



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

12 VAC 5-220 Virginia Medical Care Facilities Certificate of Public Need Rules and Regulations

Virginia Department of Health

Town Hall Action/Stage: 6907 / 10996

March 3, 2026

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.¹

Summary of the Proposed Amendments to Regulation

Pursuant to Chapter 325 of the 2025 Acts of Assembly,² the State Board of Health (Board) proposes to establish an expedited review process for certain Certificate of Public Need (COPN) requests.

Background

Chapter 423 the 2024 of the Virginia Acts of Assembly,³ directed the Board to convene the State Health Services Plan Task Force to make recommendations on expedited review of projects subject to COPN requirements. The Virginia Department of Health (VDH) submitted the task force recommendations (RD883) on December 3, 2024.⁴

¹ 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.

² <https://lis.blob.core.windows.net/files/1072549.PDF>

³ <https://legacylis.virginia.gov/cgi-bin/legp604.exe?241+ful+CHAP0423>

⁴ <https://rga.lis.virginia.gov/Published/2024/RD883/PDF>

In response to the recommendations,⁵ the 2025 General Assembly enacted Chapter 325 which requires the Board to promulgate regulations that establish an expedited review process for the following types of projects:

- A new branch of an existing psychiatric care facility within the same planning district,
- The addition of psychiatric beds not to exceed the greater of 10 beds or 10 percent of all beds at the facility,
- Relocation of psychiatric beds to an existing facility, and
- Capital expenditures of \$15 million or more by facilities other than general hospitals.

Further, Chapter 325 requires the regulations to include certain procedures in the expedited review process:

- Four annual batch cycles for filing,
- Review completed within 90 days,
- Ability for the public to request a public hearing, and
- Criteria for removing an application from expedited review and subjecting it to the full review process.

In this action, the Board proposes amendments to the regulation that closely mirror the legislative mandate.

Estimated Benefits and Costs

As noted above, Chapter 325 requires the regulations to include four annual batch cycles, and the Board exercised discretion by determining the schedule of these cycles. Otherwise, all elements of the proposal appear to come directly from Chapter 325. Thus, any potential economic impacts of the proposed changes to the regulation are a direct result of the legislation.

The Fiscal Impact Statement (FIS) for Chapter 325 states that “[t]he average number of COPN requests over the last ten years that would be subject to the requirements of the proposed legislation is 2.8 a year, ranging from 0 to 6 COPN requests. The largest number of COPN applications for expedited review of psychiatric projects that VDH has ever received in a year is 6. Therefore, any increase in workload for these additional projects can be handled within existing resources... Additionally, VDH indicated that the cost of amending the regulations will be less than \$5,000 and can be absorbed by existing agency staffing and resources.” Furthermore, the FIS indicates an indeterminate impact on Medicaid expenditures, although it also acknowledges that a direct impact on Medicaid for the biennium would be unlikely.⁶ In

⁵ See Legislative Recommendations-Psychiatric on Page 10 of RD883 and Regulatory Recommendations-Operational on Page 11.

⁶ <https://lis.blob.core.windows.net/files/1063579.PDF>

addition to what was noted by the FIS, the mandated faster review process (90 days vs. 190 days for the standard process) may also help contribute to increased competition for the existing psychiatric care facilities.

The benefits of the legislation, on the other hand, include a decrease in review time for COPN applications that would qualify for the expedited process, which results in other benefits: faster entry into the psychiatric care industry for qualified entities and the ability to realize the benefits of increased competition and access to consumers more quickly. Another benefit is the opportunity for the public to request a public hearing on an expedited application.

Because the main costs and benefits of the expedited process are legislatively driven, the primary benefits of the proposed regulatory changes are that the regulations would be in compliance with Chapter 325 of the 2025 Acts of Assembly and that applicants would have a clear understanding of the timing for batch review cycles.

Businesses and Other Entities Affected

Psychiatric care facilities and their patients are affected, as are VDH staff. According to the FIS, on average 2.8 projects per year (the range being between zero and six projects) may qualify for the expedited process. No entity appears to be disproportionately affected.

The Code of Virginia requires DPB to assess whether an adverse impact may result from the proposed regulation.⁷ 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.⁸ As noted above, the main impacts of the regulatory change are compliance with the legislative mandate and establishment of batch review cycles. Thus, no adverse impact is indicated on account of this regulatory action.

⁷ 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.

⁸ 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.

Small Businesses⁹ Affected:¹⁰

The proposed regulatory changes do not appear to adversely affect small businesses.

Localities¹¹ Affected¹²

The proposed regulatory changes do not create costs for localities. However, according to VDH, the County of Bedford, Lee County Hospital Authority, and Chesapeake Hospital Authority may be affected by the implementation of the legislative mandate since Bedford operates a nursing home and the two hospital authorities each operate a licensed general hospital.

Projected Impact on Employment

The proposed regulatory changes do not have a direct impact on total employment.

Effects on the Use and Value of Private Property

No impact of the use and value of private property nor on real estate development costs are expected on account of this regulatory action.

⁹ 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.”

¹⁰ 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.

¹¹ “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.

¹² § 2.2-4007.04 defines “particularly affected” as bearing disproportionate material impact.