

ITEM 2: REGISTRAR'S SUBMISSION PACKAGE

Virginia Board of Licensed Professional Counselors, Marriage and Family Therapists and Substance Abuse Professionals

Analysis of Proposed Regulations: 18 VAC 115-60-10 et seq.

1. Basis of the Regulation:

Title 54.1, Chapter 24 and Chapter 35 of the *Code of Virginia* provide the basis for these regulations.

Chapter 24 establishes the general powers and duties of the health regulatory boards including the power to assess fees, establish qualifications for licensure and the responsibility to promulgate regulations.

Chapter 35 establishes the Board of Licensed Professional Counselors, Marriage and Family Therapists and Substance Abuse Professionals and authorizes that board to administer the licensure of substance abuse treatment practitioners.

§54.1-103 authorizes the board to promulgate regulations specifying additional training or conditions for individuals seeking licensure by reciprocity or endorsement.

2. Statement of Purpose:

Chapter 901 of the 1997 Acts of the Assembly established licensure for the independent practice of substance abuse treatment and mandated that the board promulgate regulations for the qualifications, education and experience for licensure of substance abuse treatment practitioners. The mandate stipulates that the educational credit hour, clinical experience hour, and clinical supervision hour requirements not be less those required for professional counselor licensure. The new law authorizes the board to license individuals who have met substantially equivalent requirements to those promulgated in its regulations, and to license without examination licensed professional counselors who meet the clinical and academic requirements for substance abuse treatment practitioner licensure.

The board is proposing requirements for licensure that it has determined are the minimum requirements for the independent practice of substance abuse treatment that are necessary to protect the public health and safety. The board is also proposing requirements for endorsement of individuals who have met substantially equivalent requirements to the

education, experience, and examination requirements set forth in the proposed regulations.

The board is also proposing standards of conduct to ensure the integrity of licensed individuals and enable the board to take action for misconduct in violation of those standards in order to protect the public served by licensed substance abuse treatment practitioners.

Virginia law mandates that boards collect sufficient fees to cover the expenses incurred in operating the licensure program. The board is proposing a fee structure based on the budget projections for the next biennium calculated by the agency's Finance Office. The proposed fees will be in line with fee increases projected for the board's other master's level licensure categories which will be promulgated in the coming biennium to offset a an existing deficit.

3. Summary of public comment

Prior to beginning work on the new regulations, the board's Regulatory Committee invited representatives of Virginia's professional associations in substance abuse and general counseling, and professors from Virginia's graduate programs in counseling to discuss issues concerning regulation of independent substance abuse treatment practitioners.

Representatives of these associations and graduate programs attended all meetings of the Regulatory Committee and offered written and verbal comment at each meeting.

An issue that resulted in considerable controversy during the initial meeting and throughout the process was the interpretation of § 54.1-3508 which authorizes the board to issue a license to individuals with "substantially equivalent" qualifications, education, or experience to the requirements of § 54.1-3507. Some individuals felt strongly that the intent of the 1997 General Assembly was to provide for licensure of experienced certified substance abuse counselors, who may have no formal education beyond a high school diploma or G.E.D. Others argued that the General Assembly had clearly intended not to allow licensure for anyone with less than a master's degree, based on previous rejection of a 1996 bill which proposed a 3 tiered licensure system for different levels of education. Representatives of the professional associations in substance abuse counseling admitted that their memberships were split on this issue. The board was advised by counsel that the language of the law gives the board discretion in determining what is "substantially equivalent" to a master's degree.

The board adopted alternatives for licensing master's level substance abuse treatment practitioners without examination, and spent considerable time trying to develop criteria that would ensure competency for independent practice for substance abuse counselors who do not hold a master's degree. The board reviewed proposals submitted by the Virginia Association of Alcoholism and Drug Abuse Counselors and the Substance Abuse Counselor Alliance of Virginia, and drafted a combination of education and experience to propose for a time-limited basis. Upon review by counsel, the board was advised that statute does not

authorize a time-limited provision, and that any equivalency proposal would have to be established as a permanent rule. The board concluded that only formal education could sufficiently ground a practitioner in the theory base of mental health counseling, and that experience alone could not substitute for this education. Therefore, the board rejected the alternative of providing for licensure for individuals with less than a master's degree.

The board received comment on its draft degree program requirements from representatives of Virginia's graduate counseling programs expressing concern that the programs, which are designed for general counseling, would not be able to meet the specific substance abuse training and faculty requirements as originally drafted. Based on this comment, the board redrafted its degree program requirements to ensure that education from these programs would be acceptable toward licensure.

The board also received comment that the education requirements promulgated for this license would have to prepare licensees to identify the comorbidity issues that commonly coexist with substance abuse. The board is proposing nine core areas in general counseling which it considers essential to train individuals to identify these problems and appropriately refer clients.

Representatives of professional associations in substance abuse treatment argued for rigorous semester hour requirements in substance-abuse specific education, but representatives of Virginia's counseling programs argued that there was no possibility of offering more than nine semester hours in this specialty area. After careful consideration of many alternatives, the board adopted what it determined to be a workable compromise that will adequately protect the public, but allow individuals to obtain the training required for licensure.

The board originally drafted its residency content area requirements based on the twelve core functions in substance abuse counseling, but changed its proposal based on public comment that the federal Professional Practice Competencies are now accepted as the standard for the profession. The proposed regulation incorporates these competency areas as content areas required for the residency.

The board will continue to accept public comment after publication of this proposal and make any changes necessary to improve the clarity of these regulations.

4. Substance of the Regulations:

The key provisions of each regulation are summarized as follows:

A. Part I. General Provisions

18 VAC 114-60-10 incorporates definitions of words with meanings specific to the

regulation that are not already defined in statute.

18 VAC 115-60-20 establishes fees for registration of supervision, application, license renewal and reinstatement, verification services, duplicate or replacement licenses and wall certificates, and penalty fees for late renewal and returned checks.

18 VAC 115-60-30 directs licensees who seek voluntary certification as sex offender treatment providers to apply for this certification under the regulations of the Board of Psychology.

B. Part II. Requirements for Licensure.

18 VAC 115-60-40 sets forth the requirements for licensure by examination and outlines the documentation required for application.

18 VAC 115-60-50 outlines the documentation required for application for licensure by endorsement.

18 VAC 115-60-60 establishes degree program requirements for licensure.

18 VAC 115-60-70 sets forth specific course work and internship requirements for licensure, including the semester hour and clock hour requirements for these requirements.

18 VAC 115-60-80 sets forth the residency requirement, including residency hours and content areas, establishes qualifications for individuals who can provide supervision to residents and outlines documentation required to register a supervisor with the board.

C. Part III. Examinations.

18 VAC 115-60-90 establishes an examination requirement and limits the time frame for taking the examination following board approval.

18 VAC 115-60-100 sets forth instructions for reexamination for candidates who fail the first attempt at the examination, and establishes an additional training requirement in areas of deficiency for individuals who fail the examination twice.

D. Part IV. Licensure Renewal; Reinstatement.

18 VAC 115-60-110 provides for annual licensure renewal, and establishes a change

of address notification requirement.

18 VAC 115-60-120 establishes a reinstatement process for licenses that have lapsed up to four years, and a reapplication requirement for licenses which have lapsed more than four years.

E. Part V. Standards of Practice, Unprofessional Conduct, Disciplinary Actions, Reinstatement.

18 VAC 115-60-130 sets forth standards of professional conduct for licensed substance abuse treatment practitioners.

18 VAC 115-60-140 outlines violations that constitute grounds for disciplinary action or denial to issue or renew a license.

18 VAC 115-60-150 establishes a two-year delay for reapplication for any person whose license has been revoked or denied renewal by the board.

5. Issues of the Regulation.

A. Definitions

Certain terms that are not already defined in statute have specific meanings in the context of the regulation. Definitions of these terms will reduce the potential for confusion and ambiguous interpretation of the regulation.

Advantages: The definitions included in the proposed regulation provide clarity to applicants, supervisors, regulatory officials and the general public. Definitions are also valuable enforcement tools when scope of practice issues arise.

Disadvantages: Definitions in the proposed regulation present no disadvantages to the general public, applicants, licensees, the board or the Agency.

B. Proposed Fees

The board is mandated under § 54.1-113 to collect sufficient fees to cover expenses incurred in operating the licensure program. The *Code of Virginia* (§ 54.1-2400) provides statutory authority for establishment of fees for the administration and operation of the regulatory program. The board considered two alternative fee structures developed by the agency's Finance Office which were based on projected fee increases for the

board's other licensing programs which will be necessary to meet the mandate under § 54.1-113 to revise fees as necessary to correct for budget deficits (attached).

Advantages: Assessing fees for licensure will enable the board to comply with statutory mandates to collect fees sufficient to meet expenses. The board has already expended funds to cover costs of staff time and committee meetings in developing the proposed regulation.

Disadvantages: As with any credential, obtaining a license to practice as an independent mental health professional will involve a personal financial expense to those individuals seeking licensure.

C. Sex Offender Treatment Provider Certification

Section 54.1-3505 of the *Code of Virginia* mandates that the board promulgate regulations for the voluntary certification of its licensees as sex offender treatment providers, and to consider the standards recommended by the Advisory Committee on Certified Practices pursuant to §54.1-3610. The board has considered those standards, which are now the Board of Psychology's *Regulations Governing the Certification of Sex Offender Treatment Providers*, and has determined that those standards are acceptable for the voluntary certification of its licensees. Following the advise of the Attorney General's Office, the board is proposing inclusion of this section to direct its licensees seeking certification to the Board of Psychology. This section has recently been added to proposed regulations for the board's other licensure categories.

Advantages: Promulgation of a separate set of regulations that are either incongruous with or a duplication of the Board of Psychology's regulations would be a poor use of the board's time and budget, and confusing to the public. Endorsement of the existing regulations allows for one set of requirements and practice standards for all certificate holders.

Disadvantages: There is no disadvantage to the proposed regulation.

D. Application for licensure by examination

Because the board is charged with ensuring the competence of the individuals it licenses to practice substance abuse treatment independently, the regulations must establish a standardized, defensible application process and ensure that the documentation received is authentic.

Advantages: Setting forth the documentation requirements in regulation safeguards the integrity of the licensure process, and ensures that all applicants meet the same

documentation standards.

Disadvantages: There are no disadvantages to the proposed requirements.

E. Pre-requisites for licensure by endorsement

Over the past two years, the board has included provisions in its existing regulations for licensure without examination for applicants with lengthy experience as licensed practitioners in other jurisdictions. The purpose is to reduce the time, expense and amount of documentation required for the application process for experienced applicants. The board proposes a provision for examination waiver for substance abuse treatment practitioners licensed in other jurisdictions by standards substantially equivalent to those established by the board.

Advantages: Endorsement of experienced practitioners will expedite the licensure process for these applicants by as many as 10 months, reducing delays in the ability to obtain employment, open private practices and bill for services.

Disadvantages: The proposed changes present no disadvantages to applicants, the agency, or the general public.

F. Degree program requirements.

A common denominator among all boards which license individuals for the independent practice of any mental health profession is that the graduate degree be obtained from an integrated, organized sequence of study which has a clear intent to prepare individuals to practice in that specific profession. In Virginia, there are no graduate programs which offer specific degrees in the substance abuse counseling specialty. Rather, students emphasize substance abuse counseling by the electives they choose in the graduate counseling programs. The board proposes a requirement which specifies that the graduate degree must prepare individuals to practice substance abuse treatment or a related *counseling* discipline as defined in the *Code of Virginia*. The proposed language mirrors proposed amendments to the board's regulations for professional counselor and marriage and family therapist licensure.

Advantages: The proposed program requirements outline in clear terms what the board expects applicants to document in terms of a graduate degree. The public will be protected by ensuring that individuals providing services have a strong foundation in mental health counseling.

Disadvantages: Individuals who do not have a graduate degree in substance abuse treatment or a related counseling discipline will not be able to apply for the license.

G. Coursework requirements.

The board is mandated under § 54.1-3605 (6) to promulgate regulations with equivalent educational credit hour requirements to those established in regulation for professional counselors. In compliance with this mandate, the board is proposing a total of 60 semester hours of graduate study.

The treatment of substance abuse is recognized as a “complex multidisciplinary practice... whose primary care givers have traditionally been counselors who...have been trained in specialty training programs often developed by treatment agencies rather than in academic institutions¹. The multidisciplinary nature of the profession, combined with the dearth of established graduate coursework specific to substance abuse was the primary issue the board faced when developing the coursework requirements

Public comment regarding underlying emotional problems that coexist with chemical dependency pointed to the necessity for a strong foundation in general counseling. The board agreed that a foundation in general counseling is essential to prepare a practitioner to recognize coexisting disorders and appropriately refer clients. The board selected nine core areas in counseling which it determined are essential to enable practitioners to recognize a wide spectrum of emotional disorders, to understand the dynamics of cultural and family issues which impact mental disorders and treatment outcomes, and to understand the current research in substance abuse. These core areas were selected from recently updated core areas proposed for the board’s regulations for professional counselor licensure. A recent survey conducted by the board established that these courses are readily available in Virginia’s counseling programs (attached).

Public comment received from representatives of the substance abuse professional organizations demanded rigorous education requirements in the substance abuse-specific content areas. The board reviewed the curricula of the two graduate programs which are known for substance abuse training in Virginia, and found that neither currently offers more than nine substance abuse-specific semester hours. The Virginia Addictions Technology Transfer Center has reported that federal grant money has been allocated for the Center to develop distance learning opportunities in substance abuse counselors in collaboration with Virginia’s graduate counseling programs, which are anticipated to be in place within one year. In addition, several programs responding to the board’s survey indicated that there are plans underway to develop a course in substance abuse.

Board members felt strongly that no less than 15 semester hours would provide sufficient

¹ *Addiction Counseling Competencies: The Knowledge, Skills And Attitudes of Professional Practice*. U.S. Dept. of Health and Human Services Technical Assistance Publication Series 21.

training to prepare individuals to practice in this specialty, but could not ignore the difficulty applicants would encounter trying to obtain this number of hours. Comment from the substance abuse associations indicated that professionals in the field are accustomed to having to get training in a variety of settings. As it stands, all applicants licensed by the board must go outside the graduate program in order to obtain the entire 60 graduate hours obtained for licensure.

The board determined that some compensation for a lack of coursework could be achieved by increasing the substance abuse-specific internship hours from 300 as originally drafted, to 450. For the substance abuse-specific coursework, the board is proposing a requirement of twelve graduate semester hours in the addiction counseling competency areas which have been developed by the Addiction Technology Transfer Center Program cited on page 8. Along with the 600 hour internship, which is equivalent to 6 semester hours, 15 semester hours of elective course work remain to meet the total 60 hours.

Advantages: The board determined that this combination of general counseling and substance abuse-specific course work is the minimum education requirement to ensure competency to provide substance abuse treatment to recognize other emotional problems and appropriately refer clients to specialists in other areas. Applicants will be better prepared to pass the licensure examination with a strong educational foundation in all core and competency areas.

Disadvantages: None of the graduate programs responding to the board's survey indicated that a specific course in each of the five competency areas is offered. However, the board determined that it would not be in compliance with the statutory mandate to ensure the competency of licensees without requiring education in all competency areas which have been established as a national standard. The proposed regulations provide that one course may satisfy more than one content area, but applicants will undoubtedly be required to obtain some of the substance abuse education outside the degree program. Applicants for any license under the board are required to obtain from twelve to thirty hours of coursework outside their degree programs, because no graduate program in Virginia requires sixty hours for a degree. The board constructed the language in the degree program requirements to permit applicants to obtain the substance abuse competencies outside the degree program. As a rule, graduates must obtain an additional 12 to 15 hours beyond the degree to attain the 60 hour requirement.

H. Residency

Statute mandates that experience hour requirements be equivalent to those for professional counselor licensure. In compliance with this mandate, the board is proposing a 4000 hour supervised residency with 200 hours of face-to-face supervision.

The board considered that most treatment centers would not have substance abuse clients exclusively, and has therefore proposed that half of the residency hours be specific to substance abuse problems. As with its other proposed regulations, the board has included a provision to accept graduate internship hours meeting certain criteria toward the residency.

The board identified a need to ensure that residents are evaluated in all competency areas in substance abuse. The board proposes a requirement that the competency areas published as *Professional Practice Dimensions* in the federal publication cited on page 8 be included in the residency.

The board recognized the difficulty all licensure applicants experience in obtaining supervisors for the residency, and endeavored to develop a requirement that would provide flexibility for applicants without compromising the effectiveness of the training. The board proposes accepting supervision from any licensure category in clinical mental health, provided the supervisor can document specific training and experience in substance abuse treatment.

Advantages: Licensure for substance abuse treatment practitioners was established by the 1997 General Assembly on the basis that treatment modalities for this type of practice are distinct from those used by other mental health service providers. The training and experience requirements set forth in the regulation will ensure that individuals licensed to practice substance abuse treatment independently possess training and experience in areas identified as unique to this profession.

The public will benefit from having the assurance that an individual holding himself out as a licensed substance abuse treatment practitioner has received specialized education and training to provide these services.

Government agencies will benefit from the ability to more accurately identify practitioners who can provide these services independently.

Disadvantages: Individuals who wish to hold themselves out as substance abuse treatment practitioners will be required to obtain the education and experience set forth in the regulations and pay the registration, application and renewal fees to obtain and maintain the license. This process will be simplified and less costly for individuals who can meet the endorsement criteria in the regulation. The law does not restrict other licensed mental health service providers from continuing to provide services in their areas of competency to substance abusers.

These regulations will present no disadvantages to the consuming public or to

government agencies, whose employees are exempt from the licensure requirement under §54.1-3501.

I. Examination Requirements.

Attainment of a professional license is generally contingent upon passing an examination which test the applicant's applied knowledge and skills in a profession. The examination is an essential tool for evaluating the competency of an individual to practice in a profession, and to test understanding of the laws and standards of ethics that govern the profession.

The board determined that individuals licensed to practice substance abuse treatment independently should be tested for practice knowledge and skills, and the laws and standards of conduct governing the profession. The board is proposing a waiver of the examination requirement for individuals who are licensed as substance abuse treatment practitioners, in other states, or as mental health therapists with national certification in substance abuse treatment. Statute provides for licensure without examination for current licensed professional counselors who can meet the board's requirements for licensure under these regulations.

Advantages: The examination will assist the board in determining that the individuals granted licensure to practice independently are competent to practice and understand the ethical and legal issues involved in that practice.

The public will benefit from having greater assurance that practitioners who obtained the license were tested for competency.

Licensed practitioners will benefit from the knowledge of laws and regulations governing their profession, and may avoid disciplinary action through this awareness.

Disadvantages: Applicants who do not qualify for endorsement will be required to pay a fee directly to the examination service to sit for the examination. It is expected that the examination fee assessed by the chosen vendor will range from \$75.00 - \$125.00.

Employers in the public and private sector may incur costs if they choose to reimburse employees for expenses involved in the licensure process.

J. Reexamination

Failure of the examination more than once provides an indication that the applicant may be deficient in one or more competency area. After many repeated attempts at an

examination, an applicant may succeed more due to familiarity with the questions than due to improved competency. The board proposes that applicants who fail the examination twice obtain 45 clock hours of additional training or education addressing the areas of deficiency identified by the examination. Determination of acceptable training will be made on a case-by-case basis by having the applicant submit a plan for obtaining the hours to the board.

Without a time-limit for passing the licensure examination, the board would be obligated to keep an application file open indefinitely. The Archiving and Retention Schedule of the Virginia State Library and Archives allows for destruction of inactive licensure applications after three years.

Advantages: The requirement for additional training will protect the public by ensuring competency in areas of deficiency. The time limit for taking the examination will ensure that the board is not forced to license applicants who have not been active in the profession, and who may no longer meet current requirements.

Disadvantages: Applicants may incur some costs to obtain additional training in areas of deficiency. Applicants who do not take the exam, and allow their files to become inactive will be required to pay a reapplication fee.

K. Renewal and reinstatement of a license

The board is mandated to collect fees to cover all expenses incurred in the administration of the regulatory program. The bulk of the board's expenses are covered by renewal fees.

Advantages: The proposed renewal fees are in line with the necessary increases for all the board's licensure fees as projected by the agency's Finance Office to offset an existing budget deficit. The board will begin the regulatory process in 1999 to increase renewal fees for its professional counselor and marriage and family therapist licensure.

The board is proposing a reapplication requirement for individuals whose licenses have lapsed more than four years. This requirement will allow the board to ensure that individuals who have not been providing services for a significant length of time are knowledgeable of new theories and techniques, and of current laws and regulations governing their practice. It will also enable the board to ensure that these applicants have not been disciplined for misconduct under another license or certificate. The public will benefit from this insurance of the continued competency and integrity of their providers.

Disadvantages: Individuals who allow their licenses to lapse more than four years will

have to reapply under the board's current regulation and take the current examination. An individual who has become licensed in another state may apply for licensure by endorsement and will not have to take an examination.

L. Standards of Practice

State law requires that the board establish regulations that include provisions for disciplinary action. Standards of practice provide the basis for disciplinary action for misconduct, and provide guidelines for professional behavior in the provision of services.

Advantages: Standards of Practice provide practitioners with a framework for professional conduct, and provide the basis for board action against unscrupulous or unqualified providers, thereby protecting the public. The proposed standards mirror those proposed in the boards proposed regulations for professional counselor licensure.

Disadvantages: The proposed Standards of Practice present no disadvantage to practitioners, clients, state or private facilitates, or the general public.

6. Estimated Fiscal Impact

A. Projected number of persons affected and their cost of compliance:

It is estimated that 500 individuals will apply for this license soon after the effective date of the regulations. After the initial licensure period, it is estimated that the number of applicants will average 50 per year. Those applying will pay a \$100.00 application fee to the board. Individuals who do not qualify for endorsement will pay an examination fee of approximately \$ 75.00 - \$125.00 to an outside vendor. Each year, all licensees will pay a \$80.00 licensure renewal fee.

B. Costs to the agency for implementation:

Establishment of the licensure program will result in increased expenditures for data processing, contractual services (production and mailing of application packages, notices and amended regulations), personal services (board credentials reviews and hearings, discipline hearings, regulatory review), and enforcement with associated administrative proceedings.

The following projected expenditure impact was prepared by the Department of Health Professions' Finance Office:

	<u>FY99</u>	<u>FY2000</u>	<u>FY2001</u>	<u>FY2002</u>
Data Processing	5,000	10,000	10,000	8,000
Admin & Finance	0	2,500	3,000	3,200
Human Resources	0	700	800	850
Enforcement	0	500	1,500	1,800
Admin Proceedings	0	200	500	500
Attorney General	1,000	800	800	800
Bd of Health Professions	0	400	500	550
Personal Services	14,000	19,000	20,000	21,000
Contractual Services	8,000	4,500	5,000	5,500
Supplies	500	500	500	500
Continuous Charges	500	700	900	1,000
Equipment	<u>0</u>	<u>100</u>	<u>100</u>	<u>100</u>
TOTAL	29,000	39,900	43,600	43,800
 BIENNIUM TOTAL		68,900		87,400

All costs to the agency are derived from fees paid by licensed substance abuse treatment practitioners.

C. Cost to local governments:

Community service boards that have a policy to cover the costs of professional licensure for their employees may incur additional expenses for employees that wish to become licensed as substance abuse treatment practitioners. Since individuals in government settings are exempted by law from the licensure requirement, there would be little impetus for an agency to adopt this kind of policy.

Board of Licensed Professional Counselors,
Marriage and Family Therapists and Substance Abuse Professionals
18 VAC 115-60-10 et seq.

ITEM 3: STATUTORY AUTHORITY FROM THE ATTORNEY GENERAL

(Attached)

ITEM 4: STATUTORY MANDATE FOR REGULATORY ACTION

Section 54.1-2400 establishes duties of health regulatory boards to establish necessary qualifications for registration, certification or licensure to ensure the competence and integrity of regulated practitioners, to examine applicants, to establish renewal schedules, to administer fees to cover the administrative expenses of the regulatory program, and take disciplinary action for violations of law and regulations.

§ 54.1-2400. General powers and duties of health regulatory boards. The general powers and duties of health regulatory boards shall be:

- 1. To establish the qualifications for registration, certification or licensure in accordance with the applicable law which are necessary to ensure competence and integrity to engage in the regulated professions.*
- 2. To examine or cause to be examined applicants for certification or licensure. Unless otherwise required by law, examinations shall be administered in writing or shall be a demonstration of manual skills.*
- 3. To register, certify or license qualified applicants as practitioners of the particular profession or professions regulated by such board.*
- 4. To establish schedules for renewals of registration, certification and licensure.*
- 5. To levy and collect fees for application processing, examination, registration, certification or licensure and renewal that are sufficient to cover all expenses for the administration and operation of the Department of Health Professions, the Board of Health Professions and the health regulatory boards.*
- 6. To promulgate regulations in accordance with the Administrative Process Act (§ 9-6.14:1 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.*
- 7. To revoke, suspend, restrict, or refuse to issue or renew a registration, certificate or license which such board has authority to issue for causes enumerated in applicable law and regulations.*
- 8. To appoint designees from their membership or immediate staff to coordinate with the Intervention Program Committee and to implement, as is necessary, the provisions of Chapter 25.1 (§ 54.1-2515 et seq.) of this title. Each health regulatory board shall appoint one such designee.*
- 9. To take appropriate disciplinary action for violations of applicable law and regulations.*
- 10. To appoint a special conference committee, composed of not less than two members of a health regulatory board, to act in accordance with § 9-6.14:11 upon receipt of information that a practitioner of the appropriate board may be subject to disciplinary action. The special conference*

committee may (i) exonerate the practitioner; (ii) reinstate the practitioner; (iii) place the practitioner on probation with such terms as it may deem appropriate; (iv) reprimand the practitioner; (v) modify a previous order; and (vi) impose a monetary penalty pursuant to § 54.1-2401. The order of the special conference committee shall become final thirty days after service of the order unless a written request to the board for a hearing is received within such time. If service of the decision to a party is accomplished by mail, three days shall be added to the thirty-day period. Upon receiving a timely written request for a hearing, the board or a panel of the board shall then proceed with a hearing as provided in § 9-6.14:12, and the action of the committee shall be vacated. This subdivision shall not be construed to affect the authority or procedures of the Boards of Medicine and Nursing pursuant to §§ 54.1-2919 and 54.1-3010.

11. *To convene, at their discretion, a panel consisting of at least five board members or, if a quorum of the board is less than five members, consisting of a quorum of the members to conduct formal proceedings pursuant to § 9-6.14:12, decide the case, and issue a final agency case decision. Any decision rendered by majority vote of such panel shall have the same effect as if made by the full board and shall be subject to court review in accordance with the Administrative Process Act. No member who participates in an informal proceeding conducted in accordance with § 9-6.14:11 shall serve on a panel conducting formal proceedings pursuant to § 9-6.14:12 to consider the same matter.*
12. *To issue inactive licenses or certificates and promulgate regulations to carry out such purpose. Such regulations shall include, but not be limited to, the qualifications, renewal fees and conditions for reactivation of licenses or certificates.*

Section 54.1-3500 sets forth definitions for words and terms used in Chapter 35.

§ 54.1-3500. Definitions.

As used in this chapter, unless the context requires a different meaning:

"Appraisal activities" means the exercise of professional judgment based on observations and objective assessments of a client's behavior to evaluate current functioning, diagnose, and select appropriate treatment required to remediate identified problems or to make appropriate referrals.

"Board" means the Board of Licensed Professional Counselors, Marriage and Family Therapists, and Substance Abuse Professionals.

"Certified substance abuse counselor" means a person certified to provide substance abuse counseling in a state-approved public or private substance abuse program or facility.

"Counseling" means the therapeutic process of: (i) conducting assessments and diagnoses for the purpose of establishing treatment goals and objectives and (ii) planning, implementing, and evaluating treatment plans using treatment interventions to facilitate human development and to identify and remediate mental, emotional or behavioral disorders and associated distresses which interfere with mental health.

"Counseling treatment intervention" means those cognitive, affective, behavioral and systemic counseling strategies, techniques and methods common to the behavioral sciences that are specifically implemented in the context of a therapeutic relationship. Other treatment interventions include developmental counseling, guidance, and consulting to facilitate normal growth and development, including educational and career development.

"Licensed substance abuse treatment practitioner" means a person who: (i) is trained in and engages in the practice of substance abuse treatment with individuals or groups of individuals suffering from the effects of substance abuse or dependence, and in the prevention of substance abuse or dependence; and (ii) is licensed to provide advanced substance abuse treatment and independent, direct and unsupervised treatment

to such individuals or groups of individuals, and to plan, evaluate, supervise, and direct substance abuse treatment provided by others.

"Marriage and family therapist" means a person trained in the assessment and treatment of cognitive, affective, or behavioral mental and emotional disorders within the context of marriage and family systems through the application of therapeutic and family systems theories and techniques.

"Marriage and family therapy" means the assessment and treatment of cognitive, affective, or behavioral mental and emotional disorders within the context of marriage and family systems through the application of therapeutic and family systems theories and techniques and delivery of services to individuals, couples, and families, singularly or in groups, for the purpose of treating such disorders.

"Practice of counseling" means rendering or offering to render to individuals, groups, organizations, or the general public any service involving the application of principles, methods or procedures of the counseling profession, which shall include appraisal, counseling, and referral activities.

"Practice of marriage and family therapy" means the assessment and treatment of cognitive, affective, or behavioral mental and emotional disorders within the context of marriage and family systems through the application of therapeutic and family systems theories and techniques, which shall include assessment, treatment, and referral activities.

"Practice of substance abuse treatment" means rendering or offering to render substance abuse treatment to individuals, groups, organizations, or the general public.

"Professional counselor" means a person trained in counseling interventions designed to facilitate an individual's achievement of human development goals and remediating mental, emotional, or behavioral disorders and associated distresses which interfere with mental health and development.

"Referral activities" means the evaluation of data to identify problems and to determine advisability of referral to other specialists.

"Substance abuse" and "substance dependence" mean a maladaptive pattern of substance use leading to clinically significant impairment or distress.

"Substance abuse treatment" means (i) the application of specific knowledge, skills, substance abuse treatment theory and substance abuse treatment techniques to define goals and develop a treatment plan of action regarding substance abuse or dependence prevention, education or treatment in the substance abuse or dependence recovery process and (ii) referrals to medical, social services, psychological, psychiatric or legal resources when such referrals are indicated.

§ 54.1-3503 establishes the Board of Licensed Professional Counselors, Marriage and Family Therapists and Substance Abuse Professionals and authorizes the board to regulate the practice of counseling.

§ 54.1-3503. Board of Licensed Professional Counselors, Marriage and Family Therapists and Substance Abuse Treatment Professionals.

*The Board of Licensed Professional Counselors, Marriage and Family Therapists, and Substance Abuse Treatment Professionals shall regulate the practice of counseling, **substance abuse treatment**, and marriage and family therapy.*

The Board shall consist of fourteen members. Twelve shall be professionals licensed in Virginia, who shall represent the various specialties recognized in the profession, and two shall be citizen members. Of the twelve professional members, eight shall be professional counselors, two shall be marriage and family therapists, and two shall be licensed substance abuse treatment practitioners. The professional members of the Board shall include two full-time faculty members engaged in teaching counseling, substance abuse treatment or marriage and family therapy in an accredited college or university in this Commonwealth, and two professional counselors engaged in full-time private practice. However, the

marriage and family therapists initially appointed to the Board shall not be required to be licensed, shall not be licensed by another board in the Department of Health Professions, and shall be clinical members of the American Association for Marriage and Family Therapy. The licensed substance abuse treatment practitioners initially appointed to the Board shall not be required to be licensed, shall not be licensed by another board in the Department of Health Professions, shall be active members of the Virginia Association of Alcoholism and Drug Abuse Counselors and shall have a master's degree in substance abuse or a substantially equivalent master's degree.

The terms of the members of the Board shall be four years.

§ 54.1-3505 mandates that the board promulgate regulations for the qualifications, education and experience for substance abuse treatment practitioner licensure, and for the voluntary certification of its licensees as sex offender treatment providers.

§ 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. (Effective until July 1, 1999) To promulgate regulations for the voluntary certification of licensees as sex offender treatment providers. In promulgating such regulations, the Board shall consider the standards recommended by the Advisory Committee on Certified Practices pursuant to § 54.1-3610. The provisions of this subdivision shall expire on July 1, 1999.*
- 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. The requirements for membership in the National Association of Alcoholism and Drug Abuse Counselors and its national 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 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.*

§ 54.1-3506 establishes the licensure requirement to engage in the practice of substance abuse treatment.

§ 54.1-3506. License required.

In order to engage in the practice of counseling or marriage and family therapy or in the independent practice of substance abuse treatment, as defined in this chapter, it shall be necessary to hold a license; however, no license shall be required for the practice of marriage and family therapy or the independent practice of substance abuse treatment until six months after the effective date of regulations governing marriage and family therapy and substance abuse treatment, respectively, promulgated by the Board under subdivisions 6 and 7 of § 54.1-3505. The Board may issue a license, without examination, for the practice of marriage and family therapy or the independent practice of substance abuse treatment to persons who hold a current and unrestricted license as a professional counselor within the Commonwealth and who meet the clinical and academic requirements for licensure as a marriage and family therapist or licensed substance abuse treatment practitioner, respectively. The applicant for such license shall present satisfactory evidence of qualifications equal to those required of applicants for licensure as marriage and family therapists or licensed substance abuse treatment practitioners, respectively, by examination in the Commonwealth.

Any person who renders substance abuse treatment services as defined in this chapter and who is not licensed to do so, other than a person who is exempt pursuant to § 54.1-3501, shall render such services only when he is (i) under the supervision and direction of a person licensed under this chapter who shall be responsible for the services performed by such unlicensed person, or (ii) in compliance with the regulations governing an organization or a facility licensed by the Department of Mental Health, Mental Retardation and Substance Abuse Services.

§54.1-3507 sets forth the scope of practice for licensed substance abuse treatment practitioners and mandates completion of a master's degree with specified number of graduate hours including substance abuse education courses, and a specified number of hours of experience in substance abuse treatment.

§ 54.1-3507. Scope of practice of and qualifications for licensed substance abuse treatment practitioners

A. A licensed substance abuse treatment practitioner shall be qualified to (i) perform on an independent basis the substance abuse treatment functions of screening, intake, orientation, assessment, treatment planning, treatment, case management, substance abuse or dependence crisis intervention, client education, referral activities, recordkeeping, and consultation with other professionals; (ii) exercise independent professional judgment, based on observations and objective assessments of a client's behavior, to evaluate current functioning, to diagnose and select appropriate remedial treatment for identified problems, and to make appropriate referrals; and (iii) supervise, direct and instruct others who provide substance abuse treatment.

B. Pursuant to regulations adopted by the Board, an applicant for a license as a licensed substance abuse treatment practitioner shall submit evidence satisfactory to the Board that the applicant has (i) completed a specified number of hours of graduate studies, including a specified number of didactic substance abuse education courses at, and has received a master's degree in substance abuse or a substantially equivalent master's degree from, a college or university accredited by an accrediting agency recognized by the Board; and (ii) completed a specified number of hours of experience involving the practice of substance abuse treatment supervised by a licensed substance abuse treatment practitioner, or by another person with substantially equivalent education, training

and experience. The applicant shall also pass an examination, as required by the Board.

54.1-3508 grants authority to the board to issue a license to a person who possesses qualifications, education or experience substantially equivalent to the requirements of §54.1-3507.

§ 54.1-3508. Licensure of certain persons possessing substantially equivalent qualifications, education or experience.

Notwithstanding the provisions of § 54.1-3507, the Board may issue a license as a licensed substance abuse treatment practitioner to a person who, after the effective date of the regulations promulgated pursuant to subdivision 7 of § 54.1-3505, has applied for such a license and who, in the judgment of the Board, possesses qualifications, education or experience substantially equivalent to the requirements of § 54.1-3507; however, any such applicant shall have completed at least one year of supervised clinical experience in substance abuse treatment.

The board is authorized under § 54.1-103 to specify additional training or conditions for renewal of a license.

§ 54.1-103. Additional training of regulated persons; reciprocity; endorsement;

- A. *The regulatory boards within the Department of Professional and Occupational Regulation and the Department of Health Professions may promulgate regulations specifying additional training or conditions for individuals seeking certification or licensure, or for the renewal of certificates or licenses.*
- B. *The regulatory boards may enter into agreements with other jurisdictions for the recognition of certificates and licenses issued by other jurisdictions.*
- C. *The regulatory boards are authorized to promulgate regulations recognizing licenses or certificates issued by other states, the District of Columbia, or any territory or possession of the United States as full or partial fulfillment of qualifications for licensure or certification in the Commonwealth.*

ITEM 5: REASONS THE PROPOSED AMENDMENTS ARE ESSENTIAL

A. Definitions

Although state law does not mandate inclusion of definitions in the regulation, the *Virginia Register Form, Style and Procedure Manual* recommends including definitions to provide clarification and allow control over the meaning of words. The board proposes referencing words that are already defined in statute, and including a few terms to clarify their meaning as used in the regulation.

B. Fees

State law mandates that the board levy and collect fees sufficient to cover all expenses for the administration and operation of the agency and the board. Although there is no specific minimum fee for any service or activity set forth in statute, the board is mandated under 54.1-113 to adjust fees as necessary to keep revenue within 10% of expenditures. The proposed fees are based on cost projections from the agency's Finance Office which based direct costs on expenses for the professional counselor licensure and marriage and family therapist licensure programs, and allocated costs on boards in the Agency that regulate 500-1,000 licensees.

C. Education and Experience Requirement

The board is mandated under § 54.1-2400 to establish qualifications for certification which are necessary to ensure competence and integrity to engage in regulated professions. The board is also mandated under § 54.1-3505 to establish educational credit hour, clinical experience hour, and clinical supervision hour requirements that are not less than the requirements for professional counselor licensure. In compliance with this mandate, the board is recommending a 60 semester hour (or 90 quarter hour) master's degree along with 4,000 hours of supervised work experience with 200 hours of face-to-face consultation between the supervisor and the resident.

In compliance with § 54.1-3505, the committee considered the membership requirements of the National Association of Alcoholism and Drug Abuse Counselors (attached). It also considered KSA's developed by the Addictions Technology Transfer Center as cited on page 8, requirements for national certification as a Master's Addictions Counselor, and licensure requirements in other states (attached).

In the behavioral sciences supervised experience is considered essential, and more

significant than the professional degree, in developing new practitioners' skills. Supervision provides the new practitioner with guidance and oversight from an experienced professional, and provides the board with professional verification of an applicant's competency to practice independently. The supervision contract provides the board with a means protect the public by ensuring that an appropriately credentialed, qualified individual is responsible for the activities of the resident, and provides a guarantee for the resident that the experience meets the requirements of the regulation. The supervision contract also provides a lawful means for unlicensed practitioners to gain the required experience they need for licensure. The board proposes that the supervised experience incorporate the Professional Practice Competencies published by the U.S. Department of Health and Human Services as cited on page 8. This will provide guidance to the resident and supervisor, and ensures that each resident's performance in the most essential aspects of substance abuse treatment is evaluated for competency.

In order to ensure that the supervisor has had proper training in substance abuse treatment, the board is recommending that individuals who supervise residents be licensed mental health professionals with training and experience in substance abuse treatment.

D. Examination

The board determined that an examination for licensure covering the core areas required in the education and supervised training is essential to ensure that individuals can apply their knowledge in substance abuse treatment, and understand ethical and legal issues involved in providing services. Individuals who have met the endorsement requirements will not be required to take the examination.

Additionally the board is proposing an eighteen month window after board approval to sit for the examination, and a requirement for additional training in areas of deficiency for applicants who fail the examination twice. This language is essential to prevent individuals whose training is out-of-date or whose tests results indicate shortcomings in specific areas of training from obtaining a license.

E. License renewal

Renewal fees are essential to allow the board to cover administrative expenses for the licensure program and to comply with statutory mandate to collect sufficient fees to cover these expenses. The board has already expended funds to cover costs of staff time and committee meeting expenses in developing the proposed regulation.

F. Reinstatement of a lapsed license

The board is proposing a four-year limit on renewal of a lapsed license. This will allow the board to ensure that individuals who have been out of practice for that length of time are knowledgeable of new theories and techniques, and the current laws and regulations governing their practice, and that they have not been disciplined for misconduct under another license or certificate. The penalty fee for late renewal is essential to cover additional costs incurred in processing late payments, and to discourage practitioners from unlicensed practice.

G. Standards of practice

State law requires the board to take action for misconduct for causes enumerated in law or regulation. Standards of Practice provide the basis for disciplinary action for misconduct, and provide guidelines for professional behavior in the provision of services.

H. Disciplinary Action

This section of the regulation provides the applicant and the licensee with a summary of the violations of statute and regulation that may result in disciplinary action, or denial of licensure by the board.

ITEM 6: ALTERNATIVES CONSIDERED IN THE DEVELOPMENT OF THE REGULATIONS:

PART I. GENERAL PROVISIONS

Fees.

The board considered two alternative fee structures prepared by the agency's Finance Office (attached). These proposals took into account the board's current operating deficit for which it has been directed to rectify by raising fees in the next biennium. The board also considered that whatever fee structure is proposed for this license should be comparable to the projected fees structure that will be proposed for its other categories of licensure in the next biennium. The two proposals differ only in the licensure renewal fee which is \$80 in Proposal 1 and \$90 in Proposal II. Both proposals brought revenue within 10% of expenditures, but the first proposal projects a slight deficit in FY 2002. The board adopted the second proposal which does not project a deficit in FY 2002.

PART II. REQUIREMENTS FOR LICENSURE

A. Application for Licensure by Examination

The board has recently considered alternatives for the application instructions in its regulations for professional counselor licensure. The board proposes mirroring the amended language in this regulation to maintain consistency among its regulations where possible.

B. Prerequisites for Licensure by Endorsement.

Prior to beginning work on the new regulations, the board's Regulatory Committee invited representatives of Virginia's professional associations in substance abuse and general counseling, and professors from Virginia's graduate programs in counseling to discuss issues concerning regulation of independent substance abuse treatment practitioners. Representatives of these associations and graduate programs attended all meetings of the Regulatory Committee and offered comment at each meeting.

An issue that resulted in considerable controversy during the initial meeting and throughout the process was the interpretation of § 54.1-3508 which authorizes the board to issue a license to individuals with "substantially equivalent" qualifications, education, or experience to the requirements of § 54.1-3507. Some individuals felt strongly that the intent of the 1997 General Assembly was to provide for licensure of experienced certified substance abuse counselors, who may have no formal education beyond a high school diploma or G.E.D. Others argued that the General Assembly had clearly intended not to allow licensure for

anyone with less than a master's degree, based on previous rejection of a 1996 bill which proposed a 3 tiered licensure system for different levels of education. Representatives of the professional associations in substance abuse counseling admitted that their memberships were split on this issue. The board was advised by counsel that the language of the law gives the board discretion in determining what is "substantially equivalent" to a master's degree.

There was no disagreement that individuals holding master's degrees in mental health plus a board-recognized national or state credential in substance abuse treatment should be granted the license without having to take another examination. The board considered accepting the following alternatives for licensing master's level substance abuse treatment practitioners without examination.

- A current substance abuse treatment license in another jurisdiction obtained by requirements substantially equivalent to those in the board's regulations. This alternative is being proposed.
- Any mental health license with 60 hours of graduate study, plus Virginia certification as a substance abuse counselor or a Virginia specialty licensure designation in substance abuse treatment. The board accepted this alternative with the stipulation that the applicant document 2 years experience as a credentialed substance abuse treatment practitioner.
- Any mental health license with 60 hours of graduate study, plus board-recognized national certification in substance abuse treatment. This alternative is being proposed.
- Any mental health license with specific substance abuse education and experience. The board is proposing this alternative with a requirement for two years substance abuse experience if the degree was in substance abuse treatment, and five year's experience and 12 credit hours of didactic training in substance abuse if the degree was not in substance abuse treatment.
- A graduate degree in substance abuse treatment with certification or supervised experience in substance abuse treatment. The board rejected this alternative because an unlicensed applicant would have no examination score or independent practice history to measure ability to practice competently and ethically.

The board spent considerable time trying to develop criteria that would ensure competency for independent practice for substance abuse counselors who do not hold a master's degree. Proposals were submitted by the Virginia Association of Alcoholism and Drug Abuse Counselors and the Substance Abuse Counselor Alliance of Virginia for the board's consideration (attached). From these proposals, the board drafted the following combination of education and experience to propose for a time-limited basis.

- Five years (10,000) hours of experience as a certified substance abuse counselor; and
- 500 hours of documented face-to-face supervision; and
- Three letters of reference attesting to competency to practice autonomously and supervise others; and
- 27 graduate hours in the 9 general counseling core areas.

Upon review by counsel, the board was advised that statute does not authorize a time-limited provision, and that any equivalency proposal would have to be established as a permanent rule. The board had two concerns with promulgating a permanent equivalency to a master's degree. One concern was that it would diminish the integrity of the license by providing a path to licensure which eliminates the need for any applicant to work toward a master's degree. The other concern was that an independent practitioner without a strong academic foundation in mental health counseling would not have the level of training necessary to competently manage substance abuse issues and identify underlying emotional problems which are estimated to occur in 95% of substance abuse disorders. The board determined that only formal education could sufficiently ground a practitioner in the theory base of mental health counseling, and that experience alone could not substitute for this education.

Therefore, the board rejected the alternative of providing for licensure for individuals with less than a master's degree.

C. Degree program requirements

For this section, the board mirrored proposed degree program requirements for its professional counselor and marriage and family therapist licensure regulations. The board originally drafted the language to require an academic program and training faculty specific to substance abuse treatment, but changed the proposal after receiving comment from representatives of Virginia's graduate counseling programs that the programs were designed for general counseling, and could not meet specific substance abuse training and faculty requirements. Because there is no national accrediting body for substance abuse programs, the board was unable to propose automatic acceptance of any programs based on accreditation, as it has done in its other regulations.

D. Course work requirements.

In developing course work requirements, the board considered licensure requirements in other states, national certification requirements, the federal substance abuse competencies cited on page 8, international standards of the International Certification and Reciprocity Consortium/Alcohol and Other Drug Abuse, Inc., membership requirements of the National Association of Alcoholism and Drug Abuse Counselors, addiction coursework offerings in Virginia's counseling programs (attached) and public comment regarding competency issues.

It was clear from these resources that a foundation in general counseling is essential to protect the public due to the comorbidity issues that commonly coexist with substance abuse. Independent substance abuse treatment practitioners need the skills to assess, diagnose and appropriately refer clients for underlying emotional disorders. The board had recently reviewed its professional counselor licensure requirements and proposed updated coursework requirements. The board proposes nine core of these areas in general counseling which it considers essential to the independent practice of substance abuse treatment.

In developing the substance abuse-specific coursework, the board discovered that course titles in graduate program catalogs are generic (i.e. Substance Abuse I & II) and that one course often covers many competency areas. Therefore, the requirement was developed to ensure coverage of the federal substance abuse competencies, allowing more than one competency area to be covered by one course.

The board considered a range of semester hour requirements in the substance abuse competencies ranging from nine to eighteen semester hours. Although the professional associations argued for up to eighteen semester hours in substance-abuse specific education, representatives of Virginia's counseling programs argued that there was no possibility of offering more than nine semester hours in this specialty area. Initially, the board considered establishing different requirements for individuals who graduate several years beyond the effective date of the regulations to allow programs time to develop new coursework. This alternative was rejected on the advise of counsel that the board should not promulgate two different standards for the same license. The board also considered comment by the Virginia Addictions Technology Transfer Center that a consortium of graduate programs has been formed to develop distance learning opportunities in substance abuse that would be acceptable by all of those programs. The board was reluctant to base its proposal on the assumption that these efforts will succeed.

The board also rejected the nine semester hour requirement supported by counseling program representatives on the basis that three courses in substance abuse would provide insufficient preparation for a distinct area of expertise. As a compromise, board is proposing a requirement of twelve semester hours in the substance abuse competencies. To compensate for the shortfall in hours, the board opted to increase the proposed substance abuse-specific internship hours from 300 to 450 hours of the total 600 hours, and also raised the direct client contact hours from 120 to 200.

E. Residency

The board is mandated by law to establish experience hours that are not less than those required for professional counselor licensure. In compliance with this mandate, the proposed regulations mirror the professional counselor requirement of 4000 hours of supervised

experience with 2000 hours of face-to-face client contact and one hour per 20 hours of face-to-face supervision. The board also proposes acceptance of internship toward the residency.

For residency content areas, the board first considered the twelve core functions in substance abuse counseling which include screening, intake, orientation, assessment, treatment, counseling, case management, crisis intervention, education, referral, reporting and charting, and consultation. Based on public comment that the federal Professional Practice Competencies are now the standard for the profession, the board rejected the twelve core functions, and proposes that the residency must cover each of the substance abuse competencies.

F. Supervisor Requirements

The board first considered the following criteria for supervisor eligibility:

- Licensure at the master’s level in a mental health profession.
- Two years post-licensure substance abuse treatment experience.
- 100 hours of didactic instruction in substance abuse treatment.
- Completion of a course in supervision.
- Half of the supervision hours be under a licensed professional counselor or another licensure category under jurisdiction of the board.

To make the criteria less restrictive, the board included the clinical nurse specialist as an acceptable licensure category, and rejected the alternative to require half the supervision hours to be under a board-licensed professional. The board also delayed the requirement for a course in supervision to take effect three years after the effective date of the regulations.

PART III. EXAMINATIONS

Alternatives considered for waiver of the examination requirement were discussed previously under “endorsement.” For individuals who fail twice, the board considered requiring a minimum of 45 clock hours of didactic training in areas of deficiency. The board rejected this requirement on the basis that 45 hours in each area of deficiency was excessive. As an alternative, the board adopted 45 clock hours covering all areas of deficiency. To provide flexibility to applicants, the board opted not to specify the type of training that would be acceptable, but to consider proposals on a case by case basis.

PART IV. LICENSURE RENEWAL; REINSTATEMENT

The board considered the renewal and reinstatement rules in its other regulations for

consistency. The annual renewal schedule adopted by the board is discussed under “Fees.”

PART VI. STANDARDS OF PRACTICE, UNPROFESSIONAL CONDUCT, DISCIPLINARY ACTIONS; REINSTATEMENT

The board considered its recently proposed amendments for its standards of practice for professional counselor licensure. Further amendments were recommended by board counsel to improve their enforceability. The standards include a citation to federal code pertaining to confidentiality of Drug and alcohol Treatment Records, which was requested through public comment.

ITEM 7. CLARITY OF THE REGULATION

The board has recently proposed changes to its *Regulations Governing the Practice of Professional Counseling* to improve the format, clarify and simplify those regulations in compliance with Executive Order 15 (94). While developing these new regulations, the board tried wherever possible to parallel the language and format of its other proposed regulations.

The board considered public comment regarding language setting forth degree program requirements that might be interpreted in an overly restrictive manner and amended its proposal accordingly.

The board also incorporated recommendations from counsel into its Standards of Practice to ensure these rules are unambiguous and easily enforced.

The board will continue to accept public comment after publication of this proposal and make any changes necessary to improve the clarity of these regulations.

ITEM 8: SCHEDULE FOR REVIEW AND REEVALUATION OF REGULATIONS

December 29, 1998	Submission of Preliminary determination package to the Department of Planning and Budget
March 1, 1999	Publication of Proposed Regulations and Notice of Comment
April 30, 1999	Public comment period ends
May 14, 1999	Board adopts final regulation
July 7, 1999	Regulation in effect
July, 2001	Initiate biennial review of regulations

ITEM 9: FISCAL IMPACT ANALYSIS

B. Projected number of persons affected and their cost of compliance:

It is estimated that 500 individuals will apply for this license soon after the effective date of the regulations. After the initial licensure period, it is estimated that the number of applicants will average 50 per year. Those applying will pay a \$100.00 application fee to the board. Individuals who do not qualify for endorsement will pay an examination fee of approximately \$ 75.00 - \$125.00 to an outside vendor. Each year, all licensees will pay a \$80.00 licensure renewal fee.

C. Costs to the agency for implementation:

Establishment of the licensure program will result in increased expenditures for data processing, contractual services (production and mailing of application packages, notices and amended regulations), personal services (board credentials reviews and hearings, discipline hearings, regulatory review), and enforcement with associated administrative proceedings.

The following projected expenditure impact was prepared by the Department of Health Professions' Finance Office:

	<u>FY99</u>	<u>FY2000</u>	<u>FY2001</u>	<u>FY2002</u>
Data Processing	5,000	10,000	10,000	8,000
Admin & Finance	0	2,500	3,000	3,200
Human Resources	0	700	800	850
Enforcement	0	500	1,500	1,800
Admin Proceedings	0	200	500	500
Attorney General	1,000	800	800	800
Bd of Health Professions	0	400	500	550
Personal Services	14,000	19,000	20,000	21,000
Contractual Services	8,000	4,500	5,000	5,500
Supplies	500	500	500	500
Continuous Charges	500	700	900	1,000
Equipment	<u>0</u>	<u>100</u>	<u>100</u>	<u>100</u>
TOTAL	29,000	39,900	43,600	43,800
 BIENNIUM TOTAL		68,900		87,400

All costs to the agency are derived from fees paid by licensed substance abuse treatment

practitioners.

C. Cost to local governments:

Community service boards that have a policy to cover the costs of professional licensure for their employees may incur additional expenses for employees that wish to become licensed as substance abuse treatment practitioners. Since individuals in government settings are exempted by law from the licensure requirement, there would be little impetus for an agency to adopt this kind of policy.