



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

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**18 VAC 90-27 Regulations Governing Nursing Education Programs**  
**Department of Health Professions**  
**Town Hall Action/Stage: 6486 / 10355**  
September 16, 2024

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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**

Partially pursuant to Chapter 425 of the 2024 Acts of Assembly<sup>2</sup> (Chapter 425), the Board of Nursing (Board) proposes to eliminate all restrictions on out-of-state clinical experiences. Additionally, the Board proposes to remove the current requirement that all clinical experiences take place within 50 miles of the school, unless an exception is granted by the Board.

## **Background**

The current regulation requires that unless exceptions are granted by the Board, at least 80 percent of all clinical experiences for nursing students must be conducted in Virginia, and that the clinical sites must be located within 50 miles of the nursing school.

Chapter 425 states that:

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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> See <https://lis.virginia.gov/cgi-bin/legp604.exe?241+ful+CHAP0425>

... the Board of Nursing (the Board) shall amend its regulations to permit nursing education programs in the Commonwealth located within 60 miles of a bordering state or the District of Columbia to contract for an unlimited number of required clinical hours at out-of-state clinical sites. The regulations shall require that all such clinical hours be accepted by the Board for licensure.

According to the Department of Health Professions (DHP), the Board determined that all out-of-state clinical restrictions should be removed due to difficulties implementing the legislative language as written and also to ensure consistency in requirements for nursing education programs. The Board also proposes to eliminate the requirement that clinical sites be within 50 miles of the nursing school.

### **Estimated Benefits and Costs**

The proposed removal of restrictions provides schools of nursing with additional options for clinical experiences for their students. To the extent that some nursing schools determine that having more than 20 percent of clinical experiences for their students take place outside the Commonwealth, or having some clinical experiences take place more than 50 miles from the nursing school, would improve the quality of such experiences, the proposed removal of the restrictions would be beneficial.

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

The proposed amendments potentially affect the 40 practical schools of nursing and the 67 professional schools of nursing in the Commonwealth.

The Code of Virginia requires DPB to assess whether an adverse impact may result from the proposed regulation.<sup>3</sup> An adverse impact is indicated if there is any increase in net cost or reduction in net benefit for any entity, even if the benefits exceed the costs for all entities combined.<sup>4</sup> The proposed amendments neither increase net costs nor reduce net benefit. Thus, no adverse impact is indicated.

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<sup>3</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.

<sup>4</sup> 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. As a result, DPB has adopted a definition of adverse impact that assesses changes in net costs and benefits for each affected Virginia entity that directly results from discretionary changes to the regulation.

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

The proposed amendments do not appear adversely affect small businesses.

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

Nursing schools in localities that either border or are near a border with another state or the District of Columbia may be more likely to take advantage of the elimination of the restriction on out-of-state clinical experiences. The proposed amendments do not appear to affect costs for local governments.

### **Projected Impact on Employment**

The proposed amendments do not appear to affect total employment.

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

The proposed elimination of restrictions on the locations of clinical experiences may result in some private schools of nursing changing where clinical experiences for their students take place. Potentially, this may result in a modest increase in their value.

The proposed amendments do not affect real estate development costs.

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<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.

<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.