



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

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### **18 VAC 115-20 – Regulations Governing the Practice of Professional Counseling; 18 VAC 115-50 – Regulations Governing the Practice of Marriage and Family Therapy; 18 VAC 115-60 – Regulations Governing the Practice of Substance Abuse Practitioners Department of Health Professions**

June 12, 2003

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The Department of Planning and Budget (DPB) has analyzed the economic impact of this proposed regulation in accordance with Section 2.2-4007.G of the Administrative Process Act and Executive Order Number 21 (02). Section 2.2-4007.G 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. The analysis presented below represents DPB's best estimate of these economic impacts.

### **Summary of the Proposed Regulation**

Pursuant to Chapter 430 of the 2002 Acts of the General Assembly, section § 54.1-3505.1 was added to the Code of Virginia. Section § 54.1-3505.1 obligates the Board of Professional Counseling (board) to “promulgate regulations establishing requirements for evidence of continued competency as a condition of renewal of a license” for the practice of counseling or marriage and family therapy or in the independent practice of substance abuse treatment. The board proposes to require that licensed professional counselors, marriage and family therapists, and substance abuse treatment practitioners complete a minimum of 20 hours of continuing competency activities each year in order to qualify for licensure renewal. The board also proposes to establish inactive licensure status. Additionally, the board seeks to require that counselors, therapists, and practitioners whose license has lapsed complete continuing competency hours prior to the reinstatement of their licenses.

## Estimated Economic Impact

### Continued Competency

Under the current regulations, licensed professional counselors, marriage and family therapists, and substance abuse treatment practitioners are not required to participate in continuing education activities. There is some evidence that many licensees participate in continuing education on their own accord.<sup>1</sup>

According to the department, the fees for college courses and workshops offered by professional associations that address relevant content range from approximately \$10 to \$20 per contact hour. Licensees would also incur time and transportation expenses associated with traveling to and from the locations of the workshops and courses. Online courses that would qualify for continuing competency, which do not have associated traveling expenses, are available for about \$10 per hour.<sup>2</sup>

In addition to fees, the time of counselors, therapists, and practitioners also has value. The mean hourly wages for licensed professional counselors, marriage and family therapists, and substance abuse treatment practitioners in Virginia are \$14.34, \$15.03, and \$17.86, respectively.<sup>3</sup> Assuming that the value of a licensee's time is equal to her mean hourly wage, and that the licensee would seek to minimize costs by taking online courses, then it will cost licensed professional counselors, marriage and family therapists, and substance abuse treatment practitioners approximately \$24.34,<sup>4</sup> \$25.03,<sup>5</sup> and \$27.86,<sup>6</sup> respectively, for each additional hour of continuing competency activity incurred in order to meet the proposed requirement. For licensees who without the proposed requirement would not participate in any continuing

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<sup>1</sup> As of June 13, 2003, 1,140 Virginia residents held the National Board for Certified Counselors' (NBCC) National Certified Counselor credential. NBCC certification requires 100 hours of continuing education during each five-year certification period. Thus, certificate-holders will average at least 20 hours of continuing education per year. Not all certificate-holders are licensed. NBCC does not track the licensure status of its certificate-holders. Presumably though, a significant percentage of certificate-holders do practice and hold licensure. These individuals will already meet or come close to meeting the board's proposed requirement of 20 hours of continuing education per year.

<sup>2</sup> According to the Department of Health Professions, online classes from the Healthcare Training Institute that cost \$45 for a four-hour course, \$65 for a six-hour course, and \$85 for a ten-hour course, are typical of the types of classes that would qualify for continuing competency hours.

<sup>3</sup> Source: U.S. Department of Labor, Bureau of Labor Statistics, 2001 State Occupational Employment and Wage Estimates

<sup>4</sup> Calculation: \$10 (course fee per hour) + \$14.34 (value of one hour of time) = \$24.34

<sup>5</sup> Calculation: \$10 (course fee per hour) + \$15.03 (value of one hour of time) = \$25.03

<sup>6</sup> Calculation: \$10 (course fee per hour) + \$17.86 (value of one hour of time) = \$27.86

competency activity, compliance will cost approximately \$486.80,<sup>7</sup> \$500.06,<sup>8</sup> and \$557.20,<sup>9</sup> respectively, for counselors, therapists, and practitioners. This does not include the cost of transportation for licensees.

There are 3,663 persons licensed as either a professional counselors, marriage and family therapist, or substance abuse treatment practitioners in the Commonwealth.<sup>10</sup> Neither the department nor the National Board for Certified Counselors has an estimate of how many professional counselors, marriage and family therapist, or substance abuse treatment practitioners in Virginia currently take continuing education courses. Hypothetically, if without the proposed requirement one-third of licensees would take zero hours of continuing education per year and the other two-thirds of licensees would take at least 20 hours of continuing education per year, then the proposed 20-hour per annum continuing education requirement will cost licensees on the order of \$601,000<sup>11</sup>. If instead two-thirds of licensees would take zero hour of continuing education per year and the other one-third of licensees would take at least 20 hours of continuing education per year, then the proposed 20-hour per annum continuing education requirement will cost licensees something around \$1,203,000<sup>12</sup>.

The benefit of the proposed continuing competency activity requirement is more difficult to estimate than the cost. Since the continuing competency hours must be spent on field-related topics, licensees who participate likely gain some useful knowledge. That said, it is important to note that, strictly speaking, evidence of the completion of continuing education classes is not direct evidence of competency but is rather a distant proxy. Without some indication of how much information was assimilated by the licensee and how that information relates to the licensee's actual practice, it is not valid to assume that the mere exposure to coursework in an area is a good signal of competency. While a written competency test may itself be an imperfect

<sup>7</sup> Calculation:  $20 \times \$10 = \$200$  in course fees;  $20 \times \$14.34 = \$286.80$  for value of time;  $\$200 + \$286.80 = \$486.80$  for total cost

<sup>8</sup> Calculation:  $20 \times \$10 = \$200$  in course fees;  $20 \times \$15.03 = \$300.60$  for value of time;  $\$200 + \$300.60 = \$500.60$  for total cost

<sup>9</sup> Calculation:  $20 \times \$10 = \$200$  in course fees;  $20 \times \$17.86 = \$357.20$  for value of time;  $\$200 + \$357.20 = \$557.20$  for total cost

<sup>10</sup> Source: According to the Department of Health Professions, there are 2,653 persons licensed as professional counselors, 871 persons licensed as marriage and family therapists, and 139 persons licensed as substance abuse treatment practitioners in Virginia. Calculation:  $2,653 + 871 + 139 = 3,663$

<sup>11</sup> Calculation:  $1/3 \times ((\$486.80 \times 2,653) + (\$500.06 \times 871) + (\$557.20 \times 139)) = \$601,494.49$

<sup>12</sup> Calculation:  $2/3 \times ((\$486.80 \times 2,653) + (\$500.06 \times 871) + (\$557.20 \times 139)) = \$1,202,988.97$

instrument for measuring fluency with a subject matter, a test is bound to be a better measure of actual knowledge than mere evidence of having attended a lecture or having viewed a videotaped program.

Furthermore, using continuing education as a proxy for continued competence is very likely to be economically wasteful. Those who have little difficulty staying up-to-date through their other activities are required to take unnecessary classes to satisfy competency requirements that they could easily demonstrate by taking a test. Those who do not learn much from continuing education classes will nonetheless be licensed to continue practice in spite of having skills that may be considered inadequate by the board. In the latter case, the expenditure on the class would be unproductive, plus it would facilitate the continued practice of someone lacking minimally acceptable competency.

No one should be under the impression that a continuing education requirement actually ensures that licensees under this board maintain continued competency. Many will do so without the requirement, and many will not do so in spite of the requirement.

### **Inactive Licensure**

The board proposes to establish inactive licensure status. From the proposed regulations, “A licensee who wishes to place his license in an inactive status may do so upon payment of the inactive renewal fee ... No person shall practice counseling in Virginia unless he holds a current active license.” Licensees in inactive status pay a lower annual fee than active licensees, \$55 rather than \$105, and are not required to participate in continuing competency activity. However, as the status name indicates, inactive licensees may not practice while their license is in inactive status. In order to reactivate an inactive license, the licensee must complete 20 continuing competency hours for each year the license has been inactive, not to exceed a maximum of 80 hours.

The inactive license may be attractive to some licensees who plan on not practicing for one or two years. The inactive licensee will save \$50 a year in fees<sup>13</sup> compared to the active licensee, and will have greater choice as to when to take continuing competency courses.

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<sup>13</sup> Calculation: \$105 (active fee) - \$55 (inactive fee) = \$50

Licensees who plan not to practice for three or more years will likely prefer to let their license lapse, rather than pay inactive license fees. In order to reactivate a lapsed license, the individual must complete continuing competency hours equal to the number of years the license has been inactive, not to exceed a maximum of 80 hours; this is identical to the requirement for reactivating an inactive license. The fee for reinstatement of a lapsed license is \$165. Three years of inactive licensure fees total \$165.<sup>14</sup> Given that the total fees paid are equal, and that inactive licensure fees are paid earlier than the reinstatement fee, most individuals who plan to not practice for three years would likely let their license lapse rather than choose inactive licensure. Individuals who plan not to practice for four or more years are even more likely to choose to let their license lapse rather than pay for inactive licensure since the total amount of the fees for inactive licensure will be greater than the lapsed license reactivation fee,<sup>15</sup> and payment of the fee occurs later than the payments for inactive licensure fees.

## **Businesses and Entities Affected**

The proposed amendments affect the 2,653 persons licensed as professional counselors, the 871 persons licensed as marriage and family therapists, the 139 persons licensed as substance abuse treatment practitioners, their patients, and employers and potential employers, their patients and potential patients, as well as colleges, professional associations and other entities that offer continuing competence courses.

## **Localities Particularly Affected**

The proposed regulations affect all Virginia localities.

## **Projected Impact on Employment**

The proposed amendments will likely increase demand for continuing competence courses. Consequently, there may be a small increase in employment for providers of these courses.

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<sup>14</sup> Calculation:  $\$55 \times 3 = \$165$

<sup>15</sup> Four years of inactive licensure:  $\$55 \times 4 = \$220$ ; five years of inactive licensure:  $\$55 \times 5 = \$275$ ; six years of inactive licensure:  $\$55 \times 6 = \$330$ , etc.

## **Effects on the Use and Value of Private Property**

The proposal to require 20 hours of continuing competence activity every year will increase demand for continuing competence courses. Consequently, the aggregate value of providers of these courses will increase.