

Adverse impact notification sent to Joint Commission on Administrative Rules, House Committee on Appropriations, and Senate Committee on Finance (COV § 2.2-4007.04.C): Yes Not Needed

If/when this economic impact analysis (EIA) is published in the *Virginia Register of Regulations*, notification will be sent to each member of the General Assembly (COV § 2.2-4007.04.B).



Virginia Department of Planning and Budget Economic Impact Analysis

18 VAC 140-20 Regulations Governing the Practice of Social Work
Department of Health Professions
Town Hall Action/Stage: 4475 / 7516
June 23, 2016

Summary of the Proposed Amendments to Regulation

The Board of Social Work (Board) proposes to: 1) require an application for licensure as a clinical social worker be submitted within two years of completing the supervised experience requirement, 2) clarify that for clinical social worker licensure applicants' supervised experience, if there is a change in the supervisor, the supervised practice, or clinical services or location, the applicant must reregister and get Board approval, and 3) add "romantic relationship with a client or those included in collateral therapeutic services" to the list of prohibited activities for licensed clinical social workers and licensed social workers.

Result of Analysis

The benefits likely exceed the costs for the first two proposed amendments. It is uncertain whether the benefits exceed the costs for the third proposed change. The likelihood that the benefits would exceed the costs would increase if the proposal included a clear definition of "romantic relationship."

Estimated Economic Impact

Application and Supervision

The Department of Health Professions discards incomplete applications for licensure after one year, unless an application is complete but for the documentation of supervised

experience. In that case, the agency retains it for two years.¹ Thus the proposed requirement that clinical social worker license applications are completed within two years of completion of the supervised experience is consistent with the Board's and agency's current file retention policy.

In Section 30: "Fees," the current regulations already lists a \$25 fee for when the clinical social worker license applicant has an addition to or change in registration of supervision. The Board proposes to add language in Section 50: "Experience requirements for a licensed clinical social worker" clarifying that applicants do need to send notification of the addition or change on a Board form (as well as pay the \$25 fee). The proposed change is moderately beneficial in that it makes current requirements clearer.

Prohibited Relationships

The current regulation bans sexual intimacies with either a current client or those included in collateral therapeutic services, and sexual intimacies with a former client for a minimum of five years after the professional relationship. Violating the bans are grounds for disciplinary action. The Board could revoke or suspend the practitioner's license, or impose a monetary penalty.²

The Board proposes to add "romantic relationship" to "sexual intimacies" as part of these bans. Clients may be vulnerable and emotionally dependent and less able to distinguish between conduct that is for their benefit and that which is exploitative. Thus the proposed addition of romantic relationship to sexual intimacies on prohibited relationships can be beneficial in that it may reduce the likelihood of exploitative relationships. There is no practical way to forecast the extent to which exploitative relationships would be less likely to occur.

Romantic relationship can mean different things to different people. Unlike sexual intimacies, the meaning of romantic relationship is somewhat vague. Interactions between people can and do happen where one party believes they are just friends or acquaintances, and the other party believes their non-physical relationship is romantic. The proposed regulation does not contain a definition for a romantic relationship. Thus, unlike the current ban on sexual intimacies, there is potential for significant uncertainty as to what actions would constitute a

¹ Source: Department of Health Professions

²18VAC140-20-160. Grounds for Disciplinary Action or Denial of Issuance of a License.
<http://law.lis.virginia.gov/admincode/title18/agency140/chapter20/section160/>

violation on the proposed ban on romantic relationship. Practitioners may avoid innocent friendships with former clients, or unwittingly violate the ban due to a different interpretation of the meaning of romantic relationship than the Board. Thus the proposed ban without a clear definition introduces costs. There is no practical way to forecast the extent that positive friendships would be avoided or that practitioners would unwittingly violate the proposed ban. Consequently it cannot be determined whether or not the benefits exceed the costs.

The likelihood that the benefits would exceed the costs would increase if the proposal included a clear definition of “romantic relationship.” That would reduce the likelihood that practitioners avoid positive friendships with former clients, or unwittingly violate the ban.

Businesses and Entities Affected

The proposed amendments potentially affect licensed clinical social workers, licensed social workers, and applicants for clinical social worker licensure. Licensed clinical social workers and licensed social workers are among the 6,828 individuals regulated by the Board.³

Localities Particularly Affected

The proposed amendments do not disproportionately affect particular localities.

Projected Impact on Employment

The proposed amendments are unlikely to have a significant impact on employment.

Effects on the Use and Value of Private Property

The proposed amendments do not affect the use and value of private property.

Real Estate Development Costs

The proposed amendments do not affect real estate development costs.

Small Businesses:

Definition

Pursuant to § 2.2-4007.04 of the Code of Virginia, small business is defined as “a business entity, including its affiliates, that (i) is independently owned and operated and (ii) employs fewer than 500 full-time employees or has gross annual sales of less than \$6 million.”

³ Data source: Department of Health Professions

Costs and Other Effects

The proposed amendments do not significantly affect small businesses.

Alternative Method that Minimizes Adverse Impact

The proposed amendments do not adversely affect small businesses.

Adverse Impacts:

Businesses:

The proposed amendments do not adversely affect businesses.

Localities:

The proposed amendments do not adversely affect localities.

Other Entities:

The proposed amendments do not adversely affect other entities.

Legal Mandates

General: The Department of Planning and Budget has analyzed the economic impact of this proposed regulation in accordance with § 2.2-4007.04 of the Code of Virginia (Code) and Executive Order Number 17 (2014). Code § 2.2-4007.04 requires that such economic impact analyses determine the public benefits and costs of the proposed amendments. Further the report should include but not be limited to: (1) the projected number of businesses or other entities to whom the proposed regulatory action would apply, (2) the identity of any localities and types of businesses or other entities particularly affected, (3) the projected number of persons and employment positions to be affected, (4) the projected costs to affected businesses or entities to implement or comply with the regulation, and (5) the impact on the use and value of private property.

Adverse impacts: Pursuant to Code § 2.2-4007.04(C): In the event this economic impact analysis reveals that the proposed regulation would have an adverse economic impact on businesses or would impose a significant adverse economic impact on a locality, business, or entity particularly affected, the Department of Planning and Budget shall advise the Joint Commission on Administrative Rules, the House Committee on Appropriations, and the Senate Committee on Finance within the 45-day period.

If the proposed regulatory action may have an adverse effect on small businesses, Code § 2.2-4007.04 requires that such economic impact analyses include: (1) an identification and estimate of the number of small businesses subject to the proposed regulation, (2) the projected reporting, recordkeeping, and other administrative costs required for small businesses to comply with the proposed regulation, including the type of professional skills necessary for preparing required reports and other documents, (3) a statement of the probable effect of the proposed regulation on affected small businesses, and (4) a description of any less intrusive or less costly alternative methods of achieving the purpose of the proposed regulation. Additionally, pursuant to Code § 2.2-4007.1, if there is a finding that a proposed regulation may have an adverse impact on small business, the Joint Commission on Administrative Rules shall be notified.

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