

Commonwealth of Virginia



REGULATIONS

Governing the Health Practitioners' Monitoring Program (HPMP) for the

DEPARTMENT OF HEALTH PROFESSIONS

Title of Regulations: 18 VAC 76-10-10 et seq.

**Statutory Authority: §§ 54.1-2400 and Chapter 25.1 of Title 54.1
of the *Code of Virginia***

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Regulations Governing the Health Practitioners' Monitoring Program

18VAC76-10-10. Definitions.

The words and terms used in this chapter shall have the definitions ascribed to them in § 54.1-2515 of the Code of Virginia or shall have the following meanings, unless the context clearly indicates otherwise:

"Contractor" means an entity with whom the director has contracted for implementation and operation of monitoring services.

"Director" means the Director of the Department of Health Professions.

"Program" means the Health Practitioners' Monitoring Program for the Virginia Department of Health Professions.

18VAC76-10-20. Organization of committee.

A. Members shall be appointed by the director for a term of four years and shall be eligible for reappointment for one additional four-year term. A member who is appointed to fill a vacancy for the remainder of an unexpired term shall be eligible for two full four-year terms. Terms of appointment shall begin on July 1 of each calendar year. The director shall have authority to remove a member for cause.

B. Members of the committee shall not be current members of a health regulatory board within the department.

C. The committee shall schedule meetings as necessary to conduct its business. Five members shall constitute a quorum. The committee may adopt bylaws to govern its operations as it deems necessary to conduct its business and as consistent with law and regulations.

D. Each health regulatory board within the department shall designate, in accordance with subdivision 8 of § 54.1-2400 of the Code of Virginia, a liaison to the committee.

18VAC76-10-30. Eligibility.

A. In order to become eligible for the program and to maintain eligibility, an impaired practitioner shall hold a current, active license, certification, a registration issued by a health regulatory board in Virginia or a multistate licensure privilege, with the exception that an applicant for initial licensure, certification, or registration or for reinstatement shall be eligible for participation for up to one year from the date of receipt of the application by a health regulatory board.

B. Individuals who are practicing exclusively outside of Virginia shall not participate in the program, except as may be required by specific board order or by permission between party states pursuant to the Nurse Licensure Compact (Article 6 (§ 54.1-3030 et seq.) of Chapter 30 of Title 54.1 of the Code of Virginia).

C. A practitioner who has been previously terminated for noncompliance from this or any other state-sponsored monitoring program may be considered eligible at the discretion of the committee or its designee.

D. The practitioner shall sign a participation contract with the committee. Failure to adhere to the terms of the contract may subject the practitioner to termination from the program.

18VAC76-10-40. Eligibility for stayed disciplinary action.

A. The committee or its designee shall consult with the board liaison for the purpose of determining whether disciplinary action shall be stayed. If found ineligible for stayed disciplinary action by the relevant board or the committee, the practitioner may remain eligible for participation in the program. If an applicant for the program is not eligible for a stay and evidence of a violation has been reported to the committee, the committee shall make a report of the violation to the department.

B. Prior to making a decision on stayed disciplinary action, the committee or its designee shall review any applicable notices or orders and shall consult with the relevant board on any pending investigations. The relevant board shall have final authority in the granting of a stay of disciplinary action.

C. Disciplinary action may be initiated by the appropriate health regulatory board upon receipt of investigative information leading to a determination of probable cause that impairment constitutes a danger to patients or clients or upon a determination that the decision for stayed disciplinary action is not consistent with provisions for a stay pursuant to § 54.1-2516 C of the Code of Virginia.

18VAC76-10-50. Participation contract.

A. The participation contract between the committee and the practitioner shall include:

1. The monitoring plan to be followed by the practitioner;
2. Any provisions for withdrawal from practice or limitations on the scope of practice;
3. Consequences of failure to comply with the terms of the participation contract;
4. Any releases for seeking information or records related to the impairment from family, peers, medical personnel or employers;
5. The nature of the impairment; and
6. Any other terms or requirements as may be deemed necessary by the committee.

B. The participation contract shall specify that costs accruing to the individual practitioner, including but not limited to treatment and body fluid screens, shall not be the responsibility of the program.

18VAC76-10-60. Recovery contract.

The recovery contract between the committee and the practitioner shall include:

1. Length of contract;
2. Type, frequency, and conditions of drug screens;
3. Type and frequency of self-help meetings;
4. Stipulations for self-reporting;
5. Quarterly reports from employers, peers, or peer assistance programs;
6. Conditions and terms for completion and release from the program; and
7. Any other terms or requirements as may be deemed necessary by the committee.

18VAC76-10-65. Authority of the chairperson of the committee.

- A. The chairperson may act on behalf of the committee when a scheduled meeting is canceled due to failure to convene a quorum.
- B. The chairperson may act on behalf of the committee to authorize an urgent dismissal action outside of a scheduled meeting.

18VAC76-10-70. Procedures for consultation with health regulatory boards.

- A. The committee or its designee shall consult with the relevant health regulatory board prior to making a determination on stayed disciplinary action; such consultation may include the following:
 1. Eligibility of a practitioner for stayed disciplinary action;
 2. The implications of the impairment on practice in the profession;
 3. The circumstances of the impairment related to a possible violation of laws or regulation;
or
 4. Any other issues related to disciplinary action or the eligibility, treatment and recovery of a practitioner.
- B. The committee, following consultation with and briefing by the program manager, shall advise the relevant board that a participant is noncompliant and may no longer eligible for a stay.

18VAC76-10-80. Procedures for exchange of information.

A. All disclosure of information shall be consistent with subsections B and C of § 54.1-2517 of the Code of Virginia.

B. Reporting requirement to health regulatory boards.

1. Upon receipt of an investigative report which alleges impairment, a health regulatory board shall request and the committee shall report if the practitioner has been found eligible for stayed disciplinary action.
2. Upon a determination by the committee that a practitioner has successfully completed the program, the committee shall report such completion to the respective health regulatory board if the committee has previously received an inquiry from that board regarding the practitioner's participation.

C. Reporting requirements to the director.

1. The contractor or contractors shall report at least annually to the director and the committee on statistics which indicate the general performance of the program to include information and format stipulated in the contract.
2. At no time shall the report disclose the names of practitioners enrolled in the program.

D. Records for the program shall be retained by the contractor or contractors pursuant to terms of the contract.

18VAC76-10-90. (Repealed.)

18VAC76-10-100. Conflicts of interests.

A. The committee, contractor, or employees and agents of the contractor who refer practitioners for treatment shall not refer a practitioner to a treatment facility where the contractor, employees or agents possess an investment interest, as defined in Chapter 24.1 (§ 54.1-2410 et seq.) of Title 54.1 of the Code of Virginia, unless it is an investment interest defined in § 54.1-2411 D of the Code of Virginia.

B. Likewise, the committee, the contractor, or its employees and agents as noted in subsection A of this section shall not have an investment interest in any laboratory which practitioners will be mandated to use for testing during the period of their contract.

C. The contractor shall offer multiple treatment options to any practitioner accepted into the program if treatment is a condition of participation unless the committee authorizes an exception.

D. A committee member who is providing treatment to a practitioner in the program shall disqualify himself from any decision related to such practitioner.