

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 115 -30 Regulations Governing the Practice of Professional Counseling**  
**Department of Health Professions**  
**Town Hall Action/Stage: 4856 / 8021**  
October 26, 2017

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

The Board of Counseling (Board) proposes several amendments concerning the certification of substance abuse counselors and substance abuse counseling assistants. The proposed changes are about: 1) new continuing education requirements, 2) a time limit to pass the certification exam, 3) didactic<sup>1</sup> training, 4) supervised experience, 5) attestation of having read and understood laws and regulations, 6) fees, 7) reports from the U.S. Department of Health and Human Services (USDHHS) National Practitioner Data Bank, and 8) standards of practice, 9) grounds for discipline, and 10) clarifying amendments.

### **Result of Analysis**

The benefits likely exceed the costs for the majority of proposed changes. For other proposed amendments it is uncertain.

### **Estimated Economic Impact**

#### *Continuing Education*

Continuing education (CE) is not currently required for certification renewal. The Board proposes to require certified substance abuse counselors (CSAC) to have completed a minimum

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<sup>1</sup> “Didactic” means teaching-learning methods that impart facts and information, usually in the form of one-way communication (includes directed readings and lectures).

of 10 contact hours of CE in substance abuse and certified substance abuse counseling assistants (CSAC-A) to have completed a minimum of 5 contact hours of CE in substance abuse prior to renewal each year.

The median hourly wage for substance abuse counselors in the Commonwealth is \$19.83 per hour.<sup>2</sup> If we assess the value of their time as their median wage, then the time cost for the proposed required 10 contact hours of continuing education for CSACs would be about \$200 annually. Data is not available for the median hourly wage for substance abuse counseling assistants. Since their wage is presumably lower, the time cost for the proposed required 5 contact hours of continuing education for CSAC-As would be less than \$100 annually.

Members of NAADAC,<sup>3</sup> the Association for Addiction Professionals (annual membership cost of \$139 for national and state affiliate in Virginia<sup>4</sup>) can take all of the required CE through webinars at no costs.<sup>5</sup> Many employers of CSACs, such as community services boards, offer continuing education through in-service programs at no costs.<sup>6</sup> Thus for some CSACs and CSAC-As CE can be obtained for few if any fees, while others may need to spend up to \$139 annually.

CE can potentially be valuable for maintaining or increasing competency of professionals. Individuals who actively seek continuing education on their own are likely to benefit in that that will likely be active learners. When there are no examinations or other concrete indications of learning taking place, the value of requiring CE for those who would otherwise not have participated is uncertain; they may not pay attention and gather or reinforce knowledge. Thus we cannot say whether the benefits of the proposed CE requirements exceed the costs.

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<sup>2</sup> Source: U.S. Bureau of Labor Statistics May 2016 State Occupational Employment and Wage Estimates: [https://www.bls.gov/oes/2016/may/oes\\_va.htm](https://www.bls.gov/oes/2016/may/oes_va.htm)

<sup>3</sup> National Association for Alcoholism and Drug Abuse Counselors

<sup>4</sup> Source: Department of Health Professions

<sup>5</sup> Ibid

<sup>6</sup> Ibid

### *Certification Exam Time Limit*

The Board proposes to require that the certification exam be passed within 2 years of board approval to sit for the exam for both CSAC and CSAC-A applicants. The applicant can take the exam every 90 days within the two-year period or potentially 8 times in 2 years. If he does not pass within the two years, the applicant must reapply in accordance with regulations in effect at that time. If the applicant has applied twice and has still not passed, he will not be approved to sit for the examination again unless he can provide evidence of extenuating circumstances for failure to pass within a four-year period. The Board is concerned about applicants who attempt passage multiple times over a period of years.<sup>7</sup> If they do finally pass, there may be a large gap between their education and supervised experience and exam passage, which raises questions about competency to practice.

### *Didactic Training*

Applicants for certification as a substance abuse counselor by examination must, among other requirements, have completed didactic training in substance abuse education. The Board proposes to increase the required total number of clock hours of substance abuse didactic training from 220 to 240. This would not add to the net required time required as the Board is also proposing to reduce required supervised experience training by 20 clock hours. Within the 240 hours, the required topics and number of hours per topic in didactic training are proposed to change as well. Further, the Board proposes to add governmental agencies, public school systems and licensed health facilities to the list of approved providers of didactic training. This would be beneficial for applicants as it provides greater flexibility in obtaining qualified education.

### *Supervised Experience*

Applicants for certification as a substance abuse counselor by examination must also obtain supervised experience training to perform specified tasks with substance abuse clients. As alluded to above, the Board proposes to reduce the required total number of clock hours from 180 to 160. Additionally, the Board proposes to require that supervisors have professional training in supervision. Training for supervisors is required for other professions under the Board. The Board believes it is necessary since it is aware of situations in which the supervisor

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<sup>7</sup> Source: Department of Health Professions

did not understand his role and responsibility and did not appropriately provide training and oversight for a supervisee. Clinical supervisors can obtain professional training in supervision consisting of three credit hours or four quarter hours in graduate-level coursework in supervision. Alternatively, the supervisor could satisfy this requirement with at least two hours of CE in supervision offered by a board-approved provider.

#### *Understanding Laws and Regulations*

The current regulation requires that applicants for certification by endorsement submit an affidavit of having read and understood the regulations and laws governing the practice of substance abuse counseling in Virginia. An affidavit requires a notary public signature. Under the proposed regulation the applicant only must attest to having read and understood the regulations and laws governing the practice of substance abuse counseling in Virginia. This change would be beneficial in that it would save time for the applicant without introducing any risk to the public. The Board also proposes to require that applicants for certification by examination attest to having read and understood the regulations and laws governing the practice of substance abuse counseling in Virginia.

#### *Fees*

The Board proposes to introduce a \$25 for verification of an individual's certification to another state or entity. Such verification can be obtained at no cost online through License Lookup at the Department of Health Professions' (DHP) website. Some states will not accept an online verification from DHP's website and require an official paper verification of licensure/certification form completed by the Board. That requires staff time to complete the form and costs for mailing. These costs are currently paid for through other fees not directly linked to this service. Charging this proposed fee directly linked to the service provided is beneficial.

#### *National Practitioner Data Bank*

The current regulation requires that applicants for certification as a substance abuse counselor by examination and applicants for certification as a substance abuse counselor by endorsement submit a current report from the USDHHS National Practitioner Data Bank. The Board proposes to also require that applicants for certification by examination for substance

abuse counseling assistant applicants for reinstatement submit the report. The report costs only \$4 and provides information that may indicate that some applicants have acted previously acted in a manner that are grounds for denial of certification. Given the low cost and potential to prevent unsafe future situations, these proposed amendments likely produce a net benefit.

### **Businesses and Entities Affected**

The proposed amendments affect the 1,784 certified substance abuse counselors and 218 certified substance abuse counseling assistants in the Commonwealth, as well as potential applicants.

### **Localities Particularly Affected**

The proposed amendments do not disproportionately affect particular localities.

### **Projected Impact on Employment**

The proposed amendments are unlikely to significantly affect total employment.

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

The proposed amendment do not significantly affect the use and value of private property.

### **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 proposed CE requirements require CSACs and CSAC-As to spend time and perhaps fees on completing the requirement. This may produce a small cost for small businesses that employ them in terms of time away from work and potentially in some cases reimbursed fees.

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

Encouraging but not requiring CE would potentially reduce the small potential adverse impact for small businesses.

#### **Adverse Impacts:**

##### **Businesses:**

The proposed CE requirements require CSACs and CSAC-As to spend time and perhaps fees on completing the requirement. This may produce a small cost for businesses that employ them in terms of time away from work and potentially in some cases reimbursed fees.

##### **Localities:**

The proposed amendments do not adversely affect localities.

##### **Other Entities:**

The proposed CE requirements increase costs for CSACs and CSAC-As who otherwise would not have taken the required hours of CE.

#### **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.