



Virginia Department of Planning and Budget **Economic Impact Analysis**

18 VAC 85-15 Regulations Governing Delegation to an Agency Subordinate
Department of Health Professions
Town Hall Action/Stage: 6125 / 9844
July 6, 2023

The Department of Planning and Budget (DPB) 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 19. The analysis presented below represents DPB's best estimate of the potential economic impacts as of the date of this analysis.¹

Summary of the Proposed Amendments to Regulation

The Board of Medicine (Board) proposes to remove defaulting on an educational loan as a type of case for which it may delegate to an agency subordinate the authority to conduct an informal fact-finding proceeding.

Background

In accordance with § 54.1-2400 (10) of the Code of Virginia,² the Board may delegate an informal fact-finding proceeding to an agency subordinate upon determination that probable cause exists that a practitioner may be subject to a disciplinary action. The current regulation states that the following six types of cases may be delegated to an agency subordinate:

1. The practitioner profile system;
2. Continuing competency;
3. Advertising;

¹ Code § 2.2-4007.04 requires that such economic impact analyses determine the public benefits and costs of the proposed amendments. Further the analysis 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.

² See <https://law.lis.virginia.gov/vacode/54.1-2400/>

4. Compliance with board orders;
5. Default on a federal or state-guaranteed educational loan or on a work-conditional scholarship or grant for the cost of a health professional education; or
6. Failure to provide medical records.

The Board proposes to remove “5. Default on a federal or state-guaranteed educational loan or on a work-conditional scholarship or grant for the cost of a health professional education.” This change is in response to a 2022 periodic review³ and the provisions of Chapter 170 of the 2018 Acts of Assembly, which limited the ability of certain agencies to take action regarding a practitioner’s license solely on the basis of such a default.⁴ According to the Department of Health Professions (DHP), current agency staff (including those who have been there more than 20 years) are not aware of the Board having ever taken disciplinary action for loan default in practice.

Estimated Benefits and Costs

As alluded to above, the Board does not in practice discipline practitioners for defaulting on loans of any kind. Therefore, removing the provision on defaulting would have no impact in practice. It may be moderately beneficial in that readers of the regulation would not be misled into thinking that the Board did discipline practitioners for defaulting on loans.

Businesses and Other Entities Affected

The proposed amendment affects readers of the regulation and DHP staff. The Code of Virginia requires DPB to assess whether an adverse impact may result from the proposed regulation.⁵ An adverse impact is indicated if there is any increase in net cost or reduction in net revenue for any entity, even if the benefits exceed the costs for all entities combined. As the proposal does not increase cost or reduce revenue, no adverse impact is indicated.

³ See <https://townhall.virginia.gov/L/ViewPReview.cfm?PRid=2146>.

⁴ See <https://lis.virginia.gov/cgi-bin/legp604.exe?ses=181&typ=bil&val=ch170>.

⁵ Pursuant to Code § 2.2-4007.04(D): 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. Statute does not define “adverse impact,” state whether only Virginia entities should be considered, nor indicate whether an adverse impact results from regulatory requirements mandated by legislation.

Small Businesses⁶ Affected:⁷

The proposed amendment does not adversely affect small businesses.

Localities⁸ Affected⁹

The proposed amendment does not disproportionately affect any locality or affect costs for local governments.

Projected Impact on Employment

The proposed amendment does not affect employment.

Effects on the Use and Value of Private Property

The proposed amendment does not affect the use and value of private property or real estate development costs.

⁶ 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.”

⁷ 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.

⁸ “Locality” can refer to either local governments or the locations in the Commonwealth where the activities relevant to the regulatory change are most likely to occur.

⁹ § 2.2-4007.04 defines “particularly affected” as bearing disproportionate material impact.