Virginia Department of Planning and Budget

Economic Impact Analysis

12 VAC 5-67 Advance Health Care Directive Registry
Virginia Department of Health
Town Hall Action/Stage: 6908 / 10997 Fast-Track
July 24, 2026

The Department of Planning and Budget (DPB) 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 17 (2026). The analysis presented below represents DPB's best estimate of the potential economic impacts as of the date of this analysis.[1]

Summary of the Proposed Amendments to Regulation

The State Board of Health (Board) seeks to update the regulation governing the Advance Health Care Directive Registry to implement changes based on a 2022 period review and 2024 legislation.[2] The proposed changes would (i) expand the types of documents that may be filed in the registry, (ii) expand the situations in which licensed health care providers may access the registry and who can obtain access, and (iii) align the regulation to current practice.

Background

The Advance Health Care Directive Registry was first established by Chapter 696 of the *2008 Acts of Assembly,* which directed the Virginia Department of Health (VDH) to, "make available a secure only central registry for advance health care directives" and to promulgate regulations to implement certain provisions; accordingly, this regulation (12 VAC 5-67) became effective in 2011. The registry is maintained by Virginia Health Information (VHI).[3]

Chapters 231 and 274 of the *2024 Acts of Assembly* renamed the registry to the Advance Health Care Planning Registry and added "any other document that supports advance health care

[1] See Code § 2.2-4007.04 (A).
[2] See https://townhall.virginia.gov/L/ViewPReview.cfm?PRid=2225 and https://legacylis.virginia.gov/cgi-bin/legp604.exe?241+sum+HB188, respectively.
[3] See https://www.vhi.org/hie/advance-care-planning-registry/.

planning, including Durable Do Not Resuscitate Order or portable medical order forms" to the list of documents that could be filed in the registry. Thus, the Board seeks to amend the title of the regulation by replacing "directive" with "planning" and to conform the regulation to statute by adding the new documents specified in the legislation to the list in section 20 (Criteria for submission of an advanced directive to the Advance Health Care Planning Registry).

Section 30 (Access to the Advance Health Care Planning Registry) currently states that,

> "Licensed health care providers shall have access to the registry for the purpose of a query for advance directive information on patients who are comatose, incapacitated, or otherwise mentally or physically incapable of communication."

The Board seeks to replace this sentence to allow a licensed health care provider to access the registry, "when conducting a query for advance health care planning information on a patient with whom the [provider] has a treatment relationship." This change would provide greater flexibility for patients and providers. Specifically, in practice, providers would have broader access to the registry regardless of the patient's condition even if they have not previously been previously informed of an advance directive or planning document by the patient.

Lastly, the Board seeks to (i) add definitions, (ii) clarify that the registry is available to the public, and (iii) specify that only the individual who executed the document, or their legal representative or designee, can file the document in the registry.

Estimated Benefits and Costs

The proposed amendments would benefit readers of the regulation by ensuring that the regulation is clear and conforms to statute. Licensed health care providers who use the registry would benefit by having access to the information they need in a timely manner so that they may honor their patients' advance directives. Individuals who choose to use the registry would benefit to the extent that their providers are able to access and follow the advance planning documents that they have filed.

Although Virginia Code § 54.1-2995 allows the Board to charge individuals a fee for filing documents in the registry, the regulation does not currently contain any fees and VDH has confirmed that VHI does not charge individuals any fees to create an online account or file documents (collectively, these constitute "registration"). VDH reports that VHI incurs a cost of $4.95 per individual for registration, which is billed to and reimbursed by VDH.

VDH also reports that VHI enrolls 25 new providers per year and is in the process of gradually increasing the enrollment of licensed health care providers, which resulted from legislative changes that expanded providers' ability to access the registry. VDH reports that VHI pays annual fees of $1800 per new provider (which reflects additional onboarding costs) and $1200 per existing provider. These costs are also billed to and reimbursed by VDH. Providers are not charged any fees to access documents filed by their patients.

Businesses and Other Entities Affected

The proposed amendments would benefit individuals who choose to use the registry as well as their healthcare providers by clarifying the documents that may be filed and ensuring that the regulation conforms to statute. As mentioned above, VDH incurs the cost of maintaining the registry and reimburses VHI for registration fees for individuals and enrollment fees for providers. However, these costs derive from statute and would not be newly created by the proposed amendments to the regulation.

The Code requires DPB to assess whether an adverse impact may result from the proposed regulation.[4] An adverse impact is indicated if there is any increase in net cost or reduction in net benefit for any entity, even if the benefits exceed the costs for all entities combined.[5] As noted above, the proposed amendments conform the regulation to statute and do not create new costs or reduce net benefits. Thus, an adverse impact is not indicated.

Small Businesses[6] Affected:[7]

The proposed amendments would not adversely affect small businesses.

[4] See Code § 2.2-4007.04 (D).
[5] Statute does not define "adverse impact," state whether only Virginia entities should be considered, nor indicate whether an adverse impact results from regulatory requirements mandated by legislation. As a result, DPB has adopted a definition of adverse impact that assesses changes in net costs and benefits for each affected Virginia entity that directly results from discretionary changes to the regulation.
[6] 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."
[7] See Code § 2.2-4007.04 (A.2). and Code § 2.2-4007.1 (C).

Localities[8] Affected[9]

The proposed amendments would neither affect any locality in particular, nor introduce costs for local governments.

Projected Impact on Employment

The proposed amendments would not affect total employment.

Effects on the Use and Value of Private Property

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

[8] "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.
[9] Code § 2.2-4007.04 defines "particularly affected" as bearing disproportionate material impact.