



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

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**18 VAC 90-19 Regulations Governing the Practice of Nursing**  
**18 VAC 90-25 Regulations Governing Certified Nurse Aides**  
**18 VAC 90-27 Regulations Governing Nursing Education Programs**  
**18 VAC 90-30 Regulations Governing the Licensure of Advanced Practice Registered Nurses**  
**18 VAC 90-50 Regulations Governing the Licensure of Massage Therapists**  
**18 VAC 90-60 Regulations Governing the Registration of Medication Aides**  
**Department of Health Professions**  
**Town Hall Action/Stage: 6414 / 10416**  
October 9, 2024

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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.<sup>1</sup>

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

The Board of Nursing (Board) is proposing to amend six regulations to increase fees for its licensed professions in order to comply with Virginia Code § 54.1-113 B (the Callahan Act).<sup>2</sup>

### **Background**

The Callahan Act requires the Department of Health Professions (DHP) and its boards to revise fees in situations in which “expenses allocated to [the board] for the past biennium...[are]

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<sup>1</sup> 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.

<sup>2</sup> See <https://law.lis.virginia.gov/vacode/title54.1/chapter1/section54.1-113/>.

more than ten percent greater or less than moneys collected on behalf of the board.”<sup>3</sup> DHP reports that over the 2022-2024 biennium, the Board’s total expenditures were \$35,973,319 and total revenues were \$29,625,358. Since the expenses exceed the revenues by 21 percent, these numbers would appear to satisfy the requirements of the Callahan Act, suggesting that a fee increase is necessary. DHP also reports that the Board is not currently in a deficit, with a cash balance of \$2,480,785 at the end of FY 2024. However, the Board is projected to have a deficit of roughly \$2.5 million by the end of the current fiscal year and a deficit of roughly \$8 million by the close of FY 2026.<sup>4</sup>

DHP reports that the fees for this Board were last increased in 2011<sup>5</sup> and that there was also a one-time reduction in renewal fees in 2017.<sup>6</sup> DHP reports that since the last fee increase, the Board has experienced an increase in salaries (enacted by the General Assembly) as well as increases in infrastructure costs such as those attributed to technology and real estate. In addition, DHP reports that the number of licensees under this Board has increased by 44 percent over the last 20 years; as a result, the number of disciplinary cases and investigations, and the allocated costs from enforcement and administrative proceedings have also increased. Lastly, the federal government requires the Board to maintain the Certified Nurse Aide (CNA) registry but limits the fees that can be charged to CNAs.<sup>7</sup> DHP reports that the expenditures for the registry were over \$3 million in FY 2024.

To prevent the anticipated deficit, the Board proposes to increase fees for most categories of practitioners and programs by 65-70 percent. Incidental fees, such as those for late renewal or reinstatement, would be increased by a greater percentage than fees that are required for all licensees. Further, some licensees, such as Advanced Practice Registered Nurses (APRNs) would face a higher percentage fee increase to reflect their higher earning potential, whereas Licensed Massage Therapists (LMTs) would face a higher percentage fee increase because the profession generates a higher number of more complex disciplinary cases that take up more Board member

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<sup>3</sup> It should be noted that the Callahan Act does not specify whether “moneys collected on behalf of the board” refers only to the revenues in the immediately preceding biennium or if it also includes the cash balance from the biennium prior to that.

<sup>4</sup> See page 3 of the Agency Background Document (ABD)

[https://townhall.virginia.gov/L/GetFile.cfm?File=27\6414\10416\AgencyStatement\\_DHP\\_10416\\_v1.pdf](https://townhall.virginia.gov/L/GetFile.cfm?File=27\6414\10416\AgencyStatement_DHP_10416_v1.pdf).

<sup>5</sup> See <https://townhall.virginia.gov/L/ViewAction.cfm?actionid=3110>.

<sup>6</sup> See <https://townhall.virginia.gov/L/ViewAction.cfm?actionid=4772>.

<sup>7</sup> See <https://www.ecfr.gov/current/title-42/chapter-IV/subchapter-G/part-483/subpart-D/section-483.156>.

and staff time.<sup>8</sup> The Board does not propose to increase fees for Licensed Certified Midwives as they are a newly added license category and there are only six licensees as of June 2024. The proposed fee increases, which are listed in the following table, are expected to generate approximately \$10 million in additional revenue per year.

Lastly, the Board proposes to (i) add a new criminal background check administrative fee of \$25 in the nursing regulation (Chapter 19) and massage therapists regulation (Chapter 50), (ii) repeal a \$35 verification of license fee for nurses (Chapter 19) since licenses can now be verified online at no cost, and (iii) repeal a \$35 fee for a transcript of all or part of applicant/licensee records in the massage therapists regulation (chapter 50).

<b>FEE TYPE</b>	<b>CURRENT FEE</b>	<b>PROPOSED FEE</b>	<b>DOLLAR CHANGE</b>	<b>PERCENTAGE CHANGE</b>
<b><i>Nursing, 18 VAC 90-19</i></b>				
Registered Nurse (RN) licensure by exam	\$190	\$315	\$125	65.79 %
RN licensure by endorsement	\$190	\$315	\$125	65.79 %
Licensed Practical Nurse (LPN) licensure by exam	\$170	\$280	\$11	64.71 %
LPN licensure by endorsement	\$170	\$280	\$110	64.71 %
Reapply for licensure by exam	\$50	\$85	\$35	70.00 %
RN biennial renewal	\$140	\$230	\$90	64.29 %
RN biennial inactive renewal	\$70	\$115	\$45	64.29 %
LPN biennial renewal	\$120	\$200	\$80	66.67 %
LPN biennial inactive renewal	\$60	\$100	\$40	66.67 %
RN late renewal	\$50	\$115	\$65	130.00 %
RN late inactive renewal	\$25	\$60	\$35	140.00 %
LPN late renewal	\$40	\$90	\$50	125.00 %
LPN late inactive renewal	\$20	\$45	\$25	125.00 %
RN reinstate lapsed license	\$225	\$450	\$225	100.00 %
LPN reinstate lapsed license	\$200	\$400	\$200	100.00 %
Reinstate suspended/revoked	\$300	\$600	\$300	100.00 %
Duplicate license	\$15	\$30	\$15	100.00 %
Replacement wall certificate	\$25	\$50	\$25	100.00 %
Educational transcript	\$35	\$70	\$35	100.00 %
<b><i>Certified Nurse Aides, 18 VAC 90-16</i></b>				

<sup>8</sup> See pages 8-14 of the ABD for details regarding the rationale for fee increases for each chapter.

Annual renewal	\$30	\$35	\$5	16.67 %
Advanced CNA certification	\$25	\$30	\$5	20.00 %
Advanced CNA renewal	\$20	\$25	\$5	25.00 %
Reinstatement of Advanced CNA certification	\$30	\$35	\$5	16.67 %
<b><i>Nursing Education Programs, 18 VAC 90-27</i></b>				
Program approval	\$1,650	\$2,475	\$825	50.00 %
Survey visit	\$2,200	\$3,300	\$1,100	50.00 %
Site visit	\$1,500	\$2,250	\$750	50.00 %
<b><i>Advanced Practice Registered Nurses, 18 VAC 90-30</i></b>				
Application fee	\$125	\$250	\$125	100.00 %
Biennial renewal	\$80	\$130	\$50	62.50 %
Late renewal	\$25	\$100	\$75	300.00 %
Reinstatement	\$150	\$300	\$150	100.00 %
Duplicate license	\$15	\$30	\$15	100.00 %
Duplicate wall certificate	\$25	\$50	\$25	100.00 %
Reinstate suspended/revoked	\$200	\$400	\$200	100.00 %
Autonomous practice attestation	\$100	\$200	\$100	100.00 %
<b><i>Massage therapists, 18 VAC 90-50</i></b>				
Application/initial licensure	\$140	\$280	\$140	100.00 %
Biennial renewal	\$95	\$190	\$95	100.00 %
Late renewal	\$30	\$70	\$40	133.33 %
Reinstatement	\$150	\$300	\$150	100.00 %
Reinstate suspended/revoked	\$200	\$400	\$200	100.00 %
Duplicate license	\$15	\$30	\$15	100.00 %
Replacement wall certificate	\$25	\$50	\$25	100.00 %
<b><i>Medication Aides, 18 VAC 90-60</i></b>				
Program approval application	\$500	\$875	\$375	75.00 %
Registration application	\$50	\$80	\$30	60.00 %
Annual renewal	\$30	\$50	\$20	66.67 %
Late renewal	\$15	\$35	\$20	133.33 %
Reinstatement	\$90	\$180	\$90	100.00 %
Duplicate registration	\$15	\$30	\$15	100.00 %
Reinstate suspended/revoked	\$120	\$240	\$120	100.00 %

### **Estimated Benefits and Costs**

The proposed fee increases would increase costs for current and prospective nurses (RNs and LPNs), CNAs, APRNs, LMTs, medication aides, as well as nursing education programs and medication aide training programs. The increased fees would allow the Board to remain financially solvent and continue to provide oversight for these professions, including issuing

licenses, conducting inspections, investigating complaints, and implementing any disciplinary actions. This in turn would maintain public confidence in these professionals and protect public safety from unscrupulous actors.

### **Businesses and Other Entities Affected**

As mentioned previously, the proposed fee increases would increase costs for current and prospective nurses (RNs and LPNs), CNAs, APRNs, LMTs, medication aides, as well as nursing education programs and medication aide training programs. At the close of FY 2024, the Board reported having 27,063 LPNs and 122,291 RNs; 51,552 CNAs and 50 Advanced CNAs; 20,988 APRNs; 8,263 LMTs; 7,377 medication aides; 40 practical schools of nursing and 67 professional schools of nursing, and 215 medication aide training programs.<sup>9</sup>

The Code of Virginia requires DPB to assess whether an adverse impact may result from the proposed regulation.<sup>10</sup> An adverse impact is indicated if there is any increase in net cost or reduction in net benefit for any entity, even if the benefits exceed the costs for all entities combined.<sup>11</sup> Since the proposed amendments would increase costs, an adverse impact is indicated for the various nursing professionals and the training programs that would face higher fees.

### **Small Businesses<sup>12</sup> Affected:<sup>13</sup>**

#### Types and Estimated Number of Small Businesses Affected

Since the Board licenses individuals and not firms, no data on the number of affected small firms are available. Small businesses that employ RNs, LPNs, CNAs,

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<sup>9</sup> Source: DHP. See <https://www.dhp.virginia.gov/about/stats/2024Q4/04CurrentLicenseCountQ4FY2024.pdf>.

<sup>10</sup> 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.

<sup>11</sup> 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.

<sup>12</sup> 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.”

<sup>13</sup> 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

APRNs, or medication aides may be indirectly affected if they pay for their employees' license renewal fees. However, many of the LMTs may be self-employed/sole proprietors or employed by small businesses such as spas. Some nursing education and medication aide training programs may meet the definition of small businesses.

#### Costs and Other Effects

To the extent that small businesses pay for the practitioners' licensure fees, their costs would increase commensurately with the proposed increases. Small businesses that operate training programs would face higher costs due to the increase in training program fees.

#### Alternative Method that Minimizes Adverse Impact

There are no clear alternative methods that both reduce adverse impact and meet the intended policy goals.

#### **Localities<sup>14</sup> Affected<sup>15</sup>**

The proposed amendments do not appear to disproportionately affect any locality in particular or affect costs for local governments.

#### **Projected Impact on Employment**

The proposed amendments would not be expected to affect employment prospects or entry into the profession for RNs, LPNs, CNAs, APRNs, LMTs, or medication aides.

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

The proposed fee increases would increase costs for private nursing education programs and medication aide training programs. Potentially, this may result in a modest decrease in their value.

The proposed amendments do not affect real estate development costs.

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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.

<sup>14</sup> "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.

<sup>15</sup> § 2.2-4007.04 defines "particularly affected" as bearing disproportionate material impact.