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Regulatory
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Fast Track Proposed Regulation Agency Background Document

Agency name	Board of Psychology, Department of Health Professions
Virginia Administrative Code (VAC) citation	18VAC125-20-10 et seq.
Regulation title	Regulations Governing the Practice of Psychology
Action title	Regulatory reform changes
Date this document prepared	5/14/13

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), Executive Orders 14 (2010) and 58 (1999), and the *Virginia Register Form, Style, and Procedure Manual*.

Brief summary

Please provide a brief summary (no more than 2 short paragraphs) of the proposed new regulation, proposed amendments to the existing regulation, or the regulation proposed to be repealed. Alert the reader to all substantive matters or changes.

Amendments will clarify requirements for applicants and students to better understand the regulatory criteria for licensure. Less restrictive requirements include: 1) deletion of requirement for a transcript in applying for licensure if one was already submitted for approval of a residency; 2) deletion of requirement for a notarized affidavit on the application; 3) reduction in the clinical practice required for licensure by endorsement (24 months in past 60 months versus five of the past six years) if the applicant does not have at least 10 years of practice; and 4) allowance for use of group supervision in pre-doctoral practicum hours. Requirements for repeat examinations are deleted.

Statement of final agency action

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

On March 7, 2013, the Board of Psychology adopted amendments to 18VAC125-20-10 et seq., Regulations Governing the Practice of Psychology by a fast-track action.

Legal basis

Please identify the state and/or federal legal authority to promulgate this proposed regulation, including (1) the most relevant citations to the Code of Virginia or General Assembly chapter number(s), if applicable, and (2) promulgating entity, i.e., agency, board, or person. Your citation should include a specific provision authorizing the promulgating entity to regulate this specific subject or program, as well as a reference to the agency/board/person's overall regulatory authority.

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

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

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

- 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.*
- ...*
- 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. ...*

Specific authority for regulation of the profession of psychology is found in Chapter 36 of Title 54.1:

§ 54.1-3605. Powers and duties of the Board.

In addition to the powers granted in other provisions of this title, 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...

7. To promulgate regulations establishing the requirements for licensure of clinical psychologists that shall include appropriate emphasis in the diagnosis and treatment of persons with moderate and severe mental disorders.

§ 54.1-3606. License required.

A. In order to engage in the practice of applied psychology, school psychology, or clinical psychology, it shall be necessary to hold a license.

Purpose

Please explain the need for the new or amended regulation. Describe the rationale or justification of the proposed regulatory action. Detail the specific reasons the regulation is essential to protect the health, safety or welfare of citizens. Discuss the goals of the proposal and the problems the proposal is intended to solve.

The purpose of the amended regulation is to clarify and simplify requirements for applicants and residents seeking licensure as clinical psychologists. Changes such as allowing group supervision to be substituted for some of the hours of individual supervision will facilitate completion of practical experience within a pre-doctoral practicum without compromising the training necessary to ensure that applicants have the competency to provide safe, effective clinical services to clients. Reducing the years in active practice as a qualification for licensure by endorsement will benefit applicants who have demonstrated competency to practice in other states.

Rationale for using fast track process

Please explain the rationale for using the fast track process in promulgating this regulation. Why do you expect this rulemaking to be noncontroversial?

The action is clarifying or less restrictive regulation and has unanimous approval of the Board of Psychology. The Board does not expect it to be controversial.

Substance

Please briefly identify and explain the new substantive provisions, the substantive changes to existing sections, or both where appropriate. (Provide more detail about these changes in the "Detail of changes" section.) Please be sure to define any acronyms.

Amendments will clarify requirements for applicants and students to better understand the regulatory criteria for licensure. Less restrictive requirements include: 1) deletion of requirement for a transcript in applying for licensure if one was already submitted for approval of a residency; 2) deletion of requirement for a notarized affidavit on the application; 3) reduction in the clinical practice required for licensure by endorsement (24 months in past 60 months versus five of the past six years) if the applicant does not have at least 10 years of practice; and 4) allowance for use of group supervision in pre-doctoral practicum hours. Requirements for repeat examinations are deleted.

Issues

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

- 1) There are no disadvantages to the public. The reduction in the regulatory burden for applicants and residents will facilitate licensure for qualified individuals who will be available to provide clinical services to the public.
- 2) There are no advantages or disadvantages to the agency or the Commonwealth.
- 3) There are no other pertinent issues.

Requirements more restrictive than federal

Please identify and describe any requirement of the proposal which is more restrictive than applicable federal requirements. Include a rationale for the need for the more restrictive requirements. If there are no applicable federal requirements or no requirements that exceed applicable federal requirements, include a statement to that effect.

There are no applicable federal requirements.

Localities particularly affected

Please identify any locality particularly affected by the proposed regulation. Locality particularly affected means any locality which bears any identified disproportionate material impact which would not be experienced by other localities.

There are no localities particularly affected.

Regulatory flexibility analysis

Please describe the agency’s analysis of alternative regulatory methods, consistent with health, safety, environmental, and economic welfare, that will accomplish the objectives of applicable law while minimizing the adverse impact on small business. Alternative regulatory methods include, at a minimum: 1) the establishment of less stringent compliance or reporting requirements; 2) the establishment of less stringent schedules or deadlines for compliance or reporting requirements; 3) the consolidation or simplification of compliance or reporting requirements; 4) the establishment of performance standards for small businesses to replace design or operational standards required in the proposed regulation; and 5) the exemption of small businesses from all or any part of the requirements contained in the proposed regulation.

To achieve less restrictive regulations, there are no alternative methods, other than the promulgation of amendments to the licensure requirements.

Economic impact

Please identify the anticipated economic impact of the proposed new regulations or amendments to the existing regulation. When describing a particular economic impact, please specify which new requirement or change in requirement creates the anticipated economic impact.

<p>Projected cost to the state to implement and enforce the proposed regulation, including (a) fund source / fund detail, and (b) a delineation of one-time versus on-going expenditures</p>	<p>a) As a special fund agency, the Board must generate sufficient revenue to cover its expenditures from non-general funds, specifically the renewal and application fees it charges to practitioners for necessary functions of regulation; b) The agency will incur no costs for electronic notifications to the Public Participation Guidelines. There are no on-going expenditures relating amendments to regulations for psychologists.</p>
<p>Projected cost of the new regulations or changes to existing regulations on localities.</p>	<p>None</p>
<p>Description of the individuals, businesses or other entities likely to be affected by the new regulations or changes to existing regulations.</p>	<p>The entities that are likely to be affected by these regulations are persons working toward licensure as a psychologist or persons already licensed.</p>
<p>Agency’s best estimate of the number of such entities that will be affected. Please include an estimate of the number of small businesses affected. Small business means a business entity, including its affiliates, that (i) is independently owned and operated and (ii) employs fewer than 500 full-time employees or has gross annual sales of less than \$6 million.</p>	<p>There are currently 2895 persons licensed as clinical psychologists; 41 licensed as applied psychologists; 105 licensed as school psychologists; and 341 licensed as school psychologists-limited. It is unknown how many applicants or residents may be affected. It is estimated that the majority of clinical psychologists operate their practices within a small business.</p>
<p>All projected costs of the new regulations or changes to existing regulations for affected individuals, businesses, or other entities. Please be specific and include all costs. Be sure to include the projected reporting, recordkeeping, and other administrative costs required for compliance by small businesses. Specify any costs related to the development of</p>	<p>There are no costs to small businesses or other entities.</p>

<p>real estate for commercial or residential purposes that are a consequence of the proposed regulatory changes or new regulations.</p>	
<p>Beneficial impact the regulation is designed to produce.</p>	<p>Applicants who have submitted transcripts for approval of residency will not have to submit them again in applying for licensure. With the change from submission of an affidavit to an attestation, the requirement for having an application notarized can be eliminated. Finally, persons who are using their pre-doctoral practicum hours to count toward their residency will have the benefit of being able to count two hours of group supervision for one hour of individual supervision. The change will benefit the clinical psychology doctoral programs, as well as the students.</p>

Alternatives

Please describe any viable alternatives to the proposal considered and the rationale used by the agency to select the least burdensome or intrusive alternative that meets the essential purpose of the action. Also, include discussion of less intrusive or less costly alternatives for small businesses, as defined in §2.2-4007.1 of the Code of Virginia, of achieving the purpose of the regulation.

A Periodic Review was begun for this chapter in 2010 and was finally approved and became effective in June of 2012. Therefore, the Board did not publish a Notice of Periodic Review in 2013. However, staff and credential reviewers made recommendations for changes or clarifications to make the regulation more understandable and less restrictive.

There are no less costly or intrusive alternatives to regulation of the profession as mandated by the law.

Family impact

Please assess the impact of the proposed regulatory action on the institution of the family and family stability including to what extent the regulatory action will: 1) strengthen or erode the authority and rights of parents in the education, nurturing, and supervision of their children; 2) encourage or discourage economic self-sufficiency, self-pride, and the assumption of responsibility for oneself, one's spouse, and one's children and/or elderly parents; 3) strengthen or erode the marital commitment; and 4) increase or decrease disposable family income.

There is no impact on the family.

Detail of changes

Please list all changes that are being proposed and the consequences of the proposed changes. If the proposed regulation is a new chapter, describe the intent of the language and the expected impact. Please describe the difference between existing regulation(s) and/or agency practice(s) and what is being proposed in this regulatory action.

Current section number	Current requirement	Proposed change, intent, rationale, and likely impact of proposed requirements
30	Sets the fees charged by the Board	Subsection B is amended to delete reference to payment by check or money order since most licensees now renew on-line with a credit card.
41	Establishes prerequisites for licensure by examination	<p>There are no new requirements; there is a less burdensome requirement for submission of a transcript. If an applicant has already submitted a transcript to qualify for approval of a residency, he would not be required to include the transcript as part of his licensure application. <i>The change will result in a cost-avoidance for applicants and facilitate the application process which is sometimes delayed while the Board waits for an educational program to send the transcript.</i></p> <p>Another amendment will specify that verification of any mental or health license in another jurisdiction is required. <i>The specification of a “mental health or health” license or certificate narrows the requirement to only those professional licenses akin to the license which the applicant is seeking in Virginia.</i></p> <p>The amendment to subsection C would allow an applicant to “attest” to having read and agreeing to comply with laws and standards for the practice of psychology. Currently, the regulation requires the applicant to “submit an affidavit,” which is part of the application that must be notarized. As applications become interactive and electronic, notarization is being eliminated. A notarized affidavit provides no greater assurance than an attestation that the applicant has actually read and agreed to comply with laws and regulations.</p>
42	Establishes prerequisites for licensure by endorsement	<p>Amendments to #3 and #4 are identical to changes in Section 41.</p> <p>An amendment in #5 reflects the recent merger of the federal data banks into the National Practitioner Data Bank, so only one report will be required.</p> <p>An amendment in #6 corrects the name of a credentialing body to reflect the current name.</p> <p>An amendment to #6 (d) significantly reduces the regulatory burden by allowing an applicant who does <u>not</u> have 10 years of active practice to provide evidence of clinical practice for 24 of the last 60 months preceding his application. The current requirement is five out of the last six years of clinical practice.</p>
54	Sets out the educational requirements for clinical psychology licensure	Subsection A is amended to clarify that the APA accredited program must be in “clinical or counseling” psychology. The APA also accredits school psychology programs, which

		<p>would not qualify an applicant for a clinical license.</p> <p>Subsection C is amended to eliminate language that sometimes causes confusion. All applicants must graduate from either an accredited program (subsection A) or from a non-accredited program (subsection B). The language implied that there is another option, which is incorrect.</p> <p>Subsection D is amended to allow two hours of group supervision to be substituted for one hour of individual supervision within a pre-doctoral practicum, if the applicant is using his pre-doctoral hours to count towards his residency requirement. The substitution is allowed in a post-doctoral residency and was requested by doctoral programs as less burdensome.</p>
65	Sets out the requirements for supervised experience	Subsection A is amended to change the accreditation designation previously known as the National Register, which is now combined with the Association of State and Provincial Psychology Boards. It is now called the Association of State and Provincial Psychology Boards /National Register of Health Service Psychologists.
80	Establishes requirements for examination	Subsection D and E are eliminated because the rules about repeat examinations are determined by the examining body rather than by the Board.