Economic Impact Analysis
Virginia Department of Planning and Budget

18 VAC 90-40 – Regulations Governing Prescriptive Authority for Nurse Practitioners
Department of Health Professions
October 10, 2013

Summary of the Proposed Amendments to Regulation

Pursuant to Chapter 213 of the 2012 Acts of the Assembly, the Boards of Nursing and Medicine (Boards) propose to amend these Regulations Governing Prescriptive Authority for Nurse Practitioners so that they are consistent with the model of collaboration for patient care teams. Specifically, the Boards propose to:

1. Revise provisions relating to practice agreements to delete the requirement that they be submitted to the Boards for approval prior to their issuance or revision and to allow such agreements to be in electronic form,
2. Replace the number of nurse practitioners that each supervising physician may supervise (4) so that these regulations comport with Code changes that allow six nurse practitioners to work in collaboration and consultation with each patient care team physician,
3. Repeal 18 VAC 90-40-100 which has rules supervision of nurse practitioners and site visits as these rules are not consistent with the model of collaboration and consultation laid out in Chapter 213 and
4. Amend disclosure requirements to eliminate the requirement for nurse practitioners who have a Drug Enforcement Administration (DEA) number to also have a Board issued prescriptive authority number and also mandate that nurse practitioners disclose to patients on their first contact that they are being treated by a licensed nurse practitioner. The Boards also propose to change the requirement that patients also automatically receive the name and contact information of the nurse practitioner's supervising

physician to a requirement that such information (for the patient care team physician) be disclosed upon request of the patient.

Result of Analysis

Benefits likely outweigh costs for these proposed regulatory changes.

Estimated Economic Impact

Currently, these regulations require written practice agreement between nurse practitioners and supervising physicians to be submitted for approval by the Boards before they can be initially implemented and when they are revised. As the authorizing law does not require that practice agreements go through a board approval process, the Boards now propose to eliminate that step and instead only require affected nurse practitioners and patient care team physicians to develop, and maintain an electronic or written copy of, a practice agreement that includes information required by the Code of Virginia (Code) or these regulations. These changes will likely benefit patient care team physicians and nurse practitioners as it eliminates one of the steps they must currently complete before they can start cooperatively caring for patients under a practice agreement and it allows them to complete practice agreements electronically. No entity is likely to incur costs or harm from this change because practice agreements will still have to include all information required by Code or regulation.

Current regulations allow supervising physicians to supervise up to four nurse practitioners with prescriptive authority. These regulations also lay out rules for supervision that require supervising physicians, with some exceptions, to “regularly practice” in the same location as the nurse practitioners with prescriptive authority that he supervises. Revisions to the Code now allow patient care team physicians to supervise up to six nurse practitioners with prescriptive authority and set a model for collaboration and consultation of a patient care team that is inconsistent with current regulations. Specifically, Code revisions eliminated the requirement that physicians practice in the same location as the nurse practitioners with whom they collaborate. The Boards now propose to amend these regulations by updating the numbers of nurse practitioners that may be on a patient care team with a physician and repealing the section that sets rules for supervision and site visits (18 VAC 90-40-100). These changes will benefit physicians and nurse practitioners as they allow greater flexibility to arrange patient care teams to increase efficiency and increase the amount of care that can be offered to patients.

These changes will also provide a benefit by removing current inconsistencies between these regulations and the Code as revised.

Current regulations require all nurse practitioners with prescriptive authority to have a prescriptive authority number issued by the Boards. All nurse practitioners with prescriptive authority who prescribe any drugs but Schedule VI drugs must also have a DEA number. The Board proposes to eliminate the need to obtain a prescriptive authority number for those who already have a DEA number and only retain this requirement for nurse practitioners who solely prescribe Schedule VI drugs. This change will benefit affected nurse practitioners as it eliminates the need to obtain a prescriptive authority number that is duplicative in use to their DEA number and will also eliminate any confusion that might arise as to which number is supposed to be included on prescriptions.

Currently, nurse practitioners are required to disclose that they are nurse practitioners to patients and to also disclose the name and contact information for their supervising physician. Regulations do not, however, set a timeframe for this information to be disclosed. To make these regulations consisted with the Code as it was revised, the Boards proposes to require nurse practitioners to disclose that they are nurse practitioners on their first contact with patients. Nurse practitioners will also be required to give the name and contact information for the patient care team physician upon request of the patient. These changes will benefit all interested parties as they bring these regulations into conformity with the Code so that any possible confusion is eliminated.

Businesses and Entities Affected

The Department of Health Professions (DHP) reports these proposed regulatory changes will affect the 4,641 nurse practitioners with prescriptive authority for controlled substances.

Localities Particularly Affected

No localities will be particularly affected by these proposed regulatory changes.

Projected Impact on Employment

Code changes that increase the number of nurse practitioners that may work under practice agreements with any given physician may increase employment opportunities for nurse practitioners in the Commonwealth.

Effects on the Use and Value of Private Property

To the extent that these regulatory changes, and the Code revisions that drive them, increase business opportunities and profits for affected nurse practitioners and patient care team physicians, the value of their licenses will likely also increase.

Small Businesses: Costs and Other Effects

No affected small business is likely to incur costs on account of these proposed regulations.

Small Businesses: Alternative Method that Minimizes Adverse Impact

No affected small business is likely to incur costs on account of these proposed regulations.

Real Estate Development Costs

This regulatory action will likely have no effect on real estate development costs in the Commonwealth.

Legal Mandate

The Department of Planning and Budget (DPB) has analyzed the economic impact of this proposed regulation in accordance with Section 2.2-4007.H of the Administrative Process Act and Executive Order Number 14 (10). Section 2.2-4007.H 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. Further, if the proposed regulation has adverse effect on small businesses, Section 2.2-4007.H requires that such economic impact analyses include (i) an identification and estimate of the number of small businesses subject to the regulation; (ii) the projected reporting, recordkeeping, and other administrative costs required for small businesses to comply with the regulation, including the type of professional skills necessary for preparing required reports and other documents; (iii) a statement of the probable effect of the regulation on affected small businesses; and (iv) a description of any less intrusive or less costly alternative methods of achieving the purpose of the

regulation. The analysis presented above represents DPB's best estimate of these economic impacts.