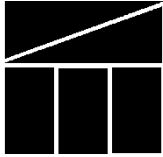


Adverse impact notification sent to Joint Commission on Administrative Rules, House Committee on Appropriations, and Senate Committee on Finance (COV § 2.2-4007.04.C): Yes<sup>1</sup>  Not Needed

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

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**22 VAC 30-120 Revisions to Adult Services Approved Providers**  
**Department for Aging and Rehabilitative Services**  
**Town Hall Action/Stage: 4874 / 8304**  
October 28, 2019

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### Summary of the Proposed Amendments to Regulation

The Department for Aging and Rehabilitative Services (DARS) proposes changes to an existing regulation governing providers who are approved by a local department of social services (LDSS) to provide adult services to a client of the LDSS. The changes would: 1) require an LDSS to evaluate an individual's application to be a provider when an adult recipient requests that individual be his/her provider, 2) raise the minimum age to be a chore and companion service provider, and to be an assistant to an in-home provider, from 16 to 18, and 3) clarify content that is unclear, inconsistent, or obsolete.

### Background

This regulation establishes standards for individuals operating as LDSS approved providers or who are interested in becoming one for services provided to adults, such as homemaker, chore, companion services, and adult foster care (AFC). The applicability of this regulation is limited to individual providers serving three or fewer adult clients of the LDSS.<sup>2</sup>

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<sup>1</sup> Adverse impact is indicated if there is any increase in net cost or reduction in net revenue for any entity, even if the benefits exceed the costs for all entities combined.

<sup>2</sup> Providers serving more than three adults are licensed through or regulated by the Department of Health or the Department of Social Services.

Also, AFC is an optional program that a locality can choose to provide, and fewer than 20 localities currently provide AFC to their residents.

### **Estimated Benefits and Costs**

Currently, LDSS are not required to accept new applications to be an adult services provider “*when the local department has a sufficient number of providers for that service to meet the population needs.*” DARS proposes to require LDSS to evaluate a new application when an adult recipient identifies an individual whom they want to act as his/her provider. This change may increase the number of evaluations an LDSS must perform and may add to their costs in terms of staff time it takes to make an approval decision. On the other hand, this change will benefit the adult recipient by making it possible to receive services from his/her own preferred individual. In other words, this change will bolster the adult’s choice in providers.

DARS also proposes to establish the minimum age to be a provider at 18 for all providers and provider assistants. Current language allows 16-year olds to be either a chore and companion service provider or an assistant to an in-home provider as long as he or she is competent to provide the service. The proposed change appears to be more stringent than the current age standard, but DARS is not aware of any providers who are less than 18 years old and currently approved by a LDSS. If in fact there are no approved providers or provider assistants who are less than 18 years old, this change would not have any adverse impact on any providers, but help ensure that the approved providers are mature and reduce potential risk to their client’s health and safety.

The remaining changes to this regulation are clarifications in nature and address LDSS’ ability to grant a variance for a conviction of a barrier crime, criminal record background checks, use of restraints, presence of firearms in the provider home, etc. None of the changes in this category are expected to create any significant economic impact other than improving the clarity of the regulatory requirements for these issues and eliminating language that appears to conflict with state laws.

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

The proposed amendments to the regulation apply to individuals who are currently operating as LDSS-approved providers or may wish to become approved providers. DARS estimates that 3,000 to 4,000 adults receive in-home services and 60 individuals receive AFC

from providers subject to this regulation. These regulations do not affect businesses, such as home care agencies, that are regulated by other state agencies. There are 120 LDSS statewide.

### **Localities<sup>3</sup> Affected<sup>4</sup>**

The proposed amendments should not affect any locality more than others. The proposed amendments may introduce some administrative costs for local departments if and when they have to evaluate an individual to be a provider when specifically requested by an adult recipient.

### **Projected Impact on Employment**

The proposed amendments would not affect total employment.

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

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

### **Adverse Effect on Small Businesses<sup>5</sup>:**

The proposed amendments do not appear to adversely affect small businesses.

### **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(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

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<sup>3</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>4</sup> § 2.2-4007.04 defines “particularly affected” as bearing disproportionate material impact.

<sup>5</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.”

proposed regulation may have an adverse impact on small business, the Joint Commission on Administrative Rules shall be notified.