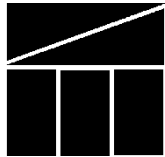


Adverse impact notification sent to Joint Commission on Administrative Rules, House Committee on Appropriations, and Senate Committee on Finance (COV § 2.2-4007.04.C): Yes¹ Not Needed

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 80-19 Regulations Governing the Practice of Nursing
Department of Health Professions
Town Hall Action/Stage: 5306 / 8765
November 14, 2019

Summary of the Proposed Amendments to Regulation

In response to a petition for rulemaking² and a recent case decision,³ the Board of Nursing (Board) proposes to revise the regulation to accept a retired certification, either a clinical nurse specialist (CNS) certification or a core certification, as the required certification for initial registration or renewal provided it has been maintained and is current. The Board also proposes to amend the rules for reinstatement of an expired CNS registration to be similar to the rules for reinstatement of a registered nurse (RN) license.

Background

The CNS registration may be issued to RNs who are able to provide advanced services according to the specialized training received from a program satisfactory to the Board. In February 2019, the Virginia Association of Clinical Nurse Specialists filed the petition for rulemaking and among other things requested that a retired certification be accepted. According to the Department of Health Professions (DHP), sometimes the issuing entity retires (or discontinues) a particular certification, but allows the existing certificate holders to maintain it.

¹ Adverse impact is indicated if there is any increase in net cost or reduction in net revenue for any entity, even if the benefits exceed the costs for all entities combined.

² <https://townhall.virginia.gov/l/viewpetition.cfm?petitionid=294>

³ The Agency Background Document, page 8.

The Board notes it was allowed by the Office of the Attorney General to interpret the current regulation to accept an applicant who had a retired certification, but was advised that the regulation needed to be revised to specify such acceptance. The Board now proposes to reflect this new policy in the regulation, and also proposes to amend the reinstatement of a registration to be similar to that of the reinstatement of an RN license.

Estimated Benefits and Costs

Currently, there are 418 certified nurse specialists registered in Virginia. According to DHP, the proposed amendments could qualify a few applicants who would otherwise not be registered to practice in the role of a CNS. An RN with the specialist certification would be expected to receive slightly higher compensation than one without it. Thus, the proposed amendments could improve earning potential of RNs with a retired (but current) qualifying certification. The condition that the retired certification has been maintained and is current should minimize the potential health and safety risks to patients receiving advanced nursing services.

Additionally, the Board proposes to revise the requirements for reinstatement of an expired CNS registration to mimic the rules for reinstatement of an expired RN license. Under the current language, reinstatement of a CNS registration requires evidence of continued competency and payment of both the reinstatement fee (\$125) and the renewal fee (\$80). The proposed changes effectively separate the reinstatement procedure into three separate categories: reinstatement within one renewal cycle, reinstatement after one renewal cycle, and reinstatement of a suspended or revoked license.

The reinstatement within one renewal cycle would require the same continued competency requirements and renewal fee, but would require a late fee (\$35) instead of the reinstatement fee (\$125). Thus, the applicants for reinstatement within one renewal cycle would pay \$90 less in fees. The fees for reinstatement after one renewal cycle would remain the same (a renewal fee and a reinstatement fee). The reinstatement of a suspended or revoked license would require a renewal fee plus a higher reinstatement fee (\$300). Thus, the applicants in the third category would face an additional \$175 fee burden. Applicants in both the second and third categories may also face additional burdens regarding submission of additional evidence of competency, depending on how the Board chooses to implement this requirement.

These potential effects would materialize only when an application is filed for reinstatement. However, DHP staff do not have any data on the number of reinstatements of a suspended or revoked registration cases.

Businesses and Other Entities Affected

The proposed amendments to the regulation are expected to affect only a few of the 418 CNSs, as well as perhaps a few RNs who may newly qualify as CNSs.

Localities⁴ Affected⁵

The proposed amendments should not affect any locality more than others. The proposed amendments do not introduce costs for localities.

Projected Impact on Employment

The proposed amendments should not significantly affect total employment, but may allow a few CNS with retired certifications to earn slightly more.

Effects on the Use and Value of Private Property

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

Adverse Effect on Small Businesses⁶:

The proposed amendments do not appear to adversely affect small businesses.

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 14 (as amended, July 16, 2018). 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(D): 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.

⁴ “Locality” can refer to either local governments or the locations in the Commonwealth where the activities relevant to the regulatory change are most likely to occur.

⁵ § 2.2-4007.04 defines “particularly affected” as bearing disproportionate material impact.

⁶ 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.”

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.