



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

12 VAC 5-217 Regulations of the Patient Level Data System
Virginia Department of Health
Town Hall Action/Stage: 5821 / 9878
February 7, 2024

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 (Code) and Executive Order 19. The analysis presented below represents DPB's best estimate of the potential economic impacts as of the date of this analysis.¹

Summary of the Proposed Amendments to Regulation

As the result of a 2020 budget mandate, the State Board of Health (Board) is proposing to make permanent an emergency regulation that requires inpatient hospitals to report the admission source (legal status) for any individuals meeting the criteria for voluntary or involuntary psychiatric commitment.² The Board also now proposes to amend the regulation to reflect the data reporting elements currently submitted by inpatient hospitals to Virginia Health Information (VHI).

Background

Item 307 D.1 of the 2020 Appropriation Act states that:³

Inpatient hospitals shall report the admission source of any individuals meeting the criteria for voluntary or involuntary psychiatric commitment as outlined in §

¹ Code § 2.2-4007.04 requires that such economic impact analyses determine the public benefits and costs of the proposed amendments. Further the analysis 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.

² See <https://townhall.virginia.gov/L/viewmandate.cfm?mandateid=1107>

³ See <https://budget.lis.virginia.gov/item/2020/1/HB30/Chapter/1/307/>

16.1-338,⁴ 16.1-339,⁵ 16.1-340.1,⁶ 16.1-345,⁷ 37.2-805,⁸ 37.2-809,⁹ or 37.2-904,¹⁰ Code of Virginia, to the Board of Health. The Board shall collect and share any and all data regarding the admission source of individuals admitted to inpatient hospitals as a psychiatric patient, pursuant to § 32.1-276.6, Code of Virginia, with the Department of Behavioral Health and Developmental Services.

Further, the Act instructed the Virginia Department of Health (VDH) to promulgate an emergency regulation for this purpose.

In response, in an emergency regulation¹¹ that became effective on January 17, 2022, the Board added an additional category (legal status) to the list of patient level data elements that inpatient hospitals must submit. This category is comprised of seven different possible admission sources, as follows:

1= §16.1-338 Parental admission of minors < 14 and nonobjecting minors 14 years of age or older

2=§16.1-339 Parental admission of objecting minor 14 years of age or older

3=§16.1-340.1 Involuntary TDO¹² (minor)

4=§16.1-345 Involuntary commitment (minor)

5=§37.2-805 Voluntary admission (adult)

6=§37.2-809 Involuntary TDO (adult)

7=§37.2-904 Sexually violent predators (prisoners or defendants)

As described above, the Board is proposing to amend the regulation to make the reporting of legal status permanent. The Board also proposes to amend the regulation to reflect the data reporting elements currently submitted by inpatient hospitals to VHI, which would change the numbering and order of the data elements being reported. Code § 32.1-276.4 requires that the VDH commissioner negotiate and enter into contracts or agreements with a nonprofit

⁴ See <https://law.lis.virginia.gov/vacode/16.1-338/>

⁵ See <https://law.lis.virginia.gov/vacode/16.1-339/>

⁶ See <https://law.lis.virginia.gov/vacode/16.1-340.1/>

⁷ See <https://law.lis.virginia.gov/vacode/16.1-345/>

⁸ See <https://law.lis.virginia.gov/vacode/37.2-805/>

⁹ See <https://law.lis.virginia.gov/vacode/37.2-809/>

¹⁰ See <https://law.lis.virginia.gov/vacode/title37.2/chapter9/section37.2-904/>

¹¹ See <https://townhall.virginia.gov/L/ViewStage.cfm?stageid=9398>

¹² TDO stands for “temporary detention order.”

organization for the compilation, storage, analysis, and evaluation of data submitted by health care providers.¹³ In practice, VHI is that nonprofit organization.

Estimated Benefits and Costs

Collecting admission source data for individuals meeting the criteria for psychiatric commitment is beneficial in that it can be used to help produce better-informed public policy. The proposed required reporting does entail some additional staff time for inpatient hospitals. In any case, the requirement is a legislative mandate and is not discretionary for the Board.

Amending the regulation to reflect the data reporting elements that are submitted by inpatient hospitals to VHI is beneficial in that it improves clarity by reflecting the existing reporting practices. Accordingly, no additional costs are expected.

Businesses and Other Entities Affected

The 102 hospitals that submit patient level data are affected.¹⁴

The Code of Virginia requires DPB to assess whether an adverse impact may result from the proposed regulation.¹⁵ An adverse impact is indicated if there is any increase in net cost or reduction in net benefit for any entity, even if the benefits exceed the costs for all entities combined.¹⁶ No proposed discretionary change increases net cost or reduces net benefit for any entity. Thus, an adverse impact is not indicated.

Small Businesses¹⁷ Affected:¹⁸

VDH reports that none of the hospitals qualify as small businesses.

¹³ See <https://law.lis.virginia.gov/vacode/title32.1/chapter7.2/section32.1-276.4/>

¹⁴ Data source:

¹⁵ 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.

¹⁶ Statute does not define “adverse impact,” state whether only Virginia entities should be considered, nor indicate whether an adverse impact results from regulatory requirements mandated by legislation. As a result, DPB has adopted a definition of adverse impact that assesses changes in net costs and benefits for each affected Virginia entity that directly results from discretionary changes to the regulation.

¹⁷ 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.”

¹⁸ 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

Localities¹⁹ Affected²⁰

The proposed amendments neither disproportionately affect any particular localities, nor affect costs for local governments.

Projected Impact on Employment

The proposed amendments do not appear to affect total employment.

Effects on the Use and Value of Private Property

The proposed amendments do not substantively affect the use and value of private property. The proposed amendments do not affect real estate development 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.

¹⁹ “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.

²⁰ § 2.2-4007.04 defines “particularly affected” as bearing disproportionate material impact.