



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

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**18 VAC 110-20 – Regulations Governing the Practice of Pharmacy**  
**Department of Health Professions**  
April 17, 2009

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### **Summary of the Proposed Amendments to Regulation**

Pursuant to 2007 General Assembly House Bill 2649, the Board of Pharmacy (Board) proposes to add a new section to these regulations to establish the types of behavior that constitute unprofessional conduct. HB 2649 repealed the previous, narrowly-defined Code section relating to “unprofessional conduct” and replaced it with language that expanded Virginia Code § 54.1-3316 by stating that unprofessional conduct would include that which is “specified in regulations promulgated by the Board.”

### **Result of Analysis**

The benefits likely exceed the costs for all proposed changes.

### **Estimated Economic Impact**

The proposed regulation would specify the following as grounds for unprofessional conduct: 1) a violation of patient privacy or other provisions in the Health Records Act, 2) willful or negligent breaching of patient confidentiality, 3) failure to maintain the confidentiality of information received from the Prescription Monitoring Program, obtaining such information for reasons other than to assist in determining the validity of a prescription to be filled, or misusing information received from the program, 4) engaging in disruptive or abusive behavior that interferes with or adversely affects patient care, 5) engaging in conduct constituting a boundary violation that would include a situation in which the licensee is in a position to take advantage of a patient or his family, 6) failure to maintain adequate safeguards against the diversion of controlled substances, 7) failure to appropriately respond to a known dispensing error, 8) delegating a task to someone not adequately trained to perform that task, 9) failure by

the pharmacist in charge to ensure that pharmacy interns and pharmacy technicians are currently registered, and 10) failure to exercise professional judgment in determining whether a prescription meets the requirements of law prior to dispensing.

According to the Department of Health Professions (DHP), specifying the types of behavior that constitute unprofessional conduct will allow more explicit charges in a disciplinary notices, but will not cause a large increase in the number of disciplinary actions conducted since the Board currently manages to state the charges for such conduct under general provisions of the Code. In calendar year 2008 the Board received 301 disciplinary cases and closed 426. Out of the 426 cases closed by the Board of Pharmacy in calendar year 2008, 221 were closed as "no violation" or "undetermined". The rest were closed with some type of finding, or by confidential consent agreement. The Board estimates that specifying unprofessional conduct in regulation will in practice produce no more than a 4 or 5 additional cases annually.

Specifying what constitutes unprofessional conduct will be beneficial for pharmacy professionals and the public in that there will be less uncertainty and fewer misunderstandings concerning what conduct is subject to discipline. There are no obvious costs associated with the proposed specificity.

### **Businesses and Entities Affected**

The proposed amendments affect the 9964 pharmacists, 1396 pharmacy interns, 9502 pharmacy technicians, 1688 resident pharmacies, and 544 non-resident pharmacies regulated by the Virginia Board of Pharmacy.

### **Localities Particularly Affected**

The proposed amendments do not disproportionately affect particular localities.

### **Projected Impact on Employment**

The proposal amendments do not significantly affect employment.

### **Effects on the Use and Value of Private Property**

The proposed amendments do not significantly affect the use and value of private property.

## **Small Businesses: Costs and Other Effects**

The proposed amendments do not significantly affect small businesses.

## **Small Businesses: Alternative Method that Minimizes Adverse Impact**

The proposed amendments do not significantly affect small businesses.

## **Real Estate Development Costs**

The proposed amendments do not significantly affect real estate development costs.

## **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.