



Economic Impact Analysis Virginia Department of Planning and Budget

18 VAC 105-20 – Regulations Governing the Practice of Optometry
Department of Health Professions
May 31, 2007

Summary of the Proposed Amendments to Regulation

Licensure by endorsement is intended as a method for optometrists who have competently and ethically practiced in other jurisdictions to become licensed to practice in Virginia. For optometrists who are applying for licensure by endorsement, the current regulations include language stating that if the applicant is currently licensed in another jurisdiction: 1) the license must be full and unrestricted, 2) all continuing education requirements must have been completed, 3) the applicant must not be a respondent in any pending or unresolved board action, and 4) the applicant must not have committed any of the prohibited acts listed in Code of Virginia Section § 54.1-3204 or committed any acts that are grounds for reprimand revocation or suspension listed in Section § 54.1-3215. Also, applicants for licensure by endorsement may not be a respondent in a pending or unresolved malpractice claim, whether or not the applicant is currently licensed in another jurisdiction. For the sake of brevity, let us call the above requirements “out-of-state requirements.”

Licensure by examination is primarily intended for optometrists seeking initial licensure in Virginia, but can also be achieved by optometrists who have been licensed elsewhere. The Board of Optometry (Board) proposes to add analogous “out-of-state requirements” for optometrists who have been licensed in another jurisdiction and are applying for licensure by examination.

Additionally, the Board proposes to specify that “An applicant who did not complete all parts of the board-approved examination within five years prior to the date of receipt of their application for licensure by this board may be required to retake all or any part of the board-approved examination or take board-approved continuing education unless they demonstrate that

they have maintained clinical, ethical, and legal practice for 36 of the past 60 months immediately prior to submission of an application for licensure.”

Result of Analysis

The benefits likely exceed the costs for all proposed changes.

Estimated Economic Impact

An individual may apply for licensure by *endorsement* if she “has successfully completed a licensing examination or certification in optometry in any jurisdiction of the United States that is approximately comparable to the Virginia examination at the time of initial licensure,” and met several other requirements, including the out-of-state requirements listed above. Under the current regulations an individual may apply for licensure by *examination* if she has passed all the required parts of the National Board of Examiners in Optometry examination, and met several other requirements, **not** including the out-of-state requirements. In practice the Board has asked for the out-of-state requirement information on their licensure by examination application forms, and no one has objected.¹ The Board now proposes to formally add the out-of-state requirements to the regulations.

Since no one has challenged the out-of-state requirement information in the past, adding the out-of-state requirements to the licensure by examination portion of the regulations will not likely have a large impact. To the extent that it does have an impact, that impact should be positive for the Commonwealth since it will increase the likelihood that the Board is informed of possible incompetent or unethical practice by applicants who have practiced out of state.

As in many other professions, significant advances in the science and technology of optometry occur as time passes. Passing an exam that was produced many years in the past does not necessarily indicate that the applicant is knowledgeable about advances in the science of optometry and competent in current techniques. Thus, the Board’s proposal to reserve the right to require that an applicant who did not complete all parts of the examination within five years prior to the date of receipt of their application retake all or any part of the exam or take board-approved continuing education unless they demonstrate that they have maintained clinical, ethical, and legal practice for 36 of the past 60 months is beneficial in that optometrists who have

¹ Information Source: Department of Health Professions

not demonstrated that they are competent in the current practice of optometry are less likely to become licensed and certified to the public as having such expertise.

Businesses and Entities Affected

The proposed regulations will affect those individuals who are applying for licensure by examination who have been licensed in another jurisdiction. Each year typically 12 to 16 individuals apply for licensure by examination who already hold a license in another state.²

According to the Department of Health Professions, in most years there are no applicants for licensure by examination who passed parts or all of the board-approved examination five or more years ago, who were not also practicing legally in another jurisdiction. Thus, the proposal to require that an applicant who did not complete all parts of the examination within five years prior to the date of receipt of their application retake all or any part of the exam or take board-approved continuing education unless they demonstrate that they have maintained clinical, ethical, and legal practice for 36 of the past 60 months immediately prior to submission of an application for licensure will affect very few optometrists.

Localities Particularly Affected

Localities near state borders may be more likely to have optometrists licensed in another state apply for licensure in Virginia as well. Otherwise, no locality is known to be disproportionately affected by the proposed amendments.

Projected Impact on Employment

The proposed amendments are unlikely to significantly affect employment.

Effects on the Use and Value of Private Property

With rare exceptions, the proposed amendments are unlikely to significantly affect the use and value of private property. The rare individual who passed the licensure examinations more than five years ago, has not practiced, and cannot now pass the examinations, will be prevented from practicing optometry. The earning potential for this rare individual will thus be diminished.

² Source: Department of Health Professions

Small Businesses: Costs and Other Effects

The proposed amendments are unlikely to significantly affect small businesses.

Small Businesses: Alternative Method that Minimizes Adverse Impact

The proposed amendments are unlikely to significantly affect small businesses.

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 36 (06). 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.