



Economic Impact Analysis Virginia Department of Planning and Budget

18 VAC 85-20 – Regulations Governing the Practice of Medicine, Osteopathy, Chiropractic, and Podiatry; Department of Health Professions

August 4, 2002

The Department of Planning and Budget (DPB) has analyzed the economic impact of this proposed regulation in accordance with Section 2.2-4007.G of the Administrative Process Act and Executive Order Number 21 (02). Section 2.72-4007.G 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

In response to a petition for rule-making from the Medical Society of Virginia and in order to comply with §54.1-2912.1 of the *Code of Virginia*, the Board of Medicine has adopted a new section to its *Regulations Governing the Practice of Medicine, Osteopathy, Chiropractic, and Podiatry* that will set forth rules for the practice of office-based anesthesia. The proposed amendments to the regulation establish the applicability of the rules, qualifications of providers, protocols for anesthesia/procedure selection, requirements for informed consent, and procedures for monitoring, emergency transfers, and discharge.

Estimated Economic Impact

As insurers and physicians encourage more procedures to be performed in an office-based practice or surgi-center rather than a hospital, there has been a growing concern about the safety of patients in an unregulated environment. According to the Department of Health Professions, most doctors practice with an accepted standard of care, including utilizing licensed anesthesia providers, equipping their offices with essential rescue and monitoring equipment,

and carefully selecting the appropriate anesthesia and informing the patient in advance. However, there still exists the potential for serious complications resulting from lesser standards of care in out-patient settings. The proposed regulations are intended to provide a clear standard by which doctors are expected to practice and give patients a higher degree of safety when receiving office-based anesthesia.

Compliance costs will vary depending on the practitioner and the level of anesthesia administered in an office-based setting. The proposed regulations will have no effect on the vast majority of doctors who do not use anesthesia in their practice, administer anesthesia or supervise the administration of anesthesia only in a hospital, or only utilize minimal sedation, local or topical anesthesia or minor conductive blocks. For most practitioners covered by these regulations, there should be no additional cost. The Department of Health Professions reports that many outpatient surgery centers and physician practices are accredited or in the process of seeking accreditation by national credentialing agencies for outpatient surgery. Equipment and facility standards required for such accreditation are more stringent than those set forth in these regulations, so any doctor practicing in an accredited facility could comply with the proposed regulations with no additional expense. Some practitioners who utilize office-based moderate sedation, deep sedation or general anesthesia may have some added cost if their practices are not appropriately equipped. However, under existing laws and regulations, failure to appropriately provide and monitor anesthesia could be considered substandard care and subject the licensee to disciplinary action.

By providing additional guidance, the proposed regulations can be expected to benefit patients, who typically do not have sufficient knowledge to judge whether the doctor and the facility are appropriately equipped and trained and whether adequate care is being taken to prepare and monitor their recovery. Since the regulations do not apply to the more common and less risky forms of anesthesia or sedation, the Department of Health Professions anticipates no disadvantages to the public in terms of limiting access or increasing costs.

Businesses and Entities Affected

There are currently 28,283 doctors of medicine and surgery, 886 doctors of osteopathic medicine, and 494 doctors of podiatry licensed in Virginia.¹ The proposed changes to this regulation will affect only those practitioners who administer anesthesia in an office-based setting.

Localities Particularly Affected

The proposed changes to this regulation will not uniquely affect any particular localities.

Projected Impact on Employment

The proposed changes to this regulation are not likely to have any significant effects on employment in Virginia.

Effects on the Use and Value of Private Property

The proposed changes to this regulation are not likely to have any significant effects on the use and value of private property.

¹ Numbers provided by the Department of Health Professions.