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Periodic Review and Small Business Impact Review Report of Findings

Agency name	Virginia Department of Health
Virginia Administrative Code (VAC) Chapter citation(s)	12VAC5-407
VAC Chapter title(s)	Procedures for the Submission of Health Maintenance Organization Quality of Care Performance Information
Date this document prepared	July 01, 2024

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), Executive Order 19 (2022) (EO 19), any instructions or procedures issued by the Office of Regulatory Management (ORM) or the Department of Planning and Budget (DPB) pursuant to EO 19, the Regulations for Filing and Publishing Agency Regulations (1 VAC 7-10), and the *Form and Style Requirements for the Virginia Register of Regulations and Virginia Administrative Code*.

Acronyms and Definitions

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

"Board" means the State Board of Health

"Commissioner" means the State Health Commissioner

"Nonprofit organization" means a tax-exempt health data organization with the characteristics, expertise, and capacity to execute the powers and duties set forth for such entity.

Legal Basis

Identify (1) the promulgating agency, and (2) the state and/or federal legal authority for the regulatory change, including the most relevant citations to the Code of Virginia or Acts of Assembly chapter number(s), if applicable. Your citation must include a specific provision, if any, authorizing the

promulgating agency to regulate this specific subject or program, as well as a reference to the agency's overall regulatory authority.

§ 32.1-12 of the Code of Virginia authorizes the Board to make, adopt, promulgate and enforce such regulations and provide for reasonable variances and exemptions that may be necessary to carry out the provisions of Title 32.1 and other laws of the Commonwealth administered by the Board, the State Health Commissioner, or the Department of Health.

§ 32.1-276.4 of the Code of Virginia to enter into contracts or agreements with a nonprofit organization for the compilation, storage, analysis, and evaluation of data submitted by health care providers pursuant to this chapter.

§ 32.1-276.5 of the Code of Virginia requires that the Commissioner to make audited data consistent with the latest version of the Health Employer Data and Information Set (HEDIS), or any other quality of care or performance information set as approved by the Board, available to consumers who make health benefit enrollment decisions, as provided by Health Maintenance Organizations. The Commissioner shall also negotiate and contract with a nonprofit organization pursuant to § 32.1-276.4 to compile, store, and make the information available to consumers.

Alternatives to Regulation

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

No viable alternatives have been identified as part of this periodic review. There are no viable alternatives for achieving the purpose of the existing regulations. Section 32.1-276.6 of the Code of Virginia requires the Board of Health to promulgate regulations specifying the format for procedures for the Submission of Health Maintenance Organization Quality of Care performance information.

Public Comment

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

The Board did not form an informal advisory group for the purposes of assisting in the periodic review. No comments were received during the public comment period following publication of the periodic review.

Effectiveness

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

The regulations meet the criteria set out in Executive Order 19 (2022) as they are necessary for the protection of public health, safety, and welfare of the citizens of the Commonwealth. The establishment of effective health care data analysis and reporting initiatives is essential to improving the quality and

efficiency of health care, fostering competition among health care providers, and increasing consumer choice with regard to health care services in the Commonwealth. Accurate and valuable health care data can best be identified by representatives of state government and the consumer, provider, insurance, and business communities.

Decision

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

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

The Board will amend the Procedures for the Submission of Health Maintenance Organization Quality of Care Performance Information to make format and style changes, update code references, align provisions of the chapter with current practices and procedures, add clarifying language and remove any unnecessary, duplicative, or non-regulatory language.

Small Business Impact

As required by § 2.2-4007.1 E and F of the Code of Virginia, discuss the agency's consideration of: (1) the continued need for the regulation; (2) the nature of complaints or comments received concerning the regulation; (3) the complexity of the regulation; (4) the extent to which the regulation overlaps, duplicates, or conflicts with federal or state law or regulation; and (5) the length of time since the regulation has been evaluated or the degree to which technology, economic conditions, or other factors have changed in the area affected by the regulation. Also, discuss why the agency's decision, consistent with applicable law, will minimize the economic impact of regulations on small businesses.

The General Assembly finds that the establishment of effective health care data analysis and reporting initiatives pursuant to § 32.1-12 and 32.1-276 of the Code of Virginia is essential to improving the quality and efficiency of health care, fostering competition among health care providers, and increasing consumer choice with regard to health care services in the Commonwealth, and that accurate and valuable health care data can best be identified by representatives of state government and the consumer, provider, insurance, and business communities. The regulation does not overlap or duplicate a federal or state law or regulation. 12VAC5-407 was last reviewed on May 8, 2013.

The proposed amendments will conform the regulations to current practice and therefore will not have an impact on small business entities.

