

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 -40 Regulations for Prescriptive Authority for Nurse Practitioners
Department of Health Professions
Town Hall Action/Stage: 4883 / 8020
September 27, 2017

Summary of the Proposed Amendments to Regulation

The Board of Nursing and the Board of Medicine (Boards) propose amendments to improve clarity.

Result of Analysis

The benefits likely exceed the costs for all proposed changes.

Estimated Economic Impact

Section 120 of the current regulation¹ states that “A nurse practitioner may dispense only those manufacturers' samples of drugs that are included in the written practice agreement as is on file with the board.” Practice agreement is defined² as:

a written or electronic agreement jointly developed by the patient care team physician and the nurse practitioner for the practice of the nurse practitioner that also describes the prescriptive authority of the nurse practitioner, if applicable. For a nurse practitioner licensed in the category of certified nurse midwife, the practice agreement is a statement jointly developed with the consulting physician.

Since the practice agreement may be written or electronic, the Boards propose to amend the sentence in Section 120 to reflect that.

¹ See <https://law.lis.virginia.gov/admincode/title18/agency90/chapter40/section120/>

² See <https://law.lis.virginia.gov/admincode/title18/agency90/chapter40/section10/>

Additionally, practice agreements are no longer kept on file by a board. The Regulations Governing the Licensure of Nurse Practitioners (18 VAC 90-30) state that “The practice agreement shall be maintained by the nurse practitioner and provided to the boards upon request.”³ Consequently, the Boards also propose to remove “as is on file with the board” from the sentence in Section 120.

Thus, the proposed new sentence in Section 120 is “A nurse practitioner may dispense only those manufacturers' samples of drugs that are included in the written or electronic practice agreement.” Since the proposed amendments do not alter rules or requirements, but may reduce the likelihood of confusion for readers of the regulation, there would likely be a net benefit.

Businesses and Entities Affected

The proposed amendments pertain to the 6,748 nurse practitioners⁴ licensed in the Commonwealth.

Localities Particularly Affected

The proposed amendments do not disproportionately affect particular localities.

Projected Impact on Employment

The proposed amendments do not significantly affect employment.

Effects on the Use and Value of Private Property

The proposed amendments do not affect the use and value of private property.

Real Estate Development Costs

The proposed amendments do not affect real estate development costs.

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.”

³ See <https://law.lis.virginia.gov/admincode/title18/agency90/chapter30/section120/> and <https://law.lis.virginia.gov/admincode/title18/agency90/chapter30/section123/>

⁴ Data source: Department of Health Professions

Costs and Other Effects

The proposed amendments do not significantly affect costs for small businesses.

Alternative Method that Minimizes Adverse Impact

The proposed amendments do not adversely affect small businesses.

Adverse Impacts:

Businesses:

The proposed amendments do not adversely affect businesses.

Localities:

The proposed amendments do not adversely affect localities.

Other Entities:

The proposed amendments do 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.