



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

12 VAC 5-31 Virginia Emergency Medical Services Regulations
Department of Health
January 14, 2015

Summary of the Proposed Amendments to Regulation

The State Board of Health (Board) proposes to limit an individual's ability to become employed by or a member of an Emergency Medical services (EMS) agency¹ if they have a prior history of committing certain crimes. This language was in the 2003 version of the Virginia EMS Regulations, but was inadvertently deleted when the current regulations were adopted in 2012.

Result of Analysis

Whether the benefits exceed the costs depend on the policy views of the observer.

Estimated Economic Impact

The current regulations deny Office of Emergency Medical Services certification to individuals who have been convicted of the following crimes:

1. Felonies involving sexual misconduct where the victim's failure to affirmatively consent is an element of the crime, such as forcible rape.
2. Felonies involving the sexual or physical abuse of children, the elderly or the infirm, such as sexual misconduct with a child, making or distributing child pornography or using a child in a sexual display, incest involving a child, or assault on an elderly or infirm person.
3. Any crime in which the victim is an out-of-hospital patient or a patient or resident of a healthcare facility including abuse of, neglect of, theft from, or financial exploitation of a person entrusted to the care or protection of the applicant.

¹ Virginia Code § 32.1-111.1 defines agency as “any person engaged in the business, service or regular activity, whether or not for profit, of transporting persons who are sick, injured, wounded or otherwise incapacitated or helpless, or of rendering immediate medical care to such persons.”

4. Serious crimes of violence against persons such as assault or battery with a dangerous weapon, aggravated assault and battery, murder or attempted murder, manslaughter except involuntary manslaughter, kidnapping, robbery of any degree, or arson.
5. Has been subject to a permanent revocation of license or certification by another state EMS office or other recognized state or national healthcare provider licensing or certifying body.

Further, the current regulations deny Office of Emergency Medical Services certification to individuals in the following categories except in extraordinary circumstances, and then will be granted only if the applicant or provider establishes by clear and convincing evidence that certification will not jeopardize public health and safety.

1. Application for affiliation or certification by individuals who have been convicted of any crime and who are currently incarcerated, on work release, on probation, or on parole.
2. Application for affiliation or certification by individuals convicted of crimes in the following categories unless at least five years have passed since the conviction or five years have passed since release from custodial confinement whichever occurs later:
 - a. Crimes involving controlled substances or synthetics, including unlawful possession or distribution or intent to distribute unlawfully Schedule I through V drugs as defined by the Virginia Drug Control Act (§ 54.1-3400 seq. of the Code of Virginia).
 - b. Serious crimes against property, such as grand larceny, burglary, embezzlement, or insurance fraud.
 - c. Any other crime involving sexual misconduct.
3. Is currently under any disciplinary or enforcement action from another state EMS office or other recognized state or national healthcare provider licensing or certifying body. Personnel subject to these disciplinary or enforcement actions may be eligible for affiliation or certification provided there have been no further disciplinary or enforcement actions for five years prior to application for certification in Virginia.

In addition to denying certification, the Board proposes to ban employment or membership in an EMS agency for individuals with the above-described attributes.

Banning the employment of people with criminal backgrounds in EMS agencies may reduce their exposure to people in vulnerable positions. This may reduce the likelihood that people receiving EMS services, as well as other EMS employees, may be victimized. Protecting the well-being of patients and other employees has significant value.

On the other hand, there is a cost to limiting job opportunities for people who are otherwise qualified and have “paid their debt to society.” These individuals are worse off by the denial of opportunity to make a living within the law. Also, roadblocks to legitimate employment may potentially encourage recidivism for individuals who otherwise might not have repeat offended.

Businesses and Entities Affected

The proposed amendments affect the 681 licensed EMS agencies² in Virginia.³

Localities Particularly Affected

The proposed amendments do not disproportionately affect particular localities.

Projected Impact on Employment

The proposed amendments will not significantly affect total employment. Individuals with specified categories of criminal backgrounds will be prevented from gaining employment at EMS agencies.

Effects on the Use and Value of Private Property

The proposed amendments will prevent private EMS agencies from employing individuals with specified categories of criminal backgrounds.

Small Businesses: Costs and Other Effects

The proposed amendments will moderately reduce the potential employee pool for small EMS agencies. In most circumstances, this will not significantly affect costs.

Small Businesses: Alternative Method that Minimizes Adverse Impact

For the most part, the proposed amendments will not significantly adversely affect small businesses.

Real Estate Development Costs

The proposed amendments will not affect real estate development costs.

² Ibid

³ Data source: Virginia Department of Health

Legal Mandate

General: The Department of Planning and Budget (DPB) has analyzed the economic impact of this proposed regulation in accordance with § 2.2-4007.04 of the Code of Virginia and Executive Order Number 17 (2014). Section 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:

- the projected number of businesses or other entities to whom the proposed regulatory action 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.

Small Businesses: If the proposed regulatory action will have an adverse effect on small businesses, § 2.2-4007.04 requires that such economic impact analyses include:

- an identification and estimate of the number of small businesses subject to the proposed regulation,
- 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,
- a statement of the probable effect of the proposed regulation on affected small businesses, and
- a description of any less intrusive or less costly alternative methods of achieving the purpose of the proposed regulation.

Additionally, pursuant to § 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 (JCAR) is notified at the time the proposed regulation is submitted to the *Virginia Register of Regulations* for publication. This analysis shall represent DPB's best estimate for the purposes of public review and comment on the proposed regulation.

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