



# Virginia Department of Planning and Budget **Economic Impact Analysis**

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**18 VAC 85-50 Regulations Governing the Practice of Physician Assistants**  
**Department of Health Professions**  
**Town Hall Action/Stage: 6122 / 9841**  
August 14, 2023

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The Department of Planning and Budget (DPB) 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 19. The analysis presented below represents DPB's best estimate of the potential economic impacts as of the date of this analysis.<sup>1</sup>

## **Summary of the Proposed Amendments to Regulation**

As a result of a 2022 periodic review<sup>2</sup> and in response to Executive Order 19 (2022)<sup>3</sup> (EO 19), the Board of Medicine (Board) is proposing to eliminate a \$10 registration fee for out-of-state volunteers along with numerous editorial updates to this regulation governing physician assistants.

## **Background**

As a result of the 2022 periodic review and in order to reduce regulatory requirements as directed by EO 19, the Board proposes to eliminate a \$10 registration fee for out-of-state volunteers, revise or delete language that duplicates statutory requirements, and eliminate provisions that are no longer needed.

The affected regulatory language pertains to deletion of a \$10 fee for voluntary out-of-state practice; unused definitions; public participation guidelines; reduced fees for previous

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<sup>1</sup> Code § 2.2-4007.04 requires that such economic impact analyses determine the public benefits and costs of the proposed amendments. Further the analysis 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.

<sup>2</sup> <https://townhall.virginia.gov/l/ViewPReview.cfm?PRid=2149>

<sup>3</sup> <https://townhall.virginia.gov/EO-19-Development-and-Review-of-State-Agency-Regulations.pdf>

years; minor edits; removal of continuing education language for restricted volunteer licenses; deletion of duplicative provisions regarding volunteer restricted licenses; consolidation of information related to informed consent for office-based procedures and subsequently elimination of redundant or extraneous language; and elimination of language related to vitamins, minerals, food supplements, amphetamine, controlled substances, and anabolic steroids.

### **Estimated Benefits and Costs**

The only proposed change that would depart from current practice is the elimination of a \$10 registration fee collected from out-of-state physician assistants volunteering in Virginia. The Board states that the fee is so minimal and used so infrequently that its elimination will have virtually no effect on Board funds. In recent history spanning over several years, this fee was collected only once from a single applicant. Therefore, the elimination of this fee is not expected to have a significant impact on the Board. Moreover, the elimination of this fee may encourage volunteering activities by out-of-state physician assistants in Virginia should the need arise.

One change that appears to depart from current practice, but in fact does not, is the elimination of a requirement that individuals who renew a restricted volunteer license obtain 50 hours of continuing education per biennium. However, the Board states that it is unreasonable to impose a continuing education requirement on restricted volunteer licenses when there is no such requirement for full licensees. Consequently, the Board has not been enforcing this requirement. Therefore, the removal of this regulatory text is not expected to create any effect other than accurately reflecting the Board's continuing education expectations for individuals with restricted volunteer licenses.

The Board states, and it so appears, that all of the remaining proposed changes to this regulation are editorial in nature and would not affect the practice of physician assistants. For example, removing duplicative or redundant references, such as to the public participation regulation; elimination of language regarding vitamins, minerals, or food supplements; removal of language regarding the prescription of amphetamine, controlled substances and anabolic steroids would not make this regulation any less enforceable or applicable because these requirements are still enforceable under more general provisions. However, to the extent that physician assistants and other members of the public relied upon these regulatory provisions to

better understand the requirements that pertain to physician assistants, some lack of clarity about these requirements may result.

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

As of June 30, 2022, there were 5,524 individuals licensed as physician assistants that are subject to this regulation. However, the Board has no data regarding any potential applicants for voluntary physician assistant licenses. Historically, the applications for volunteer licenses have been infrequent. Looking over the data over the past several years, the Board has identified a single license issued to a practitioner from out of state who was volunteering in Virginia.

The Code of Virginia requires DPB to assess whether an adverse impact may result from the proposed regulation.<sup>4</sup> An 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. As noted above, the proposed changes are not expected to create any significant economic impact. Thus, no adverse impact on any entity is indicated nor a disproportionate impact is expected.

### **Small Businesses<sup>5</sup> Affected:<sup>6</sup>**

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

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<sup>4</sup> 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. Statute does not define “adverse impact,” state whether only Virginia entities should be considered, nor indicate whether an adverse impact results from regulatory requirements mandated by legislation.

<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.”

<sup>6</sup> 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.

**Localities<sup>7</sup> Affected<sup>8</sup>**

The proposed amendments do not disproportionately affect any localities, nor introduce costs for local governments.

**Projected Impact on Employment**

The proposed amendments do not affect employment.

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

No impact on the use and value of private property nor real estate development costs is expected.

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<sup>7</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>8</sup> § 2.2-4007.04 defines “particularly affected” as bearing disproportionate material impact.