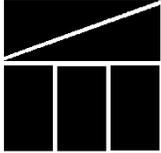


Adverse impact notification sent to Joint Commission on Administrative Rules, House Committee on Appropriations, and Senate Committee on Finance (COV § 2.2-4007.04.C): Yes Not Needed

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**

18 VAC 85-150 Regulations Governing the Practice of Behavior Analysis
Department of Health Professions
Town Hall Action/Stage: 4331/7461
April 14, 2016

Summary of the Proposed Amendments to Regulation

The Board of Medicine (Board) proposes to increase the required number of continuing education hours for biennial license renewal from: a) 24 to 32 for behavior analysts and b) 16 to 20 for assistant behavior analysts. The board is also proposing to add a requirement that four of the required hours be related to the practice of ethics in behavior analysis.

Result of Analysis

It is not clear that the uncertain benefits exceed the costs of the proposed amendments.

Estimated Economic Impact

The profession of behavior analysis has been regulated since 2012, when Chapter 3 of the 2012 Acts of Assembly directed the board to promulgate emergency regulations licensing this profession. The final version of the initial licensure regulations took effect on May 7, 2014.

Under the regulation applicants for Virginia licensure must at the time of application hold current certification by the national Behavior Analysis Certification Board (BACB) in order to qualify for initial licensure as a behavior analyst or an assistant behavior analyst. Licensees are not required to maintain active certification with BACB for license renewal. Nonetheless, in the initial creation of the regulation, the Board set the number of continuing education hours per annum required for license renewal to match the number required for BACB certification

renewal: 24 hours over two years for behavior analysts, and 16 hours over two years for assistant behavior analysts.¹

In 2013, the BACB announced that, beginning in December of 2014, the required number of hours for maintenance of certification would increase to 32 hours and 20 hours for behavior analysts and assistant behavior analysts, respectively. Further, four of the hours must be related to ethics in the practice of behavior analysis. The Board proposes to amend the regulation's continuing education requirements to match the changes to the BACB's continuing education requirements.

The regulation specifies that the continuing education be approved and documented by a sponsor recognized by the BACB. The BACB website includes links to online continuing education courses offered by its recognized sponsors. The lower-priced courses cost about \$15 per hour.² Thus the proposed required additional 8 hours would cost behavior analysts about \$120 plus the value of their time. According to PayScale Human Capital, board certified behavior analysts earn on average \$35 per hour.³ Assuming that the value of time for behavioral analysts is their average hourly earnings, the proposed required additional 8 hours approximately cost an additional \$280. Combining the course fees and the value of time expended, the proposed addition to the required number of continuing education hours would cost behavioral analysts approximately \$400 every two years.

Given the approximate course cost of \$15 per hour, the proposed required additional 4 hours would cost assistant behavior analysts about \$60 plus the value of their time. Data is not available for assistant behavior analyst average earnings. If we assume assistant behavior analysts earn \$20 per hour, the value of the additional 4 hours expended on continuing education would cost an additional \$80. Combining the course fees and the value of time expended, the proposed addition to the required number of continuing education hours would cost assistant behavioral analysts approximately \$140 every two years.

¹ The BACB required 36 hours of continuing education over three years for behavior analyst certification renewal 24 hours over three years for assistant behavior analyst certification. The required hours for Virginia license renewal and national certification renewal both were 12 hours per annum for behavior analysts and 8 hours per annum for assistant behavior analysts.

² The BACB website (bacb.com) and various linked course provider websites were viewed on April 14, 2016.

³ The PayScale Human Capital website (payscale.com) was viewed on April 14, 2016.

The benefit of the proposal is more difficult to estimate than the cost. Continuing education can certainly be beneficial. Learning of new developments or methods through training can expand or at least maintain expertise. If analysts believe they would benefit by taking more hours of continuing education than is required by the regulation, they are of course free to do so. If it is believed that there is a topic or area of concern or new development within the profession that licensees need new training on, and analysts may not remain competent without such training, a specific training requirement such as the proposed ethics training requirement would be more likely to be effective in addressing the issue than an increase in required non-specified course hours.

As mentioned above, the impetus for the Board's proposed amendments is to match changes to the national BACB certification renewal requirements. According to the Department of Health Professions, most licensees have chosen to maintain active certification with BACB. The proposed amendments will not directly affect these individuals since they are already meeting the proposed requirements in order to keep active BACB certification,

Businesses and Entities Affected

The proposed amendments affect the 648 behavior analysts and 119 assistant behavior analysts licensed by the Commonwealth, and providers of BACB-approved continuing education.

Localities Particularly Affected

Behavior analysts and assistant behavior analysts are sometimes employed by school divisions. The proposed amendments would particularly affect those localities that employ behavior analysts and assistant behavior analysts in their schools.

Projected Impact on Employment

If none of the currently licensed analysts were maintaining their BACB certification, the proposed amendments would require the 648 behavior analysts and 119 assistant behavior analysts to take an additional 5,660 hours⁴ of courses and pay approximately an additional \$84,900⁵ in fees over every two years to BACB-approved continuing education providers. Since most are likely already meeting the requirements, there will likely be considerably less new

⁴ $(648 \times 8) + (119 \times 4) = 5,660$

⁵ $(648 \times \$120) + (119 \times \$60) = \$84,900$

business for course providers due to the proposed amendments. The increase of business that does occur may have a small positive impact on employment for course providers. Most of the approved online providers are based outside of the Commonwealth.

Effects on the Use and Value of Private Property

Those behavior analysts and assistant behavior analysts who have chosen to not maintain active certification with BACB would need to take additional courses as described above. The increase in in business may have a small positive impact on the net worth of course providers. Most of the approved online providers are based outside of the Commonwealth.

Real Estate Development Costs

The proposed amendments do not 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 proposal to increase the number of hours of continuing education required for license renewal requires behavior analysts and assistant behavior analysts to expend additional time and dollars. To the extent that behavior analysts and assistant behavior analysts employed by small businesses are reimbursed for their expenses and are permitted to take continuing education courses during the workday, the proposed amendments will increase costs for those small businesses.

Alternative Method that Minimizes Adverse Impact

The Board could choose to not increase the number of hours of continuing education required for license renewal.

Adverse Impacts:

Businesses:

The proposal to increase the number of hours of continuing education required for license renewal requires behavior analysts and assistant behavior analysts to expend

additional time and dollars. To the extent that behavior analysts and assistant behavior analysts employed by businesses are reimbursed for their expenses and are permitted to take continuing education courses during the workday, the proposed amendments will increase costs for those firms.

Localities:

Behavior analysts and assistant behavior analysts are sometimes employed by school divisions. To the extent that behavior analysts and assistant behavior analysts employed by school divisions are reimbursed for their expenses and are permitted to take continuing education courses during the workday, the proposed amendments will increase costs for those localities that employ behavior analysts and assistant behavior analysts in their schools.

Other Entities:

Non-profit organizations and governmental entities could also potentially employ behavior analysts and assistant behavior analysts. To the extent that the analysts are reimbursed for their expenses and are permitted to take continuing education courses during the workday, the proposed amendments will increase costs for these organizations and entities as well.

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 Number 17 (2014). 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.

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