



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

18 VAC 115-30 Regulations Governing the Certification of Substance Abuse Counselors
Department of Health Professions
Town Hall Action/Stage: 5692 / 9217
March 24, 2021

Summary of the Proposed Amendments to Regulation

The Board of Counseling (Board) proposes to clarify that certified substance abuse counselors (CSACs) who, by law, are allowed to provide counseling only under supervision and CSAC trainees shall not directly bill for services rendered, or in any way represent themselves as independent, autonomous practitioners.

Background

This action results from a 2020 petition for rulemaking,¹ which requested that the Board amend the regulations “to specify that CSACs [certified substance abuse counselors] cannot engage in independent or autonomous practice regardless of supervision and that such practice may be grounds for disciplinary action.”

Section 54.1-3507.1 of the Code of Virginia² governs “Scope of practice, supervision, and qualifications of certified substance abuse counselors.” Section 54.1-3507.1 specifically states that CSACs shall perform their work under supervision and that they shall not engage in independent or autonomous practice. Moreover, to be certified as CSAC an applicant must have supervised experience. Thus, a CSAS trainee must work under supervision for a certain number of hours to become certified, and once he or she is certified he or she must continue to provide counseling as a certified counselor still under the supervision of a licensed substance abuse treatment practitioner.

¹ <https://townhall.virginia.gov/L/ViewPetition.cfm?petitionId=327>

² <http://law.lis.virginia.gov/vacode/title54.1/chapter35/section54.1-3507.1/>

Consistent with the petitioner's request, the Board proposes additional language to clarify that trainees who are not yet certified, but are working under supervision to gain practical experience necessary for certification as a CSAC, cannot directly bill for their services or represent themselves as independent or autonomous practitioners. In addition, the proposal would clarify that working without supervision or billing independently would violate the standards of conduct for certified counselors. Section 54.1-3507.1 does not specifically prohibit independent billing, however the Board reaches that conclusion based on the fact that the statute prohibits CSACs from providing counseling independently, without supervision. Therefore, the Board concludes "it is logical that persons under supervision are also prohibited from directly billing or representing themselves as autonomous practitioners."

Estimated Benefits and Costs

In practice, CSACs or CSAC trainees are not currently allowed to provide counseling without supervision or to bill independently. The proposed changes reflect what the current practice is and are not expected to create any economic impact other than improving the clarity of the text about the prohibition on autonomous and independent practice and independent billing to avoid confusion within the regulated community and the general public.

Businesses and Other Entities Affected

According to the Department of Health Professions (DHP), there are 1,876 certified substance abuse counselors and 1,965 substance abuse trainees. CSACs are prohibited from practicing independently or autonomously so it is unknown how many practices would constitute a small business. DHP notes that many CSACs are employed by government agencies.

The proposed amendments do not appear to have an adverse economic impact³ or disproportionate impact on any entity.

Small Businesses⁴ Affected:

The proposed amendments do not appear to adversely affect small businesses.

³ Adverse impact is indicated if there is any increase in net cost or reduction in net revenue for any entity, even if the benefits exceed the costs for all entities combined.

⁴ 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."

Localities⁵ Affected⁶

The proposed amendments do not affect localities.

Projected Impact on Employment

The proposed amendments do not affect employment.

Effects on the Use and Value of Private Property

The proposed amendments do not affect the use and value of private property or real estate development costs.

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(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 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.

⁵ “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.

⁶ § 2.2-4007.04 defines “particularly affected” as bearing disproportionate material impact.