



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

18 VAC 125-20 Regulations Governing the Practice of Psychology
Department of Health Professions
Town Hall Action/Stage: 5567 / 9249
August 6, 2021

Summary of the Proposed Amendments to Regulation

The Commonwealth adopted the Psychology Interjurisdictional Compact (Compact) through Chapter 1162 of the 2020 Acts of the Assembly (Chapter 1162).¹ The Compact is an interstate agreement designed to facilitate the practice of telepsychology² and the temporary in-person, face-to-face practice of psychology across state boundaries.³ Pursuant to Chapter 1162, an emergency regulation became effective on January 3, 2021, to help enable Virginia's participation in the Compact.⁴

The emergency regulation will expire on July 2, 2022. Also pursuant to the legislation, the Board of Psychology (Board) proposes to replace the emergency regulation with an identical permanent regulation.

Background

Legislation, Commission, & Rules

Chapter 1162 defines "Psychology Interjurisdictional Compact Commission (Commission)" as "the national administration of which all Compact States are members." Chapter 1162 essentially consists of the standard statutory language provided by the Commission for states joining the Compact to adopt. The legislation defines "Rule" as "a written statement by the Psychology Interjurisdictional Compact Commission ... that is of general applicability,

¹ See <https://lis.virginia.gov/cgi-bin/legp604.exe?201+ful+CHAP1162>

² Chapter 1162 defines telepsychology as "the provision of psychological services using telecommunication technologies."

³ See <https://psypact.site-ym.com/page/About>

⁴ See <https://townhall.virginia.gov/l/ViewStage.cfm?stageid=9019>

implements, interprets, or prescribes a policy or provision of the Compact, or an organizational, procedural, or practice requirement of the Commission and **has the force and effect of statutory law** in a Compact State ...” (emphasis added).

As described in the Compact, an E.Passport allows a psychologist to practice telepsychology in other Compact states, and an interjurisdictional practice certificate (IPC) allows him or her to provide in-person psychological services for up to 30 days per calendar year in another Compact state. Note: psychologists licensed in Virginia can practice telepsychology in the Commonwealth without obtaining an E.Passport.⁵

In order to qualify and obtain an E.Passport to provide telepsychology services in other Compact states, the Commission’s rules state that a psychologist must:⁶

- Have a current active psychology license based on a doctoral degree in at least one Compact state;
- Have no disciplinary action listed on any psychology license;
- Have a doctoral degree in psychology from an accredited program⁷;
- Have a score on the Examination for Professional Practice in Psychology that meets or exceeds the established Association of State and Provincial Psychology Boards’ recommended passing score; and
- Pay the \$400 E.Passport application fee

In order to renew the E.Passport annually, the psychologist must demonstrate three hours of continuing education relevant to the use of technology in psychology and pay a \$100 renewal fee.

⁵ See <https://www.dhp.virginia.gov/psychology/guidelines/125-7.docx>

⁶ Technically to provide telepsychology services in other Compact states the psychologist must also obtain “Authority to Practice Interjurisdictional Telepsychology” by: 1) possessing an active E.Passport, 2) holding a full, unrestricted license in a Compact state, 3) providing attestations in regard to areas of intended practice, conformity with standards of practice, competence in telepsychology technology; criminal background; and knowledge and adherence to legal requirements in the home and receiving states, and 4) paying a one-time \$40 fee.

⁷ See the following website for specifics on what qualifies as an accredited program: <https://psypact.site-ym.com/page/PracticeUnderPSYPACT>

The Commission's rules also state that in order to be granted an IPC, the psychologist must (with one exception) meet the same non-fee requirements needed for the E.Passport.⁸ The one exception is that there is no Examination for Professional Practice in Psychology score requirement. The application fee for IPC is \$200. The annual renewal fee for the IPC is \$50 and there is no continuing education requirement.

Participating States

The following states and the District of Columbia are current participants in the Compact: Alabama, Arizona, Colorado, Delaware, Georgia, Illinois, Kentucky, Maryland, Minnesota, Missouri, Nebraska, Nevada, New Hampshire, North Carolina, Ohio, Oklahoma, Pennsylvania, Tennessee, Texas, Utah, Virginia, and West Virginia. Arkansas, Kansas, and Maine have enacted legislation to join the Compact and will begin participation in the coming months.

Numbers of Participating Psychologists⁹

As of August 3, 2021, there were 3,452 psychologists who had an active E.Passport throughout the Compact states, which allows them to practice telepsychology in any Compact state, including Virginia.¹⁰ As of August 3, 2021, there were 110 psychologists who had an active IPC, allowing them to practice for up to 30 days per calendar year in person temporarily in any Compact state.¹¹

Regulation

The Board proposes to amend the *Regulations Governing the Practice of Psychology* to: 1) state that the standards of practice apply to persons practicing in Virginia with an E.Passport or an IPC as well as persons directly licensed by the Board, 2) state that the causes for which the Board may take disciplinary action against a licensee also apply to authorization to practice in Virginia with an E.Passport or an IPC, and 3) add definitions.

⁸ Technically to provide in-person psychological services for up to 30 days per calendar year in another Compact state the psychologist must also obtain "Temporary Authority to Practice" by: 1) possessing an active IPC, 2) holding a full, unrestricted license in a Compact state, 3) providing attestations in regard to areas of intended practice and work experience, and 4) paying a one-time \$40 fee.

⁹ Data source: Department of Health Professions

¹⁰ Technically "Authority to Practice Interjurisdictional Telepsychology" is also needed. See footnote 6, *supra*, for more detail.

¹¹ Technically, "Temporary Authority to Practice" is also needed. See footnote 8, *supra*, for more detail.

Estimated Benefits and Costs

The proposed amendments to the regulation are necessary for Virginia's participation in the Compact. The Commonwealth's participation in the Compact appears to be beneficial for Virginia consumers of psychological services in that it increases the number of qualified psychologists available to provide these services. This may moderately reduce the difficulty some Virginians may have finding mental health services.

The Commonwealth's participation in the Compact can also be potentially beneficial for Virginia psychologists who are interested in adding patients, because they could legally provide services to potential patients in any Compact state rather than just Virginia. According to a July 2020 report (the most recent available) from the Virginia Healthcare Workforce Data Center, two percent of Virginia's licensed clinical psychologists reported experiencing unemployment within the past year.¹² By greatly increasing the population of potential patients that can be legally served, participation in the Compact facilitated by the proposed amendments may help reduce unemployment for Virginia-licensed psychologists. On the other hand, psychologists licensed in other Compact states can provide psychological services to Virginians with the Commonwealth's participation in the Compact. This potential increase in competition in providing psychological services may limit any positive impact on unemployment.

Businesses and Other Entities Affected

The 4,130 clinical psychologists and 29 applied psychologists licensed in Virginia,¹³ employers of psychologists, and consumers of psychological services are all potentially affected. According to survey data from the July 2020 Virginia Healthcare Workforce Data Center report, the primary types of employers of clinical psychologists in the Commonwealth are distributed as follows:¹⁴

<u>Establishment Type</u>	<u>Percentage</u>
Private Practice, Solo	24%
Private Practice, Group	24%
Academic Institution (Teaching Health Professions Students)	9%

¹² See <https://www.dhp.virginia.gov/media/dhpweb/docs/hwdc/behsci/0810CP2020.pdf>

¹³ Data source: <https://www.dhp.virginia.gov/about/stats/2021Q3/04CurrentLicenseCountQ3FY2021.pdf>

¹⁴ See footnote 12, *supra*.

Mental Health Facility, Outpatient	7%
Hospital, General	7%
Hospital, Psychiatric	4%
Community-Based Clinic or Health Center	4%
School (Providing Care to Clients)	4%
Community Services Board	2%
Administrative or Regulatory	2%
Corrections/Jail	2%
Physician Office	1%
Residential Mental Health/Substance Abuse Facility	1%
Rehabilitation Facility	1%
Long-Term Care Facility, Nursing Home	1%
Other Practice Setting	8%

Similar data is not available for applied psychologists.

Small Businesses¹⁵ Affected:

Types and Estimated Number of Small Businesses Affected

The proposed amendments, which facilitate participation in the Compact, affect small businesses that employ licensed psychologists. No data are available on the number of small businesses.

Costs and Other Effects

For those small businesses that employ psychologists, the proposed amendments, which enable Virginia's participation in the Compact, increase the potential supply of labor. With more potential qualified employees to choose from, these firms may be able to employ psychologists at lower cost.

¹⁵ 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."

Participation in the Compact also increases the potential number of clients that businesses that provide psychological services may serve. Conversely, participation in the Compact introduces potential competition from firms in other Compact states that provide psychological services. Due to these countervailing factors, some small businesses that provide psychological services may in net increase their number of clients, while others may encounter decreased net business. Most would not likely be substantively affected. If there are small firms that encounter reduced net demand for their psychological services due Virginia's Compact participation that is not outweighed by potential reduction in labor cost, these small firms would be determined to receive adverse impact¹⁶ from the proposed amendments.

Alternative Method that Minimizes Adverse Impact

There are no clear alternative methods that both reduce adverse impact and meet the intended policy goals.

Localities¹⁷ Affected¹⁸

All Virginians, regardless of location within the Commonwealth, could potentially choose to receive psychological services from a psychologist licensed in another Compact state. Nevertheless, it may be more likely in practice that residents of localities near the border of neighboring states or the District of Columbia hear recommendations for psychologists licensed in the nearby jurisdiction but not in the Commonwealth. Similarly, Virginia-licensed psychologists who practice near the border may be more likely to be recommended to potential clients in neighboring states. All states bordering Virginia, as well as the District of Columbia, are participants in the Compact. Thus, localities on or near Virginia's borders with other states and the District of Columbia may be particularly affected. Likewise, Virginians living in medically underserved areas, which are predominately rural, may also benefit from improved access.¹⁹

The proposed amendments do not appear to introduce costs for local governments

¹⁶ 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.

¹⁷ "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.

¹⁸ § 2.2-4007.04 defines "particularly affected" as bearing disproportionate material impact.

¹⁹ See <https://www.vdh.virginia.gov/health-equity/shortage-designations-and-maps/>

Projected Impact on Employment

As discussed earlier the proposed amendments enable the Commonwealth's participation in the Compact, which greatly increases the population of patients who may be legally served by Virginia-licensed psychologists, but also allows psychologists licensed in other Compact states to serve Virginia patients. The former may have a positive impact on employment for Virginia psychologists, while latter may have a negative impact. Information is not available to determine the net impact.

Effects on the Use and Value of Private Property

For those businesses that employ psychologists, the proposed amendments, which enable Virginia's participation in the Compact, increase the potential supply of labor. With more potential qualified employees to choose from, these firms may be able to find more productive and/or less costly people to hire. Also, participation in the Compact increases the potential number of clients that businesses that provide psychological services may serve. These two factors may moderately increase the value of some businesses. On the other hand, participation in the Compact introduces potential competition from firms in other Compact states that provide psychological services, which may have a moderate negative impact on the value of some firms.

The proposed amendments do not appear to affect 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.