



Economic Impact Analysis Virginia Department of Planning and Budget

18 VAC 85-20 – Regulations Governing the Practice of Medicine, Osteopathy, Podiatry and Chiropractic

Department of Health Professions

December 13, 2006

Summary of the Proposed Regulation

The Board of Medicine (board) proposes to require that documents that support advertising claims be maintained and available for board review for at least two years.

Result of Analysis

The benefits likely exceed the costs for this proposed regulatory change.

Estimated Economic Impact

Current regulation prohibits board licensees from putting out advertising material that is false or deceptive. Current regulation also specifies that licensees who practice alone are “responsible and accountable for the validity and truthfulness“of any advertising claims and that, for practices staffed by more than one licensee, “the name of the practitioner or practitioners responsible and accountable for the content of the advertisement shall be documented and maintained by the practice for at least two years.” Regulation does not currently require, however, that named licensees be able to produce evidence to back the advertising claims for which they are accountable. As a result, although licensees can be disciplined for making false or misleading advertising claims, the onus of disproving those claims lies with the board.

This proposed regulation will require that evidence to back advertising claims be maintained and available to the board for at least two years. This change will allow the board to more effectively police any advertising claims made by its licensees. It may also help insure that individuals make better informed health care decisions (or at least decisions that are not influenced by erroneous or fraudulent advertising claims). Licensees who advertise will likely incur some added expenses on account of this regulatory change. To the extent that licensees

have actual evidence to back their claims of superiority (or popularity), these costs should be minimal and will likely only include the explicit costs of copying and storing that proof as well as the implicit cost of their time spent.

Businesses and Entities Affected

All board licensees will be affected by this regulatory change. This regulated community comprises 857 athletic trainers, 1577 chiropractors, 347 acupuncturists, 20 midwives, 29,635 medical doctors, 2378 occupational therapists, 1269 osteopathic doctors, 463 podiatrists and 3319 respiratory care practitioners.

Localities Particularly Affected

This regulatory change will affect all localities in the Commonwealth.

Projected Impact on Employment

This regulatory change is unlikely to have an appreciable affect on employment in the Commonwealth.

Effects on the Use and Value of Private Property

Licensees who have seen their profits increase because of advertising claims, but who can't prove those claims, may see their profits fall once they have to stop their suspect advertising.

Small Businesses: Costs and Other Effects

Licensees who choose to advertise may experience a minimal increase in copying and storage fees on account of this regulatory change.

Small Businesses: Alternative Method that Minimizes Adverse Impact

There are likely no alternative methods to accomplish the board's goal that would be less costly than the methods mandated by this regulatory change.

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 21 (02). 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.