

# Board of Education Agenda Item

Item: \_\_\_\_\_ A. \_\_\_\_\_

Date: November 17, 2004

**Topic:** Final Review of the Proposed Regulations Governing Scoliosis Screening Programs (8 Vac 20-690-10 Et Seq.)

**Presenter:** Ms. Gwen P. Smith, School Health Specialist

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## Origin:

\_\_\_\_\_ Topic presented for information only (no board action required)

\_\_\_\_\_ Board review required by

\_\_\_ X State or federal law or regulation

\_\_\_\_\_ Board of Education regulation

Other: \_\_\_\_\_

\_\_\_ X Action requested at this meeting \_\_\_\_\_ Action requested at future meeting: \_\_\_\_\_ (date)

## Previous Review/Action:

\_\_\_\_\_ No previous board review/action

\_\_\_ X Previous review/action

date July 23, 2003

action Approved Notice of Intended Regulatory Action

date November 22, 2003

action Accepted proposed regulations for first review

date September 22, 2004

action Held public hearing

## Background Information:

The scoliosis regulations are required as a result of HB 1834 (Reese), enacted by the 2003 General Assembly and codified in § 22.1-273.1 of the Code of Virginia. The legislation directs the Board of Education to promulgate regulations that require each school board to implement a program of regular scoliosis screenings in grades five through 10.

The proposed *Regulations Governing the Scoliosis Screening Program for Public Schools* would protect the health and welfare of public school students by identifying students with spinal deformities that may cause back pain and impairment of the body's range of motion and endurance, or impair functions of other parts of the body. The proposed regulations would provide parents with educational information on scoliosis and would make them aware of the importance of early identification and the need for treatment if necessary.

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**8 VAC 20-690-10. Definitions.**

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

“Forward Bend Test” means a procedure to assess the possible presence of abnormal spinal curvature.

“Scoliometer” means a device for measuring the amount of abnormal curvature in the spine.

“Scoliosis” means a lateral or sideways curvature of the spine, generally associated with the rotation of the spine and rib cage.

“Scoliosis screening” means a postural screening process of assessment and evaluation used to identify students with spinal deviations at an early stage of development and to refer students for a medical evaluation. Early detection and intervention may prevent further structural deformity and resulting secondary problems.

**8 VAC 20-690-20. Scoliosis program.**

A. Each school board shall implement a scoliosis program that shall consist of the provision of parent educational information on scoliosis for students in grades five through ten or the implementation of a program of regular screening for scoliosis for students in grades five through ten. School boards shall not impose a fee for any scoliosis program implemented.

B. School boards shall not be required to screen students in grades five through ten who have been admitted for the first time to a public school and who have been tested for scoliosis as part of the comprehensive physical examination required by § 22.1-270 of the Code of Virginia or the

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parents of such students have indicated their preference that their children not participate in scoliosis screening.

C. Each school board shall review and adhere to the federal Family Educational Rights and Privacy Act and the Protection of Pupil Rights Act in the development and implementation of a regular Scoliosis screening program.

**8 VAC 20-690-30. Parent educational information.**

A. School boards implementing a scoliosis program consisting of the provision of parent educational information on scoliosis shall provide such information to the parents of students in grades five through ten within sixty business days after the opening of school each year.

B. Parent educational information on scoliosis shall include but not be limited to (i) a definition of scoliosis, (ii) a description of how scoliosis is identified, (iii) a statement describing why it is important to screen for the condition, (iv) a description of the types of screening procedures, (v) a description of potential treatments for the condition, and (vi) information on where screening may be obtained.

**8 VAC 20-690-40. Regular scoliosis screening.**

A. School boards implementing a scoliosis program of regularly screening students in grades five through ten shall provide written notice to parents a minimum of ten business days prior to screening.

B. The written notice shall contain (i) information indicating when the screening will occur, (ii) the purpose of screening that shall include the parent educational information described in 8

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VAC 20-690-20, (iii) a procedure for notifying parents of students who are identified as having a possible spinal curvature, and (iv) a procedure for parents to opt out of the screening..

C. School boards implementing a scoliosis program of regular screening shall screen each student in selected grades five through ten a minimum of two times during the six year period except for those students entering the school division for the first time during the tenth grade year who shall be screened once.

D. Parent educational information as required by 8 VAC 20-690-20 shall be provided to parents of students in selected grades five through ten who are not screened.

**8 VAC 20-690-50. Training required for personnel and volunteers.**

A. School boards implementing a scoliosis program of regular screening shall provide training for school personnel and volunteers who may conduct the screening. School boards may seek volunteers from among professional health care providers to provide training, to perform screenings, or both. School boards using volunteers shall comply with all requirements of the Family Educational Rights and Privacy Act and the Protection of Pupil Privacy Act in maintaining the confidentiality of student records.

B. Training of school personnel and volunteers shall be conducted by qualified licensed medical practitioners. Practitioners may use various training methods including, but not limited to, in-person training, video instruction, or review of a training manual.

C. Practitioners shall provide training in medically accepted scoliosis screening procedures including the use of the forward bend test, or use of a Scoliometer, or both to school personnel and volunteers.

In addition, the law states that pupils in grades five through 10 would not have to be screened if they have been admitted for the first time to a public school and have been tested as part of the comprehensive physical examination required by §22.1-270, or if the parents of such students have indicated that they do not wish for their children to participate in such screening. Local school boards are required to develop procedures for parents to indicate their preference that their students not participate in the scoliosis screening.

The Board of Education on July 23, 2003 approved the first review of Notice of Intended Regulatory Action for a program of regular scoliosis screenings for students in grades five through 10. A committee consisting of a parent, a pediatric orthopedic surgeon, a chiropractor, a school nurse pediatric nurse practitioner, a supervisor of school health services for local school division, a chairman of school health advisory board, and Department of Education school health staff met to draft regulations to address:

- The screening procedure
- The provision of research-based information on scoliosis to parents
- Training of school personnel and volunteers who may conduct screenings, and
- Procedures for the notification of parents when evidence of scoliosis is detected

The proposed regulations were approved by the Office of Attorney General on March 18, 2004 and the Governor's Office on June 22, 2004. The Economic Impact Analysis for scoliosis regulations was provided by the Virginia Department of Planning and Budget on May 18, 2004. Superintendent's Informational Memorandum No. 131 that transmitted the "Statement of Administrative Impact and Projected Costs of Implementation" for the proposed regulations was sent to division superintendents on June 25, 2004. The *Proposed Regulations for Scoliosis Screening* were published in the *Virginia Register of Regulations* on Monday, July 26, 2004. A public hearing on the proposed regulations was held by the Board of Education on September 22, 2004. No comments on the proposed regulations were received.

### **Summary of Major Elements:**

The purpose of the regulations is to require school divisions to do one of the following:

1. Provide information on scoliosis to parents of students in grades five through 10, including a definition of scoliosis, or
2. Implement a scoliosis screening program for students in grades five through 10, or
3. Implement a scoliosis screening program for students in selected grades five through 10 and provide information on scoliosis to parents of students in grades five through 10 not selected for screening.

School boards implementing a scoliosis program of regular screening shall provide training for personnel who may conduct the screening. Qualified licensed medical practitioners shall conduct training of school personnel. Practitioners may use various training methods including, but not limited to, in-person training, video instruction, or review of a training manual. The Department of Education will provide training methods and educational materials that school divisions could adopt.

### **Superintendent's Recommendation:**

The Superintendent of Public Instruction recommends that the Board of Education grant final approval to these regulations.

**Impact on Resources:**

There will be minimal financial impact on the Virginia Department of Education. There will be a minor fiscal impact on resources in those school divisions currently not providing scoliosis screening or scoliosis educational information to parents.

**Timetable for Further Review/Action:**

Upon adoption, these regulations will be distributed to all school divisions through an Informational Superintendent's Memorandum.