

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

18 VAC 112-20 Regulations Governing the Practice of Physical Therapy
Department of Health Professions
Town Hall Action/Stage: 4375/8144
December 27, 2017

Summary of the Proposed Amendments to Regulation

The Board of Physical Therapy (the board) proposes to add to its main regulation provisions regarding the practice of dry needling including referral, training, informed consent, and disclosure requirements.

Result of Analysis

The benefits likely exceed the costs for all proposed changes.

Estimated Economic Impact

Dry needling is a technique used in the practice of physical therapy to treat muscle tension and pain by inserting a special type of needle into areas of the muscle known as trigger points. According to the board, dry needling has been performed by physical therapists in Virginia for more than a decade. Currently, physical therapists performing the procedure are subject to the board's guidance document 112-9 which sets out referral, training, informed consent, and disclosure requirements for practice of dry needling.¹ The board proposes to add to this regulation provisions that are substantially similar to those in the guidance document. Adding these provisions to the regulation should not create any significant economic effects as

¹ This guidance document posted on the Regulatory Town Hall on August 2010 can be found at:
http://townhall.virginia.gov/L/GetFile.cfm?File=C:\TownHall\docroot\GuidanceDocs\223\GDoc_DHP_3650_v2.pdf

there will be no change in practice. One notable exception is that 54 hours of post professional training is required under the guidance while the proposed regulation does not state a specific number of training hours. This provision is not being added because the scope and content of each training may be different. However, a practitioner is not permitted to perform dry needling beyond the scope of the highest level of his training.

According to the board, if a physical therapist who has not received education and training in dry needling chooses to add it as a modality for his/her patients, there are a variety of courses offered. Most involve multi-day seminars with hands-on training and cost approximately \$1,000. Thus, under the regulations some physical therapists may be able to obtain sufficient training at less than the current cost while some others may have to incur a larger cost. In any event, practice of dry needling is voluntary and by choosing to offer it as a modality, a therapist reveals that expected benefits to him or her are greater than the expected costs.

The board also notes that without a regulatory standard, a physical therapist cannot be held accountable for requirements specific to dry needling. Thus, having the requirements in regulations could improve enforcement should there be a violation.²

Businesses and Entities Affected

Currently, there are 7,786 physical therapists licensed in Virginia. Not all of the physical therapists perform dry needling.

Localities Particularly Affected

The proposed changes apply statewide.

Projected Impact on Employment

No impact on employment is expected.

Effects on the Use and Value of Private Property

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

Real Estate Development Costs

No impact on real estate development costs is expected.

² DHP is unaware of any complaints regarding the practice of dry needling by physical therapists at least since 2010 when the guidance was adopted.

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 physical therapists work in offices that are small business.

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.

000