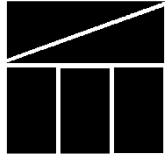


Adverse impact notification sent to Joint Commission on Administrative Rules, House Committee on Appropriations, and Senate Committee on Finance (COV § 2.2-4007.04.C): Yes Not Needed

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

12 VAC 35-115 Regulations to Assure the Rights of Individuals Receiving Services from Providers Licensed, Funded, or Operated by the Department of Behavioral Health and Developmental Services
Department of Behavioral Health and Developmental Services
Town Hall Action/Stage: 4929/8082
December 20, 2017

Summary of the Proposed Amendments to Regulation

The State Board of Behavioral Health and Developmental Services (Board) proposes 1) to allow licensed behavior analysts to make assessments on the use of individualized restrictions such as restraints or time outs in a behavioral treatment plan and 2) to limit behavioral treatment plans requiring review by an independent committee to those involving the use of restraints or time outs.

Result of Analysis

The benefits likely exceed the costs for all proposed changes.

Estimated Economic Impact

Effective February 9, 2017 these regulations were extensively revised. During the rollout of the changes, an inadvertent error was discovered involving the assessment of individualized restrictions and the review of plans involving such restrictions.

The current language specifically allows a “licensed professional” to assess the use of restraints or time outs, but the definition of “licensed professional” does not include licensed behavior analysts who are qualified to make such assessments. The Board proposes to add language allowing licensed behavior analysts to make such assessments. Currently, there are 893

licensed behavior analysts in Virginia.¹ Allowing licensed behavior analysts to make those assessments will broaden the pool of professionals who can make such assessments. A larger number of authorized professionals will likely be beneficial by speeding up the assessment process. According to the Department of Behavioral Health and Developmental Services (DBHDS), there is currently a six-month waiting list for behavioral plan development, and individuals consistently report that this is a service that they have difficulty in accessing due to the limited number of appropriate licensed professionals.

Also, the language in the previous revisions of the regulation requires that all behavioral treatments plans are to be reviewed prior to their implementation by an independent review committee established by the provider. The intent of that revision was not to require review of all plans but rather only those involving the use of individualized restrictions. Thus, the Board proposes to amend the current language to limit the committee review of plans to those involving such restrictions. This proposed change will reduce the number of reviews by the independent review committees and will likely result in some staff time savings to the providers. According to DBHDS, it would take about 30 minutes to conduct a review of a behavioral treatment plan. DBHDS estimates that there are approximately 502 providers utilizing over 800 plans statewide. Of the 800 plans, the number of plans involving restrictions is not known.

Businesses and Entities Affected

This regulation applies to 502 providers. Currently, there are 893 licensed behavior analysts in Virginia.

Localities Particularly Affected

The proposed changes do not affect particular localities disproportionately.

Projected Impact on Employment

The proposed regulation will reduce the demand for labor by reducing the number of plans requiring committee review, but no significant impact on employment is expected.

Effects on the Use and Value of Private Property

No significant impact on the use and value of private property is expected.

¹ Source: Department of Health Professions

Real Estate Development Costs

No impact on real estate development costs is expected.

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

Most if not all of the providers are small providers. The proposed changes do not impose costs on them but will benefit them as explained above.

Alternative Method that Minimizes Adverse Impact

No adverse impact on small businesses is expected.

Adverse Impacts:

Businesses:

The proposed amendments do not have an adverse impact on businesses.

Localities:

The proposed amendments will not adversely affect localities.

Other Entities:

The proposed amendments will 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.