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Final Regulation Agency Background Document

Agency name	Board of Social Work, Department of Health Professions
Virginia Administrative Code (VAC) citation(s)	18VAC140-20-10 et seq.
Regulation title(s)	Regulations Governing the Practice of Social Work
Action title	Additional hours of ethics
Date this document prepared	6/14/19

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), Executive Order 14 (as amended, July 16, 2018), the Regulations for Filing and Publishing Agency Regulations (1 VAC7-10), and the *Virginia Register Form, Style, and Procedure Manual for Publication of Virginia Regulations*.

Brief Summary

Please provide a brief summary (preferably no more than 2 or 3 paragraphs) of this regulatory change (i.e., new regulation, amendments to an existing regulation, or repeal of an existing regulation). Alert the reader to all substantive matters. If applicable, generally describe the existing regulation.

The Board amended the requirements for continuing education in section 105 to increase the hours pertaining to ethics or the standards of practice for behavioral health professions from a minimum of two to six hours every two years for licensed clinical social workers and a minimum of three hours every two years for licensed social workers.

Acronyms and Definitions

Please define all acronyms used in the Agency Background Document. Also, please define any technical terms that are used in the document that are not also defined in the "Definition" section of the regulations.

LCSW = licensed clinical social worker

LSW = licensed social worker

Statement of Final Agency Action

Please provide a statement of the final action taken by the agency including: 1) the date the action was taken; 2) the name of the agency taking the action; and 3) the title of the regulation.

On June 14, 2019, the Board of Social Work amended 18VAC140-20-10 et seq., Regulations Governing the Practice of Social Work.

Mandate and Impetus

Please list all changes to the information reported on the Agency Background Document submitted for the previous stage regarding the mandate for this regulatory change, and any other impetus that specifically prompted its initiation. If there are no changes to previously-reported information, include a specific statement to that effect.

There are no changes to the previously-reported impetus.

Legal Basis

Please identify (1) the agency or other promulgating entity, and (2) the state and/or federal legal authority for the regulatory change, including the most relevant citations to the Code of Virginia or Acts of Assembly chapter number(s), if applicable. Your citation must include a specific provision, if any, authorizing the promulgating entity to regulate this specific subject or program, as well as a reference to the agency or promulgating entity's overall regulatory authority.

Regulations are promulgated under the general authority of Chapter 24 of Title 54.1 of the Code of Virginia. Section 54.1-2400, which provides the Board of Social Work the authority to promulgate regulations to administer the regulatory system:

§ 54.1-2400 -General powers and duties of health regulatory boards

The general powers and duties of health regulatory boards shall be:

...6. To promulgate regulations in accordance with the Administrative Process Act (§ [2.2-4000 et seq.](#)) which are reasonable and necessary to administer effectively the regulatory system. Such regulations shall not conflict with the purposes and intent of this chapter or of Chapter 1 (§ [54.1-100 et seq.](#)) and Chapter 25 (§ [54.1-2500 et seq.](#)) of this title.

The Board has a specific mandate to promulgate regulations requiring continuing education:

§ 54.1-3708. Continuing education requirements.

The Board shall establish in regulations requirements for the continuing education of licensed social workers.

The Board may approve persons who provide continuing education or accredit continuing education programs in order to accomplish the purposes of this section.

Purpose

Please explain the need for the regulatory change, including a description of: (1) the rationale or justification, (2) the specific reasons the regulatory change is essential to protect the health, safety or welfare of citizens, and (3) the goals of the regulatory change and the problems it's intended to solve.

The purpose of adding hours in ethics or standards of practice is to address a concern about complaints against social workers, almost all of which stem from an ethical issue or a failure to adhere to professional standards of practice. While the rate of complaints against clinical social workers is similar to or lower than other behavioral health professions (13.52 per 1,000 licensees for LCSWs; 15.75 per 1,000 for licensed professional counselors; 16.45 per 1,000 for licensed clinical psychologists in the 2014-2016 biennium), the nature of the complaints indicates a lack of understanding of ethics or standards of practice. Therefore, the Board believes a higher percentage of the total hours of continuing education should be devoted to those topics in order to protect the health, welfare and safety of clients receiving social work services.

Substance

Please briefly identify and explain the new substantive provisions, the substantive changes to existing sections, or both. A more detailed discussion is provided in the "Detail of Changes" section below.

Currently, section 105 specifies that 30 hours of continuing education are required for renewal of a licensed clinical social work license and 15 hours for a licensed social worker every two years. A minimum of two of those hours must pertain to ethics or the standards of practice for the behavioral health professions or to laws governing the practice of social work in Virginia. The proposed amendment would increase the ethics/standards requirement from two to six hours for LCSWs and three hours for LSWs; there would be no change in the total hours required.

Issues

Please identify the issues associated with the regulatory change, including: 1) the primary advantages and disadvantages to the public, such as individual private citizens or businesses, of implementing the new or amended provisions; 2) the primary advantages and disadvantages to the agency or the Commonwealth; and 3) other pertinent matters of interest to the regulated community, government officials, and the public. If there are no disadvantages to the public or the Commonwealth, include a specific statement to that effect.

- 1) The primary advantage to the public is some assurance that social workers are more knowledgeable about the ethics and standards of practice affecting their profession. There are no disadvantages to the public.
- 2) There are no advantages and disadvantages to the agency or the Commonwealth; and
- 3) There are no other pertinent matters of interest to the regulated community, government officials, and the public. The Director of the Department of Health Professions has reviewed the proposal and performed a competitive impact analysis. The Board is authorized under § 54.1-2400 to "promulgate regulations in accordance with the Administrative Process Act which are reasonable and

necessary to administer effectively the regulatory system.” Any restraint on competition that results from this regulation is in accord with the General Assembly’s policy as articulated in § 54.1-100 and is necessary for the preservation of the health, safety, and welfare of the public and will further the public’s need for assurances of quality care.

Requirements More Restrictive than Federal

Please list all changes to the information reported on the Agency Background Document submitted for the previous stage regarding any requirement of the regulatory change which is more restrictive than applicable federal requirements. If there are no changes to previously-reported information, include a specific statement to that effect.

There is no applicable federal requirement.

Agencies, Localities, and Other Entities Particularly Affected

Please list all changes to the information reported on the Agency Background Document submitted for the previous stage regarding any other state agencies, localities, or other entities that are particularly affected by the regulatory change. If there are no changes to previously-reported information, include a specific statement to that effect.

Other State Agencies Particularly Affected - None

Localities Particularly Affected - None

Other Entities Particularly Affected - None

Public Comment

Please summarize all comments received during the public comment period following the publication of the previous stage, and provide the agency response. Ensure to include all comments submitted: including those received on Town Hall, in a public hearing, or submitted directly to the agency or board. If no comment was received, enter a specific statement to that effect.

A comment period on proposed regulations was open from January 7, 2019 to March 8, 2019; a public hearing was conducted on February 1, 2019. There was no public comment.

Detail of Changes Made Since the Previous Stage

*Please list all changes made to the text since the previous stage was published in the Virginia Register of Regulations and the rationale for the changes. Explain the new requirements and what they mean rather than merely quoting the text of the regulation. *Please put an asterisk next to any substantive changes.*

There are no changes to the proposed regulations.

Detail of All Changes Proposed in this Regulatory Action

Please list all changes proposed in this action and the rationale for the changes. Explain the new requirements and what they mean rather than merely quoting the text of the regulation. * Please put an asterisk next to any substantive changes.

Current section number	New section number, if applicable	Current requirement	Change, intent, rationale, and likely impact of new requirements
105	N/A	Sets out all the requirements for continued competency for renewal of an active license.	<p>Licensed clinical social workers are required to have completed a minimum of 30 contact hours of continuing education and licensed social workers are required to have completed a minimum of 15 contact hours of continuing education prior to licensure renewal in <i>even years</i>. Currently, a minimum of two of those hours must pertain to ethics or the standards of practice for the behavioral health professions or to laws governing the practice of social work in Virginia. The change proposed is that six of those hours relate to ethics, standards of practice or laws for LCSWs and three of those hours for LSWs.</p> <p>In the NOIRA, the Board had intended to change the required hours of ethics from two to six. However, in discussion of proposed regulations, it was noted that six hours represents 20% of the total hours for a LCSW (30 are required), but it represents 40% of the hours for a LSW (15 are required). Therefore, the Board voted to amend the regulation so the hours of ethics are proportional to the total hours for both types of licensee.</p> <p>Members of the Board report that there are a broad range of courses available that a licensee may choose that will fulfill the six or three-hour requirement. Subsection B of section 105 lists all the type of courses and providers that are approved for continuing education; any of those may offer CE that would provide those hours.</p>