



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

12 VAC 35-105 Rules and Regulations for Licensing Providers by the Department of Behavioral Health and Developmental Services

Department of Behavioral Health and Developmental Services

Town Hall Action/Stage: 6613 / 10527

April 28, 2025

The Department of Planning and Budget (DPB) 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 19. The analysis presented below represents DPB’s best estimate of the potential economic impacts as of the date of this analysis.¹

Summary of the Proposed Amendments to Regulation

Pursuant to Chapter 808 of the 2024 Acts of Assembly,² the State Board of Behavioral Health and Developmental Services (Board) proposes to incorporate in the regulation a legislative mandate to require substance abuse treatment facilities to “prepare and record a valid discharge plan upon the discharge or withdrawal of any individual from the facility who has received substance use disorder treatment while admitted to such facility.”

Background

Chapter 808 mandated that the Department of Behavioral Health and Developmental Services (DBHDS) amend its regulations to require inpatient and residential substance abuse treatment providers to prepare and record discharge plans for their patients. According to DBHDS, the intent of the legislation is to foster better outcomes for individuals discharged or withdrawing from substance abuse treatment programs. The mandated change would facilitate

¹ Code § 2.2-4007.04 requires that such economic impact analyses determine the public benefits and costs of the proposed amendments. Further the analysis 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.

² <https://legacylis.virginia.gov/cgi-bin/legp604.exe?241+ful+CHAP0808>

the return of individuals to their home localities by requiring providers to engage in more intensive service coordination. In this action, the Board proposes to incorporate the legislative language almost verbatim in the regulatory text.

Estimated Benefits and Costs

DBHDS expects better outcomes (e.g., prevention of a future relapse or a reduction in employment disruptions associated with poor mental or physical well-being) as a result of the legislative mandate for individuals leaving substance abuse treatment programs by improving service coordination after their discharge or withdrawal from treatment. On the other hand, DBHDS also projects that providers may see an increase in compliance burden (e.g., staff resources to coordinate care with payors; administrative expenses for additional reporting and recordkeeping; legal services to mitigate potential sanctions if failure to comply with the regulation). However, the main impact of this regulatory action is to comply with the directives of the General Assembly and accordingly incorporate the needed changes into the regulatory text.

Businesses and Other Entities Affected

DBHDS currently licenses 109 inpatient and residential substance abuse treatment providers (40 inpatient, 69 residential, with 3,995 beds as of September 30, 2024) that would be required to comply with the provisions of this new requirement. Furthermore, a total of 23,246 unduplicated individuals received substance use disorder treatment services in Virginia's publicly funded system of services in fiscal year 2023. However, DBHDS states it is not possible to estimate how many of those individuals would receive residential or inpatient services and of that group, how many would be discharged or who might withdraw and, therefore, subject to the provisions of this new requirement. No provider appears to be disproportionately affected.

The Code of Virginia requires DPB to assess whether an adverse impact may result from the proposed regulation.³ An adverse impact is indicated if there is any increase in net cost or reduction in net benefit for any entity, even if the benefits exceed the costs for all entities

³ 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.

combined.⁴ As noted above, while the legislative mandate is expected to increase provider compliance costs, the proposed regulation does not appear to introduce costs beyond those already required by the legislation. Thus, no adverse impact on any entity is expected on account of this regulatory action.

Small Businesses⁵ Affected:⁶

According to DBHDS, providers generally satisfy the definition of a small business. However, the proposed regulation does not appear to introduce costs on small businesses beyond those already required by the legislation.

Localities⁷ Affected⁸

The proposed regulatory changes do not introduce costs or other effects on localities, nor do they disproportionately affect any locality more than others.

Projected Impact on Employment

The proposal does not appear to affect total employment beyond the potential impact of the legislation.

Effects on the Use and Value of Private Property

No effect on the use and value of private property is expected as a result of the change in the regulation itself. Also, no effect on the real estate development costs is expected.

⁴ Statute does not define “adverse impact,” state whether only Virginia entities should be considered, nor indicate whether an adverse impact results from regulatory requirements mandated by legislation. As a result, DPB has adopted a definition of adverse impact that assesses changes in net costs and benefits for each affected Virginia entity that directly results from discretionary changes to the regulation.

⁵ 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.”

⁶ 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.

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.