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## Notice of Intended Regulatory Action (NOIRA) Agency Background Document

<b>Agency name</b>	Board of Counseling, Department of Health Professions
<b>Virginia Administrative Code (VAC) citation</b>	18 VAC 115-20-10 et seq.; 18 VAC 115-50-10 et seq.; 18 VAC 115-60-10 et seq.
<b>Regulation title</b>	Regulations Governing the Practice of Professional Counselors, Regulations Governing the Practice of Marriage and Family Therapy, Regulations Governing the Practice of Licensed Substance Abuse Treatment Practitioners
<b>Action title</b>	Requirements for Residency, Endorsement, and Portability
<b>Document preparation date</b>	May 17, 2006

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), Executive Orders 21 (2002) and 58 (1999), and the *Virginia Register Form, Style, and Procedure Manual*.

### Purpose

*Please describe the subject matter and intent of the planned regulatory action. Also include a brief explanation of the need for and the goals of the new or amended regulation.*

The Board intends to amend existing regulation regarding supervision and residency specifications for the purpose of updating these requirements to meet the intended objectives of the Board, which are to address what constitutes an approved supervisor, remove contradictory language regarding face-to-face supervision, and require registration of supervisors regardless of the exemption/non-exempt setting.

The Board also intends to amend existing regulation regarding prerequisites for licensure by endorsement to clarify existing requirements. Regulations must be consistent and fair in requirement and usage regardless of whether an applicant is applying for licensure through examination or endorsement.

Further, the Board intends to amend existing regulation regarding prerequisites for licensure by endorsement to allow for greater portability of licensure from state to state. The Board will include language that will allow for the issuance of a professional counselor license by endorsement to any individual who qualifies for such license pursuant to having met and demonstrated such qualifications via a Board recognized credentials registry such as that of the American Association of State Counseling Boards or its equivalent.

The Board has always attempted to mirror established regulations for a licensed profession in the development of new regulations for another licensed profession where possible; in this case the Board proposes to mirror regulation established by the Board of Psychology that allows for endorsement options within established parameters. Specifically, the Board of Psychology accepts credentials through Certificate of Professional Qualifications in Psychology (CPQ) of the Association of State and Provincial Psychology Boards (ASPPB). ASPPB issues a Certificate of Professional Quality in Psychology to psychologists licensed in the U. S. and Canada who meet the standards of educational preparation, supervised experience, and examination performance, and who have practiced a minimum of five years and have no history of disciplinary action.

## Legal basis

*Please identify the state and/or federal legal authority to promulgate this proposed regulation, including (1) the most relevant law and/or regulation, including Code of Virginia citation and General Assembly chapter number(s), if applicable, and (2) promulgating entity, i.e., agency, board, or person. Describe the legal authority and the extent to which the authority is mandatory or discretionary.*

Section 54.1-3505 of the Code of Virginia authorizes the Board to regulate the practice of counseling.

*§ 54.1-3505. Specific powers and duties of the Board.*

*In addition to the powers granted in § [54.1-2400](#), the Board shall have the following specific powers and duties:*

- 1. To cooperate with and maintain a close liaison with other professional boards and the community to ensure that regulatory systems stay abreast of community and professional needs.*
- 2. To conduct inspections to ensure that licensees conduct their practices in a competent manner and in conformance with the relevant regulations.*
- 3. To designate specialties within the profession.*
- 4. To administer the certification of rehabilitation providers pursuant to Article 2 (§ [54.1-3510](#) et seq.) of this chapter, including prescribing fees for application processing, examinations, certification and certification renewal.*
- 5. Expired.*
- 6. To promulgate regulations for the qualifications, education, and experience for licensure of marriage and family therapists. The requirements for clinical membership in the American Association for Marriage and Family Therapy (AAMFT), and the professional examination service's national marriage and family therapy examination may be considered by the Board in the promulgation of these regulations. The educational credit hour, clinical experience hour, and clinical supervision hour requirements for marriage and family therapists shall not be less than the educational credit hour, clinical experience hour, and clinical supervision hour requirements for professional counselors.*
- 7. To promulgate, subject to the requirements of Article 1.1 (§ [54.1-3507](#) et seq.) of this chapter, regulations for the qualifications, education, and experience for licensure of licensed substance abuse treatment practitioners and certification of certified substance abuse counselors and certified substance abuse counseling assistants. The requirements for membership in NAADAC: the Association for Addiction Professionals and its national examination may be considered by the Board in the promulgation of these regulations. The Board also may provide for the consideration and use of the accreditation and*

*examination services offered by the Substance Abuse Certification Alliance of Virginia. The educational credit hour, clinical experience hour, and clinical supervision hour requirements for licensed substance abuse treatment practitioners shall not be less than the educational credit hour, clinical experience hour, and clinical supervision hour requirements for licensed professional counselors. Such regulations also shall establish standards and protocols for the clinical supervision of certified substance abuse counselors and the supervision or direction of certified substance abuse counseling assistants, and reasonable access to the persons providing that supervision or direction in settings other than a licensed facility.*

## Substance

*Please detail any changes that will be proposed. For new regulations, include a summary of the proposed regulatory action. Where provisions of an existing regulation are being amended, explain how the existing regulation will be changed. Include the specific reasons why the agency has determined that the proposed regulatory action is essential to protect the health, safety, or welfare of citizens. Delineate any potential issues that may need to be addressed as the regulation is developed.*

The Board intends to amend Sections 18 VAC 115-20-10, 18 VAC 115-50-10, and 18 VAC 115-60-10 (Definitions) to clarify the meaning of "Supervision" as it applies to the requirement for licensure in these regulations.

The Board intends to amend Sections 18 VAC 115-20-45, 18 VAC 115-50-40, and 18 VAC 115-60-50 (Prerequisites for licensure by endorsement) to allow for the issuance of a license to any individual who qualifies for such a license pursuant to current licensure of good standing in another state or jurisdiction.

In particular, the Board intends to establish regulation within Section 18 VAC 115-20-45 regarding prerequisites for licensure by endorsement to allow for greater portability of licensure from state to state for licensed professional counselors. The Board will include language that will allow the issuance of a professional counselor license by endorsement to any individual who qualifies for such license pursuant to having met and demonstrated such qualifications via a Board recognized credential registry such as that of the American Association of State Counseling Boards or its equivalent. The Board has always attempted to mirror established regulations for a licensed profession in the development of new regulations for another licensed profession where possible; in this case the Board proposes to mirror regulation established by the Board of Psychology (18 VAC 125-20-42) that allow for endorsement options within established parameters. Verification of education, supervised experience and examination by or through a state board or jurisdiction will better protect the public health, safety, and welfare of persons by allowing easier access to counselors licensed in other jurisdictions who wish to practice in Virginia.

In mirroring Board of Psychology regulations the Board of Counseling also intends to allow for years of practice as a criterion for endorsement acceptance. As a criterion of endorsement the Board of Psychology will accept twenty years of active licensure in a category comparable to the one in which licensure is sought, with an appropriate degree as required in the chapter documented by an official transcript (18 VAC 125-20-42A5c). If less than 20 years of active licensure psychology regulation (18 VAC 125-20-42A5d) allows for documentation of current psychologist licensure in good standing obtained by standards substantially equivalent to the education, experience and examination requirements set forth in this chapter for the category in which licensure is sought as verified by a certified copy of the original application submitted directly from the out-of-state licensing agency or a copy of the regulations in effect at the time of initial licensure and the following:

- (1) Documentation of post-licensure active practice for at least five of the last six years immediately preceding licensure application;

(2) Verification of a passing score on the Examination for Professional Practice of Psychology as established in Virginia for the year of that administration;

(3) Verification of a passing score on other written and oral examinations or both as required by the jurisdiction which granted the license; and

(4) Official transcripts documenting the graduate work completed and the degree awarded in the category in which licensure is sought.

B. Notwithstanding the provisions of this section, the board may issue a license to any individual who qualifies for such a license pursuant to an agreement of reciprocity entered into by this board with a board of another jurisdiction or multiple jurisdictions.

The Board intends to amend Section 18 VAC 115-20-49A (Degree program requirements), to remove "CORE" (Commission on Rehabilitative Education) from the regulations. CORE is currently set out as a program that has been approved by the Board as meeting the definition of a preparatory graduate degree program. The Credentials Committee of the Board has determined that the requirements of a CORE program do not meet the coursework requirements set out in 18 VAC 115-20-51.

The Board intends to amend Sections 18 VAC 115-20-51, 18 VAC 115-50-55, and 18 VAC 115-60-70 (Coursework requirements) to reduce from 4.5 to 4.0 the number of quarter hours in each of the areas identified in subdivisions of that subsection. This reduction is necessary to match regulatory requirements with the reality of course credits.

The Board intends to amend Sections VAC 115-20-52, 18 VAC 115-50-60, and 18 VAC 115-60-80 (Residency) to clarify Board requirements for registration of supervision in exempt settings. Changes to this section will also reflect and elaborate on changes made to the definition of "Supervision" in Sections VAC 115-20-10, 18 VAC 115-50-10, and 18 VAC 115-60-10. The Regulatory Committee of the Board began discussions exploring the requirement(s) of what would constitute an approved supervisor at its February 16, 2006 meeting. Board member Dr. Charles R. McAdams volunteered to research current trends in other states and organizations and report to the Board at its June 9, 2006 meeting.

Additionally, the Board intends to remove contradictory language regarding face-to-face supervision. The phrase "face-to-face" will be removed in all instances except when it refers to direct client contact. Residents will still be required to complete 200 hours of supervision using both individual and group methods, but supervision could be either group or individual. Residents would be allowed to receive a minimum of one hour of supervision per 40 hours worked, or a maximum of two hours of supervision per 40 hours worked.

## Alternatives

*Please describe all viable alternatives to the proposed regulatory action that have been or will be considered to meet the essential purpose of the action.*

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As an alternative to the supervision and education changes set out in this document the Board considered amending language that would totally remove all references to hourly requirements. This alternative was not accepted because the Board felt that there should be an accepted minimum number of hours of coursework in core courses. The goal of the intended change is to become less restrictive and fall within the requirements of the majority of other state boards.

As an alternative to the endorsement and portability changes set out in this document, the Board considered developing language and establishing regulation consistent with standard reciprocity agreements between states. This alternative was not accepted because reciprocity agreements between states require considerable Board and staff time to negotiate agreements among states. Each time one

of the compact states makes regulatory changes, educational and/or experience requirement changes, or any other change affecting the requirement(s) for licensure the reciprocity agreement must be re-negotiated.

Once approval to publish the Notice of Intended Regulatory Action is granted, the Board will consider any comment received during its meetings and public comment periods on any proposed regulations.

### Family impact

*Assess the potential impact of the proposed regulatory action on the institution of the family and family stability.*

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There is no impact of the proposed regulatory action on the institution of the family and family stability.