

Adverse impact notification sent to Joint Commission on Administrative Rules, House Committee on Appropriations, and Senate Committee on Finance (COV § 2.2-4007.04.C): Yes  Not Needed

If/when this economic impact analysis (EIA) is published in the *Virginia Register of Regulations*, notification will be sent to each member of the General Assembly (COV § 2.2-4007.04.B).



## Virginia Department of Planning and Budget Economic Impact Analysis

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**18 VAC 115-20 Regulations Governing the Practice of Professional Counseling**  
**Department of Health Professions**  
**Town Hall Action/Stage: 4259/7390**  
March 27, 2016 (April 1, 2016)

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### **Summary of the Proposed Amendments to Regulation**

Pursuant to a petition for rulemaking, the Board of Counseling (Board) proposes to add a requirement for all counseling programs leading to licensure as a professional counselor to be approved by the Council for Accreditation of Counseling and Related Educational Programs (CACREP) or its affiliate, the Council on Rehabilitation Education (CORE). This requirement would not be enforced until seven years after the effective date of the proposed regulation. Individuals licensed before that date will be able to obtain licensure under current standards. Individuals seeking licensure in Virginia after that point will have to meet educational requirements in programs that are approved by CACREP or CORE.

### **Result of Analysis**

Costs will likely outweigh benefits for this proposed change.

### **Estimated Economic Impact**

Currently 18 VAC 115-20-49 requires individuals seeking licensure by examination as a professional counselor to complete education, as specified in 18 VAC 115-20-51, in a degree program that “is offered by a college or university accredited by a regional accrediting agency” and that: 1) has an academic study sequence designed to prepare counselors for practice, 2) has an identifiable counselor training faculty and student body and 3) where the academic unit

responsible for the counseling program have clear authority and primary responsibility for the core and specialty areas of counseling study. Current regulation also requires these individuals to complete the residency requirements in 18 VAC 115-20-52 and to complete a licensure exam with a passing score.

Current regulation requires individuals who are seeking licensure by endorsement (for individuals trained and licensed in another political jurisdiction) to provide, amongst other things, verification of mental health or health professional licenses or certificates held in any other jurisdictions and verification of a passing score on an examination required for counseling licensure where they were licensed. Applicant for licensure by endorsement must also have met the educational and experience requirements in 18 VAC 115-20-49, as well as 18 VAC 115-20-51 and 18 VAC 115-20-52. If an individual seeking licensure by endorsement cannot show that they have met the educational and experience requirements listed in 18 VAC 115-20 sections 49, 51 and 52, he can alternately 1) provide documentation of education and supervised experience that met the criteria for licensure in the jurisdiction where he was initially licensed and 2) provide evidence of post licensure clinical practice in counseling for 24 of the 60 months immediately preceding application for licensure in Virginia. .

In 2014, the Board received a petition for rulemaking asking that they require all individuals seeking licensure as professional counselors to complete education approved by CACREP or an approved affiliate of CACREP. The petition also asked that this regulatory change be subject to a seven year delay. As a consequence of this petition, the Board now proposes to limit educational programs that will qualify individuals for licensure to only those that are approved by CACREP or its affiliate CORE. As requested in the petition, The Board proposes to delay enforcement of this proposed change until seven years after the effective date of this proposed regulation.

Board staff reports that this change will benefit both the public and Commonwealth by providing greater consistency in the educational programs that qualify an individual for licensure and efficiency in reviewing applications for licensure. Board staff also rightly notes that other health professions use private credentialing groups to evaluate and approve educational programs. The Board of Medicine, for instance, allows individuals to meet licensure in medicine requirements with educational programs approved the American Medical Association's Liaison

Committee on Medical Education, the Committee for the Accreditation of Canadian Medical Schools or by any other group approved by the Board of Medicine. It is worth noting that, while accrediting groups may serve an important role in ensuring the quality of education needed for licensure, the Board also ensures that individuals licensed as professional counselors receive an education adequate to prepare them for future practice by 1) specifying the coursework that they must complete at an accredited college or university, 2) requiring a fairly lengthy residency and 3) requiring passage of a licensure exam that measures the counseling knowledge of applicants. These other requirements are not being repealed and will remain in place. It is also worth noting that most boards do not grant monopoly power to approve programs to one independent group and that many boards have been moving to expand the list of groups that approve education so that they are allowing the widest array of qualified students possible to apply for licensure.

This proposed regulatory change does not leave room for the Board to independently give approval to universities or colleges that have chosen, or might choose in the future, to develop rigorous and reputable programs that meet all Board criteria but for which those universities do not wish to undergo the expense of gaining CACREP approval. George Mason University, for instance, currently has a program in counseling that has won at least one award for its excellence<sup>1</sup> and that qualifies students for licensure under current standards. If this proposed regulatory change is promulgated, George Mason University will have to undergo CACREP's approval process which is lengthy, costly and, given the apparent excellence of the program, likely unnecessary.

The regulatory change proposed here also does not allow for program approval by the widest possible number of accrediting groups in existence now nor does it allow the Board to add accrediting groups that may be started in the future without going through a lengthy regulatory promulgation process. According to the Department of Health Professions (DHP), the Board considered one other accrediting group that was advocated by those opposed to only allowing CACREP approved education. This group is the Masters in Psychology and Counseling Accreditation Council (MPCAC). DHP says, in the agency background document, that "it appears that programs accredited by MPCAC are primarily psychology related and would not

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<sup>1</sup> Fred Bemak, who is the program coordinator for George Mason University's Counseling and Development Program, reports that this program won the 2013 Southern Association for Counselor Education and Supervision Outstanding Master's Degree Program award.

meet the current requirements” of having an identifiable counseling faculty and student body and a sequence of academic study with the expressed intent to prepare counselors. MPCAC’s 2016 accreditation manual, however, has information on its Masters in Counseling Accreditation Committee (MCAC) which is specifically tasked with evaluating counseling programs for accreditation. On its website, MPCAC lists the programs that it has accredited. Amongst these programs are the Masters in Clinical Counseling offered at Eastern University, counseling programs for mental health counseling and school counseling offered at Fordham University and masters programs in counseling offered by the University of Albany, the University of Massachusetts and the University of Missouri. While MPCAC does not currently accredit any programs in Virginia or surrounding states, it appears that they do accredit many counseling programs at reputable universities. These programs would likely currently qualify<sup>2</sup> for licensure both Virginia residents attending school out of state, and out of state residents who intend to be licensed in their home state but may later choose to move to Virginia and seek licensure by endorsement. Having several accrediting groups approved would allow schools greater flexibility to meet standards and would deny any one group monopoly power to change standards unilaterally (and in ways that might make it more expensive for schools seeking approval)..

Obtaining and maintaining CACREP accreditation does involve costs. CAPREP charges the following fees: 1) application process fee - \$2,500, 2) site visit fee - \$2,000 per visitor for 2-5 persons, 3) annual maintenance fee (2015) - \$2,976, and 4) student graduate certificate - \$50. There is also the value of the time spent by counseling program staff in producing the information required by CAPREP and in hosting the CAPREP visitors. George Mason University’s Academic Program Coordinator for its Counseling and Development Program will be supplying cost estimates for that program to be approved by CACREP and this economic analysis will then be updated.

There are 12 Virginia colleges or universities that already have CACREP accreditation, and two that are not currently accredited. One of those has begun the process and is working towards accreditation. Thus only one current Virginia institution would be required to incur additional costs.

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<sup>2</sup> These programs would qualify individuals for licensure so long as they meet or exceed the coursework and residency requirements set forth in 18 VAC 115-20-51 and 18 VAC 115-20-52.

**Businesses and Entities Affected**

The proposed amendment will affect all applicants for counseling licensure as well as any colleges or universities inside or outside of Virginia that currently do not have CACREP approval and who graduate students who may choose to seek initial or subsequent counseling licensure in Virginia.

**Localities Particularly Affected**

The proposed amendments do not disproportionately affect particular localities.

**Projected Impact on Employment**

The proposed amendment will likely artificially limit the number of individuals qualified to seek licensure as professional counselors in Virginia.

**Effects on the Use and Value of Private Property**

The proposed amendment is unlikely to significantly affect the use and value of private property.

**Real Estate Development Costs**

The proposed amendment does not affect real estate development costs.

**Small Businesses:****Definition**

Pursuant to § 2.2-4007.04 of the Code of Virginia, small business is defined as “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.”

**Costs and Other Effects**

The proposed amendment would likely reduce the number of small business licensed professional counselors practicing in Virginia in the future below the number that would qualify to practice under current regulation.

**Alternative Method that Minimizes Adverse Impact**

The proposed amendment would likely reduce the number of small business licensed professional counselors practicing in Virginia in the future below the number that would qualify to practice under current regulation.

**Adverse Impacts:****Businesses:**

The proposed amendment would likely reduce the number of licensed professional counselors practicing independently in Virginia in the future below the number that would qualify to practice under current regulation.

**Localities:**

The proposed amendment will not adversely affect localities.

**Other Entities:**

The proposed amendment will require one Virginia university that does not currently have, and is not currently working toward getting CACREP accreditation for its counseling program, to obtain such accreditation. Though accreditation has value for the public, by choosing not to obtain accreditation without the state requirement the institution has revealed their judgement that the cost of obtaining the accreditation exceeds the benefits for themselves. Thus from this institution's point of view, the proposed amendment creates an adverse impact.

**Legal Mandates**

**General:** The Department of Planning and Budget has analyzed the economic impact of this proposed regulation in accordance with § 2.2-4007.04 of the Code of Virginia (Code) and Executive Order Number 17 (2014). Code § 2.2-4007.04 requires that such economic impact analyses determine the public benefits and costs of the proposed amendments. Further the report should include but not be limited to: (1) the projected number of businesses or other entities to whom the proposed regulatory action would apply, (2) the identity of any localities and types of businesses or other entities particularly affected, (3) the projected number of persons and employment positions to be affected, (4) the projected costs to affected businesses or entities to implement or comply with the regulation, and (5) the impact on the use and value of private property.

**Adverse impacts:** Pursuant to Code § 2.2-4007.04(C): In the event this economic impact analysis reveals that the proposed regulation would have an adverse economic impact on businesses or would impose a significant adverse economic impact on a locality, business, or entity particularly affected, the Department of Planning and Budget shall advise the Joint Commission on Administrative Rules, the House Committee on Appropriations, and the Senate Committee on Finance within the 45-day period.

If the proposed regulatory action may have an adverse effect on small businesses, Code § 2.2-4007.04 requires that such economic impact analyses include: (1) an identification and estimate of the number of small businesses subject to the proposed regulation, (2) the projected reporting, recordkeeping, and other administrative costs required for small businesses to comply with the proposed regulation, including the type of professional skills necessary for preparing required reports and other documents, (3) a statement of the probable effect of the proposed regulation on affected small businesses, and (4) a description of any less intrusive or less costly alternative methods of achieving the purpose of the proposed regulation. Additionally, pursuant to Code § 2.2-4007.1, if there is a finding that a proposed regulation may have an adverse impact on small business, the Joint Commission on Administrative Rules shall be notified.

Lsg (amh)