

Adverse impact notification sent to Joint Commission on Administrative Rules, House Committee on Appropriations, and Senate Committee on Finance (COV § 2.2-4007.04.C): Yes  Not Needed

If/when this economic impact analysis (EIA) is published in the *Virginia Register of Regulations*, notification will be sent to each member of the General Assembly (COV § 2.2-4007.04.B).



## Virginia Department of Planning and Budget Economic Impact Analysis

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### 12 VAC 35-200 Regulations for Emergency and Respite Care Admission to State Training Centers

Department of Behavioral Health and Developmental Services

Town Hall Action/Stage: 5042 / 8264

May 22, 2018

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#### Summary of the Proposed Amendments to Regulation

As the result of a periodic review,<sup>1</sup> the State Board of Behavioral Health and Developmental Services (Board) proposes to: 1) add a definition for “regional support team” (RST);<sup>2</sup> 2) specify that community services boards (CSB) must consult with the RST: prior to preparing an application for respite care at a state training center,<sup>3</sup> in determining whether respite care for the individual in question is available in the community, and in determining whether an application for emergency admission is appropriate due to a lack of services in the community; 3) specify that the director of the training center consult with the assistant commissioner responsible for the training center: in determining eligibility for respite care services or emergency admission, and whether the training center is able to provide emergency services; and

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<sup>1</sup> See <http://townhall.virginia.gov/l/ViewPReview.cfm?PRid=1602>

<sup>2</sup> Regional support team is defined as “a group of professionals with expertise in serving individuals with developmental disabilities in the community appointed by the commissioner or his designee who provide recommendations to support placement in the most integrated setting appropriate to an individual’s needs and consistent with the individual’s informed choice.”

<sup>3</sup> Respite care is defined as “care provided to an individual with mental retardation (intellectual disability) on a short-term basis because of the emergency absence of or need to provide routine or periodic relief of the primary caregiver for the individual. Services are specifically designed to provide temporary, substitute care for that which is normally provided by the primary caregiver.”

4) update language to mirror language in § 37.2-100 of the Code of Virginia<sup>4</sup> or in 12 VAC 35-115, *Regulations to Assure the Rights of Individuals Receiving Services from Providers Licensed, Funded, or Operated by the Department Of Behavioral Health and Developmental Services*.<sup>5</sup>

### **Result of Analysis**

The benefits likely exceed the costs for the proposed regulation.

### **Estimated Economic Impact**

#### *Background*

The *Regulations for Emergency and Respite Care Admission to State Training Centers* are designed to: 1) inform individuals, authorized representatives, Department of Behavioral Health and Developmental Services (DBHDS) employees, CSB staff, and pertinent stakeholders of the process and procedures related to admitting individuals with an intellectual disability to state training centers for the purpose of providing emergency and respite supports, 2) educate responsible persons on the approved criteria for emergency and respite admissions to training centers, and 3) inform individuals and authorized representatives of the appeal process if they should disagree with the admission decision.

In 2012, the federal government and Virginia entered into a settlement agreement<sup>6</sup> concerning how the Commonwealth provides services to its intellectually and developmentally disabled population. As a result of that settlement agreement, RSTs were then created, and CSBs were required to consult with the RST for the functions that are proposed to be added in this action. Additionally, the director of training centers have been required to consult with the assistant commissioner as described above.

#### *Analysis*

The proposal to update language to mirror the Code of Virginia and 12VAC35-115 provides improved clarity, and does not affect requirements in practice. The existence of and requirement for consultation with RSTs, and the requirement for consultation with the assistant commissioner, have been legally required through the settlement agreement since 2012. Thus,

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<sup>4</sup> See <https://law.lis.virginia.gov/vacode/title37.2/chapter1/section37.2-100/>

<sup>5</sup> See <https://law.lis.virginia.gov/admincode/title12/agency35/chapter115/>

<sup>6</sup> See [https://www.justice.gov/sites/default/files/crt/legacy/2012/09/05/va\\_orderapprovingdecree\\_8-23-12.pdf](https://www.justice.gov/sites/default/files/crt/legacy/2012/09/05/va_orderapprovingdecree_8-23-12.pdf)

the only impact of the proposed language amendments would be to better inform the public of current legal requirements and procedures. Consequently, the benefits of the proposed amendments exceed the costs.

### **Businesses and Entities Affected**

The proposed amendments affect the 40 Virginia CSBs, 3 training centers operated by DBHDS, and 5 RSTs.<sup>7</sup>

### **Localities Particularly Affected**

The proposed amendments do not disproportionately affect particular localities.

### **Projected Impact on Employment**

The proposed amendments do not affect employment.

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

The proposed amendments do not affect the user and value of private property.

### **Real Estate Development Costs**

The proposed amendments do not affect real estate development costs.

### **Small Businesses:**

#### **Definition**

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.”

#### **Costs and Other Effects**

The proposed amendments do not affect costs for small businesses.

#### **Alternative Method that Minimizes Adverse Impact**

The proposed amendments do not adversely affect small businesses.

### **Adverse Impacts:**

#### **Businesses:**

The proposed amendments do not adversely affect businesses.

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<sup>7</sup> Data Source: Department of Behavioral Health and Developmental Services

**Localities:**

The proposed amendments do not adversely affect localities.

**Other Entities:**

The proposed amendments do not adversely affect other entities.

**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 Number 17 (2014). 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(C): 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 proposed regulation may have an adverse impact on small business, the Joint Commission on Administrative Rules shall be notified.