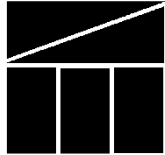


Adverse impact notification sent to Joint Commission on Administrative Rules, House Committee on Appropriations, and Senate Committee on Finance (COV § 2.2-4007.04.C): Yes  Not Needed

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

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**18 VAC 110-20 Regulations Governing the Practice of Pharmacy**  
**Department of Health Professions**  
**Town Hall Action/Stage: 4186 / 7515**  
June 24, 2016

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### **Summary of the Proposed Amendments to Regulation**

The Board of Pharmacy (Board) proposes to add to the list of unprofessional conduct for pharmacists and pharmacies the following acts: “Advertising or soliciting in a manner that may jeopardize the health, safety and welfare of a patient, including incentivizing or inducing the transfer of a prescription absent professional rationale by use of coupons, rebates, or similar offerings.”

### **Result of Analysis**

There is insufficient data to accurately compare the magnitude of the benefits versus the costs. Detailed analysis of the benefits and costs can be found in the next section.

### **Estimated Economic Impact**

#### *Background*

Pursuant to Virginia Code § 54.1-3316, the Board may revoke or suspend pharmacy permits or impose a monetary penalty when permit holders have engaged in unprofessional conduct. Thus the proposal to add inducements to transfer prescriptions by use of coupons, rebates, or similar offerings to the list of unprofessional conduct effectively bans the use of such incentives. According to the Department of Health Professions, only large chain drug stores have issued these inducements.

### *Benefits*

According to the Virginia Pharmacists Association, “Transfer coupons and other transfer incentives fragment the medication records of patients which leads to inaccuracies in the medication records and is detrimental to patient care.” Pharmacists are trained to understand and detect dangerous drug interactions. When individuals fill their prescriptions at multiple pharmacies,<sup>1</sup> the pharmacists at these pharmacies may not be aware of all the drugs being taken by the individual. This inhibits pharmacists’ ability to catch and prevent dangerous drug interactions. Some drug interactions can potentially cause severe health problems. Other interactions reduce the effectiveness of one or both drugs.

Even with the proposed ban on inducements to transfer prescriptions, people remain free to fill prescriptions at multiple pharmacies and to transfer prescriptions. The proposed ban on inducements to transfer prescriptions would though very likely significantly reduce the frequency of prescription transfers. This would in turn reduce the number of occurrences where pharmacists are unaware of all the prescriptions being taken by a patient. Thus, the ban would likely reduce the frequency that patients suffer from adverse drug interactions in Virginia. Information is unavailable to forecast the magnitude of the reduction in adverse drug interactions.

### *Costs*

Coupons, rebates and other incentives help consumers save money. Banning inducements to transfer prescriptions by use of coupons, rebates, or similar offerings increases the cost of prescriptions for people who would otherwise take advantage of such offerings.

It is indeterminate as to whether the large chain drug stores that offer the inducements are worse off or better off with the ban. Since they currently offer the inducements they presumably believe doing so maximizes their profits. Thus losing this marketing option may reduce net profits. On the other hand, the inducements reduce the ultimate price paid by the consumers utilizing the inducements. Banning the inducements can be seen as stopping competition between the drug stores and essentially enabling them all to charge a higher price.

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<sup>1</sup> Filling prescriptions at different locations of one drug store chain would presumably not leave the pharmacists unaware of all the prescriptions filled as they would have the same computerized information system.

### *Comparison*

People who are meticulous about their records and wish to save money through use of coupons and rebates are worse off with the proposed ban. Such individuals do not put themselves at increased risk of adverse drug interactions since they keep their multiple pharmacists fully informed of all of their prescriptions. So the ban produces no benefit for them. The ban does increase their costs of obtaining prescriptions since they would no longer be able save money through use the coupons, rebates, and other incentives.

People who do not keep their multiple pharmacists informed of all their prescriptions are likely better off with the ban. Such individuals put themselves at increased risk of negative health outcomes due to their inhibiting their multiple pharmacists' ability to catch and prevent dangerous drug interactions. Given the potential severity of the increased health risks, the benefits of the proposed ban for people who do not keep their multiple pharmacists informed of all their prescriptions likely exceed the cost of paying somewhat more for prescriptions.

### **Businesses and Entities Affected**

The proposed amendment potentially affects all pharmacies in the Commonwealth. According to the Department of Health Professions, only large chain drug stores have issued coupons, rebates, and other inducements to transfer prescriptions. Consumers who use inducements to transfer prescriptions are also affected.

### **Localities Particularly Affected**

The proposed amendment does not disproportionately affect particular localities.

### **Projected Impact on Employment**

The proposed amendment does not significantly affect employment.

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

The proposed amendment does affect how the large chain drug stores that have issued inducements to transfer prescriptions use their property. They will no longer be able to issue such inducements for their pharmacies. As discussed above, it is indeterminate as to whether this will be positive or negative toward their value.

### **Real Estate Development Costs**

The proposed amendment does 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.”

**Costs and Other Effects**

The proposed amendment does not directly affect small businesses.

**Alternative Method that Minimizes Adverse Impact**

The proposed amendment does not directly affect small businesses.

**Adverse Impacts:****Businesses:**

As discussed above, it is indeterminate as to whether the proposed amendment will be positive or negative for large drug stores.

**Localities:**

The proposed amendment will not likely adversely affect localities.

**Other Entities:**

As discussed above, the proposed amendment adversely affects people who are meticulous about their records and wish to save money through use of coupons and rebates.

**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.

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