



## Exempt Action Final Regulation Agency Background Document

<b>Agency name</b>	Board of Counseling, Department of Health Professions
<b>Virginia Administrative Code (VAC) citation</b>	18VAC115-30-10 et seq.
<b>Regulation title</b>	Regulations Governing the Certification of Substance Abuse Counselors and Substance Abuse Counseling Assistants
<b>Action title</b>	Conformity to authority of board to take action against a license and for a waiting period in law for reinstatement after revocation
<b>Final agency action date</b>	2/8/08
<b>Document preparation date</b>	2/14/08

When a regulatory action is exempt from executive branch review pursuant to § 2.2-4002 or § 2.2-4006 of the Virginia Administrative Process Act (APA), the agency is encouraged to provide information to the public on the Regulatory Town Hall using this form.

Note: While posting this form on the Town Hall is optional, the agency must comply with requirements of the Virginia Register Act, the *Virginia Register Form, Style, and Procedure Manual*, and Executive Orders 21 (02) and 58 (99).

### Summary

*Please provide a brief summary of all regulatory changes, including the rationale behind such changes. Alert the reader to all substantive matters or changes. If applicable, generally describe the existing regulation.*

The Board has made a regulatory change which is exempt from provisions of the Administrative Process Act. This action is exempt from the Virginia Administrative Process Act in § 2.2-4006 A 4:

§ 2.2-4006. *Exemptions from requirements of this article.*

A. *The following agency actions otherwise subject to this chapter and § 2.2-4103 of the Virginia Register Act shall be exempted from the operation of this article:*

...4. *Regulations that are:*

a. *Necessary to conform to changes in Virginia statutory law or the appropriation act where no agency discretion is involved;*

Accordingly, the Board has adopted amendments under an exempt action to conform regulations to the statute.

In § 54.1-2400, setting out the powers and duties of health regulatory boards, the authority includes action to “revoke, suspend, restrict, or refuse to issue or renew a registration, certificate, license or multistate licensure privilege which such board has authority to issue for causes enumerated in applicable law and regulations.” In Section 150 of the regulations, the authority to restrict or to decline to issue a license is omitted. Amendments would make the regulation consistent with the statutory authority of the Board.

In 2003, a new section was added to Chapter 24 of Title 54.1 to provide for a three-year period after revocation of a license before a person could apply to a health regulatory board for reinstatement. Regulations in section 160 of Chapter 30 of the Board of Counseling were not amended accordingly and must be changed to conform to provisions of § 54.1-2408.1:

*§ 54.1-2408.2. Three-year minimum period for reinstatement after revocation. When the certificate, registration or license of any person certified, registered or licensed by one of the health regulatory boards has been revoked, the board may, after three years and upon the payment of a fee prescribed by the Board, consider an application for reinstatement of a certificate, registration or license in the same manner as the original certificates, registrations or licenses are granted. The reinstatement of a certificate, registration or license shall require the affirmative vote of three-fourths of the members at a meeting. In the discretion of the board, such reinstatement may be granted without further examination.*

**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.*

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On February 8, 2007, the Board of Counseling adopted exempt actions to Chapter 23, Regulations Governing the Certification of Substance Abuse Counselors and Substance Abuse Counseling Assistants to conform the grounds for disciplinary action in Section 150 with provisions of § 54.1-2400 (7), and to conform requirements for reinstatement of a license after revocation in Section 160 to provisions of § 54.1-2408.1.

**Family impact**

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

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