

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18 VAC 90-20 – Regulations Governing the Practice of Nursing (being repealed)

18 VAC 90-19 – Regulations Governing the Practice of Nursing

18 VAC 90-27 – Regulations Governing Nursing Education Programs

Department of Health Professions

Town Hall Action/Stage: 4539/7519

August 25, 2016

Summary of the Proposed Amendments to Regulation

As the result of a general review, the Board of Nursing (Board) proposes to repeal its comprehensive nursing regulation and replace it with two new regulations. One of the replacement regulations will govern the practice of nursing and the other will govern nursing education programs. Although most of this proposed action will only divide up the current regulation and migrate it unchanged into the two new regulations, the Board also proposes several substantive changes to regulatory requirements.

Specifically, the Board proposes to remove references to Board approval of clinical nursing specialist education programs and to add the State Council of Higher Education for Virginia (SCHEV) as an entity that may approve nursing education programs. The Board also proposes to require educational institutions to list the total clinical hours obtained in their program on student transcripts instead of having to list the number of clinic hours obtained from each course in their program. Further the Board proposes to eliminate the requirement that entities which provide clinical experience opportunities for educational programs specify the number of nursing students allowed in each nursing unit in their written agreements with educational programs. Finally, the Board proposes to remove general language that refers to

passage of examinations and replace it with examination requirements that specifically reference the National Council Licensure Examination (NCLEX).

Result of Analysis

Benefits likely outweigh costs for all proposed changes.

Estimated Economic Impact

Currently, the Board has one comprehensive regulation that covers both nursing licensure and nursing education programs. In order to make the rules for nurses easier to search, the Board now proposes to repeal this regulation and promulgate two replacement regulations that will divide up the regulatory provisions into two parts. To the extent that this action migrates regulatory requirements unchanged to one of the new regulations, no regulated entity is likely to incur costs on account of that migration. Regulated entities, as well as other interested parties, are likely to benefit from this regulatory matter being split into shorter, easier to read regulations.

In addition to dividing regulatory provisions into two separate regulations, the Board proposes several changes to actual regulatory requirements. Current regulation references the Board's authority to approve educational programs for clinical nurse specialists. However, Chapter 83 of the 2016 Acts of the Assembly removed this authority. The Board now proposes to conform nursing regulations to this legislation by removing these regulatory references. This change will benefit regulated entities as it removes now obsolete language. No entity is likely to incur costs on account of this change.

Current regulation requires that institutions that wish to establish nursing education programs to be approved by the Virginia Department of Education. The Board proposes to add SCHEV as an entity that may also approve nursing education programs. No teaching institutions are likely to incur costs on account of this change. These institutions will likely benefit from the additional flexibility of having an additional entity that can approve programs.

Current regulation requires that entities that contract with nursing education programs¹ to provide clinical experience opportunities specify in their written agreements how many students will be allowed in each nursing unit. It also requires nursing education programs to keep student transcripts that include the number of clinical hours completed for each clinical course

¹ These entities can include any agencies or institutions that provide skilled nursing services, like hospitals and nursing homes, where students can complete required supervised clinical experience hours.

completed. Board staff reports that requiring written agreements to include the number of nursing students per nursing unit may discourage large hospitals with many nursing units from signing agreements with nursing education programs. Because of this, the Board now proposes to eliminate this requirement. The Board also proposes to modify transcript requirements so that nursing education programs will only have to keep records on the total number of clinical hours completed by any student because the Board does not need this information broken down by course. These changes will provide more flexibility to both nursing education programs and the clinical experience providers that contract with them.

Finally, current regulation references licensure examinations (in the plural) in several places. Board staff reports that the only examination that is acceptable for licensure in Virginia and other states is the National Council Licensure Examination (NCLEX). In order to eliminate any confusion that applicants might experience because of language that implies that there is more than one acceptable licensure exam, the Board proposes to replace this general language with specific references to the NCLEX. This change will benefit affected entities by clarifying what examination they need to pass in order to be licensed.

Businesses and Entities Affected

This proposed regulatory action will affect all nursing education programs and all applicants for nursing licensure. Board staff reports that there are 82 registered nursing (RN) and 61 licensed practical nursing (LPN) education programs in the Commonwealth and that the Board receives approximately 10,000 applications for RN and LPN licensure each year.

Localities Particularly Affected

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

Projected Impact on Employment

These proposed regulatory changes are unlikely to affect employment in the Commonwealth.

Effects on the Use and Value of Private Property

These proposed changes will likely not affect the use or value of private property in the Commonwealth.

Real Estate Development Costs

These proposed regulatory changes are unlikely to affect real estate development costs in the Commonwealth.

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

No small businesses are likely to incur any additional costs on account of these proposed changes.

Alternative Method that Minimizes Adverse Impact

No small businesses are likely to incur any additional costs on account of these proposed changes.

Adverse Impacts:

Businesses:

No businesses are likely to incur any additional costs on account of these proposed changes.

Localities:

Localities in the Commonwealth are unlikely to see any adverse impacts on account of these proposed regulatory changes.

Other Entities:

No other entities are likely to be adversely affected by these proposed changes.

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.