



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

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**12 VAC 35-46 Regulations for Children’s Residential Facilities**  
**12 VAC 35-105 Rules and Regulations for Licensing Providers by the Department of Behavioral Health and Developmental Services**  
**State Board of Behavioral Health and Developmental Services**  
**Town Hall Action/Stage: 6752/10765**  
April 30, 2026

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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.<sup>1</sup>

### **Summary of the Proposed Amendments to Regulation**

The Board of Behavioral Health and Developmental Services (Board) seeks to update language in two of its regulations that refers to regulatory requirements enforced by the Virginia Department of Health (VDH) in order to make technical corrections, improve clarity, and remove obsolete references.

### **Background**

*The Regulations for Children’s Residential Facilities* (12 VAC 35-46) and the *Rules and Regulations for Licensing Providers* (12 VAC 35-105) contain health and safety standards that refer to VDH programs and regulations. Some of these references are either obsolete or unclear. Accordingly, the Board seeks to:

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<sup>1</sup> 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.

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- (i) update references to the Virginia Statewide Fire Prevention Code (13 VAC 5-52) in both regulations,
  - (ii) specify that children's residential facilities must show proof of a current food permit, private well permit, and a sewage handling and disposal permit if required by VDH (12 VAC 5-421, 12 VAC 5-630, and 12 VAC 5-610, respectively),
  - (iii) require all other licensed providers to have a food permit if required by VDH (12 VAC 5-421),
  - (iv) remove a provision for swimming pools in children's residential facilities to be inspected by state or local health authorities as they do not conduct inspections of swimming pools,
  - (v) remove a provision for well water testing by the local health department as they do not perform such tests.

In addition, unrelated to the VDH-related changes, the Board seeks to update references to sections of the *Code of Virginia* that require a criminal history background check and Child Protective Registry Search. The Department of Behavioral Health and Developmental Services (DBHDS) reports that all of these changes are intended to clarify the regulation and reflect current practice and would not require any additional permits or inspections.

Lastly, the Board seeks to insert three best practices regarding handwashing, cleaning, and food storage in both regulations. These requirements are based on VDH's *Food Regulations* (12 VAC 5-421) as indicated below and would apply to non-residential providers that are not required to obtain a food permit. The proposed amendments would state that,

- (i) The provider shall require that all employees wash their hands thoroughly before handling food, after using the restroom, and after touching potentially contaminated surfaces.
- (ii) The provider shall maintain a rigorous cleaning schedule for all kitchen equipment, utensils, and surfaces. The provider shall use federal E.P.A. [Environmental Protection Agency] approved sanitizers and follow manufacturer guidelines.
- (iii) The provider shall store food items at appropriate temperatures to prevent bacterial growth and contamination. Prepared ready to eat food shall be labeled and dated to ensure freshness and safety. Prepared ready to eat food shall be used, served or discarded within seven days. All food shall be used, served or discarded within expiration dates.

These requirements are based on 12 VAC 5-421-160 (When to wash), 12 VAC 5-421-830 (Ready-to-eat, time/temperature control for safety food; date marking), and sections 12 VAC 5-421-1770 through 1900, which address the cleaning and sanitization of equipment and utensils. Although these requirements would be newly added in both regulations, they are considered standard practices. Adding them to the regulation would formalize these requirements and make them easier to enforce.

### **Estimated Benefits and Costs**

The proposed amendments are intended to update and clarify the regulations, which would benefit readers of the regulation and reduce the burden on DBHDS and VDH staff of having to answer questions and clarify the requirements. The proposed amendments are not intended to create any new costs.

### **Businesses and Other Entities Affected**

The proposed amendments would affect currently licensed children's residential facilities and other providers, as well as new facilities and providers that seek to become licensed. DBHDS reports that there are about 150 Children's Residential Services. DBHDS also licenses approximately 2,475 private and community providers of mental health, substance use disorder and developmental services in 12,4550 locations throughout Virginia.

The Code of Virginia requires DPB to assess whether an adverse impact may result from the proposed regulation.<sup>2</sup> 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 combined.<sup>3</sup> Because the proposed changes are intended clarify and update the regulations to reflect current practice, an adverse impact is not indicated.

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<sup>2</sup> 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.

<sup>3</sup> 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.

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**Small Businesses<sup>4</sup> Affected:<sup>5</sup>**

The proposed changes would not adversely impact small businesses.

**Localities<sup>6</sup> Affected<sup>7</sup>**

No locality would be disproportionately affected. Local governments would not be affected.

**Projected Impact on Employment**

The proposed amendments are not expected to have an impact on total employment.

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

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

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<sup>4</sup> 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.”

<sup>5</sup> 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.

<sup>6</sup> “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.

<sup>7</sup> § 2.2-4007.04 defines “particularly affected” as bearing disproportionate material impact.