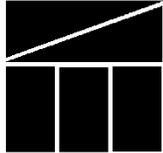


Adverse impact notification sent to Joint Commission on Administrative Rules, House Committee on Appropriations, and Senate Committee on Finance (COV § 2.2-4007.04.C): Yes Not Needed

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

22 VAC 40 -111 Standards for Licensed Family Day Homes
Department of Social Services
Town Hall Action/Stage: 4494 / 7588
October 2 2016

Summary of the Proposed Amendments to Regulation

The State Board of Social Services (Board) proposes several amendments to the Standards for Licensed Family Day Homes in order to align the regulation with federal requirements and the Code of Virginia, and to improve clarity.

Result of Analysis

Some proposed amendments do increase costs for licensed family day homes. Given the likely benefits for the health and safety of children, and the necessity of the amendments to maintain federal funding, the benefits of the proposed changes likely exceed the costs.

Estimated Economic Impact

The federal Child Care and Development Block Grant Act of 2014 requires specific health and safety topics to be addressed for providers receiving Child Care and Development Funds. Currently Virginia receives about \$110 million from this program per fiscal year. In order to continue to receive federal funding under the Child Care and Development Fund, the federal requirements must be adopted under Virginia rules. Licensed family day homes (FDHs) are eligible to apply for subsidies under the program. According to the Virginia Department of Social Services (DSS), 37 % of licensed family day homes in the Commonwealth are approved subsidy vendors.

Consequently the Board proposes amendments such as adding: 1) a requirement for FDH licensees to post with parental approval a current list of allergies, sensitivities and dietary restriction, 2) a new requirement that while transporting children, the driver will have the allergy care plan and emergency contact information to prevent an allergic reaction, be aware of food allergies and sensitivities when preparing food and not serve prohibited food to a child, 3) a new provision allowing providers to keep attendance records as hard copy or electronically, 4) a new requirement for FDH licensees to keep a written record of a child in attendance as arrival and departure occurs, 5) exceptions for homeless children without documentation of immunizations or physical examination to attend FDHs during a grace period of 90 days, 6) 4 additional required hours of annual training for caregivers, 7) a new requirement for **all** caregivers to have current certification in CPR and first aid, and 8) a requirement that caregivers complete a DSS-sponsored orientation course within 90 days of employment.

Allergies

The proposals to add requirements for providers to post with parental approval a current list of allergies, sensitivities and dietary restriction, and for drivers transporting children to have the allergy care plan and emergency contact information to prevent an allergic reaction and be aware of food allergies, etc., would require a small additional amount of staff time and materials for licensed FDHs. The proposed requirements would likely increase awareness of health risks for children under care and decrease the probability that children's health is put at risk due to ignorance or carelessness.

Attendance Records

Under the current regulation FDHs must keep a written record of children in attendance each day. The proposal to allow providers to keep attendance records as hard copy or electronically reduces storage and potentially time costs for those FDHs that prefer to keep records electronically. The proposal to require licensees to keep the written record of each child in attendance as arrival and departure occurs would produce a small cost in that staff will have less flexibility as to when to record attendance. It would also be beneficial in that emergency responders will be better equipped in the event of an emergency to identify children in attendance.

Homeless Children

Under the current regulation before any child may attend an FDH, the licensee must obtain documentation that the child has been immunized according to the requirements of § 32.1-46 A of the Code of Virginia and applicable State Board of Health regulations. Additionally, the provider must have documentation of a physical examination by or under direction of a physician within 30 days after the first day of attendance of the child.

The proposal to permit providers to accept homeless children without immunization or physical examination documentation for up to 90 days would be beneficial in that it would reduce barriers for homeless children to attend licensed child care while their families are taking necessary actions to comply with health and safety requirements. Enabling children's attendance at FDHs helps enable parents and guardians in homeless families to work or seek work and potentially gain homes.

Training

Under the current regulation FDH caregivers must have 16 clock hours of annual training. The Board proposes to increase the annual requirement to 20 clock hours. Childcare workers earn on average \$10.79 per hour in Virginia.¹ Assuming the value of a childcare workers' time is their wage, the time cost of requiring 4 additional hours of training is \$43.16² annually per FDH caregiver. DSS offers online child care courses as part of an agreement with Virginia's Community College Workforce; these classes currently cost \$20 for 4 clock hours of training.³ Thus the total cost for 4 additional hours of required training per year can be estimated to be about \$63 annually per FDH caregiver.

The current regulation requires the person issued the FDH license and assistants who are left alone with the children in care to have current certification in first aid and CPR appropriate to the age of children in care. The proposed regulation requires that all caregivers have such certification. The American Red Cross website lists the fee for a class that includes pediatric first

¹ Source: U.S. Bureau of Labor Statistics' May 2015 State Occupational Employment and Wage Estimates (the most recent available data). See: http://www.bls.gov/oes/current/oes_va.htm

² \$10.79 x 4 = \$43.16

³ Source: Department of Social Services

aid and CPR as \$110. The course takes approximately 7 hours of caregivers' time.⁴ Childcare workers earn on average \$10.79 per hour in Virginia.⁵ Assuming the value of a childcare workers' time is their wage, the time cost of the requirement is \$75.53.⁶ Thus the cost of the proposed CPR and first aid requirement for each child care worker in a licensed FDH would be \$185.53 per two year certification, or \$92.77 per year. Caregivers, such as the licensee, who already have current certification in CPR and first aid and would have continued to have done so without the new requirement would not incur this cost. Additionally, the CPR and first aid class can count toward the required 20 hours of training a year.

According to DSS, the proposed required DSS-sponsored orientation course takes 10 hours and is provided without a fee. Assuming the value of a childcare workers' time is their wage, the time cost of the requirement is \$107.90. The 10 hours can count toward the required 20 hours of training during the first year of employment.

Overall

Several of the proposed amendments introduce some additional costs in terms of time, materials and/or fees. All of the proposed changes likely will have some positive impact on health and safety. The extent of the impact on health and safety is not known. Thus a definitive comparison of the likely benefits with the more easily estimated costs cannot be made. Taking into consideration the need to make these amendments in order to maintain federal funding, which contributes to FDH subsidies, the benefits of the proposed regulation likely exceed the costs.

Businesses and Entities Affected

The proposed amendments affect the 1,279 licensed family day homes in the Commonwealth, their staff, and their clients.⁷ All licensed family day homes are small businesses.

Localities Particularly Affected

The proposed amendments do not disproportionately affect particular localities.

⁴ The American Red Cross class is listed as taking six hours and twenty minutes. Assuming 40 minutes roundtrip travel time, the caregiver would spend 7 hours to satisfy this requirement.

⁵ See note 1, *supra*

⁶ $\$10.79 \times 7 = \75.53

⁷ Data source: Department of Social Services

Projected Impact on Employment

The proposed amendments are unlikely to have a large impact on employment. The proposal to require that all caregivers have current certification in first aid and CPR appropriate to the age of children in care may moderately increase employment for providers of such certification.

Effects on the Use and Value of Private Property

The proposed amendments are unlikely to have a large impact on 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.”

Costs and Other Effects

As described in the Estimated Economic Impact section, the proposals to add 1) a requirement for FDH licensees to post with parental approval a current list of allergies, sensitivities and dietary restriction, 2) a new requirement that while transporting children, the driver will have the allergy care plan and emergency contact information to prevent an allergic reaction, be aware of food allergies and sensitivities when preparing food and not serve prohibited food to a child, 3) a new requirement for FDH licensees to keep a written record of a child in attendance as arrival and departure occurs, 4) 4 additional required hours of annual training for caregivers, 5) a new requirement for all caregivers to have current certification in CPR and first aid, and 6) a requirement that caregivers complete a DSS-sponsored orientation course within 90 days of employment, all increase costs for licensed family day homes. The proposal to allow providers to keep attendance records as hard copy or electronically reduces costs for some FDH licensees.

Alternative Method that Minimizes Adverse Impact

In order to comply with the federal Child Care and Development Block Grant Act, the Board is proposing amendments that will increase costs for some family day homes, all of which are small businesses. There is no clear alternative that will both satisfy federal law and reduce the adverse impact on these small businesses.

Adverse Impacts:

Businesses:

As discussed above, some proposed amendments will increase costs for businesses.

Localities:

The proposed amendments are unlikely to adversely affect localities.

Other Entities:

The proposed amendments are unlikely to 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.