



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

18 VAC 110-30 Regulations for Practitioners of the Healing Arts to Sell Controlled Substances

Department of Health Professions

Town Hall Action/Stage: 6305 / 10104

March 27, 2024

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

Pursuant to Chapter 183 of the 2023 Acts of Assembly,² the Board of Pharmacy (Board) proposes to replace references to “nurse practitioner” with “advanced practice registered nurse.”

Background

This regulation applies to practitioners engaged in the sale of controlled substances, such as in an urgent care facility where the practice group has a pharmacy on-site. Chapter 183 changed all references in the Code of Virginia from “nurse practitioner” to “advanced practice registered nurse.” The summary of the legislative action states that the change was made in order to align the Code with the professional designations established by the Consensus Model for Advanced Practice Registered Nurses Regulation established by the National Council of State Boards of Nursing.³

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 <https://lis.virginia.gov/cgi-bin/legp604.exe?231+ful+CHAP0183>

³ <https://www.ncsbn.org/nursing-regulation/practice/aprn/aprn-consensus.page>

According to the Department of Health Professions (DHP), the main regulation (i.e., 18 VAC 90-30) that governs these professionals was amended on November 8, 2023 through an exempt action to reflect the profession name change in the Code.⁴ However, this regulation also contains references to nurse practitioners who are engaged in the sale of controlled substances and is not yet updated. The Board now proposes to align this particular regulation with the Code language as well.

Estimated Benefits and Costs

The proposal would update the regulatory text so that the references to advanced practice registered nurses is consistent with the Code as well as with other regulations. This change would help clarify the existing text and benefit the readers. No other economic effects are expected.

Businesses and Other Entities Affected

This regulation applies to practitioners engaged in the sale of controlled substances, such as in an urgent care facility where the practice group has a pharmacy on-site. DHP believes that there are probably less than 100 such advanced practice registered nurses in Virginia. None of the affected practitioners would be disproportionately affected.

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 benefit for any entity, even if the benefits exceed the costs for all entities combined.⁶ As noted above, the proposal would simply improve the clarity of the regulatory text by using the job title for the advanced practice registered nurses that is consistent with the Code and other regulations. Thus, no adverse impact is indicated.

⁴ <https://townhall.virginia.gov/L/ViewStage.cfm?stageid=10000>

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.

⁶ 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. As a result, DPB has adopted a definition of adverse impact that assesses changes in net costs and benefits for each affected Virginia entity that directly results from discretionary changes to the regulation.

Small Businesses⁷ Affected:⁸

The proposed amendments do not adversely affect small businesses.

Localities⁹ Affected¹⁰

The proposed amendments do not introduce costs for localities.

Projected Impact on Employment

No impact on employment is expected.

Effects on the Use and Value of Private Property

No impact on the use and value of private property nor on real estate costs is expected.

⁷ 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.”

⁸ 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.

⁹ “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.

¹⁰ § 2.2-4007.04 defines “particularly affected” as bearing disproportionate material impact.