Office of Regulatory Management

Economic Review Form

Agency name	State Board of Health
Virginia Administrative Code (VAC) Chapter citation(s)	12 VAC 5-381
VAC Chapter title(s)	Regulations for the Licensure of Home Care Organizations
Action title	Amend the Regulation after Assessment and Receipt of Public Comment
Date this document prepared	10/01/2024
Regulatory Stage (including Issuance of Guidance Documents)	Proposed

Cost Benefit Analysis

Complete Tables 1a and 1b for all regulatory actions. You do not need to complete Table 1c if the regulatory action is required by state statute or federal statute or regulation and leaves no discretion in its implementation.

Table 1a should provide analysis for the regulatory approach you are taking. Table 1b should provide analysis for the approach of leaving the current regulations intact (i.e., no further change is implemented). Table 1c should provide analysis for at least one alternative approach. You should not limit yourself to one alternative, however, and can add additional charts as needed.

Report both direct and indirect costs and benefits that can be monetized in Boxes 1 and 2. Report direct and indirect costs and benefits that cannot be monetized in Box 4. See the ORM Regulatory Economic Analysis Manual for additional guidance.

Table 1a: Costs and Benefits of the Proposed Changes (Primary Option)

(1) Direct & Indirect Costs & Benefits (Monetized)	Direct Costs: Direct monetized costs resulting from this action are related to increased fees on regulants. This proposed change would increase the initial application fee to $2,000, it would require a $1,500 base application fee for licensure renewals or $2,500 for reinstatements, and it would require an additional $500 fee for each branch office operated by licensees as part of the renewal application fee or $750 as part of the reinstatement application fee. Additional fees included in this change are a processing fee for exemption from licensure ($125) and a fee for material change of license ($250). All persons or entities seeking licensure to operate an HCO would incur a cost of $2,000 for an initial triennial licensure application fee; the agency anticipates that for most applicants, this would be a one-time cost. All licensed HCOs would incur a cost of at least a $1,500 per license renewal application. For each branch office operated by a parent HCO, an additional $500 is added to the renewal fee. A minority of licensed HCOs may incur a cost of $500 for late filing of their license renewal application. Similarly, a minority of HCOs may apply for licensure reinstatement and would incur a cost of at least a $2,500 per license reinstatement application. For each branch office operated by a parent HCO, an additional $750 is added to the reinstatement fee. Direct Benefits: Direct monetized benefits resulting from this action are related to increased fee revenue. Licensure fees for HCOs are issued for a 3 year period. This proposed change would increase the initial application fee to $2,000, it would require a base application fee for licensure renewals or reinstatements, and it would require an additional $500 fee for each branch office operated by licensees as part of the renewal or reinstatement application. Also included in the fee schedule are a processing fee for exemption from licensure ($125) and a fee for material change of license ($250). Currently there are 1,866 HCO licensees and 163 HCO branch offices in the Commonwealth. An average of approximately 200 new initial licensure applications are received by OLC each year, and number of new initial applications is predicted to continue to grow. Additionally, as more HCOs are licensed, triennial license renewals will also increase The agency estimates that the proposed adjustment to the fees in Section 70 would result in a minimum total annual licensure fee revenue (initial licensure application fees, license renewal fees, additional branch office renewal fees) of $1,671,166 beginning in FY26. As the number of licensed HCOs increases, so will fee revenues associated with triennial licenses.

	The number of licensees requesting a material change to their license is highly variable and difficult to predict, making fee revenue projections from that fee equally difficult to predict. Indirect Costs: The indirect costs associated with the proposed regulatory change would be any administrative costs for reporting and recordkeeping required for compliance by HCOs would be incidental to their existing administrative costs. Direct Benefits: The statutory change to require a review instead of an audit may allow licensed HCOs to recognize a direct benefit of some cost savings as reviews are typically less expensive than audits. Indirect Benefits: VDH is not aware of any indirect monetized benefits at this time.

(2) Present Monetized Values	Direct & Indirect Costs	Direct & Indirect Benefits
	(a) -$1,671,166/year	(b) $1,671,166/year
(3) Net Monetized Benefit	$0	

(4) Other Costs & Benefits (Non-Monetized)	Non-Monetized Benefit: This regulatory action is designed to promote and ensure the health and safety of clients and patients who receive personal care services and skilled services from HCOs. Increases in revenues collected from licensure fees will result in more resources to support personnel who conduct required inspections and other oversight functions. Language amended or added to this regulation is used to clarify points of ambiguity that have caused confusion and inconsistency for regulants, such as the issue of branch offices and changes to existing licenses. The resulting non-monetary benefits may be increased compliance with current regulatory standards and decreased confusion of what those standards are by regulants. Non-Monetized Costs: VDH is not aware of any non-monetized costs at this time.
(5) Information Sources	Division of Acute Care Services, Office of Licensure and Certification, Virginia Department of Health

Table 1b: Costs and Benefits under the Status Quo (No change to the regulation)

(1) Direct & Indirect Costs & Benefits (Monetized)	Direct Costs: Existing direct monetized costs are related to license fees for regulants. All persons or entities seeking licensure to operate an HCO presently incur a cost of $500 fee per initial licensure application and $1,500 per application for renewal triennially. For most applicants, this is a one-time cost. Because there are 1,886 current HCOs licensed in the Commonwealth ($1,500 x 1,866 = $2,799,000), and approximately 200 new, initial licensure applications per year ($500 x 200 x 3 = $300,000), the agency estimates that current licensure fees cost regulants a minimum of approximately $3,099,000 triennially, or approximately $1,033,000 annually. There are currently no additional fees for branch offices, duplicate licenses, or for material changes in licenses. Direct Benefits: Estimated fee revenues Because there are 1,886 current HCOs licensed in the Commonwealth ($1,500 x 1,866 = $2,799,000), and approximately 200 new, initial licensure applications per year ($500 x 200 x 3 = $300,000), the agency estimates that current licensure fees result in a minimum triennial fee revenue of approximately $3,099,000, or $1,033,000 annually. There are currently no additional fees for branch offices, duplicate licenses, or for material changes in licenses. Indirect Costs: VDH is not aware of any indirect monetized costs at this time. Indirect Benefits: VDH is not aware of any direct or indirect monetized benefits at this time	
(2) Present Monetized Values	Direct & Indirect Costs	Direct & Indirect Benefits
	(a) -$3,099,000	(b) $3,099,000
(3) Net Monetized Benefit	$0	
(4) Other Costs & Benefits (Non-Monetized)	Non-monetized Benefits: Continued regulatory oversight of HCOs allows VDH to promote and ensure the health and safety of clients and patients who receive personal care services and skilled services from HCOs, including ensuring the agency has sufficient fee revenue to support adequate staff to perform inspections and other oversight functions. Non-monetized costs: The non-monetized costs of keeping the current regulatory language are that unclear regulations hamper regulants' ability to comply and out of date regulations may refer to standards and practices that are not current.	

(5) Information Sources	Division of Acute Care Services, Office of Licensure and Certification, Virginia Department of Health

Table 1c: Costs and Benefits under Alternative Approach(es)

(1) Direct & Indirect Costs & Benefits (Monetized)	An alternative approach to this regulatory action is to codify in the Virginia Administrative Code the existing triennial licensure fee of $1,500, implementing those changes which are statutorily mandated by the Code of Virginia. As those changes increase the HCO initial and renewal license fees from $500 annually to $1,500 triennially, no monetized costs or benefits would result from the alternative change. Direct Costs (monetized): VDH is not aware of any other monetized direct costs at this time. Direct Benefits (monetized): VDH is not aware of any other monetized direct benefits at this time. Indirect Costs (monetized): VDH is not aware of any other monetized indirect costs at this time. Indirect Benefits (monetized): VDH is not aware of any other monetized indirect benefits at this time.	
(2) Present Monetized Values	Direct & Indirect Costs	Direct & Indirect Benefits
	(a) $0	(b) $0
(3) Net Monetized Benefit	$0	
(4) Other Costs & Benefits (Non-Monetized)	Non-monetized benefits: By only making changes to this regulation that are statutorily mandated, regulants will have fewer discretionary regulatory requirements to meet in order to comply with this regulation. Chapter 105 (2018 Acts of Assembly) introduced statutory provisions regarding branch offices, which are not currently addressed in the regulations for HCO. As an alternative to the proposed regulatory action, promulgation of regulatory text by VDH to address this mandate can provide clarity for HCOs in regulatory compliance and consistency with the Code of Virginia.	

	Non-monetized costs: There are currently points of ambiguity that have caused confusion and inconsistency for regulants, such as the issue of branch offices and changes to existing licenses. Making only statutorily required changes may lead to continued ambiguity and inconsistency for regulants regarding current regulatory language and concerns with compliance
(5) Information Sources	Division of Acute Care Services, Office of Licensure and Certification, Virginia Department of Health

Impact on Local Partners

Use this chart to describe impacts on local partners. See Part 8 of the ORM Cost Impact Analysis Guidance for additional guidance.

Table 2: Impact on Local Partners

(1) Direct & Indirect Costs & Benefits (Monetized)	VDH has no record of local partners owning or operating Home Care Organizations. Therefore, there are no monetized direct or indirect costs or benefits to local partners.	
(2) Present Monetized Values		
	(a) $0	(b) $0
(3) Other Costs & Benefits (Non-Monetized)	Other Costs: There are no non-monetary costs to local partners identified. Other Benefits: The non-monetary benefit to local partners is the consistency in quality home care services provided to individuals in the locality in which the local partner has jurisdiction.	
(4) Assistance	No additional assistance will be required as a result of this regulatory action.	
(5) Information Sources	Division of Acute Care Services, Office of Licensure and Certification, Virginia Department of Health	

Impacts on Families

Use this chart to describe impacts on families. See Part 8 of the ORM Cost Impact Analysis Guidance for additional guidance.

Table 3: Impact on Families

(1) Direct & Indirect Costs & Benefits (Monetized)	There are no monetized direct or indirect costs or benefits to families identified by this regulatory change because the regulation does not place a regulatory burden on families. To the extent that the regulation has requirements about the involvement of family members receiving home care services, those requirements are placed on the home care organization to fulfill.	
(2) Present Monetized Values	Direct & Indirect Costs	Direct & Indirect Benefits
	(a) $0	(b) $0
(3) Other Costs & Benefits (Non-Monetized)	Other Costs: There are no non-monetary costs to families identified by this regulatory change. Other Benefits: The non-monetized benefits of the current regulation are those incalculable benefits which a family receives from the licensure of home care organizations. For example, the regulations set standards for quality of care which allows families to receive a high quality of home care services. The regulations also create standards for inspections and plans of correction for home care organizations, further protecting the health, safety, and welfare of families in the Commonwealth.	
(4) Information Sources	Division of Acute Care Services, Office of Licensure and Certification, Virginia Department of Health	

Impacts on Small Businesses

Use this chart to describe impacts on small businesses. See Part 8 of the ORM Cost Impact Analysis Guidance for additional guidance.

Table 4: Impact on Small Businesses

(1) Direct & Indirect Costs & Benefits (Monetized)	As of September 20, 2024, there are 1,866 licensed HCOs in Virginia, 1,004 of which are self-reportedly small businesses, and 163 branch offices, 53 of which are owned or operated by a small business. VDH does not validate whether self-reporting as a small business is accurate nor does VDH have the data resources to determine the precise number of applicants that are small businesses. **Direct Costs:** All small businesses seeking licensure to operate an HCO would incur a cost of $2,000 fee per initial licensure application; the agency anticipates that for most applicants, this would be a one-time cost. The agency

	estimates that the triennial fees in would result in a minimum triennial fee revenue increase of $755,500. This assumes that number of licensees that are small businesses (1,004), the number of branch office numbers of small businesses (53), and small business applicant numbers (approximately 486 triennially) remain relatively stable. All small businesses licensed as HCOs would incur a cost of at least a $1,500 fee per license renewal application, with a small minority of HCOs incurring an additional annual cost of $500 for each branch office they operate. A minority of small businesses licensed as HCOs may incur a cost of $500 for late filing of their license renewal application. The number of small business licensees requesting a material change to their license is highly variable and difficult to predict, making fee revenue projections from that fee equally difficult to predict. The agency is proposing to introduce a new reinstatement process that currently has no analog in its other licensure programs, so it is difficult to predict what fee revenue may result from HCOs utilizing that process. Because the proposed reinstatement process is new, the agency predicts a small minority of small businesses licensed as HCOs would incur a cost of at least a $2,500 fee per license reinstatement application, with an even smaller minority of HCOs incurring an additional annual cost of $750 for each branch office they operate. Indirect Costs: The indirect costs associated with the proposed regulatory change would be any administrative costs for reporting and recordkeeping required for compliance by small businesses licensed as HCOs would be incidental to their existing administrative costs. The agency also notes that by requiring a review instead of an audit, small businesses licensed as HCOs should recognize some cost savings as reviews are typically less expensive than audits. Direct Benefits: VDH notes that by requiring a review instead of an audit, small businesses licensed as HCOs may recognize a direct benefit of some cost savings as reviews are typically less expensive than audits. Indirect Benefits: VDH is not aware of any indirect monetized benefits at this time.

(2) Present Monetized Values	Direct & Indirect Costs	Direct & Indirect Benefits
	(a) $755,500	(b) $0

(3) Other Costs & Benefits (Non-Monetized)	-$755,500
(4) Alternatives	The State Board of Health has not been able to identify any alternatives for small businesses that would be more equitable while still protecting the health, safety, and welfare of the public. Consideration will be put forth about the burdens of the regulatory requirements that have a cost to regulants while still ensuring the regulations comply with the statutory mandates imposed by the General Assembly.
(5) Information Sources	Division of Acute Care Services, Office of Licensure and Certification, Virginia Department of Health

Changes to Number of Regulatory Requirements

Table 5: Regulatory Reduction

For each individual action, please fill out the appropriate chart to reflect any change in regulatory requirements, costs, regulatory stringency, or the overall length of any guidance documents.

Change in Regulatory Requirements

VAC Section(s) Involved*	Authority of Change	Initial Count	Additions	Subtractions	Total Net Change in Requirements
12VAC5-381-20	**(M/A):**	**3**			
	(D/A):	**1**		**-1**	**-1**
	(M/R):	**3**			
	(D/R):	**3**	**+8**		**+8**
12VAC5-381-30	**(M/A):**	**0**			
	(D/A):	**3**		**-1**	**-1**
	(M/R):	**1**			
	(D/R):	**1**			
12VAC5-381-35	**(M/A):**	**0**			
	(D/A):	**0**			
	(M/R):	**0**			
	(D/R):	**0**	**+5**		**+5**
12VAC5-381-40	**(M/A):**	**1**		**-1**	**-1**
	(D/A):	**5**	**+2**		**+2**
	(M/R):	**0**			
	(D/R):	**3**	**+16**		**+16**
12VAC5-381-45	**(M/A):**	**0**	**+1**		**+1**
	(D/A):	**0**	**+5**		**+5**
	(M/R):	**0**	**+3**		**+3**
	(D/R):	**0**	**+3**		**+3**

12VAC5-381-50	**(M/A):**	**0**			
	(D/A):	**0**			
	(M/R):	**0**			
	(D/R):	**2**		**-2**	**-2**
12VAC5-381-60	**(M/A):**	**0**			
	(D/A):	**3**	**+1**		**+1**
	(M/R):	**0**			
	(D/R):	**3**	**+16**		**+16**
12VAC5-381-65	**(M/A):**	**0**			
	(D/A):	**0**	**+7**		**+7**
	(M/R):	**0**	**+2**		**+2**
	(D/R):	**0**	**+16**		**+16**
12VAC5-381-70	**(M/A):**	**2**			
	(D/A):	**2**		**-2**	**-2**
	(M/R):	**2**	**+6**		**+6**
	(D/R):	**1**			
12VAC5-381-80	**(M/A):**	**2**			
	(D/A):	**2**		**-1**	**-1**
	(M/R):	**1**			
	(D/R):	**6**	**+7**		**+7**
12VAC5-381-90	**(M/A):**	**0**			
	(D/A):	**1**		**-1**	**-1**
	(M/R):	**0**			
	(D/R):	**2**		**-2**	**-2**
12VAC5-381-100	**(M/A):**	**0**			
	(D/A):	**2**	**+9**		**+9**
	(M/R):	**0**			
	(D/R):	**5**		**-4**	**-4**
12VAC5-381-105	**(M/A):**	**0**			
	(D/A):	**0**	**+3**		**+3**
	(M/R):	**0**			
	(D/R):	**0**	**+14**		**+14**
12VAC5-381-110	**(M/A):**	**0**			
	(D/A):	**0**			
	(M/R):	**10**			
	(D/R):	**5**	**+6**		**+6**
12VAC5-381-120	**(M/A):**	**0**			
	(D/A):	**7**		**-2**	**-2**
	(M/R):	**0**			
	(D/R):	**4**			
12VAC5-381-130	**(M/A):**	**1**			
	(D/A):	**4**	**+2**		**+2**
	(M/R):	**1**	**+1**		**+1**
	(D/R):	**0**			
	(M/A):	**0**			

12VAC5-381-140	**(D/A):**	**0**			
	(M/R):	**0**			
	(D/R):	**4**		**-4**	**-4**
12VAC5-381-150	**(M/A):**	**0**			
	(D/A):	**0**			
	(M/R):	**2**		**-1**	**-1**
	(D/R):	**11**	**+12**		**+12**
12VAC5-381-160	**(M/A):**	**0**			
	(D/A):	**0**			
	(M/R):	**0**			
	(D/R):	**5**	**+5**		**+5**
12VAC5-381-170	**(M/A):**	**0**			
	(D/A):	**0**			
	(M/R):	**0**			
	(D/R):	**4**	**+6**		**+6**
12VAC5-381-180	**(M/A):**	**0**			
	(D/A):	**0**			
	(M/R):	**1**	**+1**		**+1**
	(D/R):	**8**	**+13**		**+13**
12VAC5-381-190	**(M/A):**	**1**			
	(D/A):	**0**	**+1**		**+1**
	(M/R):	**2**			
	(D/R):	**5**	**+2**		**+2**
12VAC5-381-200	**(M/A):**	**0**			
	(D/A):	**0**			
	(M/R):	**3**		**-1**	**-1**
	(D/R):	**19**		**-6**	**-6**
12VAC5-381-210	**(M/A):**	**0**			
	(D/A):	**0**			
	(M/R):	**1**			
	(D/R):	**1**	**+2**		**+2**
12VAC5-381-220	**(M/A):**	**0**			
	(D/A):	**0**			
	(M/R):	**0**			
	(D/R):	**4**	**+3**		**+3**
12VAC5-381-230	**(M/A):**	**0**			
	(D/A):	**0**			
	(M/R):	**0**			
	(D/R):	**6**		**-4**	**-4**
12VAC5-381-250	**(M/A):**	**0**			
	(D/A):	**0**			
	(M/R):	**0**			
	(D/R):	**11**	**+1**		**+1**
	(M/A):	**0**			
	(D/A):	**0**			

12VAC5-381-270	**(M/R):**	**0**			
	(D/R):	**8**	**+1**		**+1**
12VAC5-381-280	**(M/A):**	**0**			
	(D/A):	**0**			
	(M/R):	**0**			
	(D/R):	**16**		**-1**	**-1**
12VAC5-381-290	**(M/A):**	**0**			
	(D/A):	**0**			
	(M/R):	**0**			
	(D/R):	**2**	**+3**		**+3**
12VAC5-381-310	**(M/A):**	**0**			
	(D/A):	**0**			
	(M/R):	**1**			
	(D/R):	**1**	**+1**		**+1**
12VAC5-381-320	**(M/A):**	**0**			
	(D/A):	**0**			
	(M/R):	**7**		**-1**	**-1**
	(D/R):	**0**			
12VAC5-381-330	**(M/A):**	**0**			
	(D/A):	**0**			
	(M/R):	**0**			
	(D/R):	**3**	**+1**		**+1**
12VAC5-381-350	**(M/A):**	**0**			
	(D/A):	**0**			
	(M/R):	**2**			
	(D/R):	**3**	**+3**		**+3**
				Grand Total of Changes in Requirements:	**(M/A):0**
					(D/A): +28
					(M/R): +13
					(D/R): +121

Key:

Please use the following coding if change is mandatory or discretionary and whether it affects externally regulated parties or only the agency itself:

(M/A): Mandatory requirements mandated by federal and/or state statute affecting the agency itself

(D/A): Discretionary requirements affecting agency itself

(M/R): Mandatory requirements mandated by federal and/or state statute affecting external parties, including other agencies

(D/R): Discretionary requirements affecting external parties, including other agencies

Cost Reductions or Increases (if applicable)

VAC Section(s) Involved*	**Description of Regulatory Requirement**	**Initial Cost**	**New Cost**	**Overall Cost Savings/Increases**

12VAC5-391-70	Fees	$500 for each initial license application $1500 for each renewal license application $50 late renewal fee $250 fee for each reissuance or replacement of a license $75 fee for exemption from licensure	$2000 Application fee for initial licensure $2,000 Re-application fee for initial licensure $1,500 Base application fee for renewal of licensure $500 Additional renewal fee for each branch office $2500 Application fee for reinstatement of licensure $750 Additional reinstatement fee for each branch office $125 Processing fee for exemption from licensure $25 Duplicate license fee $250 Fee for material change of license $50 Returned check fee	$1,431,500 increase. This does not include application for reinstatement, branch offices, etc. as those costs are unique to an individual HCO and are difficult to predict.

Other Decreases or Increases in Regulatory Stringency (if applicable)

VAC Section(s) Involved*	**Description of Regulatory Change**	**Overview of How It Reduces or Increases Regulatory Burden**
12VAC5-381	Language additions to the regulatory text to provide clarity to regulants and the role of VDH.	Despite the increase in overall requirements, the changes made provide clarity for regulatory content that is unclear, inconsistent, and outdated as well as to conform with the *Form, Style, and Procedure Manual for*

		Publication of Virginia Regulations.
12VAC5-381-40	Requires VDH to provide regulant with written inspection report within 15 business days following initial license issuance	The requirement on VDH's to provide an expedient written inspection report to the regulant reduces the burden of compliance.
12VAC5-381-50	Describes compliance types for HCOs	Repealed as duplicative and reduction in requirements
12VAC5-381-65	Requires VDH to provide regulant with written inspection report within 15 business days following license reinstatement	The requirement on VDH's to provide an expedient written inspection report to the regulant reduces the burden of compliance.
12VAC5-381-80	Requires VDH to provide regulant with written inspection report within 15 business days following an on-site inspection	The requirement on VDH's to provide an expedient written inspection report to the regulant reduces the burden of compliance.
12VAC5-381-90	Describes home visits an inspector may make as a part of an inspection	This section was repealed and language from this section was incorporated into 12VAC5-381-80(C) with specific and clear language.
12VAC5-381-140	Return of license	Repealed as all active licenses are available online and regulants no longer need to physically mail their licenses back to VDH.