



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

18 VAC 110-21 Regulations Governing the Licensure of Pharmacists and Registration of Pharmacy Technicians

18 VAC 110-20 Regulations Governing the Practice of Pharmacy

Department of Health Professions

Town Hall Action/Stage: 5603/9243

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Summary of the Proposed Amendments to Regulation

Pursuant to a 2020 legislative mandate, the Board of Pharmacy (Board) proposes to amend the training requirements for pharmacy technicians in 18 VAC 110-21 *Regulations Governing the Licensure of Pharmacists and Registration of Pharmacy Technicians* (regulation).¹ Specifically, the Board seeks to: (i) create a new requirement for the registration of pharmacy technician trainees, and (ii) specify accreditation requirements for pharmacy technician training programs. The registration requirement for pharmacy technician trainees became effective on January 3, 2021 through an emergency regulation.² The accreditation requirements for training programs will become effective July 1, 2022. The Board also proposes to amend 18 VAC 110-20 *Regulations Governing the Practice of Pharmacy* to update the requirements for pharmacies that hire pharmacy technician trainees such that they reflect the new trainee registration requirements.

Background

Chapters 102 and 237 of the 2020 Acts of Assembly define the term “pharmacy technician trainee” and update the requirements for individuals who wish to be registered as pharmacy technicians.³ Under the new legislation, pharmacy technicians must demonstrate

¹ See <https://townhall.virginia.gov/l/viewmandate.cfm?mandateid=1058> for information on the mandate.

² The emergency regulation took effect on January 3, 2021 and expires on July 2, 2022. See <https://townhall.virginia.gov/l/ViewStage.cfm?stageid=9137>.

³ See <https://lis.virginia.gov/cgi-bin/legp604.exe?ses=201&typ=bil&val=ch102> and <https://lis.virginia.gov/cgi-bin/legp604.exe?ses=201&typ=bil&val=ch237>, respectively.

successful completion of a pharmacy technician training program that is either (i) accredited by a body approved by the Board, or (ii) accredited by the Department of Education's Career and Technical Education program, or (iii) operated through a federal agency or branch of the military. The applicant must also provide evidence of passing a national certification examination administered by the Pharmacy Technician Certification Board (PTCB) or the National Healthcareer Association (NHA). The required accreditation of pharmacy technician training programs has a delayed effective date of July 1, 2022.

In keeping with the mandate, the Board proposes to maintain the current pharmacy technician registration requirements until July 1, 2022, under which pharmacy technicians must provide evidence of (i) completing a board-approved training program and passing a board-approved examination, OR (ii) passing a national certification examination administered by the PTCB or NHA.

The Board also proposes to add a new section 141, which would become effective July 1, 2022. In addition to the existing requirements to submit an application and a fee, the Board would now require that the applicant provide evidence of passing a national certification examination administered by the PTCB or the NHA. In addition, pharmacy technician applicants would be required to demonstrate successful completion of a pharmacy technician training program that is either (i) jointly accredited by the American Society of Health System Pharmacists (ASHP) and Accreditation Council for Pharmacy Education (ACPE), or (ii) accredited by the Department of Education's Career and Technical Education program, or (iii) operated through a federal agency or branch of the military, or (iv) accredited by another body approved by the Board. The Board reports that ASHP and ACPE were approved as the accreditation bodies because their joint accreditation program is the only one currently available for pharmacy technician training programs. However, option (iv) retains some flexibility for the Board to approve other accrediting bodies in the future.

Further, in accordance with the legislation, the proposed amendments would allow individuals who complete or are enrolled in a board-approved (but not necessarily accredited) pharmacy technician training program as of July 1, 2022 to register provided they pass the PTCB or NHA examinations. Similarly, individuals who obtain PTCB or NHA certification prior to July 1, 2022 would be allowed to register after that date even if they had not completed an

accredited training program. Lastly, pharmacy technicians who had previously practiced in other states would be allowed to register in Virginia upon documentation of previous practice and having passed the PTCB or NHA examinations.

The legislation also outlines the requirements for registration as a pharmacy technician trainee, and provided the Board with the authority to promulgate emergency regulations. To implement the requirements outlined in the legislation, the Board proposes to add a new section 135 *Registration as a pharmacy technician trainee*, which establishes registration as a requirement that must be fulfilled before a trainee can engage in any practical work experience as a pharmacy technician. The proposed language specifies that in order to be eligible to register as a pharmacy technician trainee the applicant shall already be enrolled in a pharmacy technician training program. However, it does not specifically require that the program be accredited, which allows individuals currently enrolled in non-accredited but Board-approved programs to register and complete the practical experience requirement of their training.

Prior to the emergency regulation, pharmacy technician trainees who were enrolled in Board-approved training programs could perform pharmacy technician duties under a pharmacist's supervision for up to nine consecutive months to obtain practical experience as part of their training. The onus of enforcing the nine-month limit and ensuring that the individual was still enrolled and progressing towards completion of the training program fell on the pharmacies that employed trainees. The proposed language in section 135 specifies that the registration be assigned an expiration date not to exceed two years, which is intended to allow sufficient time for trainees to meet the practical training requirements of the training program in which they are enrolled. The language makes clear that the registration would be invalid if the trainee were no longer enrolled in the training program for any reason and that trainees cannot be employed without registration.

Estimated Benefits and Costs

Pharmacy technician training programs would incur the costs of accreditation, which they are likely to pass at least partially on to individuals seeking to obtain training. The Department of Health Professions (DHP) reports that many of the 119 pharmacy technician training programs currently approved by the Board are run by pharmacy chains or hospital systems and are already

accredited by ASHP/ACPE.⁴ DHP also reports that the initial application fees for accreditation range from \$720 per hospital to \$6,000 for distance learning programs to \$10,000 for retail pharmacy chains. Pharmacy technician trainees would incur a \$20 fee for registration, and may face higher training costs due to the accreditation requirements. However, DHP reports that distance learning is a popular option for pharmacy technician training for individuals who may not be able to access it through employment at a pharmacy chain or hospital system, and that most distance learning programs are already accredited.

Because the proposed regulatory text closely mirrors the legislation, the benefits of the proposed amendments are mainly to conform the regulation to the Code of Virginia. The Board states that the public would benefit from more consistent training and examination of pharmacy technicians, who play a vital role in filling and dispensing of prescription medications, as well as accountability for persons who are performing technician tasks while in training.

Businesses and Other Entities Affected

The proposed amendments primarily affect current and future pharmacy technician trainees, individuals seeking to register as pharmacy technicians on or after July 1, 2022, and pharmacy technician training programs. Current and future pharmacy technician trainees would be affected by the registration requirements. DHP reports that 845 trainees had registered as of March 31, 2021. Individuals considering pharmacy technician training in the future would be affected by the accreditation requirements, to the extent that those requirements change the options available to them for obtaining training. DHP reports that there are currently 119 Board-approved pharmacy technician training programs, but did not have information on how many of those programs were already accredited or how many were affiliated with a hospital, a retail pharmacy, or provided distance learning.

Small Businesses⁵ Affected

The proposed amendments are unlikely to adversely affect any small businesses. Pharmacies in Virginia that are independently operated small businesses would benefit from

⁴ Agency Background Document, page 8. See https://townhall.virginia.gov/l/GetFile.cfm?File=30\5603\9243\AgencyStatement_DHP_9243_v1.pdf.

⁵ 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.”

standardized education requirements for pharmacy technicians to the extent that it results in a better-trained pool of potential employees.

Localities⁶ Affected⁷

The proposed amendments do not introduce new costs for local governments and are unlikely to affect any locality in particular.

Projected Impact on Employment

The proposed amendments are unlikely to impact the number of pharmacy technicians in the workforce or the employment rates of pharmacy technicians.

Effects on the Use and Value of Private Property

The proposed amendments would not affect the use or value of private property. Real estate development costs are not affected.

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 14 (as amended, July 16, 2018). 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(D): 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.

⁶ “Locality” can refer to either local governments or the locations in the Commonwealth where the activities relevant to the regulatory change are most likely to occur.

⁷ § 2.2-4007.04 defines “particularly affected” as bearing disproportionate material impact.