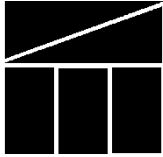


Adverse impact notification sent to Joint Commission on Administrative Rules, House Committee on Appropriations, and Senate Committee on Finance (COV § 2.2-4007.04.C): Yes Not Needed

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

22 VAC 30-110 Assessment in Assisted Living Facilities
Department for Aging and Rehabilitative Services
Town Hall Action/Stage: 4911 / 8317
January 14, 2019

Summary of the Proposed Amendments to Regulation

The Commissioner of the Department for Aging and Rehabilitative Services (DARS) proposes to: 1) permit the use of video conferencing for assessments when there are hazardous travel conditions or the individual to be assessed is in another state, 2) specify that qualified assessors who are employees of local departments of social services shall enter assisted living facility (ALF) assessments in the case management system designated by DARS, 3) specify that the earliest date that an annual reassessment may be completed is 60 calendar days prior to the annual reassessment due date, 4) require that qualified assessors and case managers make housing options clear, 5) no longer require that qualified assessors and case managers advise public pay individuals of the outcome of the assessment or the annual reassessment orally as well as in writing, 6) and amend other language for improved clarity.

Result of Analysis

The benefits likely exceed the costs for all proposed changes.

Estimated Economic Impact

Background

The regulation *Assessment in Assisted Living Facilities* establishes standards regarding initial assessments and annual reassessments of both public pay and private pay individuals who

reside in or may wish to reside in ALFs in Virginia. Assessment is defined as “a standardized approach using common definitions to gather sufficient information about an individual applying to or residing in an assisted living facility to determine the need for appropriate level of care and services.” The regulation also addresses post-assessment actions, requirements of the ALF staff when they discharge individuals, and relocation procedures when an ALF closes.

Video Conferencing as Face-to-Face

The regulation requires that all individuals applying to or residing in an ALF be assessed face-to-face. The current regulation does not define face-to-face; but common usage would indicate that this means in person. The Commissioner proposes to define face-to-face as follows:

“Face-to-face” means interacting with an individual in need of an assessment in a manner that enables the qualified assessor or case manager to observe the individual’s behavior and ability to perform ADLs [activities of daily living] and IADLs [instrumental activities of daily living]. When the qualified assessor or case manager and individual are unable to be in the same physical space to conduct an assessment due to the individual’s location in another state or due to hazardous travel conditions for the qualified assessor or case manager, the use of video conferencing to conduct the assessment shall be permitted. The appropriate qualified assessor or case manager shall review the assessment with the adult within seven working days of admission to the ALF to ensure all assessment information is accurate.

It would be beneficial to not require qualified assessors and case managers to travel in hazardous conditions. Similarly, it would be beneficial to not require qualified assessors and case managers to incur the time, travel, and lodging expenses associated with meeting in the same physical space when the individual is out of state. To the extent that qualified assessors and case managers can make as accurate or close to as accurate assessments as when they are in the same physical space with the individual, the proposal to permit the use of video conferencing in the above described circumstances should produce a net benefit.

Electronic Case Management System

DARS has an electronic case management system. Current DARS policy requires that qualified assessors at local departments of social services enter ALF assessments into the system. The Commissioner proposes to specify this requirement in the regulation. According to DARS staff, not all qualified assessors at local departments of social services have been entering ALF assessments into the system in practice. DARS hopes that including the requirement in regulation will lead to greater compliance.

Having the assessment entered into the system allows for much faster access to the information for staff who are contacted about specific cases. It may take days or weeks for information to be sent from paper copies without the information entered into the system. The significant delays are problematic not just for state government staff, but for families who have contacted staff concerning their affected relatives. No additional information is required for the system beyond that which is already required for the assessments.

The assessors can type the results of their assessments directly into the system via laptop. For those inclined to use their laptops, the requirement produces no cost. For those assessors who prefer to hand write their assessments, typing that information into the system would require some additional time. Given the value of having the information in the case management system, the benefits of the proposal likely outweigh the costs.

Annual Reassessment Timing

The regulation requires that there be an annual reassessment of individuals who reside in ALFs. The current regulation does not specify when during the year the annual assessment must be conducted. According to DARS, in practice this has been interpreted as within a few days of the anniversary of the initial assessment. The Commissioner proposes to specify in the regulation that “The earliest date that an annual reassessment may be completed is 60 calendar days prior to the annual reassessment due date.” According to DARS staff, the intent of this proposal is to clarify that the reassessments may be done up to 60 days prior to their due date, not just within a few days of the due date. Consequently, this allows for greater flexibility.

Clarity of Housing Options

Section § 51-5-160.E of the Code of Virginia states that “At the time of the first or any subsequent annual reassessment, the individual may select supportive housing or an assisted living facility, subject to the evaluation and reassessment of the individual and availability of the selected housing option.” The Board proposes to specify that after the annual reassessment has been completed, if the individual still meets either residential or assisted living level of care, the qualified assessor or case manager shall offer the individual the choice, based on availability, of housing options. This proposal does not change what housing options affected individuals may choose, but does increase the likelihood that they are aware of the options. Thus it is beneficial.

The cost would only be the minimal amount of time it takes for the qualified assessor or case manager to explain the options.

Communicating Assessment Outcome

The current regulation states that “Assessors shall advise orally and in writing all public pay individuals of the outcome of the assessment or the annual reassessment, including a statement indicating that the local department of social services will notify the individual whether he is eligible to receive the auxiliary grant.” The Commissioner proposes to only require that this information be communicated in writing. According to DARS staff there have been problems with misinterpretations of vocal communications. Additionally, verbal communications made during or immediately after assessments are at times overruled by supervisors later. The intent of this proposed change is to reduce the frequency of misunderstandings and the dissemination of conflicting information.

Businesses and Entities Affected

The proposed amendments affect the 563¹ licensed ALFs in the Commonwealth, local departments of social services, DARS, individuals who reside in or may wish to reside in ALFs and their families. All or most of the ALFs likely qualify as small businesses.

Localities Particularly Affected

The proposed amendments do not disproportionately affect particular localities.

Projected Impact on Employment

The proposed amendments are unlikely to significantly affect total employment.

Effects on the Use and Value of Private Property

The proposed amendments are unlikely to significantly affect the use and value of private property.

Real Estate Development Costs

The proposed amendments do not affect real estate development costs.

¹ Source: Department for Aging and Rehabilitative Services

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 amendments are unlikely to significantly affect costs for small businesses.

Alternative Method that Minimizes Adverse Impact

The proposed amendments do not adversely affect small businesses.

Adverse Impacts:**Businesses:**

The proposed amendments do not adversely affect businesses.

Localities:

The proposed amendments do not adversely affect localities.

Other Entities:

The proposed amendments do 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.