



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

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**12 VAC 5-403 Certification of Doulas**  
**Virginia Department of Health**  
**Town Hall Action/Stage: 5574/9209**  
April 1, 2021

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

Pursuant to Chapter 724 of the 2020 Acts of Assembly, the State Board of Health (Board) seeks to promulgate a new regulation to establish the certification process and related standards for “state-certified doulas.” Doulas are “nonmedical professionals who provide critical physical, emotional, and informational support to pregnant women during pregnancy, delivery, and the postpartum period.”<sup>1</sup> The proposed regulation aims to establish the minimum requirements to be considered a “state-certified doula” in Virginia, which are based on standards used by national organizations as well as community-based organizations in Virginia. The proposed new regulation also outlines the minimum standards required of the Board-approved entity that would be responsible for confirming state-certified doulas, approving the training and education to meet doula certification requirements, and maintaining a registry of state-certified doulas available to the general public.

### **Background**

Based on data collected between 2004 and 2013, the Virginia Department of Health (VDH) reports that the maternal mortality rate for African-American women is over two times as high as White women.<sup>2</sup> This finding has led to increased efforts among policymakers to combat the racial and ethnic disparities in maternal mortality rates in the state.<sup>3</sup> These efforts are backed

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<sup>1</sup> Agency Background Document (page 1)

[https://townhall.virginia.gov/L/GetFile.cfm?File=58\5574\9209\AgencyStatement\\_VDH\\_9209\\_v1.pdf](https://townhall.virginia.gov/L/GetFile.cfm?File=58\5574\9209\AgencyStatement_VDH_9209_v1.pdf)

<sup>2</sup> See [https://www.vdh.virginia.gov/content/uploads/sites/18/2016/04/PAMSS-Ten-Year-Trends-Report-2004-2013\\_final.pdf](https://www.vdh.virginia.gov/content/uploads/sites/18/2016/04/PAMSS-Ten-Year-Trends-Report-2004-2013_final.pdf)

<sup>3</sup> See <https://www.governor.virginia.gov/newsroom/all-releases/2019/june/headline-840941-en.html>

by a growing body of medical research spanning the last three decades, which has informed advocacy efforts by organizations like the March of Dimes.<sup>4</sup> For example, a 1991 randomized controlled trial found that continuous emotional support during labor significantly reduced the rate of caesarean section deliveries and forceps deliveries. The authors found similar patterns for duration of labor, prolonged infant hospitalization, and maternal fever, and concluded by calling for a review of current obstetrics practices.<sup>5</sup> More recent research has explored a wider range of pregnancy and birth outcomes,<sup>6</sup> focused on racial/ethnic disparities in obstetric outcomes,<sup>7</sup> and specifically analyzed the effects of continuous labor support specifically among Medicaid recipients,<sup>8</sup> as well as the cost-effectiveness of doing so.<sup>9</sup>

Pursuant to these research findings and public advocacy efforts, Chapter 724 of the 2020 Acts of Assembly sought to formalize the doula workforce in Virginia by directing the Board to implement a certification process and develop a registry of state-certified doulas. Specifically, Chapter 724 added a new section, § 32.1-77.1. *State-certified doulas; certification* to the Code of Virginia (Code) in which a “state-certified doula” was defined as “a trained, community-based nonmedical professional who provides continuous physical, emotional, and informational support to a pregnant person during the antepartum or intrapartum period or during the period up to one year postpartum and who has been certified by a body approved by the Board for such purpose in accordance with the provisions of this section.”

The Code directs the Board to set forth (i) the requirements for the use of the title of “state-certified doula,” and (ii) the training and education necessary to satisfy these requirements.

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<sup>4</sup> The March of Dimes’ July 2018 position statement, Statement on Doulas and Birth Outcomes, outlines evidence and guidance in support of doula care. Specifically, See <https://www.marchofdimes.org/materials/Doulas%20and%20birth%20outcomes%20position%20statement%20final%20January%2030%20PM.pdf>

<sup>5</sup> Kennell J, Klaus M, McGrath S, Robertson S, Hinkley C. Continuous emotional support during labor in a US hospital. A randomized controlled trial. JAMA 1991 May 1;265(17):2197-201. <https://pubmed.ncbi.nlm.nih.gov/2013951/>.

<sup>6</sup> Bohren MA, Hofmeyr GJ, Sakala C, Fukuzawa RK, Cuthbert A. Continuous support for women during childbirth. Cochrane Database Syst Rev. 2017 Jul 6;7(7):CD003766. <https://pubmed.ncbi.nlm.nih.gov/28681500/>

<sup>7</sup> Bryant AS, Worjloh A, Caughey AB, Washington AE. Racial/ethnic disparities in obstetric outcomes and care: prevalence and determinants. Am J Obstet Gynecol. 2010 Apr;202(4):335-43. <https://pubmed.ncbi.nlm.nih.gov/20060513/>.

<sup>8</sup> Kozhimannil KB, Hardeman RR, Attanasio LB, Blauer-Peterson C, O'Brien M. Doula care, birth outcomes, and costs among Medicaid beneficiaries. Am J Public Health. 2013 Apr;103(4):e113-21. <https://pubmed.ncbi.nlm.nih.gov/23409910/>.

<sup>9</sup> Kozhimannil KB, Hardeman RR, Alarid-Escudero F, Vogelsang CA, Blauer-Peterson C, Howell EA. Modeling the Cost-Effectiveness of Doula Care Associated with Reductions in Preterm Birth and Cesarean Delivery. Birth. 2016 Mar;43(1):20-7. <https://pubmed.ncbi.nlm.nih.gov/26762249/>.

The Code also authorizes the Board to approve a certifying body that would (i) certify doulas in accordance with the Board's requirements, and (ii) approve entities to provide the required training and education. The Code also specifies that "a person who is certified by a national credentialing organization that is approved by the body approved by the Board [the certifying body] for such purpose," but who did not receive training or education from an entity approved by the body, shall be eligible for state certification.

In addition, the Code also requires VDH to create and maintain a publicly-accessible registry of state-certified doulas, as well as a list of entities that have been approved by the certifying body to provide training and education to doulas. Lastly, the Code does not prohibit doulas who are not state-certified from practicing in Virginia; they would only be prohibited from using the title "state-certified doula" and would not be included in VDH's registry.

The content of the regulation as proposed largely conforms to the stipulations put forth in the Code. Sections of the proposed regulation are summarized below:

- Section 10 (Definitions) defines "state-certified doula" identical to the Code and adds definitions for terms contained in that definition, including "doula" and "community-based doula," "antepartum," "intrapartum," and "postpartum," "certifying body" and "training entity."
- Section 20 (State-certified Doula) specifies that any person seeking to be a state-certified doula under this chapter shall be a community-based doula and meet the educational qualifications and hold a certification from the certifying body.
- Section 30 (Qualifications) specifies that persons seeking to be a state-certified doula shall complete 60 hours of training provided by one or more entities approved by the certifying body, unless that person had already obtained an initial level of certification within three years prior to this regulation going into effect. In that case, the individual would have to submit evidence of completed coursework and certification to the certifying body and provide proof of completion of any unmet training requirements within one year of application.

- Section 40 (Minimum standards for certifying bodies) lays out the criteria for the selection of a certifying body,<sup>10</sup> the duties of the certifying body (including maintaining the registry and submitting an annual report to the Board) and the requirements to be enforced by the certifying body (namely, that certificate holders adhere to a code of ethics and complete 60 hours of training.)
- Section 50 (Curriculum requirements) reiterates that persons seeking to be a state-certified doula shall complete a doula training and education program that has been approved by the certifying body, and that the certifying body shall approve the minimum requirements laid out by the Board.<sup>11</sup> The minimum curriculum requirements are included in a separate document incorporated by reference (DIBR).<sup>12</sup>
- Section 60 requires all state-certified doulas to undergo a minimum of 15 hours of continuing education every two years from the date of certification, in areas outlined in the curriculum presented in the DIBR.
- Section 70 mirrors the Code in reiterating that this regulation does not require a doula to be certified by a certifying body approved by the Board in order to practice as a doula in Virginia.

VDH has indicated that the Department of Medical Assistance Services (DMAS) is conducting a rate study for potential Medicaid reimbursement of doula services. If the General Assembly authorizes DMAS to cover doula services for Medicaid recipients, individuals will need to satisfy doula state-certification requirements in order to receive Medicaid reimbursement. Therefore, the proposed regulation would pave the way for community-based

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<sup>10</sup> Specifically, the proposed regulation states that “The Board of Health shall approve a certifying body that has adopted standards from a nationally recognized organization that has a doula certification that reflects national best practices pertaining to community-based doula training and certification to establish certified doula training and education programs and to approve or accept continuing education courses for renewing doula certification in Virginia.” When asked for clarification by the Department of Planning and Budget (DPB), VDH stated that “the Virginia Certification Board will be recommended to the Board of Health as the certifying entity, but that recommendation will not be made until after the regulation has taken effect.”

<sup>11</sup> VDH communicated to DPB that “The Virginia Certification Board, if approved by the Board of Health, will use the minimum curriculum requirements proposed by the Board.”

<sup>12</sup> A link to the minimum requirements can be found at <https://townhall.virginia.gov/L/ViewXML.cfm?textid=14908>. When asked why these requirements were included in a DIBR, VDH reported that, “it is unlikely that changes to the actual regulatory text will be sought once the regulation is approved and in effect. However, curriculum topics will likely change based on updates to national best practices pertaining to doula training. When those changes occur, amendments to the DIBR will be submitted for review and approval as a regulatory action.”

doulas, many of whom already work in low-income and minority communities, to be compensated through Virginia's Medicaid program and potentially serve more individuals in those communities at lower direct cost to them.

### **Estimated Benefits and Costs**

Individuals seeking doula services, healthcare providers, community-based organizations, and payers would benefit from the state certification process laid out in the proposed regulation by being assured of standardized training requirements when making hiring decisions or insurance reimbursement eligibility decisions. The public registry would include all doulas certified in Virginia, making it easier to not only find a community-based doula but also verify their state certification.

Currently, the registry would benefit individuals who could afford to pay for doula services out-of-pocket or healthcare providers (including birthing centers) that are specifically looking for doulas who have met the particular training requirements laid out in the proposed regulation. However, if doula services become Medicaid-eligible, and subsequently, if other insurance payers sought to cover doula services, the registry would benefit individuals from a broader range of socio-economic backgrounds, including some of the more vulnerable and at-risk populations.

Costs created by the proposed amendment would primarily fall on individuals seeking to become state-certified doulas. In addition to paying for the 60 hours of mandated training, VDH indicates that applicants for certification would have to pay a fee of \$100.<sup>13</sup> Hospitals already seem to require doulas to present some form of certification in order to be allowed to accompany their clients. Although there are no standardized requirements for doula training or certification, there are nationally recognized organizations that offer both, and some doulas have likely obtained a certification already.<sup>14</sup> VDH clarified that doulas who have already obtained a certification could use it towards meeting the training requirements in the proposed regulation if

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<sup>13</sup> See page 5: [https://townhall.virginia.gov/GetFile.cfm?File=58\5574\9209\AgencyStatement\\_VDH\\_9209\\_v1.pdf](https://townhall.virginia.gov/GetFile.cfm?File=58\5574\9209\AgencyStatement_VDH_9209_v1.pdf). Although the fee is not mentioned in the Code or in the proposed text, VDH clarified that "the Virginia Certification Board, if approved by the Board of Health to be the certifying entity, will assess and collect a \$100 application fee."

<sup>14</sup> See for example DONA International, the International Childbirth Education Association, Childbirth and Postpartum Professional Association, and BirthWorks. They all offer training and certification and maintain directories of their own members.

it had been obtained within the preceding three years, thereby reducing their cost of becoming state-certified.<sup>15</sup>

To ensure that state certification is financially accessible to community-based doulas, especially those belonging to low-income and minority communities, the certifying body would need to account for the cost of training in their selection of training entities. The Board could mitigate these costs by requiring the certifying body to selectively approve training entities that offer need-based financial aid, work with community organizations to offer scholarships, or generally keep the training costs low so that it is not a significant barrier to certification for community-based doulas. However, unless the General Assembly approves Medicaid-coverage for state-certified doulas, (or private insurers voluntarily decide to cover it,) it is unclear if community-based doulas would have sufficient incentive to incur the costs of training and state certification.<sup>16</sup>

### **Businesses and Other Entities Affected**

As mentioned previously, community-based doulas would be primarily affected by the opportunity to become state-certified and be included in a registry, particularly if that also enables them to receive Medicaid reimbursement in the future. Since there is no central doula registry at present, the number of community-based doulas working in Virginia is unknown. In addition, the proposed regulation also affects individuals and healthcare providers seeking to hire doulas, as well as payers who may consider covering doula services in the future, by standardizing training requirements and creating a registry of state-certified doulas.

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<sup>15</sup> Specifically, VDH reported that, “Doulas who have already obtained a certification through an organization such as DONA would provide documentation of having completed a certification within three years and the minimum community-based doula training requirements. The certifying body will accept documentation of certification obtained through DONA, ICEA, CAPP, BirthWorks, etc. The minimum community-based doula training requirements (see DIBR) are not automatically satisfied with a certification obtained through a doula certifying organization; therefore, an individual may have to take additional courses to satisfy the requirements to be considered a state-certified doula.

<sup>16</sup> As per the 2020 report of the workgroup convened to develop recommendations for a Virginia Medicaid Doula Benefit, Medicaid coverage for doulas would pay for itself and could yield modest cost-savings. See <https://rga.lis.virginia.gov/Published/2020/RD629/PDF>.

## **Small Businesses<sup>17</sup> Affected**

Most doulas (community-based or otherwise) likely work as independent contractors, but there is currently no data on the number of doulas practicing in Virginia, whether they are community-based, or if they are affiliated with specific healthcare providers. However, the proposed regulation only affects doulas seeking to become state certified, and certification is not necessary to continue to provide doula services.

## **Localities<sup>18</sup> Affected<sup>19</sup>**

The proposed amendments do not introduce new costs for local governments and are unlikely to affect any locality in particular.

## **Projected Impact on Employment**

The proposed regulation would create “state-certified doulas” as a category of nonmedical healthcare workers, with standardized training requirements and tiered oversight by the Board and the certifying body. Thus, the proposed regulation could lead to increased employment of state-certified doulas by individuals, healthcare providers, especially private practices specializing in obstetrics and gynecology, as well as birth centers. This would be more likely if doula services were covered by Medicaid and/or private payers as a result of the proposed regulation. Although the number of state-certified doulas who are employed cannot be predicted at this time, the certifying body could collect such data once it starts issuing certifications.

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

The proposed regulation is unlikely to affect the use and value of private property. Real estate development costs are not affected.

## **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 14 (as amended, July 16,

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<sup>17</sup> 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.”

<sup>18</sup> “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.

<sup>19</sup> § 2.2-4007.04 defines “particularly affected” as bearing disproportionate material impact.

2018). 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(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 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.