



Economic Impact Analysis Virginia Department of Planning and Budget

22 VAC 42-11 – Standards for Interdepartmental Regulation of Children’s Residential Facilities

Boards of Education; Juvenile Justice; Mental Health, Mental Retardation and Substance Abuse Services; and Social Services

May 8, 2007

Summary of the Proposed Regulation

The Board of Education, the Board of Juvenile Justice, the Board of Mental Health, Mental Retardation and Substance Abuse Services and the Board of Social Services (Boards) propose to repeal 22 VAC 42-10 (the current Standards for Interdepartmental Regulation of Children’s Residential Facilities) and promulgate replacement regulations (22 VAC 42-11) with the same title. Much of the proposed regulations mirror the regulations being repealed; some new provisions will be finalized or added. This regulatory action will, in part, replace and finalize emergency changes made to 22 VAC 42-10 (these emergency regulations became effective December 28, 2006). The Boards additionally propose several substantive changes which will require, among other things, more stringent staff to resident ratios and expanded training for staff at residential facilities. The Boards also propose:

- more stringent requirements for dispensing medication in facilities covered by these regulations,
- more restrictive requirements for physical facilities that will house programs licensed after the effective date of these new regulations,
- to require that a certified lifeguard supervise all swimming activities,
- several new requirements for documentation and written policies and.
- to add two new section to clarify standards for independent living facilities and mother/baby programs

Additionally the Boards propose to require new non-profit and for-profit applicants for licensure to pay a \$500 licensure fee. Regulants who are renewing their licenses, either annually or triennially, will be required to pay a \$100 licensure fee.

Results of Analysis

There is insufficient data to accurately compare the magnitude of total costs versus total benefits for these proposed regulations. Detailed analysis of benefits and costs can be found in the Estimated Economic Impact section below.

Estimated Economic Impact

Finalizing Emergency Regulations

Legislative Mandates:

In December 2006, the Boards promulgated emergency changes to Standards for Interdepartmental Regulation of Children's Residential Care Facilities. These emergency provisions became effective December 28, 2006 and will expire December 27, 2007. Many of the changes were in response to legislation passed by the General Assembly in 2006.

Specifically, **Chapter 168** (2006 Acts of the Assembly) allows the head of whatever agency has lead authority over a residential facility to issue an order of summary suspension if "conditions or practices exist in the home or facility that pose an immediate and substantial threat to the health, safety and welfare of the children who are residents". Chapter 168 requires the Boards to promulgate this change into regulation within 280 days; consequently, the Boards promulgated emergency provisions that outlined procedures of summary suspension which include 1) requirements for an administrative hearing after summary suspension, and 2) requirements for final orders of summary suspension. Emergency provisions promulgated, and Chapter 168, also allow for licensees to appeal final summary suspension orders in an appropriate circuit court within 10 days after those orders are issued. There was no procedure for summary suspension in regulation before emergency regulations were promulgated. The Boards propose to make these emergency provisions permanent with this proposed regulation.

The provisions of this proposed regulation that are required by Chapter 168 will likely close deficient facilities sooner than they would have been closed under regulations that predate the emergency regulations promulgated in December 2006. The costs for affected licensees,

however, will likely be smaller than the benefits for children who will likely be removed from egregiously inappropriate environments more quickly than they likely would have been in the past.

Chapter 781 (2006 Acts of the Assembly) requires that applicants for licensure under the Standards for Interdepartmental Regulation of Children’s Residential Facilities be personally interviewed by lead agency staff “to determine the qualifications of the owner or operator before granting an initial license”. Applicants must, in accordance with Chapter 781 and the Boards’ emergency regulations, 1) provide evidence of relevant prior experience, 2) provide evidence of staff participation in training on “appropriate siting of residential facilities”, good neighbor policies and community relations. Applicants were also required to screen potential residents so that individuals with behavior issues that cannot be managed at the applicants’ facilities are not accepted. Chapter 781 also:

- requires lead agencies to notify local government and placing and funding agencies (Local Departments of Social Services, Office of Comprehensive Services, etc.) when a facility is downgraded to a provisional license on account of multiple health and safety or human rights violations.
- requires lead agencies to post information concerning applications for initial licensure and license renewal, as well as licenses that have been denied and licenses that have been downgraded to provisional, to their department website.
- requires licensees to self report lawsuits or settlements related to health and safety or human rights violations of residents as well as any criminal charges that have been made relating to health and safety or human rights violations of residents.
- requires licensees to have proof of contractual agreements or staff expertise to provide educational services, counseling services, psychological services, medical services or other services needed to fulfill the facilities operational plan.
- allows lead agencies to modify the terms of facility licenses based on a change in compliance.

Additionally, Chapter 781 requires the Boards to promulgate these changes into regulation within 280 days; the Boards are also directed to “include in the emergency regulations...

requirements enacted by HB 2461 (2005) and SB 1304 (2005). These bills identically require that facilities have a “community liaison who shall be responsible for facilitating cooperative relationships with neighbors, the school system, local law enforcement, local government officials, and the community at large”. None of the Chapter 781 requirements were in Administrative Code prior to December 2006. The Boards promulgated emergency provisions to implement the requirements of Chapter 781 in December 2006; the Boards propose to make these emergency provisions permanent with this proposed regulation.

Regulants and regulators will likely incur costs on account of proposed regulatory provisions that are required in the text of Chapter 781. Regulators will likely incur costs for gathering and posting information about licensees on department websites and for notifying local government and placing or funding agencies about facilities that have had their licenses downgraded to provisional. These costs are likely to be minimal because departments already post some of the required information on their websites and there are, at any given time, apparently very few to no facilities performing so poorly that they have to be downgraded to provisional licensure. Currently, The Department of Social Services (DSS) is the only lead agency that has any provisionally licensed facilities and they only have one. These costs will likely be outweighed by the benefits for placing agencies, and for the children they serve, because more and better information will be available to facilitate good placement decisions.

Regulants will likely incur some costs for the increased reporting and recordkeeping required by Chapter 781 (reporting law suits and settlements, proof of specialized contractual services) and will also incur costs for the training explicitly required by Chapter 781 (training on “appropriate siting of residential facilities”, good neighbor policies and community relations). The cost of reporting and recordkeeping will likely be minimal; costs for training will likely be larger. A children’s residential facility regulator (CRF regulator) reports that training in these three topics takes approximately a half hour (and that there will likely be no fees incurred for this training as it will likely be handled internally at facilities), using CRF regulator estimates of average staff hourly wage (\$11-\$12), using an average turnover rate of 25% and holding staff numbers constant at current levels (9,341 individuals are currently employed by regulated residential facilities); costs for this training will likely range between approximately \$12,844

and \$14,000 annually¹. These costs will likely be higher if the number of licensed residential facilities continues to grow, if training takes more time than allotted in these figures or if average staff turnover is greater than 25%. Conversely, these training costs will be less if training takes less time than anticipated or if average turnover rates fall below 25%.

Staff and residents of residential facilities, as well as communities where residential facilities are located, will likely benefit from improved relations that will likely occur if training prompts staff to be more cognizant of their surroundings (and prompts them to more closely police resident behaviors that might be particularly bothersome to neighbors). Benefits may be greater than costs for these training requirements. Regulators, residents and neighborhoods where residential facilities are housed also likely benefited from the provision in Chapter 781 that requires licensees to screen residential applications so that children were not placed in homes that were obviously a bad fit for their needs. Children who are placed in programs that meet their needs are likely less able to act out in ways that are destructive to themselves or others.

Costs will likely also be incurred on account of requirements contained in HB 2461 (2005) and SB 1304 (2005). Facilities will have to develop policies for community relations and will either have to hire a community liaison or add community liaison duties to an existing employee's job description. A CRF regulator reports that facilities' Chief Administrative Officer (CAO) would be likely to take on these responsibilities since liaison duties would mirror promotional and public relations work that is likely already handled by the CAO. A representative of a non-profit group home reports that facilities which already have good community relations (because they are located near population centers) will likely only incur the cost for time spent developing written policies for community relations.

Assuming a CAO average hourly wage of \$25 (a CRF regulator reports that CAO's of smaller, non-profit facilities may have a lower wage rate and CAO's of larger, for-profit facilities may have a higher wage rate), and using the representative of a non-profit group home's estimate that developing written policies will take approximately two to three hours; the cost of developing written community relations policies for an average facility will range between \$50 and \$75. For all 306 regulated facilities, the accumulated cost for these policies will range between approximately \$15,300 and approximately \$23,000.

¹ $9341 * .25 * \$11 * 1/2 \text{ hour} = \$12,843.88 \dots 9341 * .25 * \$12 * 1/2 \text{ hour} = \$14,011.5$

For facilities that do not already maintain close ties with the surrounding community, liaison duties will likely take up more of the designated employee's time leaving him or her with less time to devote to tasks that had previously held their full attention. Facilities will incur costs equal to time spent on community liaison tasks multiplied by the hourly wage of the designated employee. Facilities will likely accrue benefits that will partially or completely offset these costs if their relationships with their neighbors become less fractious than they have historically been.

Additional Emergency Provisions:

In addition to promulgating legislative mandates contained in Chapters 168 and 781; the Boards, at their discretion, promulgated several other provisions in their emergency action (December 2006). The Boards promulgated emergency regulations that allowed new residents of regulated facilities to undergo a tuberculosis risk assessment rather than undergoing testing for tuberculosis as required by regulations in place before December 2006. This change likely reduces costs for residential facilities because more expensive TB tests, x-rays and bacteriological tests (to identify tuberculosis) will no longer be routine for all incoming residents.

Emergency regulations also newly required that:

- licensees develop written policies and procedures for dispensing medication, documenting errors in dispensing medicine, reviewing medicine errors and reactions,
- policies must be approved by a medical professional and approval must be documented,
- medication refusals must be documented and the prescribing professional must be contacted unless medication refusal is addressed in standing orders,
- all extended recreational trips must have a detailed, documented trip plan and
- all aquatic activities that occur on extended recreational trips had to be supervised by a certified lifeguard.

All of these requirements would likely cause regulants (and or residents) to incur costs to a lesser or greater extent. Written policies take time to develop (see discussion about written community relations policies above). Most medical professionals would likely charge regulants a

fee to review and approve medication policies. Staff time is taken away from other tasks when they must report medication refusals to the prescribing professional. Documenting detailed trip plans likely takes a non-negligible amount of staff time. Requiring all aquatic activities be supervised by a certified lifeguard would likely have one of two affects (or some mixture thereof). Staff would either have to curtail aquatic activities at locations not already staffed by certified lifeguards (places like lakes, rivers and streams), or licensees would have to make sure staff received lifeguard training. Both of these options are expensive in differing ways; residential children suffer if this requirement serves to curtail water activities which likely benefit the children taking part in them. Training staff to be lifeguards requires a large investment of time and money. Staff at a public (locality-run) residential facility reports that the YMCA lifeguard training costs \$200 plus 39 hours of staff time; total cost to train one staff member in lifeguard skills (assuming an hourly wage of \$11-\$12) will range between approximately \$630 and \$670. If each of the 244 non-Department of Juvenile Justice (DJJ) residential facilities trained one staff member as a lifeguard, the total cost would range between approximately \$153,700 and \$163,500. Costs for lifeguard training could easily balloon into a significantly larger dollar figure if facilities chose to have multiple staff members undergo lifeguard training or if facilities had to keep retraining new staff due to high turnover.

All of these provisions will also provide benefits. Written medical policies are likely easy to pull out and check if there is a question about medication issues and might save staff time that might otherwise be spent tracking down other staff or supervisors to answer questions. Medication policies that are approved by a medical professional might be more accurate and useful than policies developed without expert input. Requiring contact between staff and a prescribing entity in the event of medication refusal might allow staff to get advice on effects of skipped medication or likely reasons that medication might be refused (bad taste, etc) so that those reasons might be addressed. Having lifeguards supervise aquatic activities might help stop a high cost, very low probability event like a drowning or severe water related injury. For most of these provisions these benefits might only partially outweigh associated costs.

Emergency Changes to Required Education and Experience:

The (non-legislative mandate driven) emergency provisions that will likely cost the most for regulated entities deal with education and experience requirements for various staff

positions in residential facilities. At all levels, emergency regulations imposed higher, more restrictive standard for staffing than did previous permanent regulations.

CAO's, for instance, were previously required to have a baccalaureate degree in the field of human services, institutional management, social work, education or a related discipline, or any other type of baccalaureate degree plus two years of "successful work experience with children in the field of institutional management, social work, education or other allied profession". Emergency regulations increased the qualifications that newly hired CAO's must have and/or narrowed the fields of study that are acceptable. CAO's now must have either 1) a master's degree in social work, psychology, counseling or nursing plus two years of full time work experience in a children's residential facility (one of these years must be supervisory work), 2) a baccalaureate degree in social work, psychology, counseling or nursing plus three years full time work experience with children (two of these years must be full time work experience in a children's residential facility and one of these years must be supervisory work), 3) a master's degree in education plus two years of full time work experience in a children's residential facility (one of these years must be supervisory work), 4) for CAO's that will staff facilities whose lead agency is the Department of Education (DOE), a baccalaureate degree in education plus three years full time work experience with children (two of these years must be full time work experience in a children's residential facility and one of these years must be supervisory work) or 5) any other type of baccalaureate degree plus seven years of full time paid work experience with children (four of these years must be full time work experience in a children's residential facility and two of these years must be supervisory work).

Although there are more bundles of education and experience that will allow individuals to work as a CAO of a children's residential facility, all bundles allowed by the emergency regulations, and these proposed regulations, are more restrictive and more costly. Each affected entity will either incur thousands of dollars worth of extra educational expenses or likely large cumulative wage losses due to experience requirements that will delay entry into a, likely higher paying, CAO position or will incur both increased educational costs and wage losses. All CAO's hired in private non-profit or for-profit non-DJJ licensed facilities after the effective date of this proposed regulations will have to meet new required qualifications. DJJ licensed facilities follow separate hiring guidelines that are not changing with this regulatory action. Facilities that are run by localities may use state hiring guidelines or may use locality

specific hiring guidelines. There are 238 facilities in the Commonwealth that will be required to only hire individuals that meet these new more stringent qualifications.

DSS, The Department of Mental Health, Mental Retardation and Substance Abuse Services (DMHMRSAS) and DOE report that these changes are being made because 1) they are in the models guidelines of the Child Welfare league of America (CWLA), 2) several surrounding states have qualification restrictions that are more stringent than those in Virginia's regulations (pre-December 2006) and 3) The Boards have been concerned that a increase in applications for for-profit residential facilities has lead to or will lead to lower quality of care for children placed in those facilities. Although agency staff reports that there is anecdotal evidence to show that facilities have greater compliance issues, they had not gathered any data that could be analyzed to ascertain whether there is quantitative evidence of more severe or more numerous compliance issues (that cannot be explained by the growth in the number of licensed facilities). No research was presented which would suggest that measurable outcomes for residential children were improved by having staff meet more stringent educational requirements than they were already meeting under pre-emergency regulations.

One study is available which does provide some evidence that, in general industry, individuals who have earned a master's degree do not do a measurably better job than their cohorts that have only earned a bachelor's degree.² The paper's authors concluded "results indicate that companies in their search for the right CEO should not focus too much attention on the educational background of a CEO candidate if better firm performance is the goal". This research, while not directly on point, does bring into question whether requiring more education will actually benefit the children being served. The costs for implementing this provision will be delayed, since they affect only new hires or individuals who move from one facility to another, but these costs likely will be greater than the benefits that might arise from staff having more education.

Under the emergency regulations now in place and these proposed regulations, the positions of Program Director and Case Manager were subject to increases of education/experience requirements that were similar in scope to those which affected CAO's.

² Gottesman, Aron A. and Morey, Matthew R., "Does a Better Education Make For Better Managers? An Empirical Examination of CEO Educational Quality and Firm Performance" (April 21, 2006). Available at SSRN: <http://ssrn.com/abstract=564443>

Child Care Supervisors qualification requirements have changed less drastically from pre-December 2006 standards. The types of baccalaureate degrees that would be deemed acceptable have narrowed considerably under the emergency regulations now in place and these proposed regulations. Any four year degree from an accredited college was acceptable before; now only degrees in psychology or social work will be accepted (for the education/experience bundle that requires a college degree).

Child Care Staff qualification requirements have changed only slightly from pre-December 2006 standards. A few months experience are required under most paths to employment and minimum age for these workers has been increased from 18 to 21. The change in age requirements will likely provide a benefit for both staff and residents. For the portion of the resident population that is composed of older teens and for staff that is about the same age, this change will likely change the perception that the staff in charge are peers rather than adults and may help curtail any inappropriate interaction between the two groups. Because there is such a high turnover rate for child care staff, and because some facilities apparently have difficulty hiring as many people as they need to meet staff ratios; the increased education/experience requirements, minimal though they are, may exacerbate staffing difficulties.

New Requirements at the Proposed Stage

Staff to Resident Ratios:

Current regulation has several different staffing ratios for different types of programs. In general, a staffing ration of 1:10 is allowable during waking hours unless the residential facility served a target group with its own ratio. Independent living facilities are required to maintain a staffing ratio of 1:15 during waking hours. Programs that serve children under four years old are required to maintain a staffing ratio of 1:3 during waking hours. Programs that house severely handicapped, non-ambulatory children are required to maintain a staffing ratio of 1:6. Programs that accept teenage mothers and their children must maintain a staffing ratio of 1:6. Programs licensed by DMHMRSAS must currently maintain a staffing ratio of at least 1:8 (residents that receive Medicaid funding must be staffed at a lower ratio than this). Nighttime staffing ratios are currently somewhat looser; with the exception of mother/child programs, nighttime hours must

be staffed at a ratio of 1:16. Mother/child programs must currently maintain a nighttime staffing ratio of 1:10.

The Boards propose to repeal these separate standards and require a staffing ratio of 1:8, while also requiring that all proposed staffing ratios be approved by the lead licensing agency. Facilities will have the option of applying for a variance that will allow a staffing ratio that is higher than 1:8. The proposed regulation's language is less clear about staffing ratios than previous standards and can be enforced in many ways. Lead agencies might allow variances for all programs which currently have staffing ratios higher than 1:8 or they might deny most or all variance requests. Given the rationale for this regulatory change (to better reflect current industry practices and better meet child advocacy guidelines), there are likely to be at least some staff increases required under the new regulations. While there will be costs associated with staff increases (additional salaries, training, etc.), there will also likely be benefits for both residents and other staff. Residents would likely get more individualized care with lower staffing ratios and staff will likely experience a less stressful work atmosphere. It is nearly impossible to know whether benefits will outweigh costs without knowing how many staff positions will have to be added industry wide.

Staff Training:

Current regulation requires that newly hired staff receive basic orientation on their facilities intervention policies, procedures and techniques. New staff and staff that are transferred from one facility to another must also currently receive training in the objectives and confidentiality practices of the facility. Additionally, staff that will be charged with dispensing medication must successfully complete a medication training program, which requires 32 hours of training and costs approximately \$200 per group in fees; even small facilities have to train their staff in more than one group since some staff would have to care for residents while other staff are being trained. Facilities are currently required to have one staff member who is certified in CPR and first aid on premises at all times; this training takes approximately 8 hours per staff employee and costs approximately \$65 per employee³; employees would require recertification every three years. DMHMRSAS staff are all currently required to receive annual training in recognizing child abuse and neglect, mandatory reporting requirements, maintaining professional

³ This is the fee that the Red Cross charges for combined CRP and first aid training.

relationships and suicide prevention; this training requires approximately 8 hours and may or may not require payment of fees.

These proposed regulations will require that **all** residential facility staff be certified in first aid and CPR, as well as receive initial and annual training in child abuse and neglect, mandatory reporting requirements, maintaining professional relationships and suicide prevention. Staff will also be newly required to receive initial training regarding:

- quality improvement procedures (approximately one hour)⁴,
- these regulations (six hours) and
- their facility's decision-making plan (approximately ¼ to ½ hour)

All staff will newly be required to receive annual, refresher, training regarding:

- emergency preparedness (two hours),
- medication administration (1-2 hours) and
- facility procedures regarding universal precautions (approximately one hour).

All staff will also have to complete an additional 15 hours of “training applicable to their job duties”.

Using CRF regulator estimates for average hourly wages (\$11-\$12), assuming an average turnover rate of 25% and holding staff numbers constant at current levels (9,341 individuals are currently employed by regulated residential facilities), the total cost, minus fees⁵, for newly required initial training would range between approximately \$186,240 and \$210,170⁶ for all facilities. Facilities will also incur greater costs arising from the new requirement that all staff be trained in CPR and first aid. Costs for newly required annual training, minus fees, will likely range between approximately \$1,952,270 and \$2,241,840 each year.⁷ Actual costs are likely to be higher than these estimates because the number of individuals employed by residential facilities is likely to grow as new facilities open and fees will likely be incurred for at least some portion of the required training.

⁴ A CRF regulator provided estimates on how long each training requirement would take to complete.

⁵ Agencies do not have any estimates for fees that might be incurred for this training.

⁶ $9341 * .25 * \$11 * 7.25 \text{ hours} = \$186,236.18 \dots 9341 * .25 * \$12 * 7.5 \text{ hours} = \$210,172.5$

Staff and residents of facilities will likely both see benefits as training improves staff competency. This will likely particularly be true for training that covers emergency preparedness, administration of medication and other safety specific training. Benefits would have to be fairly large to outweigh the costs that will be incurred.

Other Substantive Provisions:

The Boards propose several other substantive changes which will have non-negligible costs. The Boards propose to require prescriptions for all over-the-counter medications that are dispensed in residential facilities. Agency representatives report that this action is being taken to reduce the rate of medication errors and/or misuse and that facilities have been expected to comply with the requirement (contained in Interdepartmental Program guidance language) for several years. While there may be some benefit to requiring all residential facilities to follow this policy, it is not at all apparent that these benefits outweigh the costs, in staff time spent (policing residents and obtaining prescriptions) and in delayed treatment of minor ailments (headache, stuffy nose, etc.).

The Boards propose to require a decreased ratio of bathroom appointments for all new residential facilities licensed after the effective date of these regulations. Currently, buildings constructed prior to 1981 must have one full, working bathroom for every eight residents. Any buildings constructed after 1981, or renovated after 1981 are required to have one full, working bathroom for every four residents. The Boards propose to require all newly licensed facilities meet the more restrictive, four residents to a bathroom, standard. This will cause newly licensed facilities to incur costs that they would not otherwise bear and may serve as a minor barrier to entry.

The Boards also propose to require that all swimming activities be supervised by a certified lifeguard. The emergency regulations require all aquatic activities that take place during extended recreational trips have to be supervised by a certified lifeguard. The proposed standard is less restrictive, in part, because only swimming activities will require lifeguard supervision; the standard is more restrictive, in part, because lifeguard supervision will be

⁷ $9341 * \$11 * 19 \text{ hours} = \$1,952,269$... $9341 * \$12 * 20 \text{ hours} = \$2,241,840$. These costs DO NOT include first aid and CPR training since I cannot estimate how many additional employees would have to be trained.

required for all swimming activities and not just those that occur during extended recreational trips. For costs and benefits, see discussion above under **Additional Emergency Provisions**.

Finally, the Boards propose to require a new licensure fee. The Boards propose to require new non-profit and for-profit applicants for licensure to pay a \$500 licensure fee. Regulators who are renewing their licenses, either annually or triennially, will be required to pay a \$100 licensure fee. A CRF regulator reports that fees collected will be used to pay for training for regulators as well as residential facility staff. Details of this training are not currently available. Whatever benefits this training might bring about would have to be weighed against the cost, particularly for facilities that are seeking licensure. This fee may serve as a barrier to entry for applicants for licensure.

Businesses and Entities Affected

These proposed regulations will affect all public and private (non-profit and for-profit) residential facilities as well as individuals employed by, and children who live in, residential facilities. Currently, the Boards collectively license 306 facilities.

The Boards license 82 public facilities which are operated mainly by localities. Of these, DSS is the lead agency for 6 facilities, DJJ is the lead agency for 62 facilities, DMHMRSAS is the lead agency for 12 facilities and DOE is the lead agency for 2 facilities.

The Boards license 114 private, for-profit facilities. Of these, DSS is the lead agency for 47 facilities, DMHMRSAS is the lead agency for 61 facilities and DOE is the lead agency for 6 facilities.

The Boards license 110 private, non-profit facilities. Of these, DSS is the lead agency for 44 facilities and DMHMRSAS is the lead agency for 66 facilities.

Localities Particularly Affected

Localities that have residential facilities housed within their borders will be particularly affected by these proposed regulations.

Projected Impact on Employment

Changing staff to resident ratios in the proposed regulations may increase employment opportunities within residential facilities. On the other hand, increasing requirements and costs

associated with opening a new residential facility will tend to discourage new applicants for licensure. If new facilities never open **on account of the proposed regulations**, employment opportunities, that would have otherwise been available, will be lost.

Effects on the Use and Value of Private Property

The proposed regulations raise several barriers (higher initial licensure fees, more strict building standards, etc) to entry that may make existing private facilities more valuable when compared to residential facilities that might open in the future and may be subject to unique extra costs. These costs would tend to lower new facilities' profit margins and, consequently, these new businesses would likely be less valuable than facilities that predate the proposed regulations.

Small Businesses: Costs and Other Effects

The Boards currently license 114 private, for-profit residential homes; 112 of these qualify as small businesses. These businesses will have to pay increased costs for staff training (see discussion on training costs above) and will likely incur extra costs for increasing staff to resident ratios. New record keeping costs (for keeping student and intern records for three years) and new administrative costs (associated with compiling various written policy and procedures manuals) will also likely be incurred. These small businesses will, likely, also incur extra costs for salaries to pay staff that are subject to stricter education/experience requirements.

Small Businesses: Alternative Method that Minimizes Adverse Impact

The Boards might wish to reexamine the proposed increased training requirements to see whether resident care could be improved in a more cost effective manner. For instance, the Boards might wish to only require staff training that has been proved to improve health and safety outcomes for facility residents rather than requiring all staff complete specific training plus 15 extra hours. Additionally, the Boards may wish to revisit the issue of increasing education/experience requirements, particularly for CAO's, Program Managers and Case Managers, to see if these new requirements will actually provide a benefit.

Legal Mandate

The Department of Planning and Budget (DPB) has analyzed the economic impact of this proposed regulation in accordance with Section 2.2-4007.H of the Administrative Process Act and Executive Order Number 21 (02). Section 2.2-4007.H requires that such economic impact

analyses include, but need not be limited to, the projected number of businesses or other entities to whom the regulation would apply, the identity of any localities and types of businesses or other entities particularly affected, the projected number of persons and employment positions to be affected, the projected costs to affected businesses or entities to implement or comply with the regulation, and the impact on the use and value of private property. Further, if the proposed regulation has adverse effect on small businesses, Section 2.2-4007.H requires that such economic impact analyses include (i) an identification and estimate of the number of small businesses subject to the regulation; (ii) the projected reporting, recordkeeping, and other administrative costs required for small businesses to comply with the regulation, including the type of professional skills necessary for preparing required reports and other documents; (iii) a statement of the probable effect of the regulation on affected small businesses; and (iv) a description of any less intrusive or less costly alternative methods of achieving the purpose of the regulation. The analysis presented above represents DPB's best estimate of these economic impacts.