <p>b. That the documentary evidence submitted to establish the facts of birth has been reviewed and is in conformity with the stated facts.</p>	
<p>12VAC5-550-270 Cancellation records</p>		<p>When the State Registrar shall be satisfied that a late or a delayed birth certificate was obtained through fraud or misrepresentation, he shall give to the person named in the certificate a notice in writing of his intention to cancel said certificate. The notice shall give such person an opportunity to appear to show cause why the certificate should not be cancelled. The notice may be served on such person or in the case of a minor or incompetent to his parent or guardian by forwarding the notice by certified mail to his last known address on file in the Division of Vital Records and Health Statistics. Any appeal shall be governed by the provisions of the Virginia Administrative</p>	<p>The fast track amendments make minor clarifying edits, correct the updated name of the Division of Vital Records, and correct the Code of Virginia citation in this section to Chapter 40 of Title 2.2. These changes will ensure the regulations are accurate and include the correct Code citation and vital records office name.</p>

		<p>Process Act pursuant to Title 9, Chapter 1.1:1 of the Code of Virginia.</p>	
<p>12VAC5-550-280 Adoptions</p>		<p>New birth certificates after adoption, legitimation, acknowledgment of paternity, or court determination of paternity shall be established under the following conditions: 1. A new certificate of birth may be prepared by the State Registrar for a child born in Virginia and subsequently adopted through the courts of Virginia, the several states of the United States, or in a foreign country. An adoption report or certified copy of an adoption decree must be in the possession of the State Registrar together with a request that a new certificate be prepared. 2. A certificate of birth may be prepared by the State Registrar for a child born in a foreign country and subsequently adopted through a court in Virginia. An adoption report must be in the possession of the State Registrar together with a request that a Virginia registration of the birth be prepared. Such certificates shall not confer citizenship upon the child or the adoptive parents.</p>	<p>The fast track amendments add an item 3 for certificates of foreign birth for children born and adopted in a foreign country who have been adopted by residents of the Commonwealth. The changes are necessary to bring the regulation into compliance with Code § 63.2-1200.1.</p>
<p>12VAC5-550-290: Legitimation.</p>		<p>If the biological parents of a child shall marry after the birth of a child, a new certificate of birth may be prepared by the State Registrar for a child born in Virginia provided that the name of another man is not shown as the father on the original certificate. An affidavit of paternity, executed subsequent to the birth of the child, by both biological parents and a certified copy of the parents' marriage record must be in the possession of the State Registrar together with a request that a new certificate be prepared. If another man is so listed, a new certificate may be prepared only if a determination</p>	<p>The fast track amendments make minor clarifying edits.</p>

		<p>of paternity shall be ordered by a court of competent jurisdiction or pursuant to § 20-49.8 of the Code of Virginia. If the mother was married at the time of the child's birth or in the 10 months next preceding, the State Registrar will not accept the acknowledgment of paternity form. A new certificate may be prepared only if a determination of paternity shall be ordered by a court of competent jurisdiction or pursuant to § 20-49.8 of the Code of Virginia.</p>	
<p>12VAC5-550-300: Acknowledgement of paternity.</p>		<p>A new certificate of birth may be prepared by the State Registrar for a child born out of wedlock in this Commonwealth upon receipt of a sworn acknowledgement of paternity, executed subsequent to the birth of the child, signed by both parents and a written request by both parents that the child's surname be changed or not be changed on the certificate to that of the father. If the mother was married at time of the child's birth or in the 10 months next preceding or if another man is shown as the father of the child on the original certificate, a new certificate may be prepared only when a determination of paternity is made by a court of competent jurisdiction or pursuant to § 20-49.8 of the Code of Virginia.</p>	<p>The fast track amendments make minor clarifying edits.</p>
<p>12VAC5-550-310: Court determination of paternity.</p>		<p>A. If no appeal has been taken from the final order and the time allowed to perfect an appeal has expired, a new certificate of birth may be prepared by the State Registrar for a child born in this Commonwealth upon receipt of a certified copy of a court determination of paternity. B. A new certificate of birth may be prepared by the State Registrar for a child born in the Commonwealth upon receipt of the certified copies of a document signed by a man indicating his consent to submit to scientifically reliable genetic</p>	<p>The fast track amendments correct the acronym to "AABB-approved" rather than "ABBA-approved".</p>

		<p>tests, including blood tests, to determine paternity and the genetic test results affirming at least a 98% probability of paternity from an ABBA-approved laboratory, together with a request from the biological mother, biological father or person having legal custody of the child that such new certificate be prepared. Changing the child's surname to the biological father's surname requires the signatures of both parents or (i) the father in the case of death or incapacity of the mother or (ii) the mother in the case of the death or incapacity of the father.</p>	
<p>12VAC5-550-340 Sealed files</p>		<p>After preparation of the new certificate, the existing certificate and the evidence upon which the new certificate was based are to be placed in a special file. Such file shall not be subject to inspection except upon order of a circuit court of this Commonwealth or by the State Registrar for purposes of properly administering the system of vital records and health statistics.</p>	<p>The fast track amendments insert clarifying language to include that the materials will be placed in a special sealed file upon the adoption, legitimation, or determination of paternity. This will increase the accuracy of the regulations and thoroughness of the process surrounding sealed files of vital records.</p>
<p>12VAC5-550-350 A proper and complete medical certification of cause of death defined.</p>		<p>A complete and properly executed medical certification of cause of death shall mean the entry by a physician or medical examiner of a definite medical diagnosis of the underlying cause of death and related conditions following the instructions indicated on the death certificate. This may be variously:</p> <ol style="list-style-type: none"> 1. Supported by clinical findings of the physician who attended the deceased for the illness or condition that resulted in death; 2. Supported by tentative clinical findings that may or may not be supported by the gross findings of an autopsy; or 3. Supported by autopsy findings where necessary to establish a definite medical diagnosis of cause of death. 	<p>The fast track amendments make minor edits for accuracy and clarity.</p>

		<p>In cases where an autopsy is to be performed, the physician or medical examiner shall not defer the entry of the cause of death pending a full report of microscopic and toxicological studies. In any case where the autopsy findings significantly change the medical diagnosis of cause of death, a supplemental report of the cause of death shall be made by the physician or medical examiner to the registrar as soon as the findings are available. (As examples: If it is clear that a patient dies of "cancer of the stomach," report the cause while a determination of the histological type is being carried out. Similarly, if it is clear that a death is from "influenza," do not delay the medical certification while a laboratory test is being carried out to determine the strain).</p>	
<p>12VAC5-550-360 Responsibility of the attending physician</p>		<p>When a patient dies, the physician in charge of the patient's care for the illness or condition shall be responsible for executing and signing the medical certification of cause of death as follows:</p> <ol style="list-style-type: none"> 1. The physician shall execute and sign the medical certification of cause of death on the death certificate form prescribed by the State Registrar. 2. In an case where an autopsy is scheduled and the physician wishes to await its gross finding to confirm a tentative clinical finding, he shall give the funeral service licensee notice that he attended the patient and when he expects to have the medical data necessary for the certification of cause of death. If the provisions of 12VAC5-550-350 cannot be adhered to, he shall indicate that the cause is pending and sign the certification. Immediately after the medical data necessary for determining the cause of death have been made known, the 	<p>The fast track amendments make minor edits for accuracy and clarity, as well as ensure that the regulatory requirements conform to the provisions of § 32.1-263 C of the Code of Virginia.</p>

		<p>physician shall, over his signature, forward the cause of death to the registrar.</p> <p>3. If the physician is unable to establish the cause of death or if a death is within the jurisdiction of the medical examiner, he shall immediately report the case to the local medical examiner and advise the funeral service licensee of this fact. If the medical examiner does not assume jurisdiction, the physician shall sign the medical certification noting special circumstances and exception.</p> <p>4. An associate physician who relieves the attending physician while he is on vacation or otherwise temporarily unavailable may certify to the cause of death in any case where he has access to the medical history of the case, provided that he views the deceased at or after death occurs and that death is from natural causes. In all other cases in which a physician is unavailable, the funeral service licensee shall contact the medical examiner.</p> <p>5. When the attending physician shall have given the person in charge of an institution authorization in writing, the person in charge of such institution, or his designated representative, may prepare the medical certification of cause of death in cases where all pertinent aspects of the medical history are a part of the official medical records and the death is due to natural causes. In such instances, the signature shall be that of a physician.</p>	
<p>12VAC5-550-370 Responsibility of the medical examiner</p>		<p>When a medical examiner assumes jurisdiction in a death or when a medically unattended death occurs without medical attendance a known medical history or information, the medical examiner shall be responsible for executing and</p>	<p>The fast track amendments make minor edits for accuracy and clarity.</p>

		<p>signing the medical certification of cause of death as follows:</p> <ol style="list-style-type: none"> 1. The medical examiner shall, at the time of releasing a body to a funeral service licensee or person who first assumes custody of a dead body, or as soon as practicable thereafter, execute and sign the medical certification of cause of death on the death certificate form prescribed by the State Registrar. 2. In any case where an autopsy is scheduled and the medical examiner wishes to await its gross findings to confirm a tentative clinical finding, he shall give the funeral service licensee notice as to when he expects to have the medical data necessary for the certification of cause of death. If the provisions of 12VAC5-550-350 cannot be adhered to, he shall indicate that the cause is pending and sign the certification. Immediately after the medical data necessary for determining the cause of death have been made known, the medical examiner shall, over his signature, forward the cause of death to the registrar. 3. In any case where a death has been referred to the medical examiner because a physician in attendance is deceased or physically incapacitated and there was no associate physician, the medical examiner shall prepare and sign the medical certification of cause of death. 	
<p>12VAC5-550-390 Responsibility of the funeral service licensee</p>		<p>Each funeral service licensee who has been authorized to take custody of a dead human body shall exercise the following responsibilities with respect to the preparation and filing of the death certificate:</p> <ol style="list-style-type: none"> 1. When he arrives to take custody of the body, he shall first ascertain whether an attending physician or local medical examiner has 	<p>The fast track amendments make minor edits for accuracy and clarity.</p>

		<p>established the cause of death as follows:</p> <ul style="list-style-type: none">a. The funeral service licensee shall obtain the medical certification of cause of death from the physician if the death is from natural causes. An associate physician or person in charge of an institution may prepare the medical certification as outlined in 12VAC5-550-360.b. If a physician attended the deceased but did not complete the medical certification of cause of death, the funeral service licensee shall immediately contact such physician in person or by telephone to be certain that he was the attending physician and to ascertain whether the physician is to assume responsibility for the medical certification or to refer the case to the medical examiner.c. When a medical examiner assumes jurisdiction in a death, or when a physician in attendance is incapacitated, the funeral service licensee shall obtain the signed medical certification of cause of death from the medical examiner as required by subdivision 3 of 12VAC5-550-370. <p>2. The personal history of the deceased and the facts of the death shall be obtained from the best source possible. This source may be variously: a member of the immediate family of the deceased who possesses the necessary information; a hospital records custodian whose records contain the necessary information; or the local medical examiner having jurisdiction over a case. The name of the informant, his address and relationship to the decedent shall be entered on the death certificate. The facts required as to the manner and place of disposal of the body or its removal from the Commonwealth shall be entered</p>	
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		<p>over the signature of the funeral service licensee. He shall personally sign the certificate and print or type the name of his firm.</p> <p>3. Except as outlined in 12VAC5-550-410, a satisfactory death certificate shall be filed with the city, county, or special registrar in the city or county where death occurred, or a dead body is found, prior to final disposal of the body or its removal from the Commonwealth, and within three days. In cases where a completed medical certification is not available when the funeral service licensee takes possession of a body, he shall not move the body from the place of death until so authorized by the local medical examiner or until the attending physician has advised him that death is from natural causes and the physician is able to prepare the medical certification of cause of death. In every case, the removal of a dead human body from the city or county of death is unlawful unless notice is given to the city, county, or special registrar by telephone or in person. Such notice shall consist of the name of the deceased, date and place of death, and the name of the attending physician or of the medical examiner, as the case may be, and, if the body is to be removed, the destination within the Commonwealth. Such notification shall be made during the next available business hours of the registrar following the time of death. After business hours, in independent cities and in designated counties, such notification shall be made immediately on assumption of custody of the deceased to the registrar's representative.</p>	
<p>12VAC5-550-400 Out-of-state transit permits.</p>		<p>A. The body of any person whose death occurs in Virginia or whose body shall be found</p>	<p>The fast track amendments make minor edits for accuracy and clarity.</p>

		<p>dead therein shall not be removed from the Commonwealth unless an out-of-state transit permit on a form prescribed by the State Registrar has been issued by the city, county, or special registrar of the city or county where the death occurred or the body was found except as outlined in 12VAC5-550-410.</p> <p>B. No out-of-state transit permit shall be issued until a proper certificate of death is filed except as outlined in 12VAC5-550-410.</p> <p>C. A certificate of death shall be considered to be properly filed:</p> <ol style="list-style-type: none"> 1. When all items thereon have been answered in the manner prescribed by the State Registrar; and 2. When the certificate has been presented for filing with the city, county, or special registrar of the city or county where the death occurred or the body was found, or, in emergency cases, with the city or county registrar of the area to which removal was made within the Commonwealth. 	
<p>12VAC5-550-410 Emergency cases: Filing of death certificates elsewhere</p>		<p>A. Under the conditions of § 32.1-266 of the Code of Virginia, the following situations are declared to be proper reasons for emergency extensions of time periods for filing a completed death certificate:</p> <ol style="list-style-type: none"> 1. A completed or pending medical certification is unavailable. 2. Personal data concerning the deceased is temporarily unavailable. 3. The body must be moved immediately out of the Commonwealth. <p>B. If one or more of the above situations exists and the conditions of subdivision 3 of 12VAC5-550-390 have been complied with by the funeral service licensee when the body is to be moved, any authorized</p>	<p>The fast track amendments make minor edits for accuracy and clarity.</p>

		<p>registrar, or registrar's representative, may issue an out-of-state transit permit. Such permit shall be issued upon application by a funeral service licensee and the presentation by the funeral service licensee, over his signature only, of a death certificate form complete in as many known details as possible.</p> <p>C. The incomplete death certificate form originally furnished to the registrar as outlined in subsection B of this section is to be placed by the funeral service licensee with a completed death certificate as soon as the missing data become known or the medical certification is obtained, or within 10 days, whichever occurs first.</p> <p>D. Under emergency provisions and the conditions of subdivision 1 c of 12VAC12-550-390, the death certificate may be filed with a registrar other than the registrar at the place of death. When a registrar of an area other than the place of death receives a completed death certificate, he shall not sign nor number the certificate, but shall make a notation in the left-hand margin indicating his name and whether or not an out-of-state permit has been issued. The registrar receiving the death certificate shall immediately forward the death certificate to the city or county registrar at the place of death.</p>	
<p>12VAC5-550-420 Forwarding "pending cause" death certificates</p>		<p>A death certificate received by a city or county registrar which contains a signed medical certification of cause of death, but the cause is not complete by reason of a pending inquest, investigation, or autopsy should be sent to the State Registrar on the regular reporting date with completed records. If the cause of death is completed by the presentation of a second and complete certificate before</p>	<p>The fast track amendments make minor edits for accuracy and clarity.</p>

		<p>the original certificate is sent to the State Registrar, the original incomplete certificate should be marked "VOID." The completed death certificate should be processed as a current certificate and should be forwarded to the State Registrar. If the cause of death is completed by a properly signed query form or other statement, the cause of death information may be added to the incomplete death certificate by the State Registrar.</p>	
<p>12VAC5-550-430 Disinterment permits.</p>		<p>A. Unless so ordered by a court of competent jurisdiction, a body shall not be disinterred for removal or transportation until an application for disinterment has been submitted to the city or county registrar or to the State Registrar. B. The city or county registrar at the place from which disinterment is to be made shall issue a disinterment permit in triplicate. One copy shall be retained by the funeral service licensee to whom issued, one copy filed with the sexton or person in charge of the cemetery in which disinterment is to be made, and one copy to be used during transportation and filed with the sexton or person in charge of the cemetery of reinterment. The State Registrar may issue a letter of authorization in lieu of individual permits when numbers of bodies are to be moved in one operation from the same place of disinterment to the same place of reinterment. C. A disinterment permit shall not be required if a body is to be disinterred and reinterred in the same cemetery; however, the sexton or other person in charge of the cemetery shall establish a record relative to the facts of disinterment and reinterment within the cemetery.</p>	<p>The fast track amendments make minor edits for accuracy and clarity.</p>

		<p>D. A body kept in a receiving vault shall not be regarded as a disinterred body until after expiration of 30 days.</p>	
<p>12VAC5-550-440 Applications for correction</p>		<p>A. After 30 days from the date of filing, no change or alteration in any birth or death certificate on file with the State Registrar or on file in any city or county of this Commonwealth shall be made except upon application to the State Registrar.</p> <p>1. To change or alter a birth certificate, such application shall be made by the reporting source, one of the parents, guardian, or legal representative of the child, or, if the person whose certificate is involved is 18 years of age or over, by the person himself.</p> <p>2. To change or alter a death certificate, such application shall be made by the surviving spouse or the next of kin of the deceased, attending funeral service licensee, or other reporting source, such as hospital medical records.</p> <p>3. Changes or alterations of the medical certification of cause of death may be requested only by the attending physician or by the medical examiner.</p> <p>B. Within 30 days from the date of filing, missing data or corrected information may be entered on a birth or death certificate by the State Registrar or by the city or county registrar when the original record is in his possession.</p> <p>1. Applications for changes or alterations may be made by persons outlined in subdivision A 1 or A 2 of this section.</p> <p>2. Missing or corrected data may be obtained at the initiative of the city or county registrar by personal call, telephone, or query form from the reporting source responsible for filing the birth or death certificate. Data so obtained by the registrar shall not be deemed an amendment.</p>	<p>The fast track amendments make minor edits for accuracy and clarity.</p>

		<p>C. Marriage and divorce or annulment records on file with the State Registrar may be amended only by notification from the clerk of court in which the original record is filed. Such notification to the State Registrar shall indicate what items have been amended on the original record and shall indicate that the State Registrar's copy should be amended accordingly. Evidence required for amending marriage and divorce or annulment records shall be determined by the court in which the original record is filed.</p>	
<p>12VAC5-550-450: Evidence required for corrections or amendments.</p>		<p>Every application for a correction or amendment of a birth or death certificate shall be accompanied by appropriate documentary evidence as follows:</p> <ol style="list-style-type: none"> 1. Except as provided in subdivisions 2 and 3 of this section, name changes, other than minor corrections in spelling involving the given names or surname of a registrant, or the given names or surnames of the parents or of a spouse as listed on a certificate, shall require that a certified or attested copy of a court order changing the name be obtained. <ol style="list-style-type: none"> a. In cases where the mother's married surname is listed instead of her maiden name, a correction can be made administratively with a correction affidavit and copy of her birth record. b. In cases where the given name shown on a birth certificate was not used or known to the registrant and this fact can be proven by the registrant, the birth certificate can be amended administratively with primary evidence showing the name at birth and a correction affidavit. 2. Within one year of birth, the given names listed on a birth 	<p>The fast track amendments clarify instances when the certificate can be amended with just a correction affidavit and primary or secondary evidence.</p> <p>The amendments remove the ability to change the mother's listed name on a birth certificate with an affidavit in the case of a child born out of wedlock. This change is necessary to reflect that the consent of both parents is required to change the name of a child.</p> <p>The amendments clarify that primary evidence established before the registrant's eighteenth birth date may be required to change the date of birth on a birth certificate to one year or less from the birthdate, in the case that a federal census transcript cannot be obtained.</p> <p>Additionally, the amendments make various organizational and clarifying edits, and make corrections to references to other sections of regulations.</p>

		<p>certificate may be changed by the affidavit of:</p> <ul style="list-style-type: none"> a. Both parents; b. The mother in the case of a child born out of wedlock; c. The father in the case of the death or incapacity of the mother; d. The mother in the case of the death or incapacity of the father; <p>or</p> <ul style="list-style-type: none"> e. The guardian or agency having legal custody of the registrant. <p>3. In cases of hermaphroditism or pseudo-hermaphroditism, given names of a registrant may be changed on a birth certificate by affidavit of the parents or guardian as listed in subdivision 2 of this section, or by affidavit of the registrant if 18 years of age or older. Additionally, a statement from a physician must be submitted which certified the birth record of the registrant contains an incorrect designation of sex because of congenital hermaphroditism, pseudo-hermaphroditism, or ambiguous genitalia which has since been medically clarified.</p> <p>4. Except as otherwise provided in the Code of Virginia or this chapter, after one year from the date of birth, any change of name shall be made only by court order, and any second change of name within one year shall be made only by court order.</p> <p>5. Within seven years after birth, given names may be added to a birth certificate where such information has been left blank by use of an affidavit only prepared by the parent, guardian, or legal representative of the child.</p> <p>6. If the date of birth on a birth certificate is to be changed more than one year, a certified copy of a court order changing the date of birth shall be submitted. Evidence to be supplied to the court in support</p>	
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		<p>of such change should include a federal census transcript from the Bureau of the Census.</p> <p>7. If the date of birth on a birth certificate is to be changed to one year or less from the date of birth, a federal census transcript from the Bureau of the Census shall be required as documentary evidence.</p> <p>8. If a federal census transcript cannot be obtained, an affidavit shall be obtained which sets forth: the identity of the incorrect record, the incorrect data as it is listed, the correct data as it should be listed, and the documentary evidence supporting the facts. In addition to the affidavit, a document or certified or true copy of such document must be obtained which was written before the registrants' eighth birth date and will establish the identity of the certificate to be altered or corrected and will support the true and correct facts. Any item of a vital record which has been previously corrected may only be changed again by court order.</p> <p>9. All documents, except the affidavit, shall be returned to the applicant after review.</p>	
<p>12VAC5-550-470 Individual requests</p>		<p>A. Upon request, the State Registrar or the city or county registrar shall disclose data or issue certified copies of birth or death records or information when satisfied that the applicant therefor has a direct and tangible interest in the content of the record and that the information contained therein is necessary for the determination or protection of personal or property rights.</p> <p>B. A direct and tangible interest may be evidenced by requests from the registrant, members of his immediate family, his guardian, or their respective legal representatives in the case of birth records. Such direct and tangible interest may be</p>	<p>The fast track amendments make minor clarifying edits, as well as add the authority that the Department of Motor Vehicles may issue certified copies of birth or death records or information, as permitted by the Code of Virginia. The fast track amendments specify that this request must be a written request. The amendments also add that a registrant's grandparents and legal guardian may also provide evidence of a direct and tangible interest. The changes will make necessary clarifications and will acknowledge the additional authority granted to the Department of Motor Vehicles.</p>

		<p>evidenced by requests from surviving relatives or their legal representatives in the case of death records.</p> <p>C. For the purposes of securing information or obtaining certified copies of birth records, the term "legal representative" shall include a registrant's attorney; a person with power of attorney for affairs of registrant; an attending physician; or a federal, state or local governmental agency acting in behalf of the registrant or his family.</p> <p>D. For the purposes of obtaining information of certified copies of death certificates, the term "legal representative" shall include the registrant's funeral service licensee; attorney; person with power of attorney for the affairs of the registrant; insurance company insuring the registrant; a federal, state or local governmental agency acting in behalf of the registrant or his family; a court appointed guardian; or a court appointed administrator.</p> <p>E. A direct and tangible interest shall not be evidenced by the biological parents of an adopted child; nor by commercial firms, agencies, nonprofit or religious organizations requesting listings of names or addresses.</p>	
<p>12VAC5-550-480 Research requests</p>		<p>The State Registrar or the city or county registrar may permit use of data from vital records for bona fide research purposes subject to reasonable conditions the State Registrar may impose to ensure that the use of the data is limited to such research purposes.</p>	<p>The fast track amendment makes a minor edit for accuracy and clarity.</p>
<p>12VAC5-550-490 Official requests</p>		<p>The State Registrar or the city or county registrar may disclose data from vital records to federal, state, county, or municipal agencies of government which request such data in the conduct of their official duties; except that records governed by §§ 32.1-</p>	<p>The fast track amendments make a minor edit, as well as remove a portion of language in order to simplify the section. This will provide greater accuracy and clarity to the regulations while maintaining the same purpose and practice.</p>

		261 and 32.1-274 D and E of the Code of Virginia, may be made available only by the State Registrar for official purposes to federal, state, county, or municipal agencies charged by law with the duty of detecting or prosecuting crime, preserving the internal security of the United States, or for the determination of citizenship.	
12VAC5-550-500 Application for records		The State Registrar or the city or county registrar may require written applications for data; the identification of an applicant; or a sworn statement, when it shall seem necessary to establish an applicant's right to information from vital records.	The fast track amendment changes "may" to "shall". This makes the requirements for applications for records mandatory.
12VAC5-550-510 Certified copies; how prepared.		<p>A. Under the provision of § 32.1-272 of the Code of Virginia and Part XII (12VAC5-550-470 et seq.) of this chapter, certifications of vital records may be prepared and issued by the State Registrar and, where applicable, by the city or county registrar.</p> <p>B. Certifications may be made by photostat or other reproduction process, typewriter, or electronic print except that medical and health data on the birth certificate shall not be so certified.</p> <p>C. The statement to appear on each certification of a vital record is to read as follows: "This is to certify that this is a true and correct reproduction or abstract of the official record filed with the.....Department of Health,....., Virginia. Date issued..... Registrar" The registrar will enter the appropriate city or county name in the spaces provided, date and sign the certification, and enter his official title.</p> <p>D. The seal of the issuing office is to be impressed on the certification.</p>	The fast track amendments insert language for greater accuracy and clarity of the regulations, and insert the authority of the Commissioner of the Department of Motor Vehicles to issue certified copies of certain vital records as permitted by the Code of Virginia.

		<p>E. Short form certifications of birth records that make no reference to parentage may be issued by the State Registrar.</p>	
<p>12VAC5-550-520 Fees</p>		<p>A. The fee to be charged by the State Registrar or by the city or county registrar shall be \$10 for each full certification or short form certification of a vital record, or for a search of the files or records when no copy is made. B. When documents are amended or delayed birth registration is requested, the requester shall be charged an administrative fee of \$10.</p>	<p>The fast track amendments insert language to clarify that a copy of a vital record shall not be issued until the proper fee has been provided and specific approval from the State Registrar has been obtained. This section is also amended to update the correct fee from \$10 to \$12. These amendments will increase the thoroughness and security of the process for issuing certified copies of vital records. Additionally, the regulations will now reflect the correct fee.</p>

DEPARTMENT OF HEALTH
Vital Records Regulations

CHAPTER 550
BOARD OF HEALTH REGULATIONS GOVERNING VITAL RECORDS
Part I

General Information

1 **12VAC5-550-5. Definitions.**

2 In addition to the words and terms defined in § 32.1-249 of the Code of Virginia, the following
3 words and terms when used in this chapter shall have the following meanings unless the context
4 clearly indicates otherwise:

5 "Board" means the State Board of Health.

6 "Certified nurse midwife" means a registered nurse who has met the additional requirements
7 of education and examination for licensure as a nurse practitioner in the Commonwealth.

8 "Certified professional midwife" means any person who provides primary maternity care by
9 affirmative act or conduct prior to, during, and subsequent to childbirth, and who is not licensed
10 as a doctor of medicine or osteopathy or certified nurse midwife.

11 "Commissioner" means the State Health Commissioner.

12 "Correction or amendment" means a change to a registered vital record by adding, deleting,
13 correcting or substituting information on the record.

14 "Department" means Virginia Department of Health.

15 "Immediate family" means a registrant's mother, father ~~(name must be shown on the~~
16 ~~certification)~~ (whose name is listed on the birth certificate), sibling, current spouse and adult
17 children.

18 "Informant" means person providing information to complete the filing of a vital record in order
19 to document a vital event.

20 ~~"Midwife" means a registered nurse who has met the additional requirements of education~~
21 ~~and examination for licensure as a nurse practitioner in the Commonwealth.~~

22 "Maiden name" means a woman's family name or surname before she is married.

23 "Primary evidence" means valid first-hand documentation established before the registrant's
24 ~~18th~~25th birthday, ~~such as~~ including school admission records, physician's records, immunization
25 records, passport, federal census abstracts, baptismal records and insurance applications.

26 "Registrant" means the person whose personal information is primarily registered on a
27 particular vital record and filed in the systems of vital records.

28 "Secondary evidence" means valid documentation established after the registrant's
29 ~~eighteenth~~25th birthday such as marriage records, the registrant's child's birth certificate, school
30 records, social security records, driver's records, work permit and employment records. ~~Such~~ All
31 documentation submitted as secondary evidence must be at least five years old.

32 **12VAC5-550-30. Administration of chapter.**

33 This chapter is administered by the board, the commissioner, and the State Registrar of Vital
34 Records and ~~Health Statistics~~.

35 The State Registrar shall carry out the provisions of Chapter 7 (§ 32.1-249 et seq.) of Title
36 32.1 of the Code of Virginia and the regulations of the board.

37 **12VAC5-550-50. Application of Administrative Process Act.**

38 Except where specifically provided otherwise by statute, the provisions of the Virginia
39 Administrative Process Act, which is codified as Chapter ~~4.1:4~~ 40 of Title ~~9~~ 2.2 of the Code of
40 Virginia, shall govern the adoption, amendment, modification, and revision, of this chapter, and
41 the conduct of all proceedings hereunder.

Part II
Supplies and Forms

42 **12VAC5-550-70. State Registrar.**

43 The State Registrar shall prepare, print, and supply all blanks and forms to be used in
44 registering, recording, and preserving data of vital records ~~and health statistics~~ or in otherwise
45 carrying out the purpose of the statutes governing vital statistics. He shall prepare and issue such
46 detailed instructions concerning use of all forms, approved electronic media and supplies as may
47 be required to secure the uniform observance of the statutes and the maintenance of an adequate
48 system for the collection, registration, and preservation of data of vital records ~~and health statistics~~
49 throughout the Commonwealth.

Part III
Data Required on Vital Statistics Certificates

50 **12VAC5-550-100. Birth certificate items.**

51 A. Certificate of Live Birth, Commonwealth of Virginia, for registrations at time of birth, shall
52 ~~contain~~ include but not be limited to the following items:

53 1. The child's full name; place of birth; ~~usual residence of mother;~~ sex of child; single or plural
54 birth, and birth order of plural birth; date and time of birth;

55 2. The mother's usual residence; full maiden name; age; birthplace;

56 3. If the father is married to the mother at the time of birth or was married to her in the ten
57 months preceding the birth, the father's full name of father ~~(except when mother is not married to~~

58 the father); age of father ~~(except when mother is not married to the father)~~; birthplace of father
59 ~~(except when mother is not married to the father)~~; full maiden name of mother; age of mother;
60 birthplace of mother;

61 ~~4. certification~~ Certification of parent informant (if available) certifying the information provided
62 is correct;

63 ~~5. certification~~ Certification of attendant at the birth, including title, address and date signed;

64 ~~6. date~~ Date the certificate was received by the registrar; registrar's signature; registration
65 area and certificate numbers; state birth number; and

66 ~~7. supplemental~~ Supplemental confidential data ~~to consist of the following items: including~~
67 medical record and social security numbers of the mother; medical record number of the child;
68 hispanic origin, if any, and race of mother (Hispanic origin, if any); education of mother; whether
69 the mother was transferred prior to delivery; hispanic origin, if any, and race of father (Hispanic
70 origin, if any) ~~(except when mother is not married to the father)~~ (if the father is married to the
71 mother at the time of birth or was married to her in the ten months preceding the birth); social
72 security ~~numbers~~ number of the father (if the father is married to the mother at the time of birth or
73 was married to her in the ten months preceding the birth); education of father ~~(except when mother~~
74 ~~is not married to the father)~~ (if the father is married to the mother at the time of birth or was married
75 to her in the ten months preceding the birth); pregnancy history of mother, including date of last
76 live birth and date of last other termination of pregnancy; date of last normal menses and
77 physician's or certified nurse midwife's or certified professional midwife's estimate of gestation;
78 month of pregnancy prenatal care began; source of prenatal care; number of prenatal visits;
79 birthweight of child in grams; whether the mother is married to the father of child; Apgar score of
80 child at one minute and five minutes; obstetric procedures and method of delivery; newborn
81 conditions and congenital malformations or anomalies of child, if any; whether the infant was
82 transferred; medical history for this pregnancy; other history for this pregnancy; events of labor
83 and delivery, and an optional item for the parent to request the State Registrar to report the birth
84 to the Social Security Administration for account number issuance.

85 B. Delayed Certificate of Birth, Commonwealth of Virginia, for delayed registrations of birth,
86 shall ~~contain~~ include but not be limited to the following items:

87 1. The child's full name at time of birth; sex; place of birth; date of birth;

88 2. If the father is married to the mother at the time of birth or was married to her in the ten
89 months preceding the birth, the father's full name of father ~~(except when mother was not married~~
90 ~~to father at the time of birth or during the 10 months next preceding the birth)~~; race of father

91 ~~(except when mother was not married to the father); birthplace of father (except when mother was~~
92 ~~not married to the father);~~

93 ~~3. The mother's full maiden name of mother; race of mother; birthplace of mother;~~

94 ~~4. certification Certification and signature of applicant; address of applicant; relationship of~~
95 ~~applicant to registrant; statement and signature of notary public (or other official authorized to~~
96 ~~administer oaths);~~

97 ~~5. description Description of documentary evidence submitted;~~

98 ~~6. certification Certification and authorized signature of the State Registrar; date certificate~~
99 ~~filed by the State Registrar; and number of certificate.~~

100 C. Certificate of Live Home Birth, Commonwealth of Virginia, is required to be registered
101 within ~~30~~ 7 days after time of birth and shall be registered with the local health department in
102 which the birth occurred. The local registrar or the deputy registrar shall forward such registration
103 of Live Home Birth filed within 30 days to the State Registrar. The Certificate of Live Home Birth,
104 Commonwealth of Virginia, for registrations at time of birth, shall contain the following items:

105 ~~1. The child's full name; place of birth; usual residence of mother; sex of child; single or plural~~
106 ~~birth and birth order of plural birth; date of birth;~~

107 ~~2. The mother's full maiden name; age; birthplace; usual residence;~~

108 ~~3. If the father is married to the mother at the time of birth or was married to her in the ten~~
109 ~~months preceding the birth, the father's full name of father (except when the mother is not married~~
110 ~~to the father); age of father (except when the mother is not married to the father); birthplace of~~
111 ~~father (except when the mother is not married to the father); full maiden name of mother; age of~~
112 ~~mother; birthplace of mother;~~

113 ~~4. certification Certification of parent informant (if available);~~

114 ~~5. certification Certification of attendant at birth, including title, address, and date signed;~~

115 ~~6. date Date the certificate was received by the registrar; registrar's signature; registration~~
116 ~~area and certificate numbers; state birth number; and~~

117 ~~7. supplemental Supplemental confidential data to consist of the following items: including~~
118 ~~medical record and social security numbers number of the mother; hispanic origin, if any, and~~
119 ~~race of mother (Hispanic origin, if any); education of mother; whether the mother was transferred~~
120 ~~prior to delivery; hispanic origin, if any, and race of father (Hispanic origin, if any) (except when~~
121 ~~mother is not married to the father) (if the father is married to the mother at the time of birth or~~
122 ~~was married to her in the ten months preceding the birth); social security number of the father (if~~
123 ~~the father is married to the mother at the time of birth or was married to her in the ten months~~
124 ~~preceding the birth); education of father (except when mother is not married to the father) (if the~~

125 father is married to the mother at the time of birth or was married to her in the ten months
126 preceding the birth); pregnancy history of the mother, including date of last live birth and date of
127 last other termination of pregnancy; date of last normal menses and physician's or certified nurse
128 midwife's or certified professional midwife's estimate of gestation; month of pregnancy prenatal
129 care began; source of prenatal care; number of prenatal visits; birth weight of child in grams;
130 whether the mother is married to the father of child; Apgar score of child at one minute and five
131 minutes; obstetric procedures and method of delivery; newborn conditions and congenital
132 malformations or anomalies of child, if any, whether the infant was transferred; medical history of
133 this pregnancy; other history of this pregnancy; events of labor and delivery and an optional item
134 for the parent to request the State Registrar to report the birth to the Social Security Administration
135 for account number issuance.

136 ~~If the D. The Certificate of Live Home Birth is not shall be filed at the time of birth or within 30~~
137 ~~days, with supporting documents to establish a registration may be required and shall be as~~
138 follows:

- 139 1. Evidence of pregnancy, ~~such as but not limited to~~ including:
 - 140 a. Prenatal record;
 - 141 b. A statement from a physician or other health care provider qualified to determine
 - 142 pregnancy;
 - 143 c. A home visit by a public health nurse or other health care provider; or
 - 144 d. Other evidence acceptable to the State Registrar.
- 145 2. Evidence that the infant was born alive, ~~such as but not limited to~~ including:
 - 146 a. A statement from the physician or other health care provider who saw or examined
 - 147 the infant;
 - 148 b. An observation of the infant during a home visit by a public health nurse; or
 - 149 c. Other evidence acceptable to the State Registrar.
- 150 3. Evidence of the mother's presence in the Commonwealth of Virginia on the date of the
151 birth, ~~such as but not limited to~~ including:
 - 152 a. If the birth occurred in the mother's residence;
 - 153 (1) A driver's license or state-issued identification card that includes the mother's
 - 154 current residence on the face of the license/card;
 - 155 (2) A rent receipt that includes the mother's name and address;
 - 156 (3) Any type of utility, telephone, or other bill that includes the mother's name and
 - 157 address; or
 - 158 (4) Other evidence acceptable to the State Registrar.

159 b. If the birth occurred outside of the mother's place of residence and the mother is a
160 resident of the Commonwealth of Virginia, such evidence shall consist of the following:
161 (1) An affidavit from the owner, supervisor, manager ~~and~~ or tenant of the premises
162 where the birth occurred stating that the mother was present on those premises at the
163 time of the birth;
164 (2) Evidence of the affiants' residence similar to that required in subdivision 3 of this
165 subsection; ~~and~~ or
166 (3) Evidence of the mother's residence in the Commonwealth of Virginia similar to that
167 required in subdivision 3 a of this subsection.
168 c. If the mother is not a resident of the Commonwealth of Virginia, evidence that the
169 home birth took place in Virginia must consist of clear and convincing evidence
170 acceptable to the State Registrar, such as affidavits of the persons present at the time
171 of the birth, proof of such affiants' residence as set out in subdivision 3 a of this
172 subsection, ambulance records, police records, or the like.

173 **12VAC5-550-110. Death certificate items.**

174 The ~~certificate of death to be used shall be the~~ Certificate of Death, Commonwealth of Virginia,
175 ~~and shall contain~~ include but not be limited to the following items:

176 A. The decedent's full name ~~of decedent~~; place of death; usual residence; date of death; sex;
177 ~~hispanic origin, if any, and~~ race (Hispanic origin, if any); education; date of birth; age; birthplace;
178 citizenship; usual occupation and industry; veteran status; social security number or control
179 number issued by the Department of Motor Vehicles; father's full name; mother's full maiden
180 name; marital status and name of spouse, if married or widowed;

181 B. informant's Informant's name and relationship to decedent;

182 C. medical Medical certification of cause of death; autopsy; if female, was there a pregnancy
183 during past three months; and supplementary data concerning death due to external causes;
184 certification of attending physician, physician assistant supervised by such physician, individual
185 to whom the physician has delegated authority, if such individual had access to the medical history
186 of the case and death is due to natural causes, nurse practitioner or medical examiner, including
187 title, address, and date signed;

188 D. disposition Disposition of the body; signature of funeral service licensee; name and address
189 of funeral home;

190 E. date Date received by registrar; registrar's signature; registration area and certificate
191 numbers; and state file number.

192 **12VAC5-550-120. Fetal death or induced termination of pregnancy report items.**

193 A. The Report of Spontaneous Fetal Death, Commonwealth of Virginia, ~~and shall contain~~
194 include but not be limited to the following items for spontaneous fetal deaths:

195 1. ~~place~~ Place of occurrence;

196 2. ~~The mother's (the patient) usual residence of patient (mother); full maiden name of patient;~~
197 ~~medical record number and social security number of patient; hispanic origin, if any, and race~~
198 ~~(Hispanic origin, if any) of patient; age of patient; education level of patient; sex of fetus; whether~~
199 ~~the patient was married to the father at the time of spontaneous fetal death or within the ten~~
200 ~~months preceding the spontaneous fetal death;~~ previous deliveries to patient; single or plural
201 delivery and order of plural delivery; date of delivery; date of last normal menses and physician's
202 estimate of gestation; ~~weight of fetus in grams;~~ month of pregnancy care began; number of
203 prenatal visits; ~~when fetus died; congenital malformations, if any; events of labor and delivery;~~
204 medical history for this pregnancy; other history for this pregnancy; obstetric procedures and
205 method of delivery;

206 3. The fetus sex; weight in grams; when the fetus died; congenital malformations, if any;

207 4. autopsy Autopsy; medical certification of cause of spontaneous fetal death; signature of
208 attending physician or medical examiner including title, address and date signed; method of
209 disposal of fetus;

210 5. ~~signature~~ Signature and address of funeral service licensee or hospital representative;

211 6. ~~date~~ Date received by registrar; registrar's signature; registration area and report numbers.

212 B. The Report of Induced Termination of Pregnancy, Commonwealth of Virginia, ~~and shall~~
213 contain the following items for induced terminations of pregnancy:

214 1. ~~place~~ Place of occurrence; date of pregnancy termination; type of termination procedures;
215 whether pregnancy was terminated because of genetic defect;

216 2. ~~The mother's (the patient) usual residence of patient;~~ patient identification number; age of
217 ~~patient; hispanic origin, if any, and race (Hispanic origin, if any) of patient;~~ education level of
218 ~~patient; whether the patient was married to the father at the time of pregnancy termination or~~
219 ~~within the ten months preceding the pregnancy termination;~~ date of pregnancy termination;
220 ~~pregnancy history of patient; date of last normal menses and physician's estimate of gestation;~~
221 ~~type of termination procedures; pregnancy terminated because of genetic defect;~~

222 3. ~~signature~~ Signature, title, and address of person completing this report; registration area
223 and report numbers.

224 **12VAC5-550-125. Certificate of birth resulting in a stillbirth.**

225 In accordance with § 32.1-258.1 of the Code of Virginia, a certificate of birth resulting in a
226 stillbirth shall be issued upon request from ~~the~~ either parent listed on the report of spontaneous
227 fetal death record for a fetal death of 20 weeks or more gestation and payment of the appropriate
228 fee for a vital record. This certificate shall contain the following information:; fetus name (optional),
229 mother's full maiden name, father's full name (if indicated), date of event, and hospital of
230 occurrence. When no report of spontaneous fetal death is available to establish the event,
231 documentation from the following sources is acceptable:

232 ~~A. physician~~ Physician, or licensed nurse midwife certified nurse midwife or certified
233 professional midwife who provided care to the mother;;

234 ~~B. documentation~~ Documentation from the medical record maintained at the hospital of
235 occurrence;;

236 ~~C. copy~~ Copy of the report of spontaneous fetal death; or

237 ~~D. documentation~~ Documentation from funeral service director (if such services were
238 provided).

239 **12VAC5-550-130. Marriage return and certificate items.**

240 The record of marriage to be used shall be the Marriage Return and Certificate,
241 Commonwealth of Virginia, and shall ~~contain~~ include but not be limited to the following items:

242 ~~A. city~~ City or county of the court of issuance; court clerk's number;

243 ~~B. for~~ For the groom: full name; age; date and place of birth; social security number or control
244 number issued by the Department of Motor Vehicles; race; marital status if previously married;
245 number of marriage; education; usual residence; and the full names of both parents;

246 ~~C. for~~ For the bride: full name; maiden name, if applicable; age; date and place of birth;
247 social security number or control number issued by the Department of Motor Vehicles; race;
248 marital status if previously married; number of marriage; education; usual residence; and the
249 full names of both parents;

250 ~~D. signature~~ Signature of clerk of court and date of license; ~~date and place of marriage;~~
251 ~~whether civil or religious ceremony; certification and signature of officiant indicating title, address,~~
252 ~~and year and court of qualification;~~ date received by clerk of court from officiant; ~~and state file~~
253 ~~number;~~ date and place of marriage;

254 E. Whether civil or religious ceremony; certification and signature of officiant indicating title,
255 address, and year and court of qualification.

256 **12VAC5-550-140. Report of divorce or annulment items.**

257 The ~~report of divorce or annulment to be used shall be the~~ Report of Divorce or Annulment,
258 Commonwealth of Virginia, ~~and shall contain~~ include but not be limited to the following items:

259 A. city ~~City~~ or county of court of issuance;

260 B. for ~~For~~ the husband: full name_; date and place of birth_; social security number or control
261 number issued by the Department of Motor Vehicles_; education_; number of marriage_; usual
262 residence; race;

263 C. for ~~For~~ the wife: full maiden name_; date and place of birth_; social security number or
264 control number issued by the Department of Motor Vehicles_; education_; number of the marriage_;
265 usual residence; race;

266 D. date ~~Date~~ and place of marriage;

267 E. identity ~~Identity~~ of plaintiff and to whom divorce was granted; number and custody of
268 children under 18 in this family; date of separation; date of divorce; legal grounds or cause of
269 divorce; signature of attorney or petitioner;

270 F. certification ~~Certification~~ and signature of clerk of court indicating type of decree; court file
271 number; date final order entered; and state file number.

Part IV

Preparation of Certificates

272 **12VAC5-550-150. Requirements for completion.**

273 All certificates and records provided for in the statutes governing vital event registration shall
274 be prepared on a typewriter with a black ribbon whenever possible or shall be printed legibly in
275 black ink or written legibly in black unfading ink or entered on electronic media approved by the
276 State Registrar. All signatures required shall be entered in black ink with the exception of the
277 medical certification on death certificates which may be completed in black or dark ink. Unless
278 otherwise directed by the State Registrar. ~~No~~ no certificate shall be considered as complete and
279 correct and acceptable for filing that:

280 1. Does not supply all items of information called for thereon or satisfactorily account for
281 their omission.

282 2. Contains alterations or erasures.

283 3. Does not contain original signatures.

284 4. Is marked "copy" or "duplicate."

285 5. Is a carbon copy or photocopy.

286 6. Is prepared on an improper form.

287 7. Contains obviously improper or inconsistent data.

- 288 8. Contains any data relative to the putative father of a child born out of wedlock without
289 his written consent or unless determined by a court of competent jurisdiction as required
290 by § 32.1-257 of the Code of Virginia.
- 291 9. Contains an indefinite cause of death denoting only symptoms of disease or conditions
292 resulting from disease.
- 293 10. Is not prepared in conformity with these regulations or instructions issued by the State
294 Registrar.

295 **12VAC5-550-190. Local records.**

296 On forms furnished by the State Registrar or on electronic media approved by the State
297 Registrar, each registrar shall record the following information from the original records before
298 forwarding such original records to the State Registrar:

- 299 1. For birth records: the full name of the child, sex and race of child, date of birth, place of
300 birth, full names of both parents including the maiden name of the mother if applicable,
301 residence of parents, date filed, and local certificate number.
- 302 2. For death records: the full name of the decedent, race and sex of decedent, date of
303 death and place of death, date filed, and local certificate number.
- 304 3. For spontaneous fetal death records: surname of family, race and sex of fetus, date and
305 place of delivery, date filed, and local report number.

306 **12VAC5-550-210. Promotion of registration.**

307 Each registrar is to familiarize himself with the statutes, regulations, and instructions from the
308 State Registrar so that he may promote and stimulate complete and accurate registration. Lists
309 of hospitals, physicians, medical examiners, funeral service licensee, and midwives should be
310 maintained where necessary for reference purposes.

Part VII

Foundling Registration

311 **12VAC5-550-220. Procedure.**

312 ~~Whoever~~ Whomever assumes custody of a living infant of unknown parentage shall on a blank
313 certificate of live birth report the ~~required~~ required facts required by §32.1-258 of the Code of Virginia. The
314 certificate shall be plainly marked "foundling registration" in the top margin and data required will
315 be determined by approximation. Parentage data shall be left blank, and the certification of the
316 informant shall be signed by the custodian indicating title, if any. The item "Certification of the
317 attendant," shall be signed by the physician who examines the foundling child. On the reverse of
318 the form shall be listed the name and address of the persons or institution with whom such child
319 has been placed for care and the date and place the child was found.

Part VIII

Delayed Birth Registration

320 12VAC5-550-230. Late registration and delayed registration defined.

321 A. The registration of a ~~nonrecorded~~ certificate of live birth after the statutory time prescribed
322 for filing but within one year from the date of birth shall be a "late birth registration." As such, its
323 filing shall be subject to the requirements of 12VAC5-550-250 but shall not be considered a
324 "delayed registration." The registration of a ~~nonrecorded~~ birth after one year from the date of birth
325 shall be a "delayed birth registration."

326 B. For those births ~~occurring~~ that occurred more than one year but less than seven years prior
327 to the date of filing, the birth registrations shall be prepared and filed on the certificate of live birth
328 form in use at the time of birth and shall be plainly marked in the upper margin "delayed
329 registration." Such certificates shall be subject to the requirements of 12VAC5-550-250 ~~and~~ but
330 not subject to 12VAC5-550-260.

331 C. The registration of a ~~nonrecorded~~ birth seven or more years after the date of birth shall be
332 a "delayed birth registration" and shall be registered by the State Registrar on special forms
333 provided for such purposes and shall be subject to the requirements of 12VAC5-550-260.

334 12VAC5-550-240. Who may file a late or delayed birth certificate and conditions.

335 A. A person born in the Commonwealth of Virginia whose birth is not recorded, or if he is not
336 yet eighteen years old or is incapacitated, his parent or legal guardian, ~~legal representative~~, or an
337 older person having knowledge of the facts of birth, may file a certificate of birth after the time
338 prescribed for filing subject to the procedures and requirements established by these regulations
339 and instructions issued by the State Registrar.

340 B. No delayed Certificate of Birth shall be registered for a deceased person.

341 C. Application for delayed certificates that have not been completed within one year from the
342 date of application may be dismissed at the discretion of the State Registrar. Upon dismissal, the
343 State Registrar shall ~~so advise~~ notify the applicant and all documents submitted in support of such
344 registration shall be returned to the applicant.

345 12VAC5-550-260. Procedure and requirements for delayed birth registration seven or more
346 **years after date of birth.**

347 A. Application for a delayed birth registration ~~after~~ more than seven years ~~have elapsed since~~
348 after the date of birth shall be made to the State Registrar and shall be filed according to
349 instructions issued by the State Registrar.

350 B. If a prior birth certificate is located for the registrant, a delayed birth certificate shall not be
351 filed. The final acceptance of a delayed birth certificate for filing shall remain in a pending status

352 until ~~evidence is submitted in support thereof satisfactory to the State Registrar~~ approves the
353 application as outlined in subsection E of this section, or until one year from the date of application,
354 in which event the application shall lapse.

355 C. The following facts concerning the person whose birth is to be registered must be
356 established:

- 357 1. The full name of the person at the time of birth, except that the delayed certificate may
358 reflect a name established by adoption or legitimation when such evidence is submitted;
- 359 2. The date and place of birth; and
- 360 3. The mother's full maiden name;
- 361 4. The father's full name, if the father was married to the mother ~~names of the parents,~~
362 ~~except that if the mother of the child was not married to the father of the child at the time~~
363 ~~of birth, or during in the 10 months preceding such the birth,; or if the name of the father~~
364 ~~shall not be entered on the delayed certificate unless the child has been~~ was adopted, or
365 legitimated, or parentage has been determined by a court of competent jurisdiction
366 pursuant to § 32.1-257 of the Code of Virginia; or both natural parents present a sworn
367 acknowledgement of paternity.

368 D. Delayed birth certificates shall be prepared on forms supplied by the State Registrar. Each
369 such delayed certificate shall be signed and sworn to before an official authorized to administer
370 oaths by the person whose birth is to be registered if such person is available and is competent
371 to sign and swear to the accuracy of the facts stated therein; if not, the application shall be signed
372 and sworn to by one of the parents, or his legal guardian, ~~legal representative,~~ or by an older
373 person having knowledge of the facts of birth.

374 E. The birth facts entered on the delayed certificate shall be supported by at least three pieces
375 of documentary evidence; except that:

- 376 1. If one of the documents was established before the registrant's seventh birthday, only
377 two such documents shall be required.
- 378 2. If the person whose birth is being registered is 15 years of age or under, only two such
379 documents shall be required.

380 F. All documents used shall be primary evidence, such as school admission records,
381 physician's records, insurance applications, baptismal records, federal census abstracts,
382 immunization records, or passports. Only one affidavit of personal knowledge shall be used as an
383 additional supporting document.

384 G. Facts of parentage need only be supported by one such document described in subsection
385 F of this section.

386 H. Documents shall be in the form of the original or certified or true copies of the original.

387 I. All documents, except the affidavit of personal knowledge, shall be returned to the applicant
388 after review.

389 J. Whether delayed certificates and documentary evidence submitted conform with this
390 chapter and are acceptable for filing shall be determined by the State Registrar. If, in his judgment,
391 an applicant does not submit the documentation required in support of the facts of birth or if there
392 appears reason to question the delayed registration, the delayed birth certificate shall not be
393 accepted and the applicant shall be advised of its deficiencies.

394 1. If a delayed birth certificate is acceptable for filing, the State Registrar or his designated
395 representative shall abstract on the delayed birth certificate form a description of each
396 document submitted in support of the delayed registration, including the kind and title of
397 the document; the name and relationship of the affiant if the document is an affidavit of
398 personal knowledge; the date the document was originally established; and

399 2. The State Registrar or his designated representative shall then enter the date of filing
400 of the delayed registration, and by his signature thereto shall certify:

401 a. That no prior birth certificate is on file for the person whose birth is to be registered;

402 and

403 b. That the documentary evidence submitted to establish the facts of birth has been
404 reviewed and is in conformity with the stated facts.

405 **12VAC5-550-270. Cancellation records.**

406 When the State Registrar shall be satisfied that a late or a delayed birth certificate was
407 obtained through fraud or misrepresentation, he shall give to the person named in the certificate
408 a notice in writing of his intention to cancel ~~said~~ the certificate. The notice shall give such person
409 an opportunity to appear to show cause why the certificate should not be cancelled. The notice
410 may be served on such person or in the case of a minor or incompetent to his parent or guardian
411 by ~~forwarding~~ sending the notice by certified mail to his last known address on file in the Division
412 of Vital Records ~~and Health Statistics~~. Any appeal shall be governed by the provisions of the
413 Virginia Administrative Process Act ~~pursuant to Title 9, Chapter 1.1:1~~ codified in Chapter 40 of
414 Title 2.2 of the Code of Virginia.

Part IX

New Birth Certificates after Adoption, Legitimation, Acknowledgement of Paternity, or Court
Determination of Paternity

415 **12VAC5-550-280. Adoptions.**

416 New birth certificates after adoption, legitimation, acknowledgment of paternity, or court
417 determination of paternity shall be established under the following conditions:

418 1. A new certificate of birth may be prepared by the State Registrar for a child born in
419 Virginia and subsequently adopted through the courts of Virginia, the several states of the
420 United States, or in a foreign country. An adoption report or certified copy of an adoption
421 decree must be in the possession of the State Registrar together with a request that a new
422 certificate be prepared.

423 2. A certificate of birth may be prepared by the State Registrar for a child born in a foreign
424 country and subsequently adopted through a court in Virginia. An adoption report must be
425 in the possession of the State Registrar together with a request that a Virginia registration
426 of the birth be prepared. Such certificates shall not confer citizenship upon the child or the
427 adoptive parents.

428 3. A certificate of birth may be prepared by the State Registrar for a child born in a foreign
429 country and who was adopted by residents of the Commonwealth pursuant to the laws of
430 a foreign country. The request from the adoptive parent(s) shall include the documents
431 identified in §63.2-1200.1(B).

432 **12VAC5-550-290. Legitimation.**

433 If the biological parents of a child shall marry after the birth of a child, a new certificate of birth
434 may be prepared by the State Registrar for a child born in Virginia provided that the name of
435 another man is not shown as the father on the original certificate. An affidavit of paternity,
436 executed subsequent to the birth of the child, by both biological parents and a certified copy of
437 the parents' marriage record must be in the possession of the State Registrar together with a
438 request that a new certificate be prepared. If another man is so listed, a new certificate may be
439 prepared only if a determination of paternity shall be ordered by a court of competent jurisdiction
440 or pursuant to § 20-49.8 of the Code of Virginia. If the mother was married at the time of the child's
441 birth or in the 10 months ~~next preceding~~ previous, the State Registrar ~~will~~ shall not accept the
442 acknowledgment of paternity form. A new certificate may be prepared only if a determination of
443 paternity shall be ordered by a court of competent jurisdiction or pursuant to § 20-49.8 of the Code
444 of Virginia.

445 **12VAC5-550-300. Acknowledgement of paternity.**

446 A new certificate of birth may be prepared by the State Registrar for a child born out of wedlock
447 in this Commonwealth upon receipt of a sworn acknowledgement of paternity, executed
448 subsequent to the birth of the child, signed by both parents and a written request by both parents
449 that the child's surname be changed or not be changed on the certificate to that of the father. If
450 the mother was married at time of the child's birth or in the 10 months ~~next preceding~~ previous or
451 if another man is shown as the father of the child on the original certificate, a new certificate may
452 be prepared only when a determination of paternity is made by a court of competent jurisdiction
453 or pursuant to § 20-49.8 of the Code of Virginia.

454 **12VAC5-550-310. Court determination of paternity.**

455 A. If no appeal has been taken from the final order and the time allowed to perfect an appeal
456 has expired, a new certificate of birth may be prepared by the State Registrar for a child born in
457 this Commonwealth upon receipt of a certified copy of a court determination of paternity.

458 B. A new certificate of birth may be prepared by the State Registrar for a child born in the
459 Commonwealth upon receipt of the certified copies of a document signed by a man indicating his
460 consent to submit to scientifically reliable genetic tests, including blood tests, to determine
461 paternity and the genetic test results affirming at least a 98% probability of paternity from an
462 ~~ABBA-approved~~ AABB-approved laboratory, together with a request from the biological mother,
463 biological father or person having legal custody of the child that such new certificate be prepared.
464 Changing the child's surname to the biological father's surname requires the signatures of both
465 parents or (i) the father in the case of death or incapacity of the mother or (ii) the mother in the
466 case of the death or incapacity of the father.

467 **12VAC5-550-340. Sealed files.**

468 After preparation of ~~the~~ a new certificate, upon adoption, legitimation, or the determination of
469 paternity, the existing certificate and the evidence upon which the new certificate was based ~~are~~
470 ~~to~~ shall be placed in a special file. Such file shall not be subject to inspection except upon order
471 of a circuit court of this Commonwealth or by the State Registrar for purposes of properly
472 administering the system of vital records and health statistics.

Part X

Procedures for Filing Death Certificates

473 **12VAC5-550-350. A proper and complete medical certification of cause of death defined.**

474 A complete and properly executed medical certification of cause of death shall ~~mean~~ require
475 the entry by a physician or medical examiner of a definite medical diagnosis of the underlying

476 cause of death and related conditions following the instructions indicated on the death certificate.

477 This may be variously:

- 478 1. Supported by clinical findings of the physician who attended the deceased for the illness
479 or condition that resulted in death;
- 480 2. Supported by tentative clinical findings ~~that may or may not be supported by the gross~~
481 ~~findings of an autopsy~~; or
- 482 3. Supported by autopsy findings where necessary to establish a definite medical
483 diagnosis of cause of death.

484 In cases where an autopsy is to be performed, the physician or medical examiner shall not
485 ~~defer~~ delay the entry of the cause of death pending a full report of microscopic and toxicological
486 studies. In any case where the autopsy findings significantly change the medical diagnosis of
487 cause of death, a supplemental report of the cause of death shall be made by the physician or
488 medical examiner to the registrar as soon as the findings are available. (As examples: If it is clear
489 that a patient dies of "cancer of the stomach," report the cause while a determination of the
490 histological type is being carried out. Similarly, if it is clear that a death is from "influenza," do not
491 delay the medical certification while a laboratory test is being carried out to determine the strain).

492 **12VAC5-550-360. Responsibility of the attending physician.**

493 When a patient dies, the physician in charge of the patient's care for the illness or condition
494 shall be responsible for executing and signing the medical certification of cause of death as
495 follows:

- 496 1. The physician shall execute and sign the medical certification of cause of death on the
497 death certificate form prescribed by the State Registrar.
- 498 2. In ~~an~~ a case where an autopsy is scheduled and the physician wishes to await its gross
499 finding to confirm a tentative clinical finding, he shall give the funeral service licensee
500 notice that he attended the patient and when he expects to have the medical data
501 necessary for the certification of cause of death. If the provisions of 12VAC5-550-350
502 cannot be adhered to, he shall indicate that the cause is pending and sign the certification.
503 Immediately after the medical data necessary for determining the cause of death ~~have~~ has
504 been made known, the physician shall, ~~over~~ above his original signature, forward the
505 cause of death to the registrar.
- 506 3. If the physician is unable to establish the cause of death or if a death is within the
507 jurisdiction of the medical examiner, he shall immediately report the case to the local
508 medical examiner and advise the funeral service licensee of this fact. If the medical

509 examiner does not assume jurisdiction, the physician shall sign the medical certification
510 noting special circumstances and exception.

511 4. An associate physician who relieves the attending physician while he is on vacation or
512 otherwise temporarily unavailable may certify to the cause of death in any case where he
513 has access to the medical history of the case, provided that he views the deceased at or
514 after death occurs and that death is from natural causes. In all other cases in which a
515 physician is unavailable, the funeral service licensee shall contact the medical examiner.

516 5. When the attending physician shall have given the person in charge of an institution
517 authorization in writing, the person in charge of such institution, or his designated
518 representative, may prepare the medical certification of cause of death in cases where all
519 pertinent aspects of the medical history are a part of the official medical records and the
520 death is due to natural causes. In such instances, the signature shall be that of a physician.

521 6. Individuals as defined by § 32.1-263 C of the Code of Virginia may sign a death
522 certificate in the absence of the attending physician or with his approval.

523 **12VAC5-550-370. Responsibility of the medical examiner.**

524 When a medical examiner assumes jurisdiction in a death or when a medically unattended
525 death occurs without medical attendance, a known medical history or information, the medical
526 examiner shall be responsible for executing and signing the medical certification of cause of death
527 as follows:

528 1. The medical examiner shall, at the time of releasing a body to a funeral service licensee
529 or person who first assumes custody of a dead body, or as soon as practicable thereafter,
530 execute and sign the medical certification of cause of death on the death certificate form
531 prescribed by the State Registrar.

532 2. In any case where an autopsy is scheduled and the medical examiner wishes to await
533 its gross findings to confirm a tentative clinical finding, he shall give the funeral service
534 licensee notice as to when he expects to have the medical data necessary for the
535 certification of cause of death. If the provisions of 12VAC5-550-350 cannot be adhered to,
536 he shall indicate that the cause is pending and sign the certification. Immediately after the
537 medical data necessary for determining the cause of death ~~have~~ has been made known,
538 the medical examiner shall, over his signature, forward the cause of death to the registrar.

539 3. In any case where a death has been referred to the medical examiner because a
540 physician in attendance is deceased or physically incapacitated and there was no
541 associate physician, the medical examiner shall prepare and sign the medical certification
542 of cause of death.

543 **12VAC5-550-390. Responsibility of the funeral service licensee.**

544 Each funeral service licensee who has been authorized to take custody of a dead human body
545 shall exercise the following responsibilities with respect to the preparation and filing of the death
546 certificate:

547 1. When he arrives to take custody of the body, he shall first ascertain whether an
548 attending physician or local medical examiner has established the cause of death as
549 follows:

550 a. The funeral service licensee shall obtain the medical certification of cause of death
551 from the physician if the death is from natural causes. An associate physician or
552 person in charge of an institution may prepare the medical certification as outlined in
553 12VAC5-550-360.

554 b. If a physician attended the deceased but did not complete the medical certification
555 of cause of death, the funeral service licensee shall immediately contact such
556 physician in person or by telephone to be certain that he was the attending physician
557 and to ascertain whether the physician is to assume responsibility for the medical
558 certification or to refer the case to the medical examiner.

559 c. When a medical examiner assumes jurisdiction in a death, or when a physician in
560 attendance is incapacitated, the funeral service licensee shall obtain the signed
561 medical certification of cause of death from the medical examiner as required by
562 subdivision 3 of 12VAC5-550-370.

563 2. The personal history of the deceased and the facts of the death shall be obtained from
564 the best source possible. This source may be variously: a member of the immediate family
565 of the deceased who possesses the necessary information; a hospital records custodian
566 whose records contain the necessary information; or the local medical examiner having
567 jurisdiction over a case. The name of the informant, his address and relationship to the
568 decedent shall be entered on the death certificate. The facts required as to the manner
569 and place of disposal of the body or its removal from the Commonwealth shall be entered
570 over the signature of the funeral service licensee. He shall personally sign the certificate
571 and print or type the name of his firm.

572 3. Except as outlined in 12VAC5-550-410, a satisfactory death certificate shall be filed
573 within three days with the city, county, or special registrar in the city or county where death
574 occurred, or a dead body is found, prior to final disposal of the body or its removal from
575 the Commonwealth, ~~and within three days~~. In cases where a completed medical
576 certification is not available when the funeral service licensee takes possession of a body,

577 he shall not move the body from the place of death until so authorized by the local medical
578 examiner or until the attending physician has advised him that death is from natural causes
579 and the physician is able to prepare the medical certification of cause of death. In every
580 case, the removal of a dead human body from the city or county of death is unlawful unless
581 notice is given to the city, county, or special registrar by telephone or in person. Such
582 notice shall consist of the name of the deceased, date and place of death, and the name
583 of the attending physician or of the medical examiner, as the case may be, and, if the body
584 is to be removed, the destination within the Commonwealth. Such notification shall be
585 made during the next available business hours of the registrar following the time of death.
586 After business hours, in independent cities and in designated counties, such notification
587 shall be made immediately on assumption of custody of the deceased to the registrar's
588 representative.

589 **12VAC5-550-400. Out-of-state transit permits.**

590 A. The body of any person whose death occurs in Virginia or whose body shall be found dead
591 therein shall not be removed from the Commonwealth unless an out-of-state transit permit on a
592 form prescribed by the State Registrar has been issued by the city, county, or special registrar of
593 the city or county where the death occurred or the body was found except as outlined in 12VAC5-
594 550-410.

595 B. No out-of-state transit permit shall be issued until a proper certificate of death is filed except
596 as outlined in 12VAC5-550-410.

597 C. A certificate of death shall be considered to be properly filed:

- 598 1. When all items thereon have been ~~answered~~ completed in the manner prescribed by
599 the State Registrar; and
600 2. When the certificate has been presented for filing with the city, county, or special
601 registrar of the city or county where the death occurred or the body was found, or, in
602 emergency cases, with the city or county registrar of the area to which removal was made
603 within the Commonwealth.

604 **12VAC5-550-410. Emergency cases: Filing of death certificates elsewhere.**

605 A. Under the conditions of § 32.1-266 of the Code of Virginia, the following situations are
606 declared to be proper reasons for emergency extensions of the time periods ~~period~~ for filing a
607 completed death certificate:

- 608 1. A completed or pending medical certification is unavailable-;
609 2. Personal data concerning the deceased is temporarily unavailable-;or
610 3. The body must be moved immediately out of the Commonwealth-;

611 B. If one or more of the above situations exists and the conditions of subdivision 3 of 12VAC5-
612 550-390 have been complied with by the funeral service licensee when the body is to be moved,
613 then any authorized registrar, or registrar's representative, may issue an out-of-state transit
614 permit. Such permit shall be issued upon an application by a funeral service licensee and the
615 presentation by the funeral service licensee, ~~over his signature only~~, of a death certificate form
616 complete in as many known details as possible.

617 C. The incomplete death certificate form originally furnished to the registrar as outlined in
618 subsection B of this section is to be placed by the funeral service licensee with a completed death
619 certificate as soon as the missing data become known or the medical certification is obtained, or
620 within 10 days, whichever occurs first.

621 D. Under emergency provisions and the conditions of subdivision 1 c of 12VAC12-550-390,
622 the death certificate may be filed with a registrar other than the registrar at the place of death.
623 When a registrar of an area other than the place of death receives a completed death certificate,
624 he shall not sign nor number the certificate, but shall make a notation in the left-hand margin
625 indicating his name and whether or not an out-of-state permit has been issued. The registrar
626 receiving the death certificate shall immediately forward the death certificate to the city or county
627 registrar at the place of death.

628 **12VAC5-550-420. Forwarding "pending cause" death certificates.**

629 A death certificate received by a city or county registrar which contains a signed medical
630 certification of cause of death, but the cause is not complete by reason of a pending inquest,
631 investigation, or autopsy, the certificate should be sent to the State Registrar on the regular
632 reporting date with completed records. If the cause of death is completed by the presentation of
633 a second and complete certificate before the original certificate is sent to the State Registrar, the
634 original incomplete certificate should be marked "VOID." The completed death certificate should
635 be processed as a current certificate and should be forwarded to the State Registrar. If the cause
636 of death is completed ~~by~~ on a properly signed query form or other statement, the cause of death
637 information may be added to the incomplete death certificate by the State Registrar.

638 **12VAC5-550-430. Disinterment permits.**

639 A. Unless so ordered by a court of competent jurisdiction, a body shall not be disinterred for
640 removal or transportation until an application for disinterment has been submitted to and approved
641 by the city or county registrar or to the State Registrar.

642 B. The city or county registrar ~~at the place~~ at the place for the jurisdiction from which disinterment is to be
643 made shall issue a disinterment permit in triplicate. One copy shall be retained by the funeral
644 service licensee to whom issued, one copy filed with the sexton or person in charge of the

645 cemetery in which disinterment is to be made, and one copy to be used during transportation and
646 filed with the sexton or person in charge of the cemetery of reinterment. The State Registrar may
647 issue a letter of authorization in lieu of individual permits when ~~numbers of bodies are~~ more than
648 one body is to be moved in one operation from the same place of disinterment to the same place
649 of reinterment.

650 C. A disinterment permit shall not be required if a body is to be disinterred and reinterred in
651 the same cemetery; however, the sexton or other person in charge of the cemetery shall establish
652 a record ~~relative to~~ regarding the facts of disinterment and reinterment within the cemetery.

653 D. A body kept in a receiving vault shall not be regarded as a disinterred body ~~until after~~
654 ~~expiration of~~ unless the body is kept there more than 30 days.

Part XI

Correction and Amendment

655 **12VAC5-550-440. Applications for correction.**

656 A. After 30 days from the date of filing, no change or alteration in any birth or death certificate
657 on file with the State Registrar or on file in any city or county of this Commonwealth shall be made
658 except upon application to the State Registrar.

659 1. To change or alter a birth certificate, such application shall be made by the reporting
660 source, ~~one of the parents,~~ the child's parent or legal guardian, ~~the child's~~ or legal
661 representative of the child, or, ~~if the person whose certificate is involved~~ by the registrant
662 if he is 18 years of age or over, ~~by the person himself.~~

663 2. To change or alter a death certificate, such application shall be made by the surviving
664 spouse, ~~or the next of kin of the deceased,~~ or the attending funeral service licensee, ~~or~~
665 ~~other reporting source,~~ such as hospital medical records.

666 3. Changes or alterations of the medical certification of cause of death may be requested
667 only by the attending physician or by the medical examiner.

668 B. Within 30 days from the date of filing, missing data or corrected information may be entered
669 on a birth or death certificate by the State Registrar or by the city or county registrar when the
670 original record is in his possession.

671 1. Applications for changes or alterations may be made by persons outlined in subdivision
672 A (1) or A (2) of this section.

673 2. Missing or corrected data may be obtained at the initiative of the city or county registrar
674 by personal call, telephone, or query form from the reporting source responsible for filing
675 the birth or death certificate. Data so obtained by the registrar shall not be deemed an
676 amendment.

677 C. Marriage and divorce or annulment records on file with the State Registrar may be
678 amended only by notification from the clerk of court in which the original record is filed. Such
679 notification to the State Registrar shall indicate what items have been amended on the original
680 record and shall indicate that the State Registrar's copy should be amended accordingly.
681 Evidence required for amending marriage and divorce or annulment records shall be determined
682 by the court in which the original record is filed.

683 **12VAC5-550-450. Evidence required for corrections or amendments.**

684 Every application for a correction or amendment of a birth or death certificate shall be
685 accompanied by appropriate documentary evidence as follows:

686 1. Except as provided in subdivisions 2 and 3 of this section, name changes, other than
687 minor corrections in spelling involving the given names or surname of a registrant, or the
688 given names or surnames of the parents or of a spouse as listed on a certificate, shall
689 require that a certified or attested copy of a court order changing the name be obtained.

690 a. In cases where the mother's married surname is listed instead of her maiden name,
691 a correction can be made administratively with a correction affidavit and copy of her
692 birth record.

693 b. In cases where the given name shown on a birth certificate was not used or known
694 to the registrant and this fact can be proven by the registrant, the birth certificate can
695 be amended administratively with primary evidence showing the name at birth and a
696 correction affidavit.

697 c. In cases where the registrant's gender or the registrant's parents' ages and place of
698 birth was recorded incorrectly, the birth certificate can be amended with a correction
699 affidavit and primary or secondary evidence.

700 d. In cases where the registrant's gender, date of birth, age, place of birth, social
701 security number, race or veteran status was recorded incorrectly, the death certificate
702 can be amended with a correction affidavit and primary or secondary evidence.

703 2. Within one year of birth, the given names listed on a birth certificate may be changed
704 by the affidavit of:

705 a. Both parents;

706 ~~b. The mother in the case of a child born out of wedlock;~~

707 ~~eb.~~ The father in the case of the death or incapacity of the mother;

708 ~~ec.~~ The mother in the case of the death or incapacity of the father; or

709 ~~ed.~~ The guardian or agency having legal custody of the registrant.

710 3. In cases of hermaphroditism or pseudo-hermaphroditism, given names of a registrant
711 may be changed on a birth certificate by affidavit of the parents or guardian as listed in
712 subdivision 2 of this section, if the registrant is less than 18 years of age, or by affidavit of
713 the registrant if 18 years of age or older.

714 4. Additionally, a statement from a physician must be submitted which certified the birth
715 record of the registrant contains an incorrect designation of sex because of congenital
716 hermaphroditism, pseudo-hermaphroditism, or ambiguous genitalia which has since been
717 medically clarified.

718 45. Except as otherwise provided in the Code of Virginia or this chapter, after one year
719 from the date of birth, any change of name shall be made only by court order, and any
720 second change of name within one year shall be made only by court order.

721 56. Within seven years after birth, given names may be added to a birth certificate where
722 such information has been left blank by use of an affidavit only prepared by the parent,
723 guardian, or legal representative of the child.

724 67. If the date of birth on a birth certificate is to be changed more than one year, a certified
725 copy of a court order changing the date of birth shall be submitted. Evidence to be supplied
726 to the court in support of such change should include a federal census transcript from the
727 Bureau of the Census.

728 78. If the date of birth on a birth certificate is to be changed to one year or less from the
729 date of birth, a federal census transcript from the Bureau of the Census ~~shall~~ may be
730 required as documentary evidence. If the federal census transcript cannot be obtained,
731 primary evidence established before the registrant's 25th birth date may be required as
732 documentary evidence.

733 ~~89. If a federal census transcript cannot be obtained~~ In all cases, an affidavit shall be
734 obtained which sets forth: the identity of the incorrect record, the incorrect data as it is
735 listed, and the correct data as it should be listed, ~~and the documentary evidence~~
736 ~~supporting the facts.~~ In addition to the affidavit, it may be necessary to submit primary or
737 secondary evidence. Such evidence must support the item to be corrected or amended
738 and must be a document or an original, certified, or true copy; of such document must be
739 ~~obtained which was written before the registrants' eighth birth date~~ and will establish the
740 identity of the certificate to be altered or corrected and will support the true and correct
741 facts.

742 10. Once the amendment of Any any item of on a vital record which has been previously
743 corrected, that item shall not be amended again except upon receipt of a may only be
744 changed again by court order from a court of competent jurisdiction.

745 911. All documents, except the affidavit, shall be returned to the applicant after review.

Part XII

Inspection of Records and Disclosure of Information

746 **12VAC5-550-470. Individual requests.**

747 A. Upon written request, the State Registrar, ~~or~~ the city or county registrar or the
748 Commissioner of the Department of Motor Vehicles shall ~~disclose data or~~ issue certified copies
749 of birth or death records or information when satisfied that the applicant ~~therefor~~ therefore has a
750 direct and tangible interest in the content of the record and that the information contained therein
751 is necessary for the determination or protection of personal or property rights.

752 B. A direct and tangible interest may be evidenced by a requests request from the registrant,
753 members of his immediate family, his grandparents, his legal guardian, or their respective legal
754 representatives in the case of birth records. Such direct and tangible interest may be evidenced
755 by requests from surviving relatives or their legal representatives in the case of death records.

756 C. For the purposes of securing information or obtaining certified copies of birth records, the
757 term "legal representative" shall include a registrant's attorney; a person with power of attorney
758 for affairs of registrant; an attending physician; or a federal, state or local governmental agency
759 acting in behalf of the registrant or his family.

760 D. For the purposes of obtaining information of certified copies of death certificates, the term
761 "legal representative" shall include the registrant's funeral service licensee; attorney; person with
762 power of attorney for the affairs of the registrant; insurance company insuring the registrant; a
763 federal, state or local governmental agency acting in behalf of the registrant or his family; a court
764 appointed guardian; or a court appointed administrator.

765 E. A direct and tangible interest shall not be evidenced by the biological parents of an adopted
766 child; nor by commercial firms, agencies, nonprofit or religious organizations requesting listings
767 of names or addresses.

768 **12VAC5-550-480. Research requests.**

769 The State Registrar or the city or county registrar may permit use of data from vital records
770 for bona fide research purposes subject to reasonable conditions that the State Registrar may
771 impose to ensure that the use of the data is limited to such research purposes.

772 **12VAC5-550-490. Official requests.**

773 The State Registrar or the city or county registrar may disclose data from vital records to
774 federal, state, county, or municipal agencies of government ~~which~~ that request such data in the
775 conduct of their official duties; ~~except that records governed by §§ 32.1-261 and 32.1-274 D and~~
776 ~~E of the Code of Virginia, may be made available only by the State Registrar for official purposes~~
777 ~~to federal, state, county, or municipal agencies charged by law with the duty of detecting or~~
778 ~~prosecuting crime, preserving the internal security of the United States, or for the determination~~
779 ~~of citizenship.~~

780 **12VAC5-550-500. Application for records.**

781 The State Registrar or the city or county registrar ~~may~~ shall require written applications for
782 data; the identification of an applicant; or a sworn statement, when it shall seem necessary to
783 establish an applicant's right to information from vital records.

Part XIII

Certifications of Data; Fees

784 **12VAC5-550-510. Certified copies; how prepared.**

785 A. Under the provision of § 32.1-272 of the Code of Virginia and Part XII (12VAC5-550-470 et
786 seq.) of this chapter, certifications of vital records may be prepared and issued by the State
787 Registrar and, where applicable, by the city or county registrar.

788 B. Certifications may be made by photostat or other reproduction process, typewriter, or
789 electronic print except that medical and health data on the birth certificate shall not be so certified.

790 C. The statement to appear on each certification of a vital record is to read as follows:

791 "This is to certify that this is a true and correct reproduction or abstract of the official record
792 filed with the.....Department of Health,....., Virginia.

793 Date issued.....

794 Registrar"

795 The local registrar will enter the appropriate city or county name in the spaces provided, date
796 and sign the certification, and enter his official title.

797 D. The seal of the issuing office is to be impressed on the certification. The certifications
798 issued by the State Registrar and the Commissioner of the Department of Motor Vehicles shall
799 be on security paper that bears the seal of the Virginia Department of Health and the signature of
800 the State Registrar.

801 E. Short form certifications of birth records that make no reference to parentage may be issued
802 by the State Registrar.

803 12VAC5-550-520. Fees.

804 A. No certified or uncertified copy shall be issued until the fee for such copy is received unless
805 specific approval has been obtained from the State Registrar or otherwise provided by Code. The
806 fee to be charged by the State Registrar or by the city or county registrar shall be ~~\$40~~ \$12 for
807 each full certification or short form certification of a vital record, or for a search of the files or
808 records when no copy is made.

809 B. When documents are amended or delayed birth registration is requested, the requester
810 shall be charged an administrative fee of \$10.



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Proposed Regulation Agency Background Document

Agency name	Virginia Department of Health
Virginia Administrative Code (VAC) citation(s)	12VAC5-550
Regulation title(s)	Board of Health Regulations Governing Vital Records
Action title	Amend regulations following periodic review
Date this document prepared	February 14, 2018

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), Executive Orders 17 (2014) and 58 (1999), and the *Virginia Register Form, Style, and Procedure Manual*.

Brief summary

Please provide a brief summary (preferably no more than 2 or 3 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.

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 12VAC5-550 *et seq.* "Regulations Governing Vital Records" pursuant to Executive Order (EO) 14 (2010). As a result of this review, the Virginia Department of Health began the regulatory process to amend these regulations. The purpose of the proposed amendments is to make changes for clarity and accuracy, noting that a new certificate of birth may be prepared by the State Registrar for a person born in this Commonwealth upon receipt of a certified copy of an order of a court of competent jurisdiction indicating that the sex of an individual has been changed by medical procedure, and upon request of such person. These changes are necessary to conform the requirements of this section with what the Code of Virginia requires (§ 32.1-269).

The existing regulation indicates that changing one's gender on their birth certificate is only permitted when their gender has been changed by a surgical gender reassignment procedure, and requires

evidence and a notarized affidavit from the physician performing the surgery. The existing regulation also requires that the State Registrar possess a certified copy of the court order changing the name of the registrant as well as designating the sex of the registrant before she may prepare a new birth certificate for the individual.

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.

There are no acronyms used in this Agency Background Document.

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 regulation is promulgated under the authority of §§ 32.1-12 and 32.17-250 of the Code of Virginia. Section 32.1-12 grants the Board of Health the legal authority to make, adopt, promulgate, and enforce such regulations necessary to carry out the provisions of Title 32.1 of the Code and other laws of the Commonwealth administered by it. Section 32.1-250 of the Code of Virginia requires the Board of Health to install, maintain and operate the only system of vital records throughout this Commonwealth.

Purpose

Please explain the need for the new or amended regulation. Describe the rationale or justification of the proposed regulatory action. Describe 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.

This regulatory action is essential to ensure the accuracy of the Board of Health Regulations Governing Vital Records. Ensuring the integrity of the Commonwealth's system of vital records is essential to the welfare of the citizens of the Commonwealth. The purpose of the intended amendments is to conform the requirements of this section to the provisions of the Code of Virginia.

Substance

Please briefly identify and explain the new substantive provisions, the substantive changes to existing sections, or both. A more detailed discussion is provided in the “Detail of changes” section below.

The proposed amendments are to 12VAC5-550-320 and revises the regulation in regards to requirements needed to amend the birth certificate of a person who has had a medical procedure to change their gender. The proposed amendments state that that a new certificate of birth may be prepared by the State

Registrar for a person born in this Commonwealth upon receipt of a certified copy of an order of a court of competent jurisdiction indicating that the sex of an individual has been changed by medical procedure, and upon request of such person. These amendments will conform the requirements of this section to the provisions of the Code of Virginia.

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, the agency and the Commonwealth is to enhance the integrity of the Regulations Governing Vital Records and in turn the system of vital records within the Commonwealth. There are no known disadvantages to the public, the regulated entities, business entities 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 of this proposal which are more restrictive than applicable 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 is particularly affected by the proposed regulation.

Public participation

Please include a statement that in addition to any other comments on the proposal, the agency is seeking comments on the costs and benefits of the proposal and the impacts of the regulated community.

In addition to any other comments, the Board is seeking comments on the costs and benefits of the proposal and the potential impacts of this regulatory proposal. Also, the Board is seeking information on impacts on small businesses as defined in § 2.2-4007.1 of the Code of Virginia. Information may include 1) projected reporting, recordkeeping and other administrative costs, 2) probable effect of the regulation on affected small businesses, and 3) description of less intrusive or costly alternative methods of achieving the purpose of the regulation.

Anyone wishing to submit written comments for the public comment file may do so by mail, email or fax to **Janet Rainey, State Registrar and Director of the Division of Vital Records, Post Office Box 1000, Richmond, VA 23220, Telephone number: (804) 662-6200, Fax number: (804) 662-6245, Email: Janet.Rainey@vdh.virginia.gov.** Comments may also be submitted through the Public Forum feature of the Virginia Regulatory Town Hall web site at: <http://www.townhall.virginia.gov>. Written comments must include the name and address of the commenter. In order to be considered, comments must be received by 11:59 pm on the last day of the public comment period.

A public hearing will not be held following the publication of this stage of this regulatory action.

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.

Projected cost to the state to implement and enforce the proposed regulation, including: a) fund source / fund detail; and b) a delineation of one-time versus on-going expenditures	Projected cost to the state to implement and enforce this regulatory proposal is negligible.
Projected cost of the new regulations or changes to existing regulations on localities.	There is no projected cost to localities to implement and enforce this regulatory proposal.
Description of the individuals, businesses, or other entities likely to be affected by the new regulations or changes to existing regulations.	The Division of Vital Records and individuals who have Virginia birth certificates.
Agency’s best estimate of the number of such entities that will be affected. Please include an estimate of the number of small businesses affected. Small business means a business entity, including its affiliates, that: a) is independently owned and operated and; b) employs fewer than 500 full-time employees or has gross annual sales of less than \$6 million.	The Division of Vital Records shall be affected. No small business shall be affected.
All projected costs of the new regulations or changes to existing regulations for affected individuals, businesses, or other entities. Please be specific and include all costs including: a) the projected reporting, recordkeeping, and other administrative costs required for compliance by small businesses; and b) specify any costs related to the development of real estate for commercial or residential purposes that are a consequence of the proposed regulatory changes or new regulations.	There are no projected costs of this regulatory proposal for affected individuals, businesses or other entities.
Beneficial impact the regulation is designed to produce.	Greater clarity and accuracy of the regulations.

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 viable alternatives to the proposal considered. Regulatory action is necessary to make corrections to the existing regulations in order to conform to the applicable provisions of the Code of Virginia.

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.

No other alternative regulatory methods are available to the agency. These regulations do not address compliance or reporting requirements. These regulations do not impact small businesses.

Periodic review and small business impact review report of findings

If you are using this form to report the result of a periodic review/small business impact review that was announced during the NOIRA stage, please indicate whether the regulation meets the criteria set out in Executive Order 17 (2014), e.g., is necessary for the protection of public health, safety, and welfare, and is clearly written and easily understandable. In addition, as required by 2.2-4007.1 E and F, please include 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 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.

The proposed amendments to this regulation are necessary for the protection of public health, safety, and welfare. The proposed amendments are clearly written and easily understandable. These amendments are needed in order to conform the requirements of this section to the provisions of the Code of Virginia. No comments were received during the periodic review of this regulatory chapter. The proposed amendments to the regulation are not complex and simply conform the regulations to what is required by the Code of Virginia. The regulation does not overlap, duplicate, or conflict with federal law or regulation, and the proposed amendments will bring the regulation into conformity with what is required by the Code of Virginia. The periodic review for this regulation was initiated in October 2010.

Public comment

Please summarize all comments received during the public comment period following the publication of the NOIRA, and provide the agency response.

No comments were received during the public comment period following the publication of the NOIRA.

Family impact

Please assess the impact of this 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 proposed regulatory action shall have no impact on the institution of the family and family stability.

Detail of changes

Please list all changes that are being proposed and the consequences of the proposed changes; explain the new requirements and what they mean rather than merely quoting the proposed text of the regulation. 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 follow the instructions in the text following the three chart templates below.

For changes to existing regulation(s), please use the following chart:

Current section number	Proposed new section number, if applicable	Current requirement	Proposed change, intent, rationale, and likely impact of proposed requirements
12VAC5-550-320 Change of sex		Except as provided in subdivision 3 of 12VAC5-550-450, upon presentation of acceptable evidence (preoperative diagnosis, postoperative diagnosis and description of procedure) and a notarized affidavit from the physician performing the surgery, a new certificate of birth may be prepared by the State Registrar for a person born in this Commonwealth whose sex has been changed by surgical gender reassignment procedure. A	Except as provided in subdivision 3 of 12VAC5-550-450, upon <u>presentation receipt of acceptable evidence</u> (preoperative diagnosis, postoperative diagnosis and description of procedure) and a <u>notarized affidavit from the physician performing the surgery, a certified copy of an order of a court of competent jurisdiction indicating that the sex of an individual has been changed by medical procedure and upon request of such person, a new</u>

		<p>certified copy of the court order changing the name of the registrant as well as designating the sex of the registrant must be in the possession of the State Registrar together with a request that a new certificate be prepared.</p>	<p>certificate of birth may be prepared by the State Registrar for a person born in this Commonwealth, whose sex has been changed by surgical gender reassignment procedure. A certified copy of the court order changing the name of the registrant as well as designating the sex of the registrant must be in the possession of the State Registrar together with a request that a new certificate be prepared.</p> <p>Intent: Clarifying and correcting language.</p>
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Project 3634 - Proposed

DEPARTMENT OF HEALTH

Amend regulations following periodic review

1 12VAC5-550-320. Change of sex.

2 Except as provided in subdivision 3 of 12VAC5-550-450, upon ~~presentation~~ receipt of
3 acceptable ~~evidence (preoperative diagnosis, postoperative diagnosis and description of~~
4 ~~procedure) and a notarized affidavit from the physician performing the surgery,~~ a certified copy of
5 an order of a court of competent jurisdiction indicating that the sex of an individual has been
6 changed by medical procedure and upon request of such person, a new certificate of birth may
7 be prepared by the State Registrar for a person born in this Commonwealth, ~~whose sex has been~~
8 ~~changed by surgical gender reassignment procedure. A certified copy of the court order changing~~
9 ~~the name of the registrant as well as designating the sex of the registrant must be in the~~
10 ~~possession of the State Registrar together with a request that a new certificate be prepared.~~