

Adverse impact notification sent to Joint Commission on Administrative Rules, House Committee on Appropriations, and Senate Committee on Finance (COV § 2.2-4007.04.C): Yes Not Needed

If/when this economic impact analysis (EIA) is published in the *Virginia Register of Regulations*, notification will be sent to each member of the General Assembly (COV § 2.2-4007.04.B).



Virginia Department of Planning and Budget Economic Impact Analysis

12 VAC 5-371 Regulations for the Licensure of Nursing Facilities

Department of Health

Town Hall Action/Stage: 4089/7336

January 8, 2016

Summary of the Proposed Amendments to Regulation

The State Board of Health (Board) proposes to specify that nursing facilities be designed and constructed consistent with the 2014 *Guidelines for Residential Health, Care, and Support Facilities* of the Facility Guidelines Institute. Additionally, the Board proposes to amend other language for improved clarity.

Result of Analysis

The benefits likely exceed the costs for all proposed changes.

Estimated Economic Impact

Section § 32.1-127.001 of the Code of Virginia states that the Board shall promulgate regulations for the licensure of nursing homes that include minimum standards for design and construction that are consistent with the current edition of the *Guidelines for Design and Construction of Hospital and Health Care Facilities* issued by the American Institute of Architects Academy of Architecture for Health. The American Institute of Architects Academy of Architecture for Health has become the Facility Guidelines Institute (FGI). Consequently the Board proposes to amend this regulation to specify that construction be consistent with the 2014

Guidelines for Residential Health, Care, and Support Facilities of the Facility Guidelines Institute.¹ The current regulation references the 2010 *Guidelines*.

The Facility Guidelines Institute published a study² that estimates the change in costs of applying the 2014 *Guidelines* rather than the 2010 *Guidelines* for hospitals and outpatient facilities. The study breaks up hospitals and outpatient facilities into five facility types, and lists the estimated percentage cost changes for each. Licensed Virginia architects³ have determined that the changes affecting nursing facilities are most comparable to the category for rehab hospitals as they both are similar in nature of design. The study estimates a net change of approximately zero for the rehab hospital facility type. Some of the proposed changes moderately add to cost, while others moderately reduce cost. Consequently, the best available estimate for the net cost impact of requiring that new nursing facilities be designed and constructed consistent with the 2014 *Guidelines* rather than the 2010 *Guidelines* would be zero. The Board and the architects and engineers associated with the Facility Guidelines Institute believe that adopting the 2014 edition will increase patient and staff health and safety. Thus, the proposal to specify that renovation or construction of hospitals be consistent with the 2014 *Guidelines* will likely produce a net benefit.

Businesses and Entities Affected

There are 266 licensed nursing facilities in operation in the Commonwealth. However, the proposal to amend this regulation to specify that the design and construction of nursing facilities be consistent with the 2014 *Guidelines* would only apply to facilities built after this proposed amendment is put into effect.

Localities Particularly Affected

The proposed amendments do not disproportionately affect particular localities.

Projected Impact on Employment

The proposed amendments are unlikely to significantly affect employment.

¹ The 2014 *Guidelines for Residential Health, Care, and Support Facilities* is the current edition.

² Gormley T, Garland J, Jones W. "Estimated Cost of Applying the 2014 vs. the 2010 FGI Guidelines for Design and Construction Requirements to Hospitals and Outpatient Facilities."

³ The Department of Planning and Budget contacted licensed architects for their expert opinion.

Effects on the Use and Value of Private Property

The proposed amendments are unlikely to significantly affect the use and value of private property.

Real Estate Development Costs

Depending on the specific attributes of the project, the proposed adoption of the 2014 *Guidelines* may increase or decrease total real estate development costs. In any case, the change is not likely to be large.

Small Businesses:

Definition

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.”

Costs and Other Effects

Depending on the specific attributes of the project, the proposed adoption of the 2014 *Guidelines* may increase or decrease the cost of nursing facility construction. In net, the proposed amendments are unlikely to significantly increase costs for small businesses.

Alternative Method that Minimizes Adverse Impact

The proposed amendments are unlikely to significantly adversely affect small businesses.

Adverse Impacts:

Businesses:

The proposed amendments are unlikely to significantly adversely affect businesses.

Localities:

The proposed amendments are unlikely to significantly adversely affect localities.

Other Entities:

The proposed amendments are unlikely to significantly adversely affect other entities.

Legal Mandates

General: The Department of Planning and Budget 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 Number 17 (2014). Code § 2.2-4007.04 requires that such economic impact analyses determine the public benefits and costs of the proposed amendments. Further the report 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.

Adverse impacts: Pursuant to Code § 2.2-4007.04(C): 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 within the 45-day period.

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.

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