



Economic Impact Analysis Virginia Department of Planning and Budget

18 VAC 105-20 – Regulations Governing the Practice of Optometry
Department of Health Professions
February 20, 2009

Summary of the Proposed Amendments to Regulation

The Board of Optometry (Board) proposes to make amendments to the regulations that include: (1) requiring that in order to maintain approval for continuing education courses, providers or sponsors provide a certificate of attendance that shows the date, location, presenter or lecturer, content hours of the course, and contact information of the provider/sponsor for verification, and maintain documentation about the course and attendance for at least three years following its completion, (2) requiring that requests for the extension or waiver for the fulfillment of continuing education hours must be received by the Continuing Education Committee prior to December 31 of each year, and 3) changing the requirement that optometrists who are certified in the use of therapeutic pharmaceutical agents have at least two hours of continuing education “directly related to the *prescribing and administration of such drugs*” to “directly related to the *treatment of the human eye and its adnexa with pharmaceutical agents,*”

Result of Analysis

The benefits likely exceed the costs for one or more proposed changes. There is insufficient data to accurately compare the magnitude of the benefits versus the costs for other changes.

Estimated Economic Impact

The proposed regulation includes language that requires providers or sponsors to do two things in order to maintain approval for continuing education courses. First, providers or sponsors must provide a certificate of attendance that shows the date, location, presenter or lecturer, content hours of the course, and contact information of the provider/sponsor for

verification. This certificate of attendance must be based on verification by the sponsor of the attendee's presence throughout the course, either provided by a post-test or by an independent monitor. Second, providers or sponsors must maintain documentation about the course and attendance for at least three years following its completion. This amendment is being proposed because by observation and experience with audits of continuing education, the Board is concerned that some sponsors do not provide a certificate of completion that gives sufficient information about the course, nor do they provide verification of attendance. These requirements will ensure that the certificate of attendance and all necessary information can be verified. The requirement that continuing education providers/sponsors maintain documentation about the course and attendance for at least three years following its completion came about because in conducting an audit of a licensee continuing education, it is often necessary to contact a sponsor or provider to request additional information about a course or about the licensee's attendance.

The cost of these amendments will most likely be born by the continuing education provider. Since most providers offer a certificate of completion—the Board's concern is that the certificates do not give sufficient information—this amendment should not impose prohibitively high costs. For those who do not currently provide certificates, it does not seem that the cost need exceed \$0.50 per participant, which is a cost that will probably be born either by the provider, or passed on to the participant. For those course providers who do not provide a post-test, the proposed amendment would require them to verify the attendee's presence in the course through an independent monitor. The cost of the monitor is difficult to ascertain since, according to the Department of Health Professions (Department), the cost of the monitor is likely to vary widely depending upon how different vendors work out staffing across the different kinds of venues. Some vendors might pay an independent monitor, while some may ask staff members to monitor as a part of their regular duties. The costs associated with the certificate and the three years of recordkeeping are likely to be outweighed by the benefits of being able to conduct an accurate audit of continuing education acquisition, especially since many providers and sponsors already provide certificates and maintain documentation. Many courses already provide post-tests and independent monitors and for those courses, the benefits of this amendment are likely to outweigh the costs. For those courses that, under this proposal, will have to provide an independent monitor for each course delivered, however, it is not clear if the benefits of this particular amendment will outweigh the costs.

The proposed regulation includes language that “A request for an extension or a waiver [for meeting continuing education requirements] shall be received prior to December 31 of each year.” This change is being proposed because the Board has had instances in which licensees realize that they are missing continuing education hours at the time of renewal and request an extension after the renewal date has passed. The license renewal period is January 1 to December 31, so this amendment ensures that the hours be completed, or an extension be granted, before the renewal deadline. This proposal should not impose any cost on licensees. Therefore, the benefit of this amendment outweighs the cost.

Under current regulation, for optometrists who are certified in the use of therapeutic pharmaceutical agents, at least two of the 16 required continuing education hours must be “directly related to the *prescribing and administration of such drugs*.” The Board proposes to amend “*prescribing and administration of such drugs*” to “*treatment of the human eye and its adnexa with pharmaceutical agents*.” The Board feels that the new language of “treatment of the human eye and its adnexa...” is more inclusive and descriptive of the types of courses related to patient care. The proposed language is more inclusive and remains directly relevant to patient care, this proposed amendment likely provides a net benefit.

Businesses and Entities Affected

There are 1444 optometrists¹ and 470 offices of optometrists² in Virginia who would be affected by these amendments. Of those optometrists, 1194 are TPA-certified (i.e., who are certified for treatment of diseases or abnormal conditions with therapeutic pharmaceutical agents) and therefore would be subject to all of the amendments. All 470 offices of optometrists qualify as small businesses.

Localities Particularly Affected

The proposals do not disproportionately affect specific localities.

Projected Impact on Employment

The proposed amendments are not anticipated to have any significant impact on employment.

¹ Source: Department of Health Professions

² Source: Virginia Employment Commission

Effects on the Use and Value of Private Property

The cost of providing an independent monitor could increase costs for certain course providers, thereby moderately decreasing the value of their business.

Small Businesses: Costs and Other Effects

The proposal to require continuing education course providers to provide either a post-test or an independent monitor will increase costs for those providers who do not already do so. The requirement is reasonable though, so as to ensure actual course attendance by the licensee claiming continuing education credits.

Small Businesses: Alternative Method that Minimizes Adverse Impact

No alternative methods would reduce cost while still achieving the desired policy goals.

Real Estate Development Costs

The proposed amendments do not create additional costs related to the development of real estate for commercial or residential purposes.

Legal Mandate

The Department of Planning and Budget (DPB) has analyzed the economic impact of this proposed regulation in accordance with Section 2.2-4007.04 of the Administrative Process Act and Executive Order Number 36 (06). Section 2.2-4007.04 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. Further, if the proposed regulation has adverse effect on small businesses, Section 2.2-4007.04 requires that such economic impact analyses include (i) an identification and estimate of the number of small businesses subject to the regulation; (ii) the projected reporting, recordkeeping, and other administrative costs required for small businesses to comply with the regulation, including the type of professional skills necessary for preparing required reports and other documents; (iii) a statement of the probable effect of the regulation on affected small businesses; and (iv) a description of any less intrusive or less costly alternative methods of achieving the purpose of the

regulation. The analysis presented above represents DPB's best estimate of these economic impacts.