



Economic Impact Analysis Virginia Department of Planning and Budget

22 VAC 40-80 – General Procedures and Information for Licensure **Department of Social Services** October 6, 2005

The Department of Planning and Budget (DPB) has analyzed the economic impact of this proposed regulation in accordance with Section 2.2-4007.H of the Administrative Process Act and Executive Order Number 21 (02). Section 2.2-4007.H requires that such economic impact analyses include, but need not be limited to, the projected number of businesses or other entities to whom the regulation would apply, the identity of any localities and types of businesses or other entities particularly affected, the projected number of persons and employment positions to be affected, the projected costs to affected businesses or entities to implement or comply with the regulation, and the impact on the use and value of private property. The analysis presented below represents DPB's best estimate of these economic impacts.

Summary of the Proposed Regulation

The State Board of Social Services (board) proposes to amend *General Procedures and Information for Licensure* in several ways:

- The proposed regulation would require licensees who plan on selling or closing down their assisted living facility to notify the Department of Social Services (department) of their plans and to return their license to the department once the facility closes or its sale is finalized. A licensee, in this context, is an individual or organization that has applied for and received permission to provide out-of-home care for children or adults.
- Licensees will be required to post certain disciplinary documents prominently and others both prominently and in specified locations.
- The proposed regulation also incorporates changes to Code of Virginia §63.2-1709. The department will be allowed to force licensees, in certain circumstances, to hire a

department approved administrator. The modified Code also sets limits for fines that the department may charge licensees who are out of compliance with regulatory requirements and allows the department to issue a summary order of license suspension when conditions in a care facility pose an imminent threat to the health or safety of clients.

Estimated Economic Impact

Current regulation directs that licenses will be issued to individuals or organizations and not to the facilities to be operated. Because of this, licenses are not transferable with the sale of a facility. There are no current provisions, however, that assure that a license will not be left in a facility that has been sold. The proposed regulation will require that an individual or organization license holder return that license once they will no longer be operating the referenced facility. This will allow the department to keep better track of which individuals and organizations in the Commonwealth hold licenses. This provision is likely to be beneficial to the citizens of the Virginia because it will give some assurance that facilities which appear to be run under a license actually are.

Current regulation requires that certain documents be posted prominently in facilities run by licensed individuals or organizations; the proposed regulation expands this list of documents and requires that some of the documents be displayed both prominently and at specific locations within the facility.

The proposed regulation establishes a new requirement to display any notices of the commissioner's intent to take disciplinary action and copies of any special orders issued by the department.

The proposed regulation also specifies placement of some department issued documents. Any provisional license, along with a list of the violations that led to the issuance of the provisional license, must be displayed prominently at each public entrance into a licensee's facility. The list of violations may be posted directly beside the provisional license or may be available for review on the facility's website or in some physical location within the facility. Either the list of violations or a notice of where to find the list of violations must be posted beside the provisional license. Final orders of summary suspension, notice of commissioner's intent to take disciplinary action and any special orders issued by the department must also be

posted at each public entrance into any licensee's facility. For licensee owned assisted living facilities only, any notice of commissioner's intent to revoke or deny renewal of license must be displayed at every public entrance into a licensee's facility.

Licensees will incur the minimal costs associated with making enough copies of the relevant notices so that there will be one displayed at each entrance. Clients of these facilities and their guardians will greatly benefit from knowing the exact status of the facilities that are providing care for them. Implementation of this provision is likely to be beneficial for the citizens of the Commonwealth.

Other changes which are encompassed in this proposed regulation implement legislative mandates in Code of Virginia §63.2-1709.

Businesses and Entities Affected

All individuals who are licensed to operate facilities that provide out-of-home care for children or adults will be affected by the proposed regulation. There are 610 licensed assisted living facilities, 73 adult daycares, 7 child caring institutions, 2,613 child day centers, 1,766 family day homes, 72 child placing agencies, 89 children's residential facilities, 1 family day system and 4 independent foster homes in the Commonwealth.

Localities Particularly Affected

The proposed regulation will affect all localities in the Commonwealth.

Projected Impact on Employment

The proposed regulation is likely to have little net effect on employment in the Commonwealth.

Effects on the Use and Value of Private Property

Licensees who are not complying with regulatory requirements will likely lose some revenue as more informed clients decide to move from facilities with problems to other facilities that are in compliance with regulatory requirements. Facilities that are in compliance will likely gain revenue. The net effect is likely to be negligible as long as the pool of clients in need of care remains the same.

Small Businesses: Costs and Other Effects

Most if not all of these licensee operated care facilities are small businesses. Licensees will incur the minimal costs associated with making enough copies of the relevant notices so that there will be one displayed at each entrance.

Small Businesses: Alternative Method that Minimizes Adverse Impact

The requirements of the proposed regulation are fairly minimal. No other alternate proposal is likely to have a more minimal impact.