



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

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**12 VAC 5-540 – Rules and Regulations for the Identification of Medically Underserved Areas in Virginia**  
**Virginia Department of Health**  
August 5, 2011

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

The Board of Health (the board) proposes to 1) automatically designate the state facilities operated by the Departments of Corrections, Juvenile Justice, and Behavioral Health and Developmental Services as Virginia Medically Underserved Areas (VMUA), 2) update the data sources to be used in computing VMUA designations and establish a minimum of five years of update and renewal cycle for designations, and 3) remove outdated information regarding scholarship programs that are affected by the designation.

### **Result of Analysis**

The benefits likely exceed the costs for all proposed changes.

### **Estimated Economic Impact**

These regulations establish criteria for VMUA designation. The criteria are required to be quantifiable measures, sensitive to the unique characteristics of urban and rural jurisdictions. The purpose of identifying medically underserved areas within the Commonwealth is to establish geographic areas in need of additional primary healthcare services. The VMUA designation is a targeting device that assists individual practitioners, medical facilities (e.g., clinics, hospitals), and communities in recruiting health professionals, obtaining foundation grants, qualifying for special services, etc.

VMUA designation is designed to encourage the appropriate distribution and expansion of healthcare services into areas where Virginia citizens often lack access to healthcare. State, private, and sometimes federal funding programs and agencies rely on VMUA designation to allocate their limited resources to provide incentives.

According to the Virginia Department of Health (VDH), VMUA designation has a direct impact on Nurse Practitioner/Nurse Midwife Scholarship allocations in Virginia. Also, Virginia Health Care Foundation, hospital conversion foundations, and other healthcare foundations use VMUA as acceptable criteria for grant applications. Moreover, federal regulations allow Virginia to develop criteria for qualifying areas for rural health clinic development. Rural health clinics are designed to recruit and retain providers in underserved areas through a cost-based reimbursement mechanism. Furthermore, Virginia may establish criteria for the placement of J-1 Waiver physicians in federal and state designated health professional shortage areas. A J-1 Waiver relieves an international medical graduate from the obligation of returning to his or her home country for two years, and allows the physician to apply for an immigration status that would allow him or her to remain in the U.S. Finally, VDH expects that once the VMUA criteria are updated according to the proposed changes and maintained regularly, the designations will be more generally used as a health planning tool and as a recognized set of criteria for evaluating healthcare shortages in the Commonwealth.

One of the proposed changes will allow the board to automatically designate the state facilities operated by the Departments of Corrections, Juvenile Justice, and Behavioral Health and Developmental Services as VMUA. While the board has had this authority since 1990 under Section 32.1-122.5 of the Code of Virginia, the regulatory language has never included this authority. Since this authority has not been in the regulations, the Board has never designated these state facilities as VMUA. The proposed changes will add this authority in the regulations and allow the Board to designate the state facilities as VMUA. According to VDH, Departments of Corrections, Juvenile Justice, and Behavioral Health and Developmental Services respectively have 39, 11, and 16 facilities which may be automatically designated as VMUA.

The main benefit of this change will fall on the 66 state facilities operated by the three departments. These facilities will be able to attract nurse practitioners and midwives through the Commonwealth's Nurse Practitioner/Nurse Midwife Scholarship program. These facilities may also be approved for grant applications by various healthcare foundations and for J-1 Waiver recommendation by the United States Department of State. Since most of the benefits will depend on the decision of other entities on whether to rely on the VMUA designations, the exact extent of the potential benefits is unknown at this time.

The main cost of this change will fall on the areas that are currently designated as VMUA.<sup>1</sup> These areas will have to share the same available resources with 66 additional state facilities which may reduce the amount of benefits they currently receive due to VMUA designation.

Other proposed changes will update the data sources to be used in computing VMUA designations and establish a minimum of five years of update and renewal cycle for designations. According to VDH, these regulations were last revised in 1991 and have not been reviewed since that time. Since then, new and improved data sources have become available to assess the demographic characteristics indicative of areas with inadequate primary healthcare resources.

Similar to the previous change, the main cost of this change will fall on the areas that are currently designated as VMUA.<sup>2</sup> With the use of new data, some of the areas that are currently designated as VMUA may no longer be designated as VMUA. However, VDH believes only one or two areas might lose their current VMUA designation based on an experimentation with the data a few years ago.

On the other hand, areas that will become newly designated as VMUA due to use of new data will be the ones to mainly benefit from this change. These areas may enjoy an influx of state scholarships for nurse practitioners and midwives and grants made available by various healthcare associations and foundations.

In addition, updating the VMUA designations at least once in every five years is expected to keep up with the demographic changes that may occur and result in more accurate identification of areas that remains truly underserved over time.

The use of newer and improved data and frequent updates are also expected to more accurately identify the areas that are truly in need of additional primary healthcare resources. Due to this improvement in methodology, there is a chance that the federal government may start relying on the Commonwealth's VMUA designations and make new federal resources available to the designated areas.

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<sup>1</sup> VMUAs as of September 2006 include counties of Accomack, Alleghany, Bath, Bland, Brunswick, Buchanan, Caroline, Charlotte, Dickenson, Essex, Greensville, Halifax, Henry, Highland, Lancaster, Lee, Louisa, Lunenburg, Mecklenburg, Northampton, Northumberland, Nottoway, Page, Patrick, Pittsylvania, Richmond, Russell, Scott, Smyth, Surry, Sussex, Tazewell, Washington, Westmoreland, Wise, Wythe, and cities of Bristol, Clifton Forge, Covington, Danville, Emporia, Martinsville, Norton.

Finally, the proposed changes will remove outdated information regarding scholarship programs that are affected by the designation. This particular change is not expected to create any significant economic effects other than improving the clarity of the regulations.

## **Businesses and Entities Affected**

These regulations directly affect beneficiaries of VMUA designation. According to VDH, there are approximately 500 community and business entities supported by the designation process. In addition, the proposed changes will add 66 state facilities to the list of beneficiaries.

## **Localities Particularly Affected**

The proposed regulations apply throughout the Commonwealth. However, areas designed as VMUA under the current regulations include counties of Accomack, Alleghany, Bath, Bland, Brunswick, Buchanan, Caroline, Charlotte, Dickenson, Essex, Greenville, Halifax, Henry, Highland, Lancaster, Lee, Louisa, Lunenburg, Mecklenburg, Northampton, Northumberland, Nottoway, Page, Patrick, Pittsylvania, Richmond, Russell, Scott, Smyth, Surry, Sussex, Tazewell, Washington, Westmoreland, Wise, Wythe and cities of Bristol, Clifton Forge, Covington, Danville, Emporia, Martinsville, and Norton.

The proposed changes may remove VMUA designation from one or two of these areas while some other areas may be newly designated.

## **Projected Impact on Employment**

The proposed changes may affect the distribution of statewide public scholarships by changing the list of VMUAs. Thus, supply of certain healthcare professionals may increase for facilities that may newly be designated as VMUA and decrease for those losing their designation. Similarly, statewide distribution of private grants may be altered by the proposed changes. Thus, facilities with new VMUA designation may see an increase in their demand for labor due to influx of additional grant funds, while those losing their designation may experience a decrease in their demand for labor.

Additionally, if the improvement in the VMUA designation process due to new data results in federal government relying on Commonwealth's VMUA designations and making new federal resources available to the designated areas, we can expect to see an effect on

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<sup>2</sup> Ibid.

employment. For example, federal rural health clinic development designation would be expected to increase demand for healthcare professionals as additional clinics would be established in VMUAs. Also, federal J-1 Waiver designations would add to the supply of physicians available in VMUAs.

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

Asset value of privately owned beneficiaries of scholarships or grants may increase if they are newly designated as VMUA. On the other hand, their asset values may decrease if they lose their VMUA designation.

### **Small Businesses: Costs and Other Effects**

While there is no data to conclusively identify the small businesses affected by the proposed changes, it is believed that most of the approximately 500 community and business entities supported by the designation process are non-profit community groups such as free clinics and community health centers. The costs and other effects on the affected small businesses would be the same as discussed above.

### **Small Businesses: Alternative Method that Minimizes Adverse Impact**

The proposed regulations would have an adverse impact on small businesses that are current beneficiaries of the VMUA designation, but would lose some or all of their benefits once the proposed regulations become effective. There is no known alternative that minimizes the adverse impact while accomplishing the same goals.

### **Real Estate Development Costs**

No direct effect on real estate development costs is expected.

### **Legal Mandate**

The Department of Planning and Budget (DPB) has analyzed the economic impact of this proposed regulation in accordance with Section 2.2-4007.H of the Administrative Process Act and Executive Order Number 107 (09). Section 2.2-4007.H requires that such economic impact analyses include, but need not be limited to, the projected number of businesses or other entities to whom the regulation would apply, the identity of any localities and types of businesses or other entities particularly affected, the projected number of persons and employment positions to be affected, the projected costs to affected businesses or entities to implement or comply with the

regulation, and the impact on the use and value of private property. Further, if the proposed regulation has adverse effect on small businesses, Section 2.2-4007.H requires that such economic impact analyses include (i) an identification and estimate of the number of small businesses subject to the regulation; (ii) the projected reporting, recordkeeping, and other administrative costs required for small businesses to comply with the regulation, including the type of professional skills necessary for preparing required reports and other documents; (iii) a statement of the probable effect of the regulation on affected small businesses; and (iv) a description of any less intrusive or less costly alternative methods of achieving the purpose of the regulation. The analysis presented above represents DPB's best estimate of these economic impacts.