

Office of Regulatory Management
Economic Review Form

Agency name	State Board of Health
Virginia Administrative Code (VAC) Chapter citation(s)	12 VAC 5-220-10 <i>et seq.</i>
VAC Chapter title(s)	Virginia Medical Care Facilities Certificate of Public Need Rules and Regulations
Action title	Amend Regulation after Enactment of Chapter 1271 of the 2020 Acts of Assembly
Date this document prepared	August 22, 2023
Regulatory Stage (including Issuance of Guidance Documents)	Fast Track

Cost Benefit Analysis

Complete Tables 1a and 1b for all regulatory actions. You do not need to complete Table 1c if the regulatory action is required by state statute or federal statute or regulation and leaves no discretion in its implementation.

Table 1a should provide analysis for the regulatory approach you are taking. Table 1b should provide analysis for the approach of leaving the current regulations intact (i.e., no further change is implemented). Table 1c should provide analysis for at least one alternative approach. You should not limit yourself to one alternative, however, and can add additional charts as needed.

Report both direct and indirect costs and benefits that can be monetized in Boxes 1 and 2. Report direct and indirect costs and benefits that cannot be monetized in Box 4. See the ORM Regulatory Economic Analysis Manual for additional guidance.

Table 1a: Costs and Benefits of the Proposed Changes (Primary Option)

<p>(1) Direct & Indirect Costs & Benefits (Monetized)</p>	<p>Amended to include the new COPN exemptions and capital expenditure requirements.</p> <ul style="list-style-type: none"> • Direct Monetized Benefit: Projects that now qualify as exempt will not require a COPN, which will result in a benefit of not paying application fees and saving staff time creating and filing applications. To apply for a COPN, a fee must be paid, so projects that are exempt will not have an associated application fee. The average COPN application cost is \$8,119.46 per application, and the estimated number of projects that would be removed from COPN review is 5.6 annually. • Direct Monetized Cost: The department will lose revenue due to the decrease in the number of fees paid that is estimated at \$45,469 annually. • Indirect Monetized Benefit: The agency may save staff time due to the potential reduction in the review load. Regulators that prepare these submissions will benefit from a cost savings due to the reduction of COPN application submissions for projects that are now exempt; the cost savings cannot be quantified due to the varying complexity of COPN applications, and the number of staff utilized by regulators to complete the application. • Indirect Monetized Cost: None <p>Amended to include the new registration requirements.</p> <ul style="list-style-type: none"> • Direct Monetized Benefit: Projects that now qualify as exempt will not require a registration, which will result in a benefit of saving staff time creating and filing registrations. • Direct Monetized Cost: None. • Indirect Monetized Benefit: None. • Indirect Monetized Cost: None. <p>Updated public hearing requirements to conform with 2020 changes.</p> <ul style="list-style-type: none"> • Monetized Direct Benefits: There is no longer a requirement for the regional health planning agency to hold at least one public hearing for a COPN application except in certain cases, such as competing applications. There were approximately 342 non-competing applications in the last 10 years, accounting for approximately 60% of all COPN applications received during that time period, so it can be estimated that the removal of that requirement will result in a decrease of public hearings. The reduction in the number of public hearings will yield a cost saving for the agency associated with the use of state cars, personal cars, and venue rental costs.
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- **Monetized Direct Costs:** None.
- **Monetized Indirect Benefits:** None
- **Monetized Indirect Costs:** None.

Repealed 270 and created a new section 275, added required conditions of approval for a certificate of public need.

- **Monetized Direct Benefits:** None.
- **Monetized Direct Costs:** Providers are now required to adhere to charity care conditions placed on the approval of a COPN. Providers who do not already provide charity care may incur a cost due to the requirement to accept patients who yield a lower reimbursement rate. This cost cannot be quantified by VDH as VDH is not aware of the number of providers that do not already provide charity care. The condition to provide a financial assistance policy to patients may yield a cost to providers and facilities, however, VDH is unable to quantify this as VDH is not aware of how many facilities and providers do not provide a financial assistance policy already.
- **Monetized Indirect Benefits:** None.
- **Monetized Indirect Costs:** None.

Amended the noncompliance timeline.

- **Monetized Direct Costs:** For the purposes of determining the amount of a civil penalty to be imposed in an instance of noncompliance, the noncompliance timeline is now to be calculated from the day the certificate is issued instead of the day the noncompliance is cited. This will result in a cost to regulators who are noncompliant; however, VDH cannot quantify this cost. This change is non-discretionary and was amended in § 32.1-102.4 in Ch 1271 (2020).

There are no monetized direct or indirect costs and benefits associated with the following regulatory changes:

- **Updated definitions to adhere to the Code.**
- **Repeal of sections entirely comprised of non-regulatory language.**
- **Clarified that the application deadline is 5 p.m. on the due date, changed the submission date from 40 days prior to the beginning of the batch cycle to 10 days.**
- **Updated the completeness provisions from 15 days to 10 days.**
- **Updated regulation regarding the determination of completeness for an application conform to 2020 changes.**
- **Updated batch cycle to match 2020 changes and corrected scrivener errors in batch groups.**

	<ul style="list-style-type: none"> • Added required circumstances for revocation of a certificate of public need by the commissioner. • Added failure to register a project as cause for injunctive relief against a project. • Added failure to obtain the required registrations before starting a project to the grounds for refusing a license for that project. 	
(2) Present Monetized Values	Direct & Indirect Costs	Direct & Indirect Benefits
	(a) The identified monetized costs represent fees, which are a transfer payment and cancel out.	(b) The identified monetized costs represent fees, which are a transfer payment and cancel out.
(3) Net Monetized Benefit	\$0	
(4) Other Costs & Benefits (Non-Monetized)	<p>Non-monetized benefits:</p> <ul style="list-style-type: none"> • Decreasing the review period of completeness will allow applicants to have more time to submit their applications for a COPN to the department. • Style changes to the text will increase the clarity of the regulations, making them easier for the public to read and understand. These changes will also bring those sections of the regulation into conformity with the Form and Style Manual administered by the Virginia Registrar of regulations. • Patients who are subject to the charity care conditions will now be able to utilize these new facilities, increasing the availability of low-cost medical care available to that patient. <p>Non-monetized costs:</p> <ul style="list-style-type: none"> • There will be a shift in the workload for VDH staff due to new requirements, however, that shift cannot be currently monetized. 	
(5) Information Sources	VDH COPN Division; U.S. Bureau of Labor Statistics; DPB Fiscal Impact Statement for SB764.	

Table 1b: Costs and Benefits under the Status Quo (No change to the regulation)

(1) Direct & Indirect Costs & Benefits (Monetized)	<p>Nondiscretionary changes have been omitted from this analysis.</p> <p>There are no monetized direct or indirect costs and benefits associated with the following regulatory changes:</p> <ul style="list-style-type: none"> • Updated definitions to adhere to the Code. • Repeal of sections entirely comprised of non-regulatory language.
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	<ul style="list-style-type: none"> Clarified that the application deadline is 5 p.m. on the due date, changed the submission date from 40 days prior to the beginning of the batch cycle to 10 days. 	
(2) Present Monetized Values	Direct & Indirect Costs	Direct & Indirect Benefits
	(a) \$0	(b) \$0
(3) Net Monetized Benefit	\$0	
(4) Other Costs & Benefits (Non-Monetized)	<p>Non-monetized Costs:</p> <ul style="list-style-type: none"> Style changes to the text increase the clarity of the regulations, making them easier for the public to read and understand. Without these changes, the regulation will remain difficult to read and understand. <p>Non-monetized Benefits:</p> <ul style="list-style-type: none"> None. 	
(5) Information Sources	VDH COPN Division.	

Table 1c: Costs and Benefits under Alternative Approach(es)

(1) Direct & Indirect Costs & Benefits (Monetized)	<p>Nondiscretionary changes have been omitted from this analysis. There are no alternatives to updating the definitions or repealing non-regulatory sections.</p> <p>Clarified that the application deadline is 5 p.m. on the due date, changed the submission date from 40 days prior to the beginning of the batch cycle to 10 days.</p> <ul style="list-style-type: none"> The alternative to this change would be to use a different time (i.e. 6 p.m., 10 p.m., etc.) however, there is no evidence that this change would result in a different cost and benefit calculation. 	
(2) Present Monetized Values	Direct & Indirect Costs	Direct & Indirect Benefits
	(a) \$0	(b) \$0
(3) Net Monetized Benefit	\$0	
(4) Other Costs & Benefits (Non-Monetized)	There are no non-monetized direct or indirect costs and benefits associated with the discretionary regulatory changes.	
(5) Information Sources	None.	

Impact on Local Partners

Use this chart to describe impacts on local partners. See Part 8 of the ORM Cost Impact Analysis Guidance for additional guidance.

Table 2: Impact on Local Partners

<p>(1) Direct & Indirect Costs & Benefits (Monetized)</p>	<p>Local Partners who may be impacted are other state agencies and localities that may seek to pursue a project for which a COPN or registration is required.</p> <p>Amended to include the new COPN exemptions and capital expenditure requirements.</p> <ul style="list-style-type: none"> • Direct Monetized Benefit: Projects that now qualify as exempt will not require a COPN, which will result in a benefit of not paying application fees and saving staff time creating and filing applications. To apply for a COPN, a fee must be paid, so projects that are exempt will not have an associated application fee. The average COPN application cost is \$8,119.46 per application, and the estimated number of projects that would be removed from COPN review is 5.6 annually. • Direct Monetized Cost: The department will lose revenue due to the decrease in the number of fees paid that is estimated at \$45,469 annually. • Indirect Monetized Benefit: The agency will potentially save staff time due to the potential reduction in the review load. Regulators that prepare these submissions will benefit from a cost savings due to the reduction of COPN application submissions for projects that are now exempt; the cost savings cannot be quantified due to the varying complexity of COPN applications, and the number of staff utilized by regulators to complete the application. • Indirect Monetized Cost: None <p>Amended to include the new registration requirements.</p> <ul style="list-style-type: none"> • Direct Monetized Benefit: Projects that now qualify as exempt will not require a registration, which will result in a benefit of saving staff time creating and filing registrations. • Direct Monetized Cost: None. • Indirect Monetized Benefit: None. • Indirect Monetized Cost: None. <p>Updated public hearing requirements to conform with 2020 changes.</p> <ul style="list-style-type: none"> • Monetized Direct Benefits: There is no longer a requirement for the regional health planning agency to hold at least one public hearing for a COPN application except in certain cases, such as competing applications. There were approximately 342 non-
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competing applications in the last 10 years, accounting for approximately 60% of all COPN applications received during that time period, so it can be estimated that the removal of that requirement will result in a decrease of public hearings.

- **Monetized Direct Costs:** None.
- **Monetized Indirect Benefits:** The reduction in the number of public hearings will yield a cost saving for the agency associated with the use of state cars, personal cars, and venue rental costs.
- **Monetized Indirect Costs:** None.

Repealed 270 and created a new section 275, added required conditions of approval for a certificate of public need.

- **Monetized Direct Benefits:** None.
- **Monetized Direct Costs:** Providers are now required to adhere to charity care conditions placed on the approval of a COPN. Providers who do not already provide charity care may incur a cost due to the requirement to accept patients who yield a lower reimbursement rate. This cost cannot be quantified by VDH as VDH is not aware of the number of providers that do not already provide charity care. The condition to provide a financial assistance policy to patients may yield a cost to providers and facilities, however, VDH is unable to quantify this as VDH is not aware of how many facilities and providers who do not provide a financial assistance policy already.
- **Monetized Indirect Benefits:** None.
- **Monetized Indirect Costs:** None.

Amended the noncompliance timeline.

- **Monetized Direct Costs:** The noncompliance timeline is now to be calculated from the day the certificate is issued instead of the day the noncompliance is cited. This will result in a cost to regulants who are noncompliant; however, VDH cannot quantify this cost.

There are no monetized direct or indirect costs or benefits associated with the regulatory changes:

- **Updated definitions to adhere to the Code.**
- **Repeal of sections entirely comprised of non-regulatory language.**
- **Clarified that the application deadline is 5 p.m. on the due date, changed the submission date from 40 days prior to the beginning of the batch cycle to 10 days.**
- **Updated the completeness provisions from 15 days to 10 days.**
- **Updated regulation regarding the determination of completeness for an application conform to 2020 changes.**

	<ul style="list-style-type: none"> • Updated batch cycle to match 2020 changes and corrected scrivener errors in batch groups. • Added required circumstances for revocation of a certificate of public need by the commissioner. • Added registrations to the grounds for refusing a license. • Added failure to register a project as cause for injunctive relief against a project. 	
(2) Present Monetized Values	Direct & Indirect Costs	Direct & Indirect Benefits
	(a) The identified monetized costs represent fees, which are a transfer payment and cancel out.	(b) The identified monetized costs represent fees, which are a transfer payment and cancel out.
(3) Other Costs & Benefits (Non-Monetized)	There are no non-monetized direct or indirect costs and benefits associated with the discretionary regulatory changes.	
(4) Assistance	There is no assistance that will be required by the agency for these regulatory changes.	
(5) Information Sources	VDH COPN Division; U.S. Bureau of Labor Statistics; DPB Fiscal Impact Statement for SB764.	

Impacts on Families

Use this chart to describe impacts on families. See Part 8 of the ORM Cost Impact Analysis Guidance for additional guidance.

Table 3: Impact on Families

(1) Direct & Indirect Costs & Benefits (Monetized)	Families will not be affected by direct or indirect costs and benefits of the regulatory change as they are not subject to the requirements contained in this regulatory chapter and thus will incur no direct cost or benefit.	
(2) Present Monetized Values	Direct & Indirect Costs	Direct & Indirect Benefits
	(a) \$0	(b) \$0
(3) Other Costs & Benefits (Non-Monetized)	None.	
(4) Information Sources		

Impacts on Small Businesses

Use this chart to describe impacts on small businesses. See Part 8 of the ORM Cost Impact Analysis Guidance for additional guidance.

Table 4: Impact on Small Businesses

<p>(1) Direct & Indirect Costs & Benefits (Monetized)</p>	<p>Based on anecdotal information, VDH does not believe any general hospital or nursing home meets the definition of “small business.” VDH is unable to quantify how many Physician Offices and Outpatient Surgical Centers qualify as small businesses; however, entities that qualify as a “small business” can anticipate the impacts below:</p> <p>Amended to include the new COPN exemptions and capital expenditure requirements.</p> <ul style="list-style-type: none"> • Direct Monetized Benefit: Projects that now qualify as exempt will not require a COPN, which will result in a benefit of not paying application fees and saving staff time creating and filing applications. To apply for a COPN, a fee must be paid, so projects that are exempt will not have an associated application fee. The average COPN application cost is \$8,119.46 per application, and the estimated number of projects that would be removed from COPN review is 5.6 annually. • Direct Monetized Cost: The department will lose revenue due to the decrease in the number of fees paid that is estimated at \$45,469 annually. • Indirect Monetized Benefit: The agency will potentially save staff time due to the potential reduction in the review load. Regulators that prepare these submissions will benefit from a cost savings due to the reduction of COPN application submissions for projects that are now exempt; the cost savings cannot be quantified due to the varying complexity of COPN applications, and the number of staff utilized by regulators to complete the application. • Indirect Monetized Cost: None <p>Amended to include the new registration requirements.</p> <ul style="list-style-type: none"> • Direct Monetized Benefit: Projects that now qualify as exempt will not require a registration, which will result in a benefit of saving staff time creating and filing registrations. • Direct Monetized Cost: None. • Indirect Monetized Benefit: None. • Indirect Monetized Cost: None. <p>Updated public hearing requirements to conform with 2020 changes.</p> <ul style="list-style-type: none"> • Monetized Direct Benefits: There is no longer a requirement for the regional health planning agency to hold at least one public hearing for a COPN application except in certain cases, such as competing applications. There were approximately 342 non-competing applications in the last 10 years, accounting for approximately 60% of all COPN applications received during that
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time period, so it can be estimated that the removal of that requirement will result in a decrease of public hearings.

- **Monetized Direct Costs:** None.
- **Monetized Indirect Benefits:** The reduction in the number of public hearings will yield a cost saving for the agency associated with the use of state cars, personal cars, and venue rental costs.
- **Monetized Indirect Costs:** None.

Repealed 270 and created a new section 275, added required conditions of approval for a certificate of public need.

- **Monetized Direct Benefits:** None.
- **Monetized Direct Costs:** Providers are now required to adhere to charity care conditions placed on the approval of a COPN. Providers who do not already provide charity care may incur a cost due to the requirement to accept patients who yield a lower reimbursement rate. This cost cannot be quantified by VDH as VDH is not aware of the number of providers that do not already provide charity care. The condition to provide a financial assistance policy to patients may yield a cost to providers and facilities, however, VDH is unable to quantify this as VDH is not aware of how many facilities and providers who do not provide a financial assistance policy already.
- **Monetized Indirect Benefits:** None.
- **Monetized Indirect Costs:** None.

Amended the noncompliance timeline.

- **Monetized Direct Costs:** The noncompliance timeline is now to be calculated from the day the certificate is issued instead of the day the noncompliance is cited. This will result in a cost to regulants who are noncompliant; however, VDH cannot quantify this cost.

There are no monetized direct or indirect costs and benefits associated with the following regulatory changes:

- **Updated definitions to adhere to the Code.**
- **Repeal of sections entirely comprised of non-regulatory language.**
- **Clarified that the application deadline is 5 p.m. on the due date, changed the submission date from 40 days prior to the beginning of the batch cycle to 10 days.**
- **Updated the completeness provisions from 15 days to 10 days.**
- **Updated regulation regarding the determination of completeness for an application conform to 2020 changes.**
- **Updated batch cycle to match 2020 changes and corrected scrivener errors in batch groups.**

	<ul style="list-style-type: none"> • Added required circumstances for revocation of a certificate of public need by the commissioner. • Added registrations to the grounds for refusing a license. • Added failure to register a project as cause for injunctive relief against a project. 	
(2) Present Monetized Values	Direct & Indirect Costs	Direct & Indirect Benefits
	(a) -\$45,469	(b) +\$45,469
(3) Other Costs & Benefits (Non-Monetized)	There are no non-monetized costs and benefits to small business.	
(4) Alternatives	The State Board of Health was not able to identify any alternatives for small businesses that would be more equitable while still protecting the health, safety, and welfare of the public, and has put forth thoughtful consideration about the burdens of the new substantive regulatory requirements that have a cost to regulants and has limited these amendments to those mandated by the General Assembly.	
(5) Information Sources	VDH COPN Division; U.S. Bureau of Labor Statistics; DPB Fiscal Impact Statement for SB764.	

Changes to Number of Regulatory Requirements

Table 5: Regulatory Reduction

For each individual action, please fill out the appropriate chart to reflect any change in regulatory requirements, costs, regulatory stringency, or the overall length of any guidance documents.

Change in Regulatory Requirements

VAC Section(s) Involved	Authority of Change	Initial Count	Additions	Subtractions	Net Change
12.5.220.50	Statutory:	2 (G/S)		-2 (G/S)	-2
	Discretionary:				
12.5.220.60	Statutory:	11 (G/S)		-11 (G/S)	-11
	Discretionary:				
12.5.220.90	Statutory:				
	Discretionary:	3 (G/D)		-3 (G/D)	-3
12.5.220.100	Statutory:	2 (G/S) 3 (R/S)	+1 (R/S)		+1
	Discretionary:				
12.5.220.105	Statutory:	8 (R/S)	+17 (R/S)	-8 (R/S)	+9
	Discretionary:				
12.5.220.110	Statutory:	2 (G/S) 2(R/S)	+2 (R/S)		+2
	Discretionary:	2 (G/D) 4(R/D)			
12.5.220.140	Statutory:	2 (R/S)		-2 (R/S)	-2
	Discretionary:				
12.5.220.160	Statutory:	1 (G/S)		-1 (G/S)	-1
	Discretionary:				
12.5.220.180	Statutory:	1 (G/S) 1 (R/S)			-2
	Discretionary:	2 (G/D) 6 (R/S)	+1 (G/D)	-1 (G/D) -1 (R/D)	-1
12.5.220.190	Statutory:	3 (G/S)	+1 (G/S)	-1 (G/S)	0
	Discretionary:	3 (G/D) 4 (R/D)			
12.5.220.230	Statutory:	49 (G/S)	+7 (G/S)	-34 (G/S)	-27
	Discretionary:				
12.5.220.232	Statutory:		+12 (G/S)		+12
	Discretionary:				
12.5.220.234	Statutory:		+21 (G/S)		+21
	Discretionary:				
12.5.220.236	Statutory:		+1 (G/S)		+1
	Discretionary:				
12.5.220.270	Statutory:	16 (G/S)		-16 (G/S)	-16
	Discretionary:	4 (G/D)		-4 (G/D)	-4
12.5.220.275	Statutory:		+11 (G/S)		+11
	Discretionary:				
12.5.220.278	Statutory:		+5 (G/S)		+5
	Discretionary:				

12.5.220.280	Statutory:	8 (G/S)	+1 (G/S)	-2 (G/S)	-1
	Discretionary:				
12.5.220.290	Statutory:	10 (G/S)	+2 (G/S)	-3 (G/S)	-1
	Discretionary:		+2 (G/D)	-1 (G/D)	+1
12.5.220.325	Statutory:				
	Discretionary:	10 (G/D)		-6 (G/D)	-6
12.5.220.365	Statutory:	8 (G/S) 3 (R/S)	+1 (G/S)	-1 (G/S)	0
	Discretionary:				
12.5.220.385	Statutory:	49 (G/S)	+7 (G/S)	-34 (G/S)	-27
	Discretionary:				
12.5.220.388	Statutory:		+12 (G/S)		+12
	Discretionary:				
12.5.220.392	Statutory:		+21 (G/S)		+21
	Discretionary:				
12.5.220.394	Statutory:		+1 (G/S)		+1
	Discretionary:				
12.5.220.420	Statutory:				
	Discretionary:	11 (G/D)		-11 (G/D)	-11
12.5.220.425	Statutory:		+1 (G/S)		+1
	Discretionary:				
12.5.220.460	Statutory:		+1 (R/S)		+1
	Discretionary:	4 (R/D)		-2 (R/D)	-2
12.5.220.470	Statutory:	2 (G/S)	+6 (G/S)		+6
	Discretionary:				
12.5.220.480	Statutory:	1 (R/S)	+3 (G/S)		+3
	Discretionary:				
12.5.220.490	Statutory:	2 (G/S)	+1 (G/S)		+1
	Discretionary:				