



Virginia Department of Planning and Budget **Economic Impact Analysis**

18 VAC 112-20 Regulations Governing the Practice of Physical Therapy
Department of Health Professions
Town Hall Action/Stage: 6145 / 10263
May 3, 2024

The Department of Planning and Budget (DPB) 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 19. The analysis presented below represents DPB's best estimate of the potential economic impacts as of the date of this analysis.¹

Summary of the Proposed Amendments to Regulation

The Board of Physical Therapy (Board) proposes to 1) repeal the current requirement that applicants for licensure by endorsement provide evidence of completion of 15 hours of continuing education for each year in which the applicant held a license in another United States jurisdiction or Canada, or 60 hours obtained within the past four years, 2) remove the list of approved continuing education providers from the regulation, 3) eliminate specified recordkeeping requirements concerning advertising, and 4) repeal obsolete language.

Background

Licensure by Endorsement

Under both the current and proposed regulations, a physical therapist or physical therapist assistant who holds a current, unrestricted license in the United States, its territories, the District of Columbia, or Canada may apply for licensure in Virginia by endorsement. Under both regulations the applicant must: i) either meet specified education requirements or provide

¹ Code § 2.2-4007.04 requires that such economic impact analyses determine the public benefits and costs of the proposed amendments. Further the analysis 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.

evidence of clinical practice consisting of at least 2,500 hours of patient care during the five years immediately preceding the application while practicing with a current, unrestricted license issued by another United States jurisdiction or Canadian province; ii) pay the application fee (\$140 for a physical therapist and \$100 for a physical therapist assistant); iii) submit a criminal background check; iv) submit a current report from the National Practitioner Data Bank; and v) submit either documentation of the completion of at least 320 hours of active practice in physical therapy in another United States jurisdiction or Canada that occurred within the four years immediately preceding his or her application for licensure, or the successful completion of at least 320 hours in a traineeship.

Under the current regulation, the applicant must also provide evidence of completion of 15 hours of continuing education for each year in which the applicant held a license in another United States jurisdiction or Canada, or 60 hours obtained within the past four years. The Board proposes to repeal this requirement.

List of Approved Continuing Education Organizations

In order to renew an active license biennially, both the current and proposed regulations require that physical therapists and physical therapist assistants complete at least 30 contact hours of continuing learning activities within the two years immediately preceding renewal. A minimum of 20 contact hours (for physical therapists) and 15 contact hours (for physical therapist assistants) must be in an organized program of study, classroom experience, or similar educational experience that is directly related to the clinical practice of physical therapy and is approved or provided by an organization approved by the Board. The current regulation lists those organizations. The Board proposes to remove this list from the regulation, and instead maintain the list in a guidance document.

Recordkeeping for Advertisements

Under the current regulation, “Documentation, scientific and otherwise, supporting claims made in an advertisement shall be maintained and available for the board's review for at least two years.” Additionally, “For an advertisement for a practice in which there is more than one practitioner, the name of the practitioner responsible and accountable for the content of the advertisement shall be documented and maintained by the practice for at least two years.” The Board proposes to repeal these requirements.

Estimated Benefits and Costs

Licensure by Endorsement

According to the Department of Health Professions (DHP), applicants for licensure by endorsement who have met all other requirements, but had fewer than 15 hours of continuing education for each year in which he or she held their license in another United States jurisdiction or Canada, or 60 hours obtained within the past four years, have always completed the difference in hours to meet the Virginia requirement. It is possible that a small number of individuals decided not to apply upon seeing that they did not already meet all requirements. Considering that free courses are offered to members of organizations approved by the Board, including the American Physical Therapy Association,² it seems unlikely that there would be a substantial number of individuals so deterred from obtaining licensure by endorsement. Nevertheless, the proposal to eliminate this requirement may encourage a small number of individuals to apply for licensure by endorsement who might not otherwise have done so. Additionally, it would save time and possibly fees for those that do not initially fully meet the continuing education requirement, but would have applied anyway.

List of Approved Continuing Education Organizations

The list of approved continuing education organizations is available on the Board's website.³ Removing the list from the regulation and maintaining it in a guidance document is unlikely to substantively affect practitioners who seek to find out which organizations are approved since presumably most would look for the list on the Board's website.

Guidance documents can be revised much more quickly than regulations. If the Board determines that an additional organization is worthy of being approved for providing or approving continuing education courses, this proposal would enable practitioners to use courses from or approved by such an organization to satisfy continuing education requirements considerably sooner.

² See <https://learningcenter.apta.org/catalog>

³ See <https://www.dhp.virginia.gov/Boards/PhysicalTherapy/PractitionerResources/ContinuingEducation/>

Recordkeeping for Advertisements

According to DHP, the Board found no discernible reason to require licensees to maintain two years of documentation related to claims made in advertisements. If facing a disciplinary action by the Board for false, misleading, or deceptive advertising, the licensee would be responsible for providing evidence supporting the advertising claims, regardless of when the claims were made. Additionally, DHP indicates that maintaining records of the name of the practitioner responsible and accountable for the content of advertisements is also unnecessary. The Board would review factual evidence concerning the practitioners gathered as part of disciplinary matter. Removing the advertising recordkeeping requirements would provide a small savings for practitioners.

In practice, advertisement-related violations are rare. DHP believes there was one complaint concerning advertising in the past eight years, but it did not result in a disciplinary action.

Businesses and Other Entities Affected

The 9,523 physical therapists and 3,791 physical therapist assistants licensed in the Commonwealth⁴ would potentially be affected, as well as potential applicants for licensure by endorsement who have fewer than the current required hours of continuing education. By percentage, Virginia physical therapists work in the following sectors: 60 percent for-profit, 33 percent non-profit, four percent state or local government, one percent Veterans Health Administration, and one percent U.S. Military.^{5,6} By percentage, Virginia physical therapist assistants work in the following sectors: 71 percent for-profit, 23 percent non-profit, three percent state or local government, one percent Veterans Health Administration, and two percent U.S. Military.⁷

The Code of Virginia requires DPB to assess whether an adverse impact may result from the proposed regulation.⁸ An adverse impact is indicated if there is any increase in net cost or

⁴ Data source: DHP. See <https://www.dhp.virginia.gov/about/stats/2024Q2/04CurrentLicenseCountQ2FY2024.pdf>

⁵ Source: DHP. See <https://www.dhp.virginia.gov/media/dhpweb/docs/hwdc/pt/2305PT2022.pdf>

⁶ Due to rounding, the percentages do not add to 100.

⁷ Source: DHP. See <https://www.dhp.virginia.gov/media/dhpweb/docs/hwdc/pt/2306PTA2022.pdf>

⁸ 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

reduction in net benefit for any entity, even if the benefits exceed the costs for all entities combined.⁹ As there is no increase in net cost nor reduction in net benefit, an adverse impact is not indicated.

Small Businesses¹⁰ Affected:¹¹

The proposed amendments do not adversely affect small businesses.

Localities¹² Affected¹³

The proposed amendments neither disproportionately affect any particular locality, nor introduce costs for local governments.

Projected Impact on Employment

To the extent that there are physical therapists or physical therapist assistants who do not apply for licensure by endorsement in Virginia due to not meeting the continuing education requirement, repealing that requirement may have a very modest positive impact on employment.

Effects on the Use and Value of Private Property

The proposed elimination of the advertising recordkeeping requirements would provide a small cost savings for firms that provide physical therapy services and advertise. To the extent that there are physical therapists or physical therapist assistants who do not apply for licensure by endorsement in Virginia because they do not meet the continuing education requirement, repealing that requirement may very modestly increase the pool of potential applicants for firms

Commission on Administrative Rules, the House Committee on Appropriations, and the Senate Committee on Finance.

⁹ Statute does not define “adverse impact,” state whether only Virginia entities should be considered, nor indicate whether an adverse impact results from regulatory requirements mandated by legislation. As a result, DPB has adopted a definition of adverse impact that assesses changes in net costs and benefits for each affected Virginia entity that directly results from discretionary changes to the regulation.

¹⁰ 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.”

¹¹ 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.

¹² “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.

¹³ § 2.2-4007.04 defines “particularly affected” as bearing disproportionate material impact.

to choose from, potentially enabling the hiring of more or better practitioners. Thus, there may be a small increase in the value of some firms that provide physical therapy services. The proposed amendments do not affect real estate development costs.