

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 85-20 Regulations Governing the Practice of Medicine, Podiatry, and Chiropractic
Department of Health Professions
Town Hall Action/Stage: 4860/8174
March 13, 2018

Summary of the Proposed Amendments to Regulation

Pursuant to Chapter 390 of the 2017 Acts of Assembly¹, the Board of Medicine (Board) proposes to establish training requirements for the practice of laser hair removal and limit the practice to doctors, physician assistants, nurse practitioners, and other persons under the direction and supervision of a licensed doctor, a physician assistant, or a nurse practitioner.

Result of Analysis

There is insufficient data to accurately compare the magnitude of the benefits versus the costs. Detailed analysis of the benefits and costs can be found in the next section.

Estimated Economic Impact

At the request of a General Assembly member, the Department of Professional and Occupational Regulation (DPOR) and the Department of Health Professions (DHP) reviewed the issue of laser hair removal in 2016 and concluded that the lack of a comprehensive regulation over the use of laser technology for hair removal posed a risk of harm to the public's health, safety and welfare. Subsequently, 2017 House Bill 2119 was introduced, passed, and became law. The legislation specifically limits the practice of laser hair removal to trained doctors,

¹ <http://lis.virginia.gov/cgi-bin/legp604.exe?171+ful+CHAP0390>

physician assistants, nurse practitioners, and other trained individuals provided they operate under the supervision of a licensed doctor, a physician assistant, or a nurse practitioner.²

Under the proposed regulation, doctors, physician assistants, and other authorized individuals will have to obtain training in skin physiology and histology, skin type and appropriate patient selection, laser safety, operation of laser device or devices to be used, recognition of potential complications and response to any actual complication resulting from a laser hair removal treatment, and demonstrate hands on competence. Doctors and physician assistants practicing laser hair removal when this regulation becomes effective will be deemed to have met the training requirement.³ Individuals who are not doctors or physician assistants but practicing under the supervision of one are required to be trained, but it will be up to the supervisor to ensure that such training is completed.

The costs of training vary from provider to provider. For example, an online research reveals that a provider in Denver, Colorado offers training composed of 20 hours of online training followed by 40 hours of classroom and hands-on training over a span of six days at \$6,500, which includes a hotel room, lunches, books, classroom materials, and tuition.⁴ Another provider in Stafford, Virginia offers training composed of two days of at home training followed by a three-day on-site training at \$2,500, which includes books, classroom materials, and tuition, but does not include lodging and meals.⁵ The other major costs of training would include travel expenses and lost wages.

In addition to the training, the proposed regulation requires that the laser hair removal is performed by a doctor or a physician assistant or by a person who is supervised by one. Therefore, a practitioner who does not have such a qualification will have to enter into a supervision arrangement by a licensed doctor, a physician assistant, or a nurse practitioner. A nurse practitioner or physician assistant in turn is required to have a collaborative agreement or practice agreement with a physician under other existing regulations. The cost of securing supervision from a licensed doctor is not known, but will likely be significant. Individuals who

² Practice of laser hair removal by a nurse practitioner is regulated in a separate regulation, 18 VAC 90 ☐ 30.

³ Ibid.

⁴ <http://rockymountainlasercollege.com/laser-training/cost/>, accessed on February 8, 2018.

⁵ <http://www.nvlet.com/tuition/>, accessed on February 8, 2018.

are currently operating without supervision will have to cease practicing laser hair removal if they cannot secure a supervision arrangement with a licensed doctor.

According to DHP, the main aim of the proposed regulation is to “[provide] some assurance that a potentially harmful procedure can be performed without risk of injury to a patient and some accountability the performance of laser hair removal.” As mentioned above, DPOR and DHP reviewed the issue of laser hair removal in 2016 and concluded that the lack of a comprehensive regulation over the use of laser technology for hair removal posed a risk of harm to the public’s health, safety and welfare. Thus, to the extent the proposed regulation reduces those risks it will be beneficial. However, some businesses currently operating without supervision will have to cease practicing laser hair removal if they cannot secure a supervision arrangement.

Businesses and Entities Affected

The number of businesses practicing laser hair removal and the number of businesses with staff currently working without supervision in Virginia are not known. Similarly, there is no data on the number of laser hair removal customers in Virginia. There are 38,021 doctors of medicine, 3,362 doctors of osteopathic medicine, and 3,612 physician assistants licensed in Virginia.⁶

Localities Particularly Affected

The proposed regulation does not affect any particular locality more than others.

Projected Impact on Employment

If a business currently practicing laser hair removal cannot secure supervision arrangement with a doctor, physician assistant, or a nurse practitioner for its staff, it will have to cease operations. Thus, the proposed supervision agreement may have a negative impact on employment.

Effects on the Use and Value of Private Property

Securing supervision may introduce additional costs to some of the laser hair removal practices and reduce their asset values or may force some to cease their operations.

⁶ Data source: Department of Health Professions

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 of the businesses performing laser hair removal are likely to be small. The legislation and the proposed regulation introduce additional costs associated with securing a supervision arrangement. The additional cost in some cases may be significant enough to force closure.

Alternative Method that Minimizes Adverse Impact

The legislative mandate specifically requires training and supervision. Thus, there is no alternative method that minimizes the potential adverse impact on some small businesses while satisfying the law.

Adverse Impacts:

Businesses:

Larger laser hair removal businesses are more likely to have an existing supervision arrangement for their staff and the adverse impact identified above may not be implicated for them.

Localities:

The proposed regulation will not adversely affect localities.

Other Entities:

The proposed required supervision arrangement may introduce additional compliance costs on laser hair removal businesses. Higher compliance costs or closures could result in price increases and negatively affect consumers.

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.