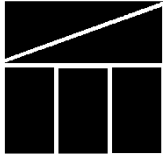


Adverse impact notification sent to Joint Commission on Administrative Rules, House Committee on Appropriations, and Senate Committee on Finance (COV § 2.2-4007.04.C): Yes Not Needed

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 5-520 Regulations Governing the State Dental Scholarship Program
Virginia Department of Health
Town Hall Action/Stage: 4613 / 7875
July 1, 2017

Summary of the Proposed Amendments to Regulation

As the result of a 2016 periodic review,¹ the State Board of Health (Board) proposes numerous amendments to the regulation governing the state dental scholarship and loan repayment programs. In addition to amending and adding language for improved clarity, the Board proposes amendments concerning: 1) eligibility to receive a scholarship, 2) when the dentist must start practice in a qualified location, 3) what constitutes a breach of contract, 4) the interest rate charged when scholarship or loan repayment award recipients fail to fulfill their commitment, 5) a penalty when scholarship recipients fail to inform the Virginia Department of Health (VDH) prior to dental school graduation that they will not fulfill their commitment, 6) how long VDH's commissioner may extend the repayment period for recipients in default, and 7) the conditions concerning reimbursement of repayment when a recipient fulfills their commitment after defaulting.²

¹ More information about the periodic review can be viewed on the Virginia Regulatory Town Hall (Town Hall) at <http://townhall.virginia.gov/L/ViewPReview.cfm?PRid=1502>.

² The current proposed language eliminates the Virginia Department of Health from the list of state agency facilities where a dentist can practice and fulfill their commitment. VDH staff indicated that this amendment is currently being reconsidered.

Result of Analysis

Some proposed amendments produce a net benefit. The impact of other proposed amendments is indeterminate.

Estimated Economic Impact

Background

Pursuant to Code of Virginia § 32.1-122.9 and § 32.1-122.9:1 respectively, the Commonwealth has established the dental scholarship and dental loan repayment award programs. These programs are intended to help provide additional dental services in underserved areas of Virginia. Scholarships are awarded to students enrolled in Virginia Commonwealth University School of Dentistry.³ Dentist loan repayment awards are granted to graduates of accredited dental schools.

As part of the contract agreement for receiving dental school scholarship funds, the recipient commits to after graduation continuously engaging in full-time dental practice in a dental underserved area of Virginia for a period of years equal to the number of annual scholarships received. The loan repayment award contract also requires the recipient dentist to continuously engage in full-time dental practice in an underserved area of Virginia for a period of years equal to the number of loan repayment awards received.

Currently neither program is funded.

Scholarship Eligibility

The Board proposes to add to the scholarship eligibility requirements that the candidate have a cumulative GPA of at least 3.0 and demonstrate financial need, which is verified by the Virginia Commonwealth University School of Dentistry's financial aid officer or authorized person as part of the application process. The proposal to require that the candidate have a cumulative GPA of at least 3.0 is likely beneficial since state funds are best invested in more successful students who are more likely to graduate and be capable of fulfilling the commitment to provide dental care to underserved portions of the Commonwealth.

³ Virginia Commonwealth University has the only dental school in Virginia.

Required Start of Practice

Under the current regulation the recipient must begin practice in a dental underserved area within 90 days of graduation to not be in default. The Board proposes to amend the deadline to 180 days. The main intent of the programs is to increase dental service in underserved areas. To the extent that some newly minted dentists who do intend to fulfill their contract commitment may have trouble beginning practice in an underserved area within three months of graduation, the proposed amendment may be beneficial in that may help some recipients so serve and not default.

Breach of Contract

The Board proposes to specify that scholarship and loan repayment award recipients are in breach of contract: 1) if they falsify or misrepresent information on the program application, the verification of employment forms, or other required documents, or 2) if their employment is terminated for good cause as determined by the employer and confirmed by VDH. If employment is terminated for reasons beyond the participant's control (e.g. closure of site), the participant shall transfer to another site approved by the Board in the Commonwealth within six months of termination. Failure of participant to transfer to another site shall be deemed to be a breach of the contract. These situations would be considered breach of contract by the Board whether or not the language is specified in the regulation; nevertheless, having the language in regulation may help the Board enforce rules that would increase the likelihood that it can maximize the amount of quality dental care provided in underserved areas.

Interest Rate

When scholarship and loan repayment award payment recipients fail to fulfill their commitment, they are required to pay back their award plus interest. Under the current regulation, the interest rate is set at "the prime lending rate plus 2.0%." The Board proposed to amend the stated interest rate in the regulation to "the legal rate of interest pursuant to § 6.2-302 of the Code of Virginia." That statute states that "The judgment rate of interest shall be an annual rate of six percent, except that a money judgment entered in an action arising from a contract shall carry interest at the rate lawfully charged on such contract, or at six percent annually, whichever is higher." Considering that the statute is already in effect, under the current regulation the interest rate to be paid by recipients in default is the prime lending rate plus 2.0%

or 6.0%, whichever is higher. As of the time that this report is being written, June 30, 2017, the prime lending rate is 4.25%. Thus by the current rules the interest rate to be paid by recipients in default would be 6.25%. The proposed regulation effectively sets the interest rate to be paid by those in default at 6.00%, regardless of the prime rate.

Penalty

The Board proposes to assess a penalty of three times the amount of all monetary scholarship awards paid to the scholarship recipient plus interest when the scholarship recipient fails to inform VDH prior to dental school graduation that he will not fulfill his commitment. A scholarship recipient who notifies VDH in writing that he will not practice dentistry in Virginia as required by his contract would be required to repay the total amount of scholarship funds received plus interest, but no penalty. This proposed penalty gives the scholarship recipient strong incentive to notify VDH of their change in plans before graduation.

Repayment Period Extension

When it is determined that a scholarship or loan repayment award recipient has failed to fulfill their commitment and is deemed to be in default, the recipient is required to pay back the award plus interest. Under the current regulation, VDH's commissioner may in his discretion permit extension of the period of repayment for up to 2 years from the date that the recipient is deemed to be in default. The Board proposes to change the permitted extension to "2 years from the date that the recipient completes postgraduate training or the recipient enters into the full-time practice of dentistry, whichever is later." Effectively this in many cases would reduce the length of time that the commissioner may extend the repayment period for recipients in default, since the date that the recipient completes postgraduate training or the recipient enters into the full-time practice of dentistry would often be before the date of default.

Post-Default Commitment Fulfillment

The current regulation provides that should the scholarship recipient default and consequently pay back the value of their scholarship plus interest, but later does fulfill the commitment of serving his scholarship obligation in an underserved area within five years of having paid the restitution, that the recipient will be reimbursed for all or part of any scholarship award paid based on the fulfillment of the scholarship and availability of funds. The Board

proposes to instead remove the five-year deadline, reduce the reimbursement by “applicable interest and fees,” and include loan repayment awardees along with scholarships recipients in the opportunity for reimbursement. The proposed amendment to remove the five-year deadline would be beneficial in that it would provide incentive for dentists who are further along in their careers to come back and provide dental service in an underserved area. It would add uncertainty for the state to know when it may require funds for reimbursement though. Reducing the reimbursement by interest provides the incentive to provide the dental service sooner rather than later.

Businesses and Entities Affected

The state dental scholarship and loan repayment programs are currently not funded. If the programs were to be funded, the proposed amendments would affect dental practices in dental underserved areas,⁴ patients in underserved areas, the Virginia Commonwealth University School of Dentistry, and dentists and dental students desiring to work in underserved areas in return for a dental scholarship or loan repayment.

Localities Particularly Affected

If the state dental scholarship and loan repayment programs were to be funded, the proposed amendments would particularly affect localities that have relatively lower per capita dental care available.

Projected Impact on Employment

The proposed amendments are unlikely to significantly affect total employment.

Effects on the Use and Value of Private Property

The proposed amendments are unlikely to significantly affect the use and value of private property.

Real Estate Development Costs

The proposed amendments do not affect real estate development costs.

⁴ The proposed definition for “dental underserved area” is 1) a geographic area in Virginia designated by the Board as a county or city in which the ratio of practitioners of dentistry to population is less than that for the Commonwealth as a whole; 2) those cities and counties determined to be dental health professions shortage areas as defined by the U.S. Department of Health and Human Services or designated a federal shortage area for the practice of dentistry as outlined in 42 CFR 5.1; or 3) a designated state facility.

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

The proposed amendments do not significantly affect costs for small businesses.

Alternative Method that Minimizes Adverse Impact

The proposed amendments do not adversely affect small businesses.

Adverse Impacts:**Businesses:**

The proposed amendments do not adversely affect businesses.

Localities:

The proposed amendments do not adversely affect localities.

Other Entities:

The proposed amendments do 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.

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