

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: 5090 / 8340
September 20, 2018

Summary of the Proposed Amendments to Regulation

Pursuant to a request from the Department of Medical Assistance Services (DMAS), the State Board of Behavioral Health and Developmental Services (Board) proposes to add “licensed psychiatric/mental health nurse practitioner” to the list of professions within the definition of licensed mental health professional (LMHP).

Result of Analysis

The benefits likely exceed the costs for all proposed changes.

Estimated Economic Impact

Department of Behavioral Health and Developmental Services (DBHDS) regulations require supervision of mental health, substance abuse, or co-occurring services that are of an acute or clinical nature such as outpatient, inpatient, intensive in-home, or day treatment to be provided by an LMHP or a mental health professional who is license-eligible and registered with a board of the Department of Health Professions. DBHDS regulations currently include the following professions as LMHPs: physician, licensed clinical psychologist, licensed professional counselor, licensed clinical social worker, licensed substance abuse treatment practitioner, licensed marriage and family therapist, or certified psychiatric clinical nurse specialist.

Adding licensed psychiatric/mental health nurse practitioner (PMHNP) to the definition of licensed mental health professionals would allow PMHNPs to supervise and shape services and to effectively include their practice methods into the services provided to individuals. PMHNPs would be able to supervise and direct courses of treatment for individuals receiving mental health, substance abuse, or concurring services that are of an acute or clinical nature. This would enable service providers more options for staff that can supervise direct courses of treatment. PMHNPs may only supervise work that falls within their scope of practice.

Allowing providers more options for staff who can supervise direct courses of treatment would be beneficial for providers. Enabling PMHNPs to perform work that the current regulation does not permit would be beneficial for these professionals. Since PMHNPs may only supervise work that falls within their scope of practice, there is no increased risk to patients. Thus, the proposed amendment would likely produce a net benefit.

Businesses and Entities Affected

The proposed amendment potentially affects the approximate 1,300 licensed service providers,¹ 363 PMHNPs, and patients served by the service providers. The majority of the service providers would qualify as a small business.²

Localities Particularly Affected

The proposed amendment does not disproportionately affect particular localities.

Projected Impact on Employment

The proposed amendment may increase employment opportunities for PMHNPs.

Effects on the Use and Value of Private Property

The proposed amendment may increase demand for services from PMHNPs. Consequently, the value of firms that employ PMHNPs may moderately increase.

¹ Provider is defined as “any person, entity, or organization, excluding an agency of the federal government by whatever name or designation, that delivers (i) services to individuals with mental illness, mental retardation (intellectual disability), or substance abuse (substance use disorders), (ii) services to individuals who receive day support, in-home support, or crisis stabilization services funded through the IFDDS Waiver, or (iii) residential services for individuals with brain injury. ...” See <https://law.lis.virginia.gov/admincode/title12/agency35/chapter105/section20/> Not all providers use LMHPs.

² Data Source: Department of Behavioral Health and Developmental Services

Real Estate Development Costs

The proposed amendment does not 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

By allowing providers more options for staff who can supervise direct courses of treatment, the proposed amendment may reduce costs for some small service providers.

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 14 (as amended, July 16, 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(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.