

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 35 -105 Rules and Regulations for Licensing Providers by the Department of Behavioral Health and Developmental Services
Department of Behavioral Health and Developmental Services
Town Hall Action/Stage: 4804 / 7911
June 8, 2017

Summary of the Proposed Amendments to Regulation

Pursuant to Chapter 480 of the 2016 Acts of Assembly,¹ the State Board of Behavioral Health and Developmental Services (Board) proposes to permit treatment programs using non-methadone opioid replacements to be within a half-mile of a K-12 school or licensed day care center if the opioid replacement has been approved by the U.S. Food and Drug Administration (FDA) for the treatment of opioid addiction.

Result of Analysis

The benefits likely exceed the costs for the proposed change.

Estimated Economic Impact

The current regulation prohibits providers of services to individuals with opioid addiction from locating within one-half mile of a public or private licensed day care center or a public or private K-12 school.² Consistent with the above-mentioned 2016 legislation, the Board proposes

¹ See <http://leg1.state.va.us/cgi-bin/legp504.exe?161+sum+SB556>

² There are exceptions to the prohibition for programs within Planning District 8 and within cities in Planning District 23. Planning District 8 includes: a) the Counties of Arlington, Fairfax, Loudoun, and Prince William, b) the Cities of Alexandria, Fairfax, Falls Church, Manassas, and Manassas Park, and c) the Towns of Dumfries, Herndon, Leesburg, Purcellville, and Vienna. The cities within Planning District 23 are: Chesapeake, Franklin, Hampton, Poquoson, Williamsburg, Newport News, Norfolk, Portsmouth, Suffolk, and Virginia Beach.

to allow treatment programs using non-methadone opioid replacements to be within a half-mile of a K-12 school or licensed day care center if the opioid replacement has been approved by FDA for the treatment of opioid addiction. Providing greater location flexibility may reduce costs for providers of programs that provide services to individuals who are addicted to opioids. This may enable greater resources to be directly applied toward opioid treatment services and may enable additional clinics to open.

The prohibition has existed in the first place since there has been concern that the presence of drug treatment facilities might increase crime near schools. Research has shown though that the presence of drug treatment facilities is no more associated with crime than the presence of other commercial businesses, and is less associated with crime than are convenience stores and corner stores.³ Thus the benefits of the proposed amendment likely exceed the cost.

Businesses and Entities Affected

There are 36 programs licensed by the Department of Behavioral Health and Developmental Services (DBHDS) that provide services to individuals who are addicted to opioids. Community Service Boards run 3 of the programs. The remaining 33 licensed programs are private.⁴ The proposed amendment potentially affects these programs and future programs.

Localities Particularly Affected

All localities in Planning District 8 (Northern Virginia)⁵ and cities in Planning District 23 (Hampton Roads)⁶ are already exempted from the location prohibition. Thus the proposed elimination of the location prohibition would potentially affect all Virginia localities outside of Northern Virginia that are not cities in Hampton Roads.

³ See C. Debra M. Furr-Holden, Adam J. Milam, Elizabeth D. Nesoff, Renee M. Johnson, David O. Fakunle, Jacky M. Jennings, and Roland J. Thorpe, Jr. "Not in My Back Yard: A Comparative Analysis of Crime Around Publicly Funded Drug Treatment Centers, Liquor Stores, Convenience Stores, and Corner Stores in One Mid-Atlantic City," *Journal of Studies on Alcohol and Drugs* 2016 77:1, 17-24.

⁴ Data source: Department of Behavioral Health and Developmental Services

⁵ Planning District 8 includes: a) the Counties of Arlington, Fairfax, Loudoun, and Prince William, b) the Cities of Alexandria, Fairfax, Falls Church, Manassas, and Manassas Park, and c) the Towns of Dumfries, Herndon, Leesburg, Purcellville, and Vienna.

⁶ Cities within Planning District 23 are: Chesapeake, Franklin, Hampton, Poquoson, Williamsburg, Newport News, Norfolk, Portsmouth, Suffolk, and Virginia Beach.

Projected Impact on Employment

The proposed amendment is not likely to significantly directly affect employment.

Effects on the Use and Value of Private Property

The proposed amendment would newly allow private property located within a half-mile of a K-12 school or licensed day care center to be used by programs using non-methadone opioid replacements if the opioid replacement has been approved by the FDA for the treatment of opioid addiction. Given that such programs would make up a very small portion of potential renters or purchasers of property located within a half-mile of a K-12 school or licensed day care center, the proposed amendment would in most cases not significantly affect the market value of private property.

Real Estate Development Costs

The proposed amendment does not significantly affect real estate development costs.

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

The proposed amendment increases the potential locations that may be used by small private programs that provide services to individuals who are addicted to opioids. This may reduce their facility/office rental costs.

Alternative Method that Minimizes Adverse Impact

The proposed amendment does not adversely affect small businesses.

Adverse Impacts:**Businesses:**

The proposed amendment does not adversely affect businesses.

Localities:

The proposed amendment does not adversely affect localities.

Other Entities:

The proposed amendment does not 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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