

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

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### **18 VAC 110-50 Regulations Governing Wholesale Distributors, Manufacturers and Warehousemen**

**Department of Health Professions**

**Town Hall Action/Stage: 5083 / 8378**

November 20, 2018

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

Pursuant to Chapter 96 of the 2018 Acts of the Assembly,<sup>1</sup> the Board of Pharmacy (Board) proposes amendments relating to a requirement for registration of nonresident warehousemen and third-party logistics providers. The proposed changes to the regulation would establish fees and requirements for nonresident warehousemen and third-party logistics providers consistent with those currently in the regulation for resident entities of the same type.

### **Result of Analysis**

The benefits likely exceed the costs for all proposed changes.

### **Estimated Economic Impact**

Pursuant to the legislative mandate, the Board proposes to subject non-resident warehousemen to the same regulation that applies to resident warehousemen. The legislative mandate also requires non-resident third-party logistics providers and entities that distribute medical gases to register with the Board. In the 2013 federal Drug Supply Chain and Security Act, the definition of “wholesale distributor” was changed to exclude third-party logistics providers and entities that distribute medical gases. Nonresident facilities of these types were formerly

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<sup>1</sup> <http://lis.virginia.gov/cgi-bin/legp604.exe?181+ful+CHAP0096>

registered in the Commonwealth as nonresident wholesale distributors and were subject to this regulation and the same registration fees. Thus, the likely impact of registration on these entities will be a change in their license category and compliance with the legislative mandate.

### **Businesses and Entities Affected**

In September 2018, there were 97 resident warehouseers and 671 nonresident wholesale distributors. DHP does not have an estimate on the number of non-resident warehouseers that may apply for registration. DHP estimates that less than 100 of the nonresident wholesale distributors may apply to convert their license category to nonresident third-party logistics providers.

### **Localities Particularly Affected**

The proposed amendments do not disproportionately affect particular localities.

### **Projected Impact on Employment**

The proposed amendments would not affect employment.

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

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

### **Real Estate Development Costs**

The proposed amendments are unlikely to affect real estate development costs.

### **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 does not impose cost on small businesses. The main effect on them is having to change their license category.

#### **Alternative Method that Minimizes Adverse Impact**

The proposed amendments do not have adverse impact on 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.