



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

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**12 VAC 5-391 Regulations for the Licensure of Hospices**  
**Virginia Department of Health**  
**Town Hall Action/Stage: 5455 / 8861**  
April 17, 2020

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

The Virginia Board of Health (Board) proposes to: 1) eliminate the requirement that the medical director have admitting privileges at one or more hospitals and nursing facilities that provide inpatient service to the hospice program's patients, 2) set out requirements that would allow hospice programs to set up in-house training for volunteer home attendants, 3) make clarifying changes, and 4) correct citations and remove obsolete language.

### **Background**

The Board conducted a periodic review<sup>1</sup> of 12 VAC 5-391 *Regulations for the Licensure of Hospices*, in which it decided to amend the regulation.

The current regulation lists six options for home attendants to qualify to work at a hospice. The first five options are for either paid or volunteer home attendants. Under the regulation volunteer home attendants can also qualify through the sixth option, which is that the individual “Have satisfactorily completed training using the ‘Personal Care Aide Training Curriculum,’ dated 2003, of the Department of Medical Assistance Services [DMAS].” According to the Virginia Department of Health (VDH), this training is no longer available. The Board proposes to remove this obsolete option and set out requirements that would allow hospice programs to set up in-house training for volunteer home attendants.

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<sup>1</sup> See [https://townhall.virginia.gov/l/GetFile.cfm?File=C:\TownHall\docroot\Review\1473\PReview\\_VDH\\_1473\\_v1.pdf](https://townhall.virginia.gov/l/GetFile.cfm?File=C:\TownHall\docroot\Review\1473\PReview_VDH_1473_v1.pdf)

## **Estimated Benefits and Costs**

Public comments have indicated that the requirement that the medical director have admitting privileges at one or more hospitals and nursing facilities that provide inpatient service to the hospice program's patients has made it difficult for hospices to find qualified medical directors. The proposal to remove this requirement may therefore reduce hiring costs for some hospices. Subject matter experts from VDH believe that repealing this requirement would not jeopardize public health, safety, and welfare.

Since the DMAS training for personal care aides is no longer available, volunteer home attendants must currently qualify to serve hospices by one of the five options available to paid home attendants. VDH believes that the proposal to allow hospice programs to set up in-house training for volunteer home attendants would likely have a positive impact on a hospice's ability to have qualified volunteers.

## **Businesses and Other Entities Affected**

The proposals potentially affect the 133 licensed hospice agencies in Virginia.<sup>2</sup> No proposal would increase costs for businesses or other entities. No adverse impact is indicated.

### **Small Businesses Affected:**

#### Types and Estimated Number of Small Businesses Affected

According to VDH, an estimated 18 of the hospices are independently owned and operated and have fewer than 500 full-time employees, therefore statutorily qualifying as small businesses.<sup>3</sup>

#### Costs and Other Effects

The proposal to no longer require that the medical director have admitting privileges at one or more hospitals and nursing facilities that provide inpatient service to the hospice program's patients may reduce the cost for small hospices to hire medical directors.

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<sup>2</sup> Data source: VDH

<sup>3</sup> 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."

### Alternative Method that Minimizes Adverse Impact

No proposal adversely impacts small businesses.

### **Localities<sup>4</sup> Affected<sup>5</sup>**

The proposals do not disproportionately affect any particularly locality nor appear to introduce additional costs for local governments.

### **Projected Impact on Employment**

The proposals do not appear to substantively affect total employment.

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

The proposal to no longer require that the medical director have admitting privileges at one or more hospitals and nursing facilities that provide inpatient service to the hospice program's patients may reduce the cost for hospices to hire medical directors, commensurately increasing their value.

The proposals do not 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

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<sup>4</sup> "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.

<sup>5</sup> § 2.2-4007.04 defines "particularly affected" as bearing disproportionate material impact.

proposed regulation may have an adverse impact on small business, the Joint Commission on Administrative Rules shall be notified.