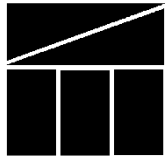


Adverse impact notification sent to Joint Commission on Administrative Rules, House Committee on Appropriations, and Senate Committee on Finance (COV § 2.2-4007.04.C): Yes  Not Needed

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

---

**12 VAC 35-12 Public Participation Guidelines**  
**Department of Behavioral Health and Developmental Services**  
**Town Hall Action/Stage: 4935/8088**  
December 19, 2017

---

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

The State Board of Behavioral Health and Developmental Services (Board) proposes to incorporate several legislative mandates related to public participation in rulemaking into its regulations.

### **Result of Analysis**

The benefits likely exceed the costs for all proposed changes.

### **Estimated Economic Impact**

One of the legislative mandates being incorporated into the regulation is Chapter 599 of the 2017 Acts of the Assembly.<sup>1</sup> Chapter 599 requires the Department of Behavioral Health and Developmental Services (DBHDS) to give direct notice to licensed providers 1) when a regulatory change relating to licensed providers is initiated, 2) when a final stage of such a regulatory change has been posted on Virginia Regulatory Town Hall (Town Hall), 3) and when a change to guidance documents related to licensure requirements is under consideration. The Chapter 599 also requires DBHDS to seek public comment for a period of 30 days on the proposed change to the guidance documents via the Town Hall.

---

<sup>1</sup> <http://lis.virginia.gov/cgi-bin/legp604.exe?171+ful+CHAP0599>

DBHDS estimates that there would be approximately 10 notices a year that would need to be sent to approximately 1,200 licensed providers. DBHDS plans to utilize email for the required direct notifications and encourage providers to sign up with the Town Hall which can be set up to provide such automatic notifications. The Town Hall can easily accommodate a 30-day comment forum for proposed changes to guidance documents. Since direct notices will be sent electronically and public comments will be solicited in an electronic platform, these changes do not impose significant costs on DBHDS other than the staff time needed to draft the emails and to create a public comment forum on the Town Hall.

Another mandate being incorporated is the Chapter 795 of the 2012 Acts of the Assembly which amended the Code of Virginia § 2.2-4007.02.<sup>2</sup> Chapter 795 added the requirement that interested persons “be afforded an opportunity to be accompanied by and represented by counsel or other representative” while formulating a regulation. This change is also not expected to create a significant economic impact.

Finally, the Board proposes to incorporate the requirement that a proposed regulatory change regarding substance abuse services be presented to the Substance Abuse Services Council pursuant to Chapter 716 of the 2005 Acts of the Assembly.<sup>3</sup> This change too is not expected to create a significant economic impact.

Even though no significant economic impact is expected from any of these proposed changes, the proposed changes are beneficial in that they will inform interested parties who read this regulation but not the statutes.

### **Businesses and Entities Affected**

There are approximately 1,200 providers licensed by the Board. One of the proposed changes affects only the Substance Abuse Services Council.

### **Localities Particularly Affected**

The proposed changes do not affect particular localities disproportionately.

### **Projected Impact on Employment**

No impact on employment is expected.

---

<sup>2</sup> <http://lis.virginia.gov/cgi-bin/legp604.exe?121+ful+CHAP0795>

<sup>3</sup> <http://lis.virginia.gov/cgi-bin/legp604.exe?051+ful+CHAP0716>

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

No impact on the use and value of private property is expected.

**Real Estate Development Costs**

No impact on real estate development costs is expected.

**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**

Most if not all of the providers are small providers. The proposed changes do not impose costs on them but will benefit them as explained above.

**Alternative Method that Minimizes Adverse Impact**

No adverse impact on small businesses is expected.

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

The proposed amendments do not have an adverse impact on non-small businesses.

**Localities:**

The proposed amendments will not adversely affect localities.

**Other Entities:**

The proposed amendments will 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.