

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

18 VAC 30-21 – Regulations Governing the Practice of Dentistry
18 VAC 60-25 – Regulations Governing the Practice of Dental Hygiene
Department of Health Professions
Town Hall Action/Stage: 4748/8057
November 8, 2017

Summary of the Proposed Amendments to Regulation

The Board of Dentistry (Board) proposes to amend its regulations governing dentistry and dental hygiene in response to changed and retitled American Dental Association's (ADA) guidelines for teaching sedation.¹ Specifically and substantively, the Board proposes to remove training and experience requirements for the Board's permit for enteral administration² only sedation as the ADA now recommends that all dentists who will be using conscious or moderate sedation be required to complete the training for moderate sedation.

Result of Analysis

There is insufficient information to ascertain whether benefits will outweigh costs for this proposed regulatory action.

Estimated Economic Impact

Current regulation allows dentists to apply for and receive either a permit for conscious/moderate sedation by any method or a permit for conscious/moderate sedation by

¹ Prior to October 2016, as referenced in the Board's Regulations Governing the Practice of Dentistry, guidelines for teaching sedation were titled *Guidelines for Teaching the Comprehensive Control of Anxiety and Pain in Dentistry*. The guidelines for teaching sedation approved by the ADA in October 2016 are titled *Guidelines for Teaching Pain Control and Sedation to Dentists and Dental Students*.

² "Enteral" is defined in these regulations as "any technique of administration in which the agent is absorbed through the gastrointestinal tract or the oral mucosa (i.e., oral, rectal, sublingual)."

enteral administration only. The permit requirements for conscious/moderate sedation by any method include 60 hours of didactic training. The permit requirements for conscious/moderate sedation by enteral administration only include 18 hours of didactic training. The Board's dentistry regulation also currently requires that the course content for any didactic training that will qualify dentists for permitting "be consistent with the ADA's Guidelines for Teaching the Comprehensive Control of Anxiety and Pain in Dentistry in effect at the time the training occurred." The Board now proposes to eliminate its permit of conscious/moderate sedation by enteral administration only and require all dentists seeking permits in the future to complete the training for moderate sedation by any method. The Board also proposes to update the title of the ADA's guidelines because the title of the ADA's guidance document was also changed. Board staff reports that the elimination of enteral administration only permits will not affect dentists who currently hold such permits but will affect future applicants.

Board staff reports that they are amending these regulations in response to changes in ADA guidelines for teaching sedation. The ADA state that they changed their guidelines to eliminate enteral administration only training because, "sedation and general anesthesia are a continuum, it is not always possible to predict how an individual patient will respond. Hence, practitioners intending to produce a given level of sedation should be able to diagnose and manage the physiologic consequences (rescue) for patients whose level of sedation becomes deeper than initially intended." Board staff reports that they do not have specific data that would indicate dentists with enteral administration only permits are inadequately trained to handle emergencies or deeper levels of sedation that may arise with individual patients. To the extent that enteral administration only training might be inadequate, patients would likely benefit from requiring more training. Any benefit that may arise would need to be weighed against the costs that will accrue to affected dentists.

Dentists who may wish to obtain an enteral administration only permit in Virginia going forward will have to, instead, incur fees and time costs for the longer training for moderate sedation permitting. Board staff reports that a weekend course (18 hours of training) that prepares a dentist for enteral administration only permitting costs \$2,800 plus travel and lodging; board staff did an internet search and found costs for 60-hour moderate sedation courses ranging between \$3,750 to \$14,495 (plus travel and lodging). Given these numbers, the cost of moderate sedation training will likely be \$950 to \$11,695 higher fee costs than enteral administration only

training. Additionally, using Bureau of Labor Statistics data³ for the mean hourly wage of general dentists in Virginia (\$85 per hour)⁴, affected dentists will likely incur \$3,570 in additional time costs for completing the additional 42 hours of training required for a moderate sedation permit.

Businesses and Entities Affected

This proposed regulation will affect all dentists who seek to obtain a moderate sedation permit in the future. This proposed regulation will not affect any dentists who obtained an enteral only permit in the past.

Localities Particularly Affected

No localities will be particularly affected by this proposed change.

Projected Impact on Employment

Increasing required hours of training for individuals who previously would have chosen to apply for an enteral administration only permit, but who will have to meet requirements for a moderate sedation permit instead, may increase employment for individuals who provide such training in the Commonwealth.

Effects on the Use and Value of Private Property

This proposed regulatory change is unlikely to affect the use or value of private property in the Commonwealth.

Real Estate Development Costs

These proposed regulatory changes are unlikely to affect real estate development costs in the Commonwealth.

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.”

³ https://www.bls.gov/oes/2016/may/oes_va.htm

⁴ This calculation assumes dentists will value their time what roughly their mean earnings for that time would be if they were working. Individuals may place a greater or lesser value on their own time.

Costs and Other Effects

Small businesses dentists who may wish to obtain an enteral administration only permit in Virginia going forward will have to, instead, incur fees and time costs for the longer training for moderate sedation permitting. Board staff reports that a weekend course (18 hours of training) that prepares a dentist for enteral administration only permitting costs \$2,800 plus travel and lodging; board staff did an internet search and found costs for 60-hour moderate sedation courses ranging between \$3,750 to \$14,495 (plus travel and lodging). Given these numbers, the cost of moderate sedation training will likely be \$950 to \$11,695 higher fee costs than enteral administration only training. Additionally, using Bureau of Labor Statistics data for the mean hourly wage of general dentists in Virginia (\$85 per hour), affected dentists will likely incur \$3,570 in additional time costs for completing the additional 42 hours of training required for a moderate sedation permit. As of first quarter 2016, there were 3,201 private dental practices in Virginia.⁵ All of these practices would qualify as small businesses.

Alternative Method that Minimizes Adverse Impact

In the absence of direct evidence that enteral administration only training does not adequately prepare dentists to respond to deepening levels of sedation that may occur when treating patients, small business dentists may benefit from being allowed enteral administration only permits with training requirements in current regulation.⁶

Adverse Impacts:

Businesses:

Dentists who may wish to obtain an enteral administration only permit in Virginia going forward will have to, instead, incur fees and time costs for the longer training for moderate sedation permitting. Board staff reports that a weekend course (18 hours of training) that prepares a dentist for enteral administration only permitting costs \$2,800 plus travel and lodging; board staff did an internet search and found costs for 60-hour moderate sedation courses ranging between \$3,750 to \$14,495 (plus travel and lodging). Given these numbers, the cost of moderate sedation training will likely be \$950 to \$11,695 higher fee costs than enteral administration only training. Additionally, using

⁵ Source: Virginia Employment Commission

⁶ The ADA's pre-2016 guidelines could likely serve as a guide for these training requirements.

Bureau of Labor Statistics data for the mean hourly wage of general dentists (\$85 per hour), affected dentists will likely incur \$3,570 in additional time costs for completing the additional 42 hours of training required for a moderate sedation permit.

Localities:

No locality is likely to suffer adverse impacts on account of this proposed regulatory change.

Other Entities:

No other entities are likely to suffer adverse impacts on account of this proposed regulatory change.

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.