



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

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**12 VAC 5-67 Advance Health Care Directive Registry**  
**Department of Health**  
November 7, 2014

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

From § 54.1-2983 of the Code of Virginia, “Any adult capable of making an informed decision may, at any time, make a written advance directive to address any or all forms of health care in the event the declarant is later determined to be incapable of making an informed decision.” Documents that may be submitted to the Advance Health Care Directive Registry (Registry) include: 1) a health care power of attorney, and 2) an advance directive.

The Board of Health (Board) proposes to amend this regulation to: 1) remove restrictive language that would prevent physicians who have patients that are incapable of communication from searching the Registry to determine whether their patient has submitted an advance directive to the Registry, and 2) insert clarifying language stating that physicians have the authority to query the Registry for directive information of patients incapable of communication.

Chapter 715 of the 2014 Acts of Assembly amended the Code of Virginia provisions relating to the Registry by newly allowing a legal representative or designee of the person executing the document to submit the document for filing. The Board also proposes to update this regulation to reflect that change by adding the exact statutory language allowing an authorized representative to submit documents to the Registry.

### **Result of Analysis**

The benefits likely exceed the costs for all proposed changes.

### **Estimated Economic Impact**

The proposal to amend regulatory language to make clear that physicians may search the Registry to see if patients who are currently incapable of communication had previously made

their wishes clear through an advance directive will be beneficial in that it will increase the likelihood that patients will have their healthcare preferences followed. There is no cost associated with the proposed amendment.

Once Chapter 715 of the 2014 Acts of Assembly was enacted, authorized representatives could submit relevant documents to the Registry. Adding this language to the regulation does not change the law, but reduces the likelihood that someone who only reads the regulation is unaware of this provision. Thus this proposed amendment also is beneficial with no associated cost.

### **Businesses and Entities Affected**

The proposed amendments affect the approximate 34,000 licensed physicians in the Commonwealth and 2,505 individuals who have submitted to the Registry.<sup>1</sup>

### **Localities Particularly Affected**

The proposed amendments do not disproportionately affect particular localities.

### **Projected Impact on Employment**

The proposed amendments will not significantly affect employment.

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

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

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

The proposed amendments will not significantly affect costs for small businesses.

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

The proposed amendments will not adversely affect small businesses.

### **Real Estate Development Costs**

The proposed amendments will not affect real estate development costs.

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<sup>1</sup> Data source: Virginia Department of Health

## Legal Mandate

**General:** 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 and Executive Order Number 17 (2014). Section 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:

- the projected number of businesses or other entities to whom the proposed regulatory action 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.

**Small Businesses:** If the proposed regulatory action will have an adverse effect on small businesses, § 2.2-4007.04 requires that such economic impact analyses include:

- an identification and estimate of the number of small businesses subject to the proposed regulation,
- 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,
- a statement of the probable effect of the proposed regulation on affected small businesses, and
- a description of any less intrusive or less costly alternative methods of achieving the purpose of the proposed regulation.

Additionally, pursuant to § 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 (JCAR) is notified at the time the proposed regulation is submitted to the *Virginia Register of Regulations* for publication. This analysis shall represent DPB's best estimate for the purposes of public review and comment on the proposed regulation.

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