



Economic Impact Analysis Virginia Department of Planning and Budget

18 VAC 110-20 – Regulations Governing the Practice of Pharmacy
Department of Health Professions
May 9, 2013

Summary of the Proposed Amendments to Regulation

The Board of Pharmacy (Board) proposes to provide in these regulations that, except in an emergency, a pharmacy cannot require a pharmacist to work longer than 12 continuous hours in any work day without being allowed at least six hours of off-time between consecutive shifts. A pharmacist working longer than six continuous hours must be allowed to take a 30-minute break.

Result of Analysis

The proposed amendments are beneficial for some entities and are costly for others.

Estimated Economic Impact

The proposal was initially brought forth through a petition for rulemaking by a practicing Virginia pharmacist. According to the petitioner, there are hundreds of retail pharmacists in Virginia who are required to work more than 12 continuous hours (often up to 14 hours) per day, and a large percentage of them are not allowed to leave the pharmacy for at least a 30 minute meal break. Under the proposed language a pharmacist can agree to work longer than 12 continuous hours in a work day without at least six hours of off-time between consecutive shifts or work longer than six continuous hours without taking a break, but cannot be required to do so. Thus, the proposed amendments will be beneficial for pharmacists who object to such work requirements.

Also, the peer reviewed literature does indicate that fatigue contributes to pharmacist dispensing errors.¹ Working numerous hours without a break and working long shifts with little time off in between surely does contribute to fatigue. Thus, the proposed amendments have the potential to reduce dispensing errors. Of note, the peer-reviewed literature appears to imply that high workload per hour is an even greater source of pharmacist dispensing error than a high quantity of consecutive hours worked.²

As demonstrated by the petition for rulemaking, there are pharmacists who are currently required to work longer than 12 continuous hours in a work day without at least six hours of off-time between consecutive shifts or work longer than six continuous hours without taking a break. Thus, the proposed prohibition on requiring such work hours will likely cause some pharmacies to increase staffing or redeploy existing staff in a less profit-maximizing manner.

Businesses and Entities Affected

The proposed amendments potentially affect the 12,011 pharmacists and 1,776 pharmacies currently licensed in the Commonwealth. According to the Department of Health Professions, most of the licensed pharmacies are owned by national chain drug stores and would not be considered small businesses.

Localities Particularly Affected

The proposed amendments do not disproportionately affect particular localities.

Projected Impact on Employment

The net effect of the proposed amendments on total employment is uncertain. On the one hand, the proposed limitation on requiring certain work hours may cause some pharmacies to increase staffing to cover all hours of operation. On the other hand, the prohibition will increase costs for affected pharmacies. Such pharmacies may choose to operate for fewer hours in response and effectively employ fewer hours of pharmacist labor.

Effects on the Use and Value of Private Property

The proposed amendments will likely cause some pharmacies to increase staffing or redeploy existing staff in a less profit-maximizing manner.

¹ Schaheutle EI, Seston EM, Hassell K. "Factors influencing pharmacist performance: A review of the peer-reviewed literature." *Health Policy*: 102 (2011) 178-192.

Small Businesses: Costs and Other Effects

Most of the affected businesses are part of large chain pharmacies. Those small pharmacies which are currently requiring staff pharmacists to work longer than 12 continuous hours in a work day without at least six hours of off-time between consecutive shifts or work longer than six continuous hours without taking a break may incur higher staffing costs or be forced to be open fewer hours due to the proposed amendments if their staff do not voluntarily agree to work such hours.

Small Businesses: Alternative Method that Minimizes Adverse Impact

There is not an apparent alternative method that achieves the same policy goal at a lower cost.

Real Estate Development Costs

The proposed amendments do not affect real estate development costs.

Legal Mandate

The Department of Planning and Budget (DPB) has analyzed the economic impact of this proposed regulation in accordance with Section 2.2-4007.04 of the Administrative Process Act and Executive Order Number 14 (10). Section 2.2-4007.04 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 2.2-4007.04 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

² Ibid

regulation. The analysis presented above represents DPB's best estimate of these economic impacts.