



Economic Impact Analysis Virginia Department of Planning and Budget

22 VAC 40-121 – Standards for Licensed Family Day Systems State Board of Social Services March 1, 2004

The Department of Planning and Budget (DPB) has analyzed the economic impact of this proposed regulation in accordance with Section 2.2-4007.G of the Administrative Process Act and Executive Order Number 21 (02). Section 2.2-4007.G 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. The analysis presented below represents DPB's best estimate of these economic impacts.

Summary of the Proposed Regulation

Due to the extensive nature of changes, the State Board of Social Services (the board) proposes to incorporate and replace Minimum Standards for Licensed Family Day-Care Systems (22 VAC 40-120) with new regulations, Standards for Licensed Family Day Systems (22 VAC 40-121). The main goal of the changes is to improve health and safety of children while under the care of a family day home in a licensed family day-care system.

These regulations have not been updated since 1984. Thus, there are a number of requirements that are enforced in practice due to the changes in the Code of Virginia or changes in other regulations and will be incorporated in these regulations with this action. These changes are not expected to have any economic effect upon promulgation of the regulations as they have been currently enforced. Another group of standards are related to the jointly proposed standards for licensed family day home regulations, 22 VAC 40-111. All of the proposed changes and the economic issues for the changes under this category are the same. The last group of changes is

specific to the licensed family day systems and has not been enforced in practice. These changes will have an effect in practice.

Estimated Economic Impact

Licensed Family Day Systems provide less than 24-hour care to between six and twelve children (exclusive of the children who reside in the home) under 13 years of age through member family day homes. This type of child care offers children a home-like setting. In Virginia, there are two licensed family day systems with approximately 300 member family day homes with a maximum capacity to serve about 3,600 children.

The proposed regulations will update the standards currently being followed in practice and strengthen the current standards through incorporating the proposed changes to 22 VAC 40-111 and through proposed changes specific to the family day systems to improve health and safety of the children in member family day homes. Most of these standards are technically well founded based on the available research.¹ However, the stricter standards will likely introduce non-negligible compliance costs for providers or the system in exchange for improved protective measures. The most likely economic effects of the proposed regulations include an increase in price of family day home care and a decrease in the number of children cared for in these homes.

The likely net effect on the aggregate health and safety risks to children is uncertain. On one hand, available research supports that health and safety risks to children under the care of licensed providers will likely be reduced. On the other, the same risks to children who will be placed under non-regulated forms of care due to higher prices will likely be increased. There is not sufficient information to make a determination whether one of these opposing effects will be greater than the other.

A detailed explanation of the changes is provided below.

Updating the regulations to reflect current practices: The board proposes to update the regulations to reflect a number of standards already followed in practice following the changes in the Code of Virginia and other regulations. These include prohibiting false or misleading advertising; producing documentation on the child's age, identity, and day care and schools

¹ Any reference to national standards or research literature in this analysis is obtained from the literature overview by Dr. Richard Fiene, "13 Indicators of Quality Child Care: Research Update," Submitted to Office of the Assistant

previously attended; addition of the background check requirements found in the Code of Virginia; listing of a toll free number for the Child Abuse and Neglect Hotline; revising the child-to-staff ratio from 9 to 12; notification of serious injury to a child, a lost or missing child, death of a child, or damage to the system's office that affects the operations; quarterly submission of the directory of member homes.

All of these requirements are currently being enforced in practice. Thus, no significant economic effect upon promulgation of these changes is expected.

Compliance with Proposed Changes to the Licensed Family Day Home Regulations (22 VAC 40-111): Some of the changes under this category are related to provider qualifications, training, and certification. One of the main changes is requiring new providers to have at least a high school education and three months of programmatic experience. This requirement will not apply to existing providers. Another change is establishing a pre licensure orientation for regulations and licensing procedures, which will be offered by the department. The providers will also be required to have a CPR certification. Moreover, water safety certification must be obtained for activities involving water deeper than two feet. Finally, the number of hours for annual training will be gradually increased from 8 hours per year to 12 hours over the next three years. This training covers subjects such as child development, behavioral management, health and safety issues, activities for children, etc.

Available research indicates a positive correlation between caregiver qualifications/training/certification and health/safety of children. The main reasons behind this positive association are: (i) educated caregivers promote mental health, safety, cognitive improvement, intellect, and independence; (ii) caregivers behave more sensitively, less harshly, and in a less authoritarian manner; interact more positively, display more involvement and encouragement, and less punitiveness; (iii) and training reduces disease transmission and accidental injuries, improves staff's ability to facilitate a positive learning and socialization environment, and improves early detection of abuse, neglect, developmental disabilities, and common diseases.

On the other hand, the proposed changes related to provider qualifications/training will likely introduce additional compliance costs. The majority of the costs are in terms of the time required to attend the training/orientation and to obtain the high school education. For example, assuming \$12 hourly wage rate, the total time (excluding travel time) costs of training requirement for 300 providers can be valued at \$14,400. In addition, there are time costs to obtain CPR and water safety certifications as well as the fees and other educational material costs.² Similarly, the department will likely incur some additional costs in terms of staff time to provide annual training and other costs associated with the trainer, physical location, and materials in addition to increased cost of monitoring and verifying compliance with new standards.

Another set of proposed changes are related to physical plant and safety measures. One of the significant changes is establishing an activity space requirement and gradually increasing the required space from currently acceptable 25 square feet to 35 square feet per child, which is the standard in 42 states. In addition, resilient surfacing under playground equipment, protective barriers around outside play areas, annual inspection of all heating equipment will be required and some equipment height requirements will be established. Risk assessment of all household members for tuberculosis including those who may be currently exempt will be required. Also, the board proposes to require the use of baby monitors during overnight care and proposes to prohibit the use of hot tubs, spas, and whirlpools by all children, the use of wading pools by multiple non-patty trained children, and the use of trampolines.

Most of these safety measures are intended to and are known to reduce risk of injury or illness to children. A significant number of injuries affect head and limbs and they primarily occur due to falls from climbing equipment. Increased activity space could also reduce risk of injury among other potential benefits such as well being, constructive behavior, social integration, reduced stress, and communicable diseases. More comprehensive tuberculosis screening could reduce disease transmission. Moreover, meeting the proposed safety standards could help reduce a family day home's liability if an accident occurs.

² The fees for 4 hours of additional training are estimated to be \$10 per provider, or a total of \$3,000 annually for all 300 providers.

The fees for CPR training in addition to first aid training are estimated to be \$10 annually, or \$3,000 for all providers.

These changes are also expected to have significant cost implications for day homes that do not meet the proposed standards. Increasing activity space may reduce the capacity of some family day homes. This will either lead providers to reduce their enrollment, or increase space by new construction or by rent, which means either a reduction in revenues or an increase in compliance costs. In any event, profits will be lower. Additionally, facilities without the proposed safety measures will have to either (i) incur additional material and installation costs, which will vary depending on the equipment or (ii) remove or not use the equipment and offer other activities.³

Similar to the other changes, while further improvements in health and safety of children will likely result, providers that do not meet the updated standards will incur costs in terms of lower revenues or additional costs to comply with these requirements.

The board proposes numerous other measures including development and distribution of written policies to parents for discipline, termination of care, provision of meals, snacks, medication, and temporary care in the event of an emergency; record keeping for updated emergency contact information, and immunization records; periodically obtaining authorization from parents every three months for administration of over-the-counter drugs; requiring providers to be able to read, write, and speak English, be able to provide daily activities and experiences to children, and the ability to understand instruction on drugs; collecting information on parent's place of employment, emergency contact, and parent's hospitalization or medical assistance plan. A statutory requirement incorporated includes disclosure of information regarding the percentage of time someone other than the provider will be caring for children. Although these changes are not discussed in detail they also have the potential for a marginal improvement in health and safety as well as a non-negligible increase in compliance costs.⁴

As discussed in the analysis prepared for the proposed changes to 22 VAC 40-111, there appears to be room for improvement in three areas. First, the proposed annual training requirement could be redesigned to maintain the level of expected benefits at lower costs. The training needs of the providers do not seem to be uniform. It is logical to assume that the

The annual inspection of heating equipment is approximately \$55. Thus, the total annual cost to all providers could be about \$16,500.

³ Portable inflatable wading pools are estimated to cost about \$3.95 each and the cost of baby monitors range from \$20 to \$100.

training needs of a veteran provider who has been in this business over ten years is probably much less than the training needs of another provider who is obtaining a license for the first time. This is because the veteran provider has more experience and has already attended many hours of annual training. Also, the expected benefit from an hour of additional training is lower than the one before. For example, a veteran provider may have already taken training in all the subject matter and may be repeating the courses already taken. Thus, about the same level of benefits could be maintained by requiring newly licensed providers to attend 12 hours of training and decreasing the hours of training to a fixed minimum as a provider gains more experience and training in this business. Assuming that one half of the total additional training hours is unproductive, this suggested modification would provide savings in the order of \$8,700 in terms of time and fees.

Second, repeating the authorization every three months for administration of over-the-counter drugs seems to fail the cost-benefit test. This requirement introduces repeated costs involving the reauthorization every three months in order to maintain the same benefit of having the parental consent. Perhaps, requiring the authorization once and allowing the parents to revoke their authorization any time they desire would achieve the same level of benefits without the repetitive reauthorization costs.

Third, the requirement for water safety instructor certification for activities involving water deeper than two feet seems excessive as this certification requires about 30 hours of training. According to the department, there is a lower level of water safety certification called “community water safety” which can be obtained after a four-hour training. It appears that the community water safety certification would still be commensurate with the potential risks while reducing costs significantly.

New changes that will apply to licensed family day-care systems and that are not currently enforced: The proposed changes under this group include increasing staff caseload requirement from 25 to 40 over a four-year period, establishing eight hours of staff training, requiring providers to develop corrective action plans, and requiring systems to disclose compliance history to the parents. System staff provides technical assistance to and investigate complaints in member family day homes. Thus, allowing larger caseloads is expected to reduce the amount of

⁴ The estimated cost of distributing written policies to 6 families is \$3 and 12 families is \$6.

time the staff can devote to each member family to provide assistance and investigate complaints, which could reduce the level of compliance with the proposed regulations. On the other hand, larger caseloads reduce the staff time required and provide some savings to the regulated systems. While this revision significantly increases the caseload per system staff, it is still significantly below the average of 80-100 caseloads per staff employed by the department that performs the same functions for stand-alone licensed family day homes.

The proposed changes also establish an eight-hour training requirement for the staff employed by the systems and development of corrective action plans by the providers. Similar to the provider training, while further improvements in health and safety of children will likely result as a result of increased staff training, this requirement will also introduce additional compliance costs. Probably the majority of the costs are in terms of the time required to attend the training/orientation. Furthermore, the systems will incur some additional costs in terms of staff time to provide annual training and other costs associated with the trainer, physical location, and materials. The change requiring development of corrective action plans could speed up the process in which a provider is brought back into compliance following a violation. Development of the plan, on the other hand, would take some provider time and introduce some additional costs.

Finally, disclosure of compliance history to parents would enable them to make better decisions when hiring a system for the care of their child. The availability of such information would improve the competitiveness of the market and the allocation of limited resources, which is a clear economic gain for society. However, there are likely to be additional costs of data management and dissemination. Additionally, while the systems with noticeably better compliance history would see an increase for the demand for their services, the systems with below average history would see a decrease.

Summary

Based on standard economic theory, the potential effects of proposed standards on the price of care provided and the number of children receiving regulated care are relatively straightforward. While there is no doubt that more stringent standards will raise the cost of care or reduce revenues, the size of the impact will depend on the proximity of the current compliance with respect to the proposed standards. For example, if compliance with the newly proposed

activity space requirements were already high, the additional costs of compliance, or revenue losses would be small. It seems, however, that the increase in compliance costs will likely be significant. If so, higher compliance costs will reduce the number of family day homes offering their services, increase the cost of care for parents, and reduce the number of children cared for by the providers.⁵

The other significant issue of interest is the net effect on the aggregate health and safety risks to children. Available research suggests that the proposed standards will reduce health and safety risks to children under the care of a licensed provider. However, higher day care prices will divert some children toward unregulated forms of care such as the services of a grandmother or services offered under the table. These other alternative forms of care are not subject to licensing requirements or are difficult to bring into compliance, which could reduce the quality of care provided. The determination of the size of these opposing effects and hence the net impact on the aggregate health and safety risks to children is beyond the scope of this analysis and cannot be made at this time.

Nonetheless, it should be pointed out that there are examples in the economic literature where the regulations designed to reduce health and safety risks in fact resulted in an increase in aggregate risks as a result of higher costs. In this case, if the increase in the cost of care is high enough to shift many children from regulated settings to non-regulated settings, the aggregate health and safety risks to children could be actually higher. Similar examples from the economic literature, suggest that aggregate health and safety risks to children cannot be necessarily minimized through excessive and costly regulations.

Businesses and Entities Affected

The proposed regulations currently apply to two licensed family day systems with the maximum capacity to serve 3,600 children.

Localities Particularly Affected

The proposed regulations are not expected to affect a given locality more than others.

⁵ It is conceivable that the stricter standards somewhat stimulate demand for family day home services. It is not uncommon for some providers who are not otherwise required to have a license to seek licensure from the department voluntarily in order to stimulate the demand for their services. Although an indirect increase in demand

Projected Impact on Employment

Expected increase in time and physical plant costs will affect demand for labor in two directions. These will increase demand for labor as family day systems or providers start spending money to purchase construction material and equipment, obtain provider training and certification, staff training, and hiring heating contractors for inspections. These new expenditures or reduced revenues (due to increased activity space, for instance) might make some provider's operations unprofitable and cause them to reduce capacity or completely cease operations and reduce the demand for labor. The increased staff qualification such as the high school education would decrease the applicant pool that is eligible and increased caseloads would reduce staffing needs. Thus, the net effect on employment is uncertain.

Effects on the Use and Value of Private Property

The proposed changes could also affect the value of family day home provider or system businesses through the effects on future profit streams. Most changes will either increase compliance costs or reduce revenues. Therefore, the value of family day home businesses would decrease on average. On the other hand, increased litigation and costs for liability insurance might be lower if the family day home industry is operating under stronger health and safety standards which could balance out the potential decrease in value to some extent. Furthermore, some physical plant requirements such as fencing or inspection of heating equipment and disclosure of compliance history may affect the value of provider homes and systems in either direction.