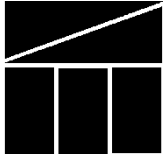


Adverse impact notification sent to Joint Commission on Administrative Rules, House Committee on Appropriations, and Senate Committee on Finance (COV § 2.2-4007.04.C): Yes¹ Not Needed

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

18 VAC 65-40 Regulations for the Funeral Service Intern Program
Department of Health Professions
Town Hall Action/Stage: 5221 / 8787
December 9, 2019

Summary of the Proposed Amendments to Regulation

Following a periodic review,² the Board of Funeral Directors and Embalmers (Board) proposes to: (1) reduce the number of hours required for a funeral service internship from 3,000 to 2,000, (2) require supervisors to register for the supervision of each funeral service intern, (3) prohibit licensees with disciplinary records within the last two years from supervising interns, and (4) require that interns be identified as interns in titles, correspondence, and communications with the public.

Background

During its periodic review of this regulation, the Board compared the number of hours required in Virginia to complete an internship to those required in other states, including Maryland (1,000 hours), North Carolina (2,000), and Kentucky (1 year of full time training at 40 hours per week which appears to be 2,080 hours). The Board concluded “Virginia appeared to be out of line with almost every other state.” Also, a commenter on the periodic review noted that a Funeral Service Provider Workforce Study³ showed that funeral service licensees are retiring or

¹ 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.

² <https://townhall.virginia.gov/l/ViewPReview.cfm?PRid=1642>

³ https://townhall.virginia.gov/l/GetFile.cfm?File=22\5221\8787\AgencyStatement_DHP_8787_v3.pdf

leaving the profession at a higher rate than licensees are entering the profession. The Board concurred with the commenter that the current 3,000-hour internship requirement is one factor that limits the ability to continually have a pool of qualified funeral service licensees. The Board further compared internship hours for other health professions, which range from one year for professions such as speech language pathologists to 2,000 hours as an administrator-in-training for a nursing home administrator. To qualify as an assisted living facility administrator (a profession with similar educational requirements), a person must have 30 hours of post-secondary education and 640 hours of training as an administrator-in-training.

Estimated Benefits and Costs

One of the proposed changes represents a 1,000-hour reduction in the time required to complete a funeral service internship, which corresponds to 125 eight-hour business days or 25 full-working weeks (six months). Although interns earn some money during their internships, they would likely earn more as a full-time employee. The opportunity to increase their earning potential six months earlier is clearly beneficial to the interns.

The impact on the pool of interns is two-fold. On one hand, a funeral service intern would be able to complete the program about six months earlier under the proposed regulation. This change would decrease the current pool of interns. On the other hand, the Department of Health Professions (DHP) points out that the relatively high number of required internship hours currently discourages some potential candidates from obtaining their licenses in Virginia. To the extent that a decrease in the number of hours would encourage internships, funeral homes would benefit from an increase in the pool of interns. Whether one of these opposite impacts would dominate the other is not clear.

Similarly, the impact on affected funeral establishments is not clear. Generally, under the new rule funeral establishments that currently employ interns would likely pay higher wages to replace lower-cost intern labor six months earlier, assuming another intern cannot be hired. However, whether existing establishments can easily replace interns who would complete their training earlier than before will depend on the interaction of the two opposing factors noted above and how they jointly impact the intern pool, which cannot be determined.

DHP does not expect any reduction in the quality of services offered by interns who would get their certificates six months early. This expectation is supported by the fact that the

statutory requirements (that an intern assist in embalming at least 25 bodies and conduct at least 25 funerals), the requirement to pass the licensing examination, and the inspection requirements to ensure minimum quality remain the same.

The Board also proposes to require intern supervisors to register for the supervision of each intern, and that the registration expire after 48 months or at the completion of the intern's training, whichever occurs first. No fee is proposed for this registration. According to the Board, the intent of this rule is to ensure that the Board is aware of who is currently supervising interns, so there is greater accountability and consistency. Currently, 567 persons are registered as supervisors, but there are only 186 interns. As a result, the Board contends that the majority of those registered are not actively supervising interns, since each supervisor may have two interns. This change will place on the supervisor the burden of sending registration documents for each intern supervised.

The Board further proposes to prohibit someone who has been disciplined within the past two years from supervising an intern. Since the professionalism, skills, and integrity of the supervisor is critical to training an intern for competency in the profession, the Board is concerned about the effect upon competency if a supervisor has recently been disciplined by the Board. Supervisors with a disqualifying record would lose the ability to supervise an intern under this change.

Finally, the Board proposes to require that interns be identified as interns in titles, correspondence, and communications with the public. The intent of the additional language is protection for consumers, so they understand that a person is receiving training in a funeral home and is not a licensed funeral service provider.

Businesses and Other Entities Affected

There are 420 licensed funeral establishments, and another 79 are licensed as branch establishments. Both individual establishments and branch establishments hold licenses, but either may be owned by large national companies. There are 1,463 funeral service licensees with current, active licenses; 567 licensees are also registered as supervisors. In the 4th quarter of FY 2019, there were 186 funeral interns.⁴ The proposed amendments would introduce additional

⁴ Data source: Department of Health Professions

burden in terms of the newly required registration for each intern and prohibition of supervision if someone has been disciplined within the past two years. An adverse economic impact on businesses is indicated because there do not appear to be any offsetting direct benefit to the burden and the prohibition.

Localities⁵ Affected⁶

The proposed amendments should not affect any locality more than others. The proposed amendments do not introduce costs for localities.

Projected Impact on Employment

The proposal to reduce the number of hours required for an internship from 3,000 to 2,000 would allow interns to start earning higher wages six months earlier. This may change their employment status, but is unlikely to directly affect total employment. The impact on the available pool of interns is mixed due to competing opposite effects of the reduction in internship hours as discussed above.

Effects on the Use and Value of Private Property

The proposed amendments would not substantively affect the use and value of private property. No significant effect is expected on real estate development costs.

Adverse Effect on Small Businesses⁷:

Types and Estimated Number of Small Businesses Affected

The proposed amendments affect licensed funeral establishments and branch establishments that employ interns, most if not all of which are likely small businesses.⁸ As indicated above, DHP reports 567 licensees are registered as supervisors, but there were only 186 funeral interns.

⁵ “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.

⁶ § 2.2-4007.04 defines “particularly affected” as bearing disproportionate material impact.

⁷ 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.”

⁸ Virginia Employment Commission records indicate that as of the first quarter of 2019, the Commonwealth had: a) 349 Funeral Homes and Funeral Services firms, all of which had fewer than 500 employees, and b) 131 Cemeteries and Crematories firms, all of which had fewer than 500 employees.

Costs and Other Effects

Additional burdens in terms of the newly required registration for each intern and prohibition of supervision if someone has been disciplined within the past two years as discussed above are also applicable to the businesses that are small in size.

Alternative Method that Minimizes Adverse Impact

There are no clear alternative methods that both reduce adverse impact and meet the intended policy goals.

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