



Economic Impact Analysis Virginia Department of Planning and Budget

18 VAC 105-20 – Regulations Governing the Practice of Optometry
Department of Health Professions
February 23, 2009

Summary of the Proposed Amendments to Regulation

The Board of Optometry (Board) proposes to several amendments to the regulations concerning standards of conduct. Most of the proposed changes are clarifications. Additionally the Board proposes to: 1) add language describing what types of relationships with clients constitutes grounds for disciplinary action and 2) to explicitly require that optometrists ensure their “access to the practice location during hours in which the practice is closed in order to be able to properly evaluate and treat a patient in an emergency.”

Result of Analysis

The benefits likely exceed the costs for one or more proposed changes.

Estimated Economic Impact

The current regulations do not address unprofessional relationships between optometrist and patient. The Board proposes to add the following to a list of standards of conduct for which practitioners may be subject to discipline for violating:

Not enter into a relationship with a patient that constitutes a professional boundary violation in which the practitioner uses his professional position to take advantage of the vulnerability of a patient or his family, to include but not limited to actions that result in personal gain at the expense of the patient, a nontherapeutic personal involvement or sexual conduct with a patient. The determination of when a person is a patient is made on a case-by-case basis with consideration given to the nature, extent, and context of the professional relationship between the practitioner and the person. The fact that a person is not actively receiving treatment or professional services from a practitioner is not determinative of this issue. The consent to, initiation of, or participation in sexual behavior or involvement with a

practitioner by a patient does not change the nature of the conduct nor negate the prohibition.

It does seem prudent to include not taking advantage of patients to the list of standards of conduct for the profession. The Board having the ability to deny, suspend or revoke the license to practice of optometrists who harm their patients would seem to be one of the primary arguments in favor of requiring licensure for the profession. Thus, this proposed new language should provide benefit for the public.

The Board proposes to require that optometrists ensure their “access to the practice location during hours in which the practice is closed in order to be able to properly evaluate and treat a patient in an emergency.” According to the Department of Health Professions, this proposed language is intended to address problems that have arisen when an optometrist practice is located in conjunction with a mall, big box store or other entity; the optometrist needs to ensure access to his records and practice location in case of a patient emergency after hours.

Having this language in the regulation may help optometrists to convince owners or managers of relevant malls, etc., that they do truly need access to their office through a key or other means in off hours. On the other hand, this requirement may effectively reduce potential office location possibilities, which in turn could raise costs for some optometrists who would have preferred to locate in such facilities. Given that there likely are some relatively infrequent instances where having access to records off hours can make a significant difference in health outcomes for a small number of patients, the cumulative benefit for these improved health outcomes likely exceed the cost of some instances where location choices are slightly reduced.

Businesses and Entities Affected

There are 1436 licensed optometrists¹ and 470 offices of optometrists² in Virginia who would be affected by these amendments. All 470 offices of optometrists qualify as small businesses.

Localities Particularly Affected

The proposals do not disproportionately affect specific localities.

¹ Source: Department of Health Professions

² Source: Virginia Employment Commission

Projected Impact on Employment

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

Effects on the Use and Value of Private Property

The proposal to require that optometrists ensure their “access to the practice location during hours in which the practice is closed in order to be able to properly evaluate and treat a patient in an emergency” may in a small number of incidences effectively reduce potential office location possibilities, which in turn could raise costs for some optometrists who would have preferred to locate in such facilities.

Small Businesses: Costs and Other Effects

The proposed amendments are unlikely to significantly affect costs for most small businesses. The proposal to require that optometrists ensure their “access to the practice location during hours in which the practice is closed in order to be able to properly evaluate and treat a patient in an emergency” may in a small number of incidences effectively reduce potential office location possibilities, which in turn could raise costs for some optometrists who would have preferred to locate in such facilities.

Small Businesses: Alternative Method that Minimizes Adverse Impact

There are no clear alternative methods that both achieve intended policy goals and reduce adverse impact.

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.