



Economic Impact Analysis Virginia Department of Planning and Budget

18 VAC 110-20 – Regulations Governing the Practice of Pharmacy Department of Health Professions October 29, 2004

The Department of Planning and Budget (DPB) has analyzed the economic impact of this proposed regulation in accordance with Section 2.2-4007.G of the Administrative Process Act and Executive Order Number 21 (02). Section 2.2-4007.G requires that such economic impact analyses include, but need not be limited to, the projected number of businesses or other entities to whom the regulation would apply, the identity of any localities and types of businesses or other entities particularly affected, the projected number of persons and employment positions to be affected, the projected costs to affected businesses or entities to implement or comply with the regulation, and the impact on the use and value of private property. The analysis presented below represents DPB's best estimate of these economic impacts.

Summary of the Proposed Regulation

The Board of Pharmacy (board) proposes to prohibit dispensing and refilling of Schedule VI drugs more than one year after the date on which the prescription was issued.

Estimated Economic Impact

The current regulations limit the dispensing and refilling of Schedule VI prescriptions to not more than two years after the date on which the prescription was issued. The board proposes to reduce the time limit to not more than one year after the date on which the prescription was issued.

Approximately 85 percent of all prescriptions are covered by Medicaid or some other third-party payer.¹ All or most third-party insurance payers require prescriptions to be renewed annually in order to be reimbursed.² If the possessors of such third-party insurance try to fill or

¹ Source: Department of Health Professions

² Ibid

refill a prescription that was issued more than one year ago, the pharmacist will inform the patient that his insurance will not pay for the fill or refill. In most cases the pharmacist will then call the prescriber and request a new prescription.³

In practice confusion can arise for patients, particularly concerning refills. For example, a physician may write out a prescription with enough doses per bottle to last a month, along with the notation PRN. PRN (pro renata) effectively indicates that the prescription may be repeatedly refilled as long as the law allows.⁴ Under the current regulations, this prescription in the example could potentially be refilled 24 times (once a month over two years). The standard software currently commonly used by pharmacists will then indicate on the prescription label that the prescription may be refilled 24 times.⁵ As indicated above, all or most third-party health insurance will only pay for refills of prescriptions that were issued within the previous 12 months. Thus, it is common for patients to believe that they may refill their prescription because the label indicates that refills remain, when their insurance will not pay for any more refills on that prescription. The board has indicated that it is time consuming for pharmacists to explain the situation to confused patients, and that at times animosity occurs due to the confusion.

If the proposal to limit the dispensing and refilling of Schedule VI prescriptions to not more than one year after the date on which the prescription was issued becomes law, then the prescription with the notation of PRN in the example could only potentially be refilled 12 times (once a month over one year). The standard pharmacist software will then indicate on the prescription label that the prescription may be refilled 12 times. If the patient requests refills once a month, then there will be no occasion for the patient to request a refill that will not be covered by insurance.⁶ On the other hand, if the patient takes more than a month at some point to request a refill, less than the 12 refills mentioned on the label will be eligible for insurance coverage. Nevertheless, there will be fewer incidences of patients believing that they may refill their prescription because the label indicates that refills remain, when their insurance will not pay for any more refills on that prescription. Fewer incidences of confusion will result in less time spent by pharmacists explaining the situation to patients, and fewer cases of developing

³ Ibid

⁴ Ibid

⁵ Ibid

⁶ This of course assumes that no situation unrelated to the issue at hand that jeopardizes insurance coverage (for example, expiration of health insurance) occurs.

animosity. This is clearly beneficial for pharmacists. Reduced wasted time will benefit affected patients as well.

On the other hand, the proposal to reduce the time limit to not more than one year after the date on which the prescription was issued will be costly to the patients with the approximate 15 percent of prescriptions that are not covered by a third-party payer. Some of these patients may have physicians or other prescribers who believe that it is appropriate to prescribe a Schedule VI medication for more than one year. For these patients the end of insurance coverage not coinciding with the end of refills legally permitted is not relevant. The proposed amendment will only deprive their prescribers the opportunity to write a prescription lasting more than one year. Consequently, the patients will lose the opportunity to receive a prescription lasting more than one year. Prescribers do at times wish for their patients to be able to refill prescriptions over one year after the initial prescription. This is particular true for patients with conditions that will not go away with time. In fact the Board of Medicine has indicated by memorandum that it opposes the proposed amendment. In the memorandum the executive director of the Board of Medicine states that “Many patients who require refills of prescriptions are on maintenance drugs and under the continuous care of a physician. To require that a prescription be re-written once a year is an inconvenience to patients ...”

Physicians and other prescribers may have other reasons to oppose the proposed amendment. Many prescribers prefer not to have their treatment options, including the length of prescriptions, limited by insurance providers.⁷ These prescribers could potentially wish to attempt to pressure insurers to provide coverage that effectively allows more flexibility in prescriptions and other treatments. The prescribers likely would prefer that changes in law not be driven by insurance company preferences.

The problems of wasted time and the development of animosity can potentially be reduced without changing the law. This could be accomplished by having the prescription label for those patients with applicable insurance include “insurance expiration: xx/xx/xx,” where xx/xx/xx is one year from the day the prescription was issued.⁸ This would likely significantly reduce the confusion among patients without necessitating a change in law. It may actually be

⁷ Source: Department of Health Professions

⁸ If “insurance expiration: xx/xx/xx” is too long, “insur exp: xx/xx/xx” would likely work almost as well.

more effective than the proposed amendment since with the proposed amendment patients that are late asking for refills can still end up with their latest prescription bottle indicating one or more refills left when their insurance will no longer pay for refills. The insurance expiration information on the prescription label would likely make clear to many or most patients that their prescription refills expire at that date.

Businesses and Entities Affected

The proposed amendment affect the 7,675 actively licensed pharmacists, 1,517 permitted pharmacies, and their patients. Additionally, the amendment affects the 29,106 doctors of medicine, 1,085 doctors of osteopathic medicine, podiatrists, 2,750 interns and residents, 885 physician assistants, 4,825 nurse practitioners, 5,320 dentists, and 2,185 veterinarians that write prescriptions.⁹

Localities Particularly Affected

The proposed regulations affect all Virginia localities.

Projected Impact on Employment

The proposed amendments will not significantly affect employment levels.

Effects on the Use and Value of Private Property

The proposed amendment will reduce the time that pharmacists or their staff spend explaining to confused patients that their insurance does not cover requested Schedule VI prescription fills or refills more than one year after the date on which it was originally issued by their prescriber. Reduced time spent on this activity will allow pharmacists and their staff to use their time more productively.

The proposed amendment will deprive prescribers the opportunity to write a Schedule VI prescription lasting more than one year. Consequently, patients will not have the opportunity to refill their Schedule VI prescriptions for more than one year.

⁹ All number estimates provided by the Department of Health Professions