



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

18 VAC 90-30 Regulations Governing the Licensure of Nurse Practitioners
18 VAC 90-40 Regulations Governing Prescriptive Authority for Nurse Practitioners
Department of Health Professions
Town Hall Action/Stage: 5800/9370
October 18, 2021

Summary of the Proposed Amendments to Regulation

Pursuant to Chapter 157 of the 2021 Acts of Assembly, the Boards of Nursing and Medicine seek to amend 18 VAC 90-30 *Regulations Governing the Licensure of Nurse Practitioners* and 18 VAC 90-40 *Regulations Governing Prescriptive Authority for Nurse Practitioners*.¹ The proposed amendments to 18 VAC 90-30 would align language regarding the qualifications for initial licensure and for continuing competency with the new legislation, and the proposed amendments to 18 VAC 90-40 would allow advanced practice registered nurses to apply for prescriptive authority.

Background

Chapter 157 of the 2021 Acts of Assembly repealed sections of Chapter 30 of Title 54.1 relating to the registration of clinical nurse specialists (CNS) under the Board of Nursing and enacted changes to Chapter 29 of Title 54.1 authorizing licensure of CNS as nurse practitioners under the Joint Boards of Nursing and Medicine. The Department of Health Professions (DHP) reports that this legislation was introduced at the request of the CNS' organization in Virginia in an effort to recognize CNS as one category of Advanced Practice Registered Nurses (APRNs) and to be granted prescriptive authority.² Thus, the proposed amendments would not make any substantive change to the registration requirements or the responsibilities of CNS. DHP reports

¹ See <https://lis.virginia.gov/cgi-bin/legp604.exe?212+ful+CHAP0157>.

² There are four categories of APRNs: certified nurse midwives, certified nurse anesthetists, nurse practitioners (NP) and CNS. See <https://www.ncsbn.org/aprn.htm> for details.

that the Board of Nursing would continue to handle applications for all four types of APRNs, whereas disciplinary actions matters would be addressed by a committee of the joint boards.

In order to conform the regulations to statute, the Board of Nursing has adopted an exempt action to remove sections of 18 VAC 90-19 *Regulations Governing the Practice of Nursing* that refer to the registration of CNS.³ Concurrently, the Boards of Nursing and Medicine adopted another exempt action to amend 18 VAC 90-30 to add a definition of CNS and grant prescriptive authority to CNS who enter into a practice agreement with a physician.⁴ Thus, the proposed amendments in this action seek to conform those sections of 18 VAC 90-30 and 18 VAC 90-40, that were not directly impacted by the legislation, with the changes made in the two exempt actions. Specifically, section 80 would be amended to replace “nurse practitioners” with APRN, which includes NP and CNS. Similarly, the proposed amendments to 18 VAC 90-40 would add APRNs in section 40 pertaining to prescriptive authority in keeping with other changes to that chapter.

The only proposed amendment that is clearly discretionary would be to amend 18 VAC 90-30-105, which lays out continuing competency requirements, so that CNS who were registered by the Board of Nursing with a retired certification could renew their nurse practitioner licenses by meeting the same requirements currently in place for those who registered prior to May 8, 2002. Currently, CNS are able to renew their registration with a retired certification provided it had been maintained; however, this provision would be repealed by the exempt actions described above.⁵ The proposed amendment would require CNS with retired certifications to complete 40 hours of approved continuing education in order to renew their license.

Estimated Benefits and Costs

Because the proposed amendments do not change the requirements to register as CNS, the benefits of the proposed amendments are mainly to conform the regulation to the Code of Virginia. However, CNS with retired certifications (including those whose certifications may be retired in the future) would only be allowed to renew their license if they have 40 hours of approved continuing education. This change would create new costs for any CNS with a retired

³ See <https://townhall.virginia.gov/l/ViewStage.cfm?stageid=9352>; changes become effective November 10, 2021.

⁴ See <https://townhall.virginia.gov/l/ViewStage.cfm?stageid=9369>; changes become effective November 10, 2021.

⁵ See <https://townhall.virginia.gov/l/ViewAction.cfm?actionid=5306> for details.

certification. On the whole, the proposed amendments would grant CNS prescriptive authority, which would allow them to engage in more autonomous practice and could benefit the CNS as well as their patients.

Businesses and Other Entities Affected

The proposed amendments primarily affect current and future registered CNS. DHP reports that there were 408 registered CNS as of October 1, 2021. Their registrations were automatically changed to licensure under the Boards of Nursing and Medicine once the changes to statute made by Chapter 157 became effective on July 1, 2021. The number of CNS with a retired certification is unknown.

Small Businesses⁶ Affected

Some CNS may operate as a small business; however, DHP reports that the majority of CNS are likely employed by large health systems. Except for CNS with retired certifications who operate as small businesses, the proposed amendments would not adversely affect small businesses.

Localities⁷ Affected⁸

The proposed amendments do not introduce new costs for local governments and are unlikely to affect any locality in particular.

Projected Impact on Employment

The proposed amendments are unlikely to impact the number of CNS in the workforce or the employment rates of CNS.

Effects on the Use and Value of Private Property

The proposed amendments would not affect the use or value of private property. Real estate development costs are not affected.

Legal Mandates

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 “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.

⁸ § 2.2-4007.04 defines “particularly affected” as bearing disproportionate material impact.

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