



## **Economic Impact Analysis Virginia Department of Planning and Budget**

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**18 VAC 75-20 – Regulations Governing Practitioner Self-Referral**  
**Department of Health Professions**  
May 23, 2007

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### **Summary of the Proposed Regulation**

The Board of Health Professions (Board) proposes to amend the Regulations Governing Practitioner Self-Referral so that an agency subordinate can evaluate applications for an advisory opinion. The Board also proposes to amend the language of these regulations to clarify that all application approvals or disapprovals are currently, and must continue to be, ratified by the Board.

### **Result of Analysis**

The benefits likely exceed the costs for this proposed regulatory change.

### **Estimated Economic Impact**

Section 54.1-2411 of the Code of Virginia, requires that, with certain exceptions, a health care “practitioner shall not refer a patient for health services to an entity outside the practitioner's office or group practice if the practitioner or any of the practitioner's immediate family members is an investor in such entity”. This section also allows the Board to issue advisory opinions and establishes the rules under which the Board may grant exceptions to the prohibition against self-referral. Current regulations allow the Board’s self-referral committee (acting as an informal conference committee) to consider applications for exception to §54.1-2411 and to issue advisory opinions about whether practitioners are in compliance with §54.1-2411. Once the self-referral committee reaches a decision about whether an exception is appropriate, that decision has to be ratified by the Board.

The Department of Health Professions (DHP) reports that “the issues involved in rendering a decision (on an application for exception) are typically financial and business in nature.” The self-referral committee currently depends on legal and financial experts to advise

them on these issues before they render decisions. The Board proposes to increase the efficiency of this decision-making process by allowing an agency subordinate with subject matter expertise to consider applications for exception and to make recommendations on them. Those recommendations would then need to be ratified by the Board (just as committee decisions are now ratified).

This change will likely benefit both the Board and practitioners whose applications are being considered. The Board will benefit because less Board staff time will have to be spent soliciting appropriate expert opinions on applications. Practitioners whose applications are approved benefit from being able to self-refer sooner. Practitioners will benefit from a more expedited process even when their applications are denied, because this expedited process will allow them to direct the time and resources that they may have been holding in reserve toward other ventures.

### **Businesses and Entities Affected**

Any health care practitioner who submits an application for exception to the rules against self-referral will be affected by the proposed regulations. DHP reports that the Board typically receives only one or two such applications annually.

### **Localities Particularly Affected**

No locality will be particularly affected by the proposed regulations.

### **Projected Impact on Employment**

Since the Board will be utilizing the services of subject-matter experts who will act as agency subordinates, the proposed regulations will likely increase opportunities for contract employment with the Board.

### **Effects on the Use and Value of Private Property**

To the extent that the proposed regulations allow health care practitioners to be granted exceptions more quickly, the value of their practices may increase by the profits that were formerly forestalled during the longer decision-making process.

## **Small Businesses: Costs and Other Effects**

Affected small businesses will not incur any extra costs on account of the proposed regulations.

## **Small Businesses: Alternative Method that Minimizes Adverse Impact**

Affected small businesses will not incur any extra costs on account of the proposed regulations.

## **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.

