



COMMONWEALTH of VIRGINIA

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BEHAVIORAL HEALTH AND DEVELOPMENTAL SERVICES

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DEPARTMENT OF

MEMORANDUM

To: Affected Stakeholders

From: Jae Benz, Director
Office of Licensing

Cc: Emily Bowles, Legal and Regulatory Manager
Office of Licensing

Date: September 3, 2019

Re: NOTICE: Two [Petitions for Rulemaking](#) to Amend 12VAC35-105, Rules and Regulations For Licensing Providers by the Department of Behavioral Health and Developmental Services

On August 5 and 13, 2019, the State Board of Behavioral Health and Developmental Services received two petitions for rulemaking from R.C. Carter to amend Chapter 105. The full petitions are attached. See this [chart](#) outlining the process for petitions for rulemaking.

As part of the rulemaking process, a 30-day public comment forum for each petition will be held as follows:

- [Petition filed August 5](#): Public comment period opened September 2.
- [Petition filed August 13](#): Public comment period opens September 16.

The comment forums can be accessed through the petition page on Town Hall for each petition as highlighted in the bulleted list above. The comment forums can also be accessed through the [main forum page](#) on Town Hall.

- It is recommended that you [register as a user on Town Hall](#) to receive notices directly regarding this regulation.

VAC number:	12VAC35-105 Current Permanent regulations and Emergency regulations
Regulation title:	Rules and Regulations For Licensing Providers by the Department of Behavioral Health and Developmental Services
Summary of the Petitions:	<u>Date Received: August 5, 2019.</u> Statutory Authority: § 37.2-400 of the Code of Virginia. To develop a new regulation requiring providers to 1) Obtain verification from the Virginia Employment Commission required under Virginia

	<p>Unemployment Compensation Act, § 60.2-212.C. and 2) Submit an SS-8 Form to the Internal Revenue Service.</p> <p><u>Date Received: August 13, 2019.</u> Statutory Authority: § 37.2-400 of the Code of Virginia. To amend 12VAC35-105-520. Risk Management., in accordance with the Virginia Court of Appeals in Gregory Allen Moyer v. Commonwealth of Virginia (2000), \"when interpreting the law one must consider other sections of law in determining legislative intent,\" in order that the new Office of Licensing Associate Director of State Operations develop and coordinate the oversight of the interpretation and implementation of the additional 42 policies and procedures that providers are required to have in writing in accordance with the HIPAA Act under Risk Analysis and Risk Management which can be found under the following sections 45 CFR §164.306, 45 CFR §164.308, 45 CFR §164.310, 45 CFR §164.312, 45 CFR §164.314, and 45 CFR §164.316.</p>
Agency's Plan:	<p>The State Board of Behavioral Health and Developmental Services will consider these petitions at the next scheduled meeting after the close of the public comment period, on October 9, 2019, at Western State Hospital, Staunton, Virginia.</p> <p>➤ It is recommended that you register as a user on Town Hall to receive notices directly regarding the activity of the board.</p>
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