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Final Regulation Agency Background Document

Agency name	Board of Counseling, Department of Health Professions	
Virginia Administrative Code (VAC) citation	18 VAC 115-20-10 et seq., 18 VAC 115-50-10 et seq., and 18 VAC 115-60-10 et seq.	
Regulation title	Regulations Governing the Practice of Professional Counseling; Regulations Governing the Practice of Marriage and Family Therapist; Regulations Governing the Practice of Licensed Substance Abuse Treatment Practitioners	
Action title	Consistency in Standards of Practice	
Document preparation date	August 26, 2005	

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

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of the proposed new regulation, proposed amendments to the existing regulation, or the regulation proposed to be repealed.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. If applicable, generally describe the existing regulation.

The Board has proposed amendments to existing regulation to update and provide for consistency of regulations relating to “Standards of Practices,” “Disciplinary Actions,” and “Reinstatement” governing the three professions licensed by this Board.

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 August 26, 2005, the Board of Counseling adopted final regulations for 18 VAC 115-20-10 et seq., Regulations Governing the Practice of Professional Counseling; 18 VAC 115-50-10 et seq., Regulations Governing the Practice of Marriage and Family Therapist; and 18 VAC 115-

60-10 et seq., Regulations Governing the Practice of Licensed Substance Abuse Treatment Practitioners to establish the consistency in the standards for professional conduct.

Legal basis

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

Section 54.1-2400 establishes the authority of the Board of Counseling 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, to take disciplinary action for violations of law and regulations and to establish requirements for an inactive licensure status.

§ 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 (§ 2.2-4000 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 § [2.2-4019](#) 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 § [2.2-4020](#), 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 § [2.2-4020](#), 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 § [2.2-4019](#) shall serve on a panel conducting formal proceedings pursuant to § [2.2-4020](#) 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.

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 it 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.

(1) Why this regulatory action is essential to protect the health, safety or welfare of citizens.

Amended rules will provide standards relating to ethical behavior in the care and treatment of clients, maintenance and disclosure of records, and in the responsibility of a practitioner for delegation of services to subordinates under their supervision. Throughout the substance of these rules, there are measures that will benefit client health and safety.

The Board Counseling provides separate regulations for Licensed Professional Counselors, Licensed Marriage and Family Therapy, and Licensed Substance Abuse Treatment Practitioners. Currently, regulations Governing the Practice of Professional Counselors contain 18 specific standards to which counselors shall abide. Likewise, Regulations Governing the Practice of Marriage & Family Therapy contain 12 standards, and Regulations Governing the Practice of Substance Abuse Treatment Practitioners contain 23 standards.

The Board has always attempted to mirror established regulations for a licensed profession in the development of new regulations for another licensed profession where possible; however regulatory processes progress along at different timelines. Improvements identified during one review might not meet the initial purpose of another review and therefore the inconsistencies have been perpetuated. To address these inconsistencies among its regulations, the Board has compared all of its chapters section by section and identified areas that could be made uniform. This proposed regulatory action will provide a more consistent basis for disciplinary action across all categories of licensure which will better protect the public health, safety, and welfare.

(2) Goals of the proposal and the problems the proposal is intended to solve:

Although the existing standards of practice cover many of the same areas of professional conduct in all chapters, the Board determined that greater standardization was needed to provide more fair and consistent bases for disciplinary action. In cases where the respondent is dually licensed under this Board the regulations can be problematic when there are discrepancies. Likewise, the Board would like to establish conformities among its regulations in the grounds for disciplinary action and rules for reinstatement following disciplinary action.

While the vast majority of practitioners conduct their practices ethically, there are those who have not followed professional standards for communicating with and informing patients, for maintaining accurate and legible records, for providing records in a timely manner, or for sexual contact with clients. With adoption of these rules, the Board's intent is to not only protect the health, welfare and safety of the public against inappropriate and unethical actions by licensees but also to give regulatory guidance for practice in a professional manner.

Substance

Please identify and explain the new substantive provisions, the substantive changes to existing sections, or both where appropriate. A more detailed discussion is required under the "All changes made in this regulatory action" section.

Amendments are proposed to update and provide consistency of these standards of practice with those of other agency behavioral science boards as well as the standards of practice of counseling organizations such as the American Association of State Counseling Boards and the National Board of Certified Counselors. Amendments will ensure that these standards can be applied regardless of the method of delivery of services.

Amendments are also proposed that will clarify language throughout to make the standards easier to understand by practitioners and the general public.

A new section was created on “dual relationships” that mirrors new regulation promulgated within the last year by the Board of Social Work. The proposed regulation will add clarity to the types of relationships that should be avoided, specifically addresses sexual intimacy, and includes guidance on dual relationship issues concerning supervisee’s.

Amendments are proposed to bring these standards in line with current practices as well as changes to regulation and law. For example, in sections on “Grounds for revocation, suspension, probation, etc.” the board plans to add the language “or take other disciplinary action.” This will allow the board to take violation specific corrective disciplinary action such as supervised practice or taking specific coursework.

Amendments are also proposed that will add “violating or abetting” another person in the violation of any provision of any statute applicable to the practice of counseling or any part or portion of this chapter.

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.*

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- 1) The primary advantages and disadvantages to the public, such as individual private citizens or businesses, of implementing the new or amended provisions:

The primary advantages to the public of implementing the new or amended provisions will be clarification in areas where unnecessary or outdated language needs to be rescinded, and where new language is needed for improved consistency within the regulation.

There are no disadvantages to the public or to individual businesses, which are not affected by these regulations.

- 2) The primary advantages and disadvantages to the agency or the Commonwealth:

Many practitioners hold multiple licenses under the Board of Counseling, as well as the Boards of Psychology and Social Work. Inconsistencies in the ethical standards of these boards sometime result in discrepancies in the level of disciplinary action taken for the same offenses. In the interest of consistency, the board is recommending language that will allow for more equitable disciplinary action by the agency on behalf of the Commonwealth among the Behavioral Science Boards.

There are no disadvantages to the agency or the Commonwealth. The fee structure set in regulation is intended to ensure that costs related to specific activities are borne by the applicants or certificate holders.

Changes made since the proposed stage

Please describe all changes made to the text of the proposed regulation since the publication of the proposed stage. For the Registrar’s office, please put an asterisk next to any substantive changes.

There were no changes made to the proposed regulation since its publication.

Public comment

Please summarize all comments received during the public comment period following the publication of the proposed stage, and provide the agency response. If no comment was received, please so indicate.

Proposed regulations were published on May 30, 2005 with a 60-day comment period ending on July 29, 2005. A public hearing on proposed regulations was held on June 2, 2005. There was one comments submitted on the Regulatory Townhall, which the Board received prior to adoption of the final regulations. After review of the comment, the Board concluded that the comment related to the practice of certified substance abuse counselors and not to the licensed professions that are the subject of the regulations being amended. Therefore, the Board made no changes in response to the comment.

All changes made in this regulatory action

Please detail all changes that are being proposed and the consequences of the proposed changes. Detail new provisions and/or all changes to existing sections.

Current section number	Proposed new section number, if applicable	Current requirement	Proposed change and rationale
18 VAC 115-20			
20-130.A		The protection of the public health, safety, and welfare and the best interest of the public shall be the primary guide in determining the appropriate professional	<u>Regardless of the delivery method, whether in person, by phone or electronically, these standards shall apply to the practice of counseling.</u> Amendments are proposed to apply these

		conduct of all persons whose activities are regulated by the board.	standards regardless of the method of delivery of services.
20-130.B2		Practice only within the competency areas for which they are qualified by training or experience.	Practice only within the competency areas for which they are qualified by training or boundaries of their competence, based on <u>their education, training, supervised experience and appropriate professional experience and represent their education, training and experience accurately to clients;</u> Amendments are proposed to clarify existing language.
20-130.B3		Be aware of the areas of competence of related professions and make full use of other professional, technical and administrative resources to secure for clients the most appropriate services.	Be aware of the areas of competence of related professions and make full use of other professional, technical and administrative resources to secure for clients the most appropriate services. The Board proposes to strike this language because of proposed clarifying language in 20-130-B2.
20-130.B4	20-130-B3	Strive to stay abreast of new developments, concepts and practices which are important to providing appropriate professional services.	Strive to Stay abreast of new developments <u>counseling information, concepts, applications and practices which are important necessary to providing appropriate, effective professional services;</u> Proposed amendments for clarity purposes
Current section number	Proposed new section number, if applicable	Current requirement	Proposed change and rationale
20-130.B5	20-130-B4	Be able to justify all services rendered to clients as necessary for diagnostic or therapeutic purposes and attempt to terminate a private service or consulting relationship when it becomes clear that the consumer is not benefiting from the relationship.	Be able to justify all services rendered to clients as necessary <u>and appropriate</u> for diagnostic or therapeutic purposes <u>and attempt to terminate a private service or consulting relationship when it becomes clear that the consumer is not benefiting from the relationship;</u> Proposed amendment to remove the termination of services from this section.
	20-130.B5		<u>Document the need for and steps taken to terminate a counseling relationship when it becomes clear that the client is not benefiting from the relationship. Document the assistance provided in making appropriate arrangements for the continuation of treatment for clients, when necessary, following termination of a counseling relationship;</u> Proposed language to establish language regarding the termination of services to a client.

20-130.B6		Not engage in offering services to a client who is receiving services from another mental health professional without attempting to inform such other professionals in order to avoid confusion and conflict for the consumer.	<p>Not engage in offering services to a client who is receiving services from another mental health professional without attempting to inform such other professionals in order to avoid confusion and conflict for the consumer.</p> <p>This language is not necessary because of proposed language in 20-130.B5.</p>
	20-130.B6		<p><u>Make appropriate arrangements for continuation of services, when necessary, during interruptions such as vacations, unavailability, relocation, illness, and disability:</u></p> <p>Language is proposed to require that the licensee make arrangement for client care in cases of practitioner absences.</p>
Current section number	Proposed new section number, if applicable	Current requirement	Proposed change and rationale
20-130.B9		Inform clients of (i) the purposes of an interview, testing or evaluation session and (ii) the ways in which information obtained in such sessions will be used before asking the client to reveal personal information or allowing such information to be divulged.	<p>Inform clients of (i) the purposes of an interview, testing or evaluation session and (ii) the ways in which information obtained in such sessions will be used before asking the client to reveal personal information or allowing such information to be divulged <u>the purposes, goals, techniques, procedures, limitations, potential risks, and benefits of services to be performed, the limitations of confidentiality, and other pertinent information when counseling is initiated, and throughout the counseling process as necessary. Provide clients with accurate information regarding the implications of diagnosis, the intended use of tests and reports, fees, and billing arrangements-;</u></p> <p>Amendments are proposed to clarify information that should be provided to each client in conjunction with offers and performance of services.</p>

20-130.B9		Consider the validity, reliability and appropriateness of tests selected for use with clients and carefully interpret the performance of individuals from groups not represented in standardized norms.	Consider the validity, reliability and appropriateness of tests selected for use with clients <u>Select tests for use with clients that are valid, reliable and appropriate</u> and carefully interpret the performance of individuals from groups not represented in standardized norms.;
			Changes were made for clarification and ease of understanding purposes.
20-130.B11		Represent accurately their competence, education, training and experience.	Represent accurately their competence, education, training and experience.
			Language stricken as unnecessary because of proposed amendment to 20-130.B2 and 20-130.B12.
	20-130.B11		<u>Determine whether a client is receiving services from another mental health service provider, and if so, refrain from offering services to the client without having an informed consent discussion with the client and having been granted communication privileges with the other professional;</u>
			Language is proposed to replace and better explain language set out in the current 20-130.B6.
Current section number	Proposed new section number, if applicable	Current requirement	Proposed change and rationale
20-130.B12		Use only those educational and professional credentials that have been earned at a college or university accredited by a regional accrediting agency, or by a national certifying agency, and that are counseling in nature. Those credentials include the title "doctor" as well as academic and professional certification designations following one's name, such as M.Ed., Ph.D., N.C.C.	<u>Use only in connection with one's practice as a mental health professional those educational and professional degrees or titles</u> credentials that have been earned at a college or university accredited by a regional <u>an</u> accrediting agency <u>recognized by the United States Department of Education</u> , or <u>credentials granted</u> by a national certifying agency, and that are counseling in nature. Those credentials include the title "doctor" as well as academic and professional certification designations following one's name, such as M.Ed., Ph.D., N.C.C.; and
			Amendment proposed to clarify existing language.
20-130.B13		Not engage in improper direct solicitation of clients and announce professional	Not engage in improper direct solicitation of clients and announce <u>Advertise</u> professional services fairly and accurately in a manner

		services fairly and accurately in a manner which will aid the public in forming their own informed judgments, opinions and choices and which avoids fraud and misrepresentation through sensationalism, exaggeration or superficiality.	<p>which will aid the public in forming their own informed judgments, opinions and choices and which avoids fraud and misrepresentation through sensationalism, exaggeration or superficiality is not false, misleading or deceptive.</p> <p>Amendment proposed for purposes of clarity.</p>
20-130.B14		Provide clients with accurate information of what to expect in the way of tests, reports, billing, therapeutic regime and schedules before rendering services.	<p>Provide clients with accurate information of what to expect in the way of tests, reports, billing, therapeutic regime and schedules before rendering services.</p> <p>This language was added to 20-130.B9 therefore it is proposed that it be stricken.</p>
	20-130.C		<p><u>In regard to patient records, persons, licensed by the board shall:</u></p> <p>It is proposed that a heading be created to specifically delineate the sections that follow.</p>
	20-130.C1		<p><u>Maintain written or electronic clinical records for each client to include treatment dates and identifying information to substantiate diagnosis and treatment plan, client progress, and termination;</u></p> <p>Language is proposed encompass all types of records which should be maintained as well as specify the minimum of information that should be included.</p>
Current section number	Proposed new section number, if applicable	Current requirement	Proposed change and rationale
20-130.B15	20-130.C2	Maintain client records securely, inform all employees of the requirements of confidentiality and provide for the destruction of records which are no longer useful. Client records shall be disclosed to others only with expressed written consent or as mandated by law. Client confidentiality in the usage of client records and clinical materials shall be ensured by obtaining informed consent from clients before (i) videotaping, (ii) audio recording, (iii) permitting third party observation, or	<p>Maintain client records securely, inform all employees of the requirements of confidentiality and provide for the destruction of records which are no longer useful <u>in a manner that ensures client confidentiality;</u></p> <p>Amendment is proposed to separate current section 20-130.B15 for clarity purposes. It is also proposed that reference be included regarding client confidentiality.</p>

		(iv) using client records and clinical materials in teaching, writing or public presentations. Client records shall be kept for a minimum of five years from the date of termination of the counseling relationship.	
	20-130.C3	See 20-130.B15 above.	Client records shall be disclosed <u>Disclose or release records to others only with clients' expressed written consent or that of their legally authorized representative or as mandated by law.</u> in accordance with § 32.1-127.1:03 of the Code of Virginia; Amendment is proposed to separate current section 20-130.B15 for clarity purposes.
	20-130.C4	See 20-130.B15 above.	Ensure client confidentiality in the usage of client records and clinical materials shall be ensured by obtaining informed consent from clients <u>or their legally authorized representative</u> before (i) videotaping, (ii) audio recording, (iii) permitting third party observation, or (iv) using <u>identifiable</u> client records and clinical materials in teaching, writing or public presentations-; <u>and</u> Amendment is proposed to separate current section 20-130.B15 for clarity purposes.
Current section number	Proposed new section number, if applicable	Current requirement	Proposed change and rationale
	20-130.C5	See 20-130.B15 above.	<u>Maintain</u> client records shall be kept for a minimum of five years <u>or as otherwise required by law</u> from the date of termination of the counseling relationship <u>with the following exceptions:</u> Amendment is proposed to separate current section 20-130.B15 for clarity purposes.
	20-130.C5a		<u>At minimum, records of a minor child shall be maintained for five years after attaining the age of majority (18) or ten years following termination, which ever comes later; or</u> Language is proposed to specify a minimum retention period for client records.
	20-130.C5b		<u>Records that are required by contractual obligation or federal law to be maintained for a longer period of time.</u>

			Language is proposed to provide and exemption from 20-130.C5a as required by contractual obligation or federal law.
	20-130.C5c		<u>Records that have transferred to another mental health service provider or given to the client.</u> Language is proposed to provide and exemption from 20-130.C5a for records which have been transferred to another provider or given to the client.
	20-130.D		<u>In regard to dual relationships, persons licensed by the board shall:</u> The board proposes a new section on “dual relationships” that mirrors new regulation promulgated within the last year by the Board of Social Work. The proposed regulation added clarity to the types of relationships that should be avoided, specifically addresses sexual intimacy, and includes guidance on dual relationship issues concerning supervisees.
Current section number	Proposed new section number, if applicable	Current requirement	Proposed change and rationale
20-130.B16			Not engage in dual relationships with clients, former clients, residents, supervisees, and supervisors that compromise the client's or resident's well-being, impair the counselor's or supervisor's objectivity and professional judgment or increase the risk of client or resident exploitation. This includes, but is not limited to, such activities as counseling close friends, former sexual partners, employees or relatives, and engaging in business relationships with clients. Engaging in sexual intimacies with current clients or residents is strictly prohibited. For at least five years after cessation or termination of professional services, licensees shall not engage in sexual intimacies with a therapy client or those included in collateral therapeutic

			<p>services. Since sexual or romantic relationships are potentially exploitative, licensees shall bear the burden of demonstrating that there has been no exploitation. A patient's consent to, initiation of or participation in sexual behavior or involvement with a practitioner does not change the nature of the conduct nor lift the regulatory prohibition.</p> <p>The board proposed to strike current language in favor of language promulgated within the last year by the Board of Social Work.</p>
	20-130.D1		<p><u>Avoid dual relationships with clients that could impair professional judgment or increase the risk of harm to clients. (Examples of such relationships include, but are not limited to, familial, social, financial, business, bartering, or close personal relationships with clients.) Counselors shall take appropriate professional precautions when a dual relationship cannot be avoided, such as informed consent, consultation, supervision, and documentation to ensure that judgment is not impaired and no exploitation occurs;</u></p> <p>The board proposes a new section on “dual relationships” that mirrors new regulation promulgated within the last year by the Board of Social Work. The proposed regulation added clarity to the types of relationships that should be avoided, specifically addresses sexual intimacy, and includes guidance on dual relationship issues concerning supervisees.</p>
Current section number	Proposed new section number, if applicable	Current requirement	Proposed change and rationale
	20-130.D2		<p><u>Not engage in any type of sexual intimacies with clients or those included in a collateral relationship with the client and not counsel persons with whom they have had a sexual relationship. Counselors shall not engage in sexual intimacies with former clients within a minimum of five years after terminating the counseling relationship. Counselors who engage in such relationship after five years following termination shall have the responsibility to examine and document thoroughly that such relations do not have an exploitive nature, based on factors such as duration of counseling, amount of time since counseling, termination circumstances, client's personal history and mental status, adverse impact on the client. A client's consent to,</u></p>

			<p><u>initiation of or participation in sexual behavior or involvement with a counselor does not change the nature of the conduct nor lift the regulatory prohibition;</u></p> <p>The board proposes a new section on “dual relationships” that mirrors new regulation promulgated within the last year by the Board of Social Work. The proposed regulation added clarity to the types of relationships that should be avoided, specifically addresses sexual intimacy, and includes guidance on dual relationship issues concerning supervisees.</p>
	20-130.D3		<p><u>Not engage in any sexual relationship or establish a counseling or psychotherapeutic relationship with a supervisee. Counselors shall avoid any non-sexual dual relationship with a supervisee in which there is a risk of exploitation or potential harm to the supervisee or the potential for interference with the supervisor’s professional judgment; and</u></p> <p>The board proposes a new section on “dual relationships” that mirrors new regulation promulgated within the last year by the Board of Social Work. The proposed regulation added clarity to the types of relationships that should be avoided, specifically addresses sexual intimacy, and includes guidance on dual relationship issues concerning supervisees.</p>
Current section number	Proposed new section number, if applicable	Current requirement	Proposed change and rationale
20-130.B17	20-130.D4		Numbering change only.
20-130.B18	20-130.E	Report to the board known or suspected violations of the laws and regulations governing the practice of licensed or certified mental health service providers as defined in § 54.1-2400.1 of the Code of Virginia.	<p>Report <u>Persons licensed by the board shall report to the board Department of Health Professions any information of which he may become aware in his professional capacity indicating that there is a reasonable probability that a person licensed or certified as a mental health service provider, as defined in §54.1-2400.1 of the Code of Virginia, may have engaged in unethical, fraudulent or unprofessional conduct as defined by the pertinent licensing statutes and regulations known or suspected violations of the laws and regulations governing the practice of licensed or certified</u></p>

			<p>mental health service providers as defined in §54.1-2400.1 of the Code of Virginia.</p> <p>The board proposes amendments to clarify reporting responsibilities of licensees.</p>
20-140.A		Action by the board to revoke, suspend or decline to renew a license may be taken in accord with the following:	<p>Action by the board to revoke, suspend, or decline to renew, <u>deny issuance or renewal of a license, or take other disciplinary action</u> may be taken in accord <u>accordance</u> with the following:</p> <p>Amendment is proposed to allow for alternative disciplinary actions available under the powers of the board.</p>
20-140.A2		Procuring of license by fraud or misrepresentation.	<p>Procuring <u>Procurement of a license by fraud or misrepresentation;</u></p> <p>The proposed amendment is for the purposed of clarification.</p>
20-140.A4		Negligence in professional conduct or nonconformance with the Standards of Practice (18 VAC 115-20-130 B).	<p>Negligence in professional conduct or nonconformance with the Standards of Practice (18VAC115-20-130 B) <u>Intentional or negligent conduct that causes or is likely to cause injury to a client or clients;</u></p> <p>The proposed amendment is for the purpose of clarification.</p>
	20-140.A6		<p><u>Violating or abetting another person in the violation of any provision of any statute applicable to the practice of counseling, or any part or portion of this chapter.</u></p> <p>Language is proposed to address a practitioner aiding or abetting another person in the violation of these regulations.</p>
Current section number	Proposed new section number, if applicable	Current requirement	Proposed change and rationale
20-150.A		Any person whose license has been revoked, suspended or denied renewal by the board under the provisions of 18 VAC 115-20-140 may, two years subsequent to such board action, submit a new application for reinstatement of licensure.	<p>Any person whose license has been revoked, suspended, or who has been denied renewal <u>reinstatement</u> by the board <u>order</u> under the provisions of 18VAC115-20-140 <u>having met the terms of the order</u>, may, two years subsequent to such board action, submit a new application <u>and fee</u> for reinstatement of licensure.</p> <p>Amendment is proposed to comply with changes to statutes concerning revocation of licensure.</p>
20-150.B		The board in its discretion may, after a hearing, grant the reinstatement sought in subsection A of this section.	The board in its discretion may, after a hearing <u>administrative proceeding</u> , grant the reinstatement sought in subsection A of this section.

			Amendment is proposed to substitute language which better represents terms utilized by this agency.
20-150.C.			<p>The applicant for such reinstatement, if approved, shall be licensed upon payment of the appropriate fee applicable at the time of reinstatement.</p> <p>The board proposed striking this language in light of amendment to 20-150.A.</p>
18 VAC 115-50			
50-110.A		The protection of the public's health, safety and welfare and the best interest of the public shall be the primary guide in determining the appropriate professional conduct of all marriage and family therapists licensed by the board.	<p>The protection of the public's health, safety and welfare and the best interest of the public shall be the primary guide in determining the appropriate professional conduct of all marriage and family therapists licensed all persons whose activities are regulated by the board. <u>Regardless of the delivery method, whether in person, by phone or electronically, these standards shall apply to the practice of marriage and family therapy.</u></p> <p>Amendments are proposed to apply these standards regardless of the method of delivery services.</p>
Current section number	Proposed new section number, if applicable	Current requirement	Proposed change and rationale
50-110.B		Persons licensed as marriage and family therapists shall:	<p>Persons licensed as marriage and family therapists by the board shall:</p> <p>Propose to strike unnecessary language.</p>
	50-110.B1		<p><u>Practice in a manner that is in the best interest of the public and does not endanger the public health, safety, or welfare.</u></p> <p>Consistency with proposed LPC & LSATP Regulations</p>
50-110.B1	50-110.B2	Represent accurately their competence, education, training, experience and credentials, and practice only within the competency	<p>Represent accurately their competence, education, training, experience and credentials, and practice <u>Practice</u> only within the competency areas for which they are qualified by training or experience;</p>

		areas for which they are qualified by training or experience;	<u>boundaries of their competence, based on their education, training, supervised experience and appropriate professional experience and represent their education, training and experience accurately to clients;</u> Consistency with proposed LPC & LSATP Regulations
	50-110.B3		<u>Stay abreast of new marriage and family therapy information, concepts, applications and practices which are necessary to providing appropriate, effective professional services;</u> Consistency with proposed LPC & LSATP Regulations
50-110.B2	50-110.B4	Be able to justify all services rendered to clients as necessary for diagnostic or therapeutic purposes and make appropriate referrals when it becomes clear that the client is not benefiting from the relationship;	Be able to justify all services rendered to clients as necessary <u>and appropriate</u> for diagnostic or therapeutic purposes and make appropriate referrals when it becomes clear that the client is not benefiting from the relationship; Consistency with proposed LPC & LSATP Regulations
50-110.B3		Not abandon or neglect clients in treatment without making reasonable arrangements for the continuation of such treatment;	Not abandon or neglect clients in treatment without making reasonable arrangements for the continuation of such treatment; Propose striking current language and replacing with 50-110.B6.
Current section number	Proposed new section number, if applicable	Current requirement	Proposed change and rationale
50-110.B4		When aware that the client is in a professional relationship with another mental health professional, in order to avoid confusion and conflict for the client, request a written release from the client to inform the other professional of the coexistent clinical relationship;	When aware that the client is in a professional relationship with another mental health professional, in order to avoid confusion and conflict for the client, request a written release from the client to inform the other professional of the coexistent clinical relationship; Propose striking current language. Subject matter to be addressed under 50-110.B11.
	50-110.B5		<u>Document the need for and steps taken to terminate a counseling relationship when it becomes clear that the client is not benefiting from the relationship. Document the</u>

			<p><u>assistance provided in making appropriate arrangements for the continuation of treatment for clients, when necessary, following termination of a counseling relationship;</u></p> <p>Consistency with proposed LPC & LSATP Regulations</p>
	50-110.B6		<p><u>Make appropriate arrangements for continuation of services, when necessary, during interruptions such as vacations, unavailability, relocation, illness, and disability;</u></p> <p>Consistency with proposed LPC & LSATP Regulations</p>
50-110.B5	50-110.B7	Disclose to clients all experimental methods of treatment, inform client of the risks and benefits of any such treatment, and ensure that the welfare of the client is not compromised in any experiment or research;	<p>Disclose to clients all experimental methods of treatment, <u>and</u> inform client of the risks and benefits of any such treatment, <u>and ensure</u> <u>Ensure</u> that the welfare of the client is not compromised in any <u>experiment</u> <u>experimentation</u> or research <u>involving those clients;</u></p> <p>Proposed amendments for clarification purposes.</p>
50-110.B6	50-110.B8	Neither accept nor give commissions, rebates or other forms of remuneration for referral of clients for professional services;	<p>Neither accept nor give commissions, rebates or other forms of remuneration for referral of clients for professional services;.</p> <p>Renumbered.</p>
Current section number	Proposed new section number, if applicable	Current requirement	Proposed change and rationale
50-110.B7		Inform clients of the fees and billing arrangements, goals, techniques, procedures, limitations, potential risks and benefits of services to be performed;	<p>Inform clients of the fees and billing arrangements, goals, techniques, procedures, limitations, potential risks and benefits of services to be performed;</p> <p>Propose striking current language. Subject matter to be addressed under 50-110.B9</p>
50-110.B8		Inform clients of the limits of confidentiality at the onset of the therapeutic relationship;	<p>Inform clients of the limits of confidentiality at the onset of the therapeutic relationship;</p> <p>Propose striking current language. Subject matter to be addressed under 50-110.B9</p>
50-110.B9		Not solicit clients, advertise or represent services to the	<p>Not solicit clients, advertise or represent services to the public in a manner that is</p>

		public in a manner that is false, misleading, deceptive or fraudulent;	false, misleading, deceptive or fraudulent; Propose striking language in favor or proposed 50-110.B13 which is consistent with proposed LPC & LSATP regulations.
	50-110.B9		<u>Inform clients of the purposes, goals, techniques, procedures, limitations, potential risks, and benefits of services to be performed, the limitations of confidentiality, and other pertinent information when counseling is initiated, and throughout the counseling process as necessary. Provide clients with accurate information regarding the implications of diagnosis, the intended use of tests and reports, fees, and billing arrangements;</u> Proposed language consolidating 50.110-B7 and 8 for clarification purposes.
	50-110.B10		<u>Select tests for use with clients that are valid, reliable and appropriate and carefully interpret the performance of individuals not represented in standardized norms;</u> Consistency with proposed LPC & LSATP Regulations
Current section number	Proposed new section number, if applicable	Current requirement	Proposed change and rationale
	50-110.B11		<u>Determine whether a client is receiving services from another mental health service provider, and if so, refrain from providing services to the client without having an informed consent discussion with the client and having been granted communication privileges with the other professional.</u> Consistency with proposed LPC & LSATP Regulations
	50-110.B12		<u>Use only in connection with one’s practice as a mental health professional those educational and professional degrees or titles that have been earned at a college or</u>

			<p><u>university accredited by an accrediting agency recognized by the United States Department of Education, or credentials granted by a national certifying agency, and that are counseling in nature; and</u></p> <p>Proposed amendment provides for consistency with proposed LPC and LSATP regulations.</p>
	50-110.B13		<p><u>Advertise professional services fairly and accurately in a manner which is not false, misleading or deceptive.</u></p> <p>Consistency with proposed LPC & LSATP regulations.</p>
	50-110.C		<p><u>In regard to patient records, persons, licensed by the board shall:</u></p> <p>It is proposed that a heading be created to specifically delineate the sections that follow. And to provide consistency with proposed LPC & LSATP regulations.</p>
	50-110.C1		<p><u>Maintain written or electronic clinical records for each client to include treatment dates and identifying information to substantiate diagnosis and treatment plan, client progress, and termination:</u></p> <p>Language is proposed to encompass all types of records which should be maintained as well as specify the minimum of information that should be included. And to provide consistency with proposed LPC & LSATP regulations.</p>
Current section number	Proposed new section number, if applicable	Current requirement	Proposed change and rationale
50-110.B10	50-110.C2	(i) Maintain client records securely, and inform all employees of the confidentiality requirements;	<p>(i) Maintain client records securely, and inform all employees of the <u>requirements of confidentiality requirements; and provide for the destruction of records which are no longer useful in a manner that ensures client confidentiality;</u></p> <p>To provide consistency with proposed LPC & LSATP regulations.</p>
50-110.B10	50-110.C3	(ii) disclose client records to others only with expressed written	<p>(ii) disclose <u>Disclose or release</u> client records to others only with <u>client's</u> expressed written consent or <u>that of their legally authorized representative as mandated by law in</u></p>

		consent or as mandated by law; and	<u>accordance with § 32.1-127.1:03 of the Code of Virginia; and</u> To provide consistency with proposed LPC & LSATP regulations.
50-110.B10	50-110.C4	(iii) Ensure client confidentiality in the usage of client records and clinical materials by obtaining informed consent from clients before (a) videotaping, (b) audio recording, (c) permitting third party observation, or (d) using client records and clinical materials in teaching, writing, or public presentations.	(iii) Ensure client confidentiality in the usage of client records and clinical materials by obtaining informed consent from clients <u>or their legally authorized representative</u> before (a) videotaping, (b) audio recording, (c) permitting third party observation, or (d) using client records and clinical materials in teaching, writing, or public presentations; <u>and</u> To provide consistency with proposed LPC & LSATP regulations.
50-110.B10	50-110.C5	Client records shall be kept for a minimum of five years from the date of termination of the clinical relationship;	Client <u>Maintain client</u> records shall be kept for a minimum of five years <u>or as otherwise required by law</u> from the date of termination of the clinical <u>counseling</u> relationship; <u>with the following exceptions:</u> To provide consistency with proposed LPC & LSATP regulations.
	50-110.C5a		<u>At minimum, records of a minor child shall be maintained for five years after attaining the age of majority (18) or ten years following termination, which ever comes later;</u> To provide consistency with proposed LPC & LSATP regulations.
Current section number	Proposed new section number, if applicable	Current requirement	Proposed change and rationale
	50-110.C5b		<u>Records that are required by contractual obligation or federal law to be maintained for a longer period of time; or</u> To provide consistency with proposed LPC & LSATP regulations.
	50-110.C5c		<u>Records that have transferred to another mental health service provider or given to the client.</u> To provide consistency with proposed LPC & LSATP regulations.
			<u>In regard to dual relationships, persons</u>

	50-110.D		<p><u>licensed by the board shall:</u></p> <p>The board proposes a new section on “dual relationships” that mirrors new regulation promulgated within the last year by the Board of Social Work. The proposed regulation added clarity to the types of relationships that should be avoided, specifically addresses sexual intimacy, and includes guidance on dual relationship issues concerning supervisees. And to provide consistency with proposed LPC & LSATP regulations.</p>
50-110.B11	50-110.D1	<p>Avoid dual relationships with clients, former clients, residents, and supervisors and supervisees that could compromise the well being or increase the risk of exploitation of clients or residents, or impair the resident’s or supervisor’s objectivity and professional judgment. This includes, but is not limited to, such activities as providing therapy to close friends, former sexual partners, employees or relatives, and engaging in business relationships with clients. Engaging in sexual intimacies with clients, former clients or current residents is strictly prohibited; and</p>	<p>Avoid dual relationships with clients, former clients, residents, and supervisors and supervisees that could compromise the well being or increase the risk of exploitation of clients or residents, or impair the resident’s or supervisor’s objectivity and professional judgment. This includes, but is not limited to, such activities as providing therapy to close friends, former sexual partners, employees or relatives, and engaging in business relationships with clients. Engaging in sexual intimacies with clients, former clients or current residents is strictly prohibited; and that could impair professional judgment or increase the risk of harm to clients. (Examples of such relationships include, but are not limited to, familial, social, financial, business, bartering, or close personal relationships with clients.) Counselors shall take appropriate professional precautions when a dual relationship cannot be avoided, such as informed consent, consultation, supervision, and documentation to ensure that judgment is not impaired and no exploitation occurs;</p> <p>The board proposes to amend current language in favor of language promulgated last year by the Board of Social Work. And to provide consistency with proposed LPC & LSATP regulations.</p>
Current section number	Proposed new section Number, if possible	Current requirement	Proposed change and rationale
	50-110.D2		<p><u>Not engage in any type of sexual intimacies with clients or those included in a collateral relationship with the client and not counsel persons with whom they have had a sexual relationship. Marriage and family therapists shall not engage in sexual intimacies with former clients within a minimum of five years after terminating the counseling relationship. Marriage and family therapists who engage in such relationship after five years following termination shall have the responsibility to examine and document thoroughly that such relations do not have an exploitive nature,</u></p>

			<p><u>based on factors such as duration of counseling, amount of time since counseling, termination circumstances, client's personal history and mental status, adverse impact on the client. A client's consent to, initiation of or participation in sexual behavior or involvement with a marriage and family therapist does not change the nature of the conduct nor lift the regulatory prohibition;</u></p> <p>The board proposes to amend current language in favor of language promulgated last year by the Board of Social Work. And to provide consistency with proposed LPC & LSATP regulations.</p>
	50-110.D3		<p><u>Not engage in any sexual relationship or establish a counseling or psychotherapeutic relationship with a supervisee. Marriage and family therapists shall avoid any non-sexual dual relationship with a supervisee in which there is a risk of exploitation or potential harm to the supervisee or the potential for interference with the supervisor's professional judgment; and</u></p> <p>The board proposes to amend current language in favor of language promulgated last year by the Board of Social Work. And to provide consistency with proposed LPC & LSATP regulations.</p>
	50-110.D4		<p><u>Recognize conflicts of interest and inform all parties of the nature and directions of loyalties and responsibilities involved.</u></p> <p>The board proposes to add language to provide consistency with proposed LPC & LSATP regulations.</p>
Current section number	Proposed new section number, if applicable	Current requirement	Proposed change and rationale
50-110.B12	50-110.E	Report to the board known or suspected violations of the laws and regulations governing the practices of mental health professionals.	<p>Persons licensed by the board shall report to the board known or suspected violations of the laws and regulations governing the practices of mental health professionals Department of Health Profession any <u>information of which he may become aware in his professional capacity indicating that there is a reasonable probability that a person licensed or certified as a mental health service provider, as defined in §54.1-2400.1 of the Code of Virginia, may have engaged in unethical, fraudulent or</u></p>

			<p><u>unprofessional conduct as defined by the pertinent licensing statutes and regulations.</u></p> <p>The board proposes amendments to clarify reporting responsibilities of licensees. And to provide consistency with proposed LPC & LSATP regulations.</p>
50-120.A		In accordance with §54.1-2400 of the <i>Code of Virginia</i> , the board may, after a hearing, revoke, suspend or decline to issue or renew a license or impose a fine in accordance with the following:	<p>In accordance with §54.1-2400 of the Code of Virginia, Action by the board may, after a hearing, to revoke, suspend, or decline to issue or renew deny issuance or renewal of a license, or impose a fine take other disciplinary action may be taken in accordance with the following:</p> <p>The board proposes amendment to allow for alternative disciplinary actions available under the powers of the Board. And to provide consistency with proposed LPC & LSATP regulations.</p>
50-120.A1		Conviction of a felony or of a misdemeanor involving moral turpitude;	<p>Conviction of a felony, or of a misdemeanor involving moral turpitude <u>or violation of or aid to another in violating any provision of Chapter 35 (§54.1-3500 et seq.) of Title 54.1 of the Code of Virginia, any other statute applicable to the practice of marriage and family therapy, or any provision of this chapter;</u></p> <p>The board proposes an amendment to address a practitioner aiding or abetting another person in the violation of these regulations.</p>
50-120.A2		Procurement of a license, certificate or registration by fraud or misrepresentation;	<p>Procurement of a license, certificate or registration by fraud or misrepresentation;</p> <p>The board proposes amendment for purposes of clarity.</p>
Current section number	Proposed new section number, if applicable	Current requirement	Proposed change and rationale
50-120.A3		Conducting one's practice in such a manner as to make it a danger to the health and welfare of one's clients or the general public;	<p>Conducting one's practice in such a manner as to make it a danger to the health and welfare of one's clients or the general public; <u>or if one is unable to practice marriage and family therapy with reasonable skill and safety to clients by reason of illness, abusive use of alcohol drugs, narcotics, chemicals, or other type of material or result of any mental or physical condition;</u></p> <p>The board proposes amending this section by adding language from the current 50-</p>

			120.A4. The board felt this would add clarity to the two sections.
50-120.A4		Practicing marriage and family therapy without reasonable skill and safety to clients by virtue of physical or emotional illness, abusive use of alcohol, drugs, narcotics, chemicals or any other hazardous substance or material;	Practicing marriage and family therapy without reasonable skill and safety to clients by virtue of physical or emotional illness, abusive use of alcohol, drugs, narcotics, chemicals or any other hazardous substance or material; The board proposes to strike this section and combine the language with 50-120.A3 for reasons of clarity.
	50-120.A4		<u>Intentional or negligent conduct that causes or is likely to cause injury to a client or clients;</u> To provide consistency with proposed LPC & LSATP regulations.
50-120.A5		Providing or offering services outside the demonstrable areas of competency; or	Providing or offering services <u>Performance of functions</u> outside the demonstrable areas of competency; or The board proposes amendment for clarity purposes.
	50.120-B		<u>Following the revocation or suspension of a license, the licensee may petition the board for reinstatement upon good cause shown or as a result of substantial new evidence having been obtained that would alter the determination reached.</u> To provide consistency with proposed LPC & LSATP regulations.
Current section number	Proposed new section number, if applicable	Current requirement	Proposed change and rationale
50-130.A		Any person whose license has been revoked, suspended or denied renewal by the board under the provisions of 18 VAC 115-20-140 may, two years subsequent to such board action, submit a new application for reinstatement of licensure.	Any person whose license has been revoked, suspended or <u>who has been denied renewal reinstatement by the board order under the provisions of 18 VAC 115-20-140, having met the terms of the order, may, two years subsequent to such board action,</u> submit a new application <u>and fee</u> for reinstatement of licensure. Amendment is proposed to comply with changes to statute concerning revocation of

			licensure. Amendment is also proposed to provide the correct regulation citation.
18 VAC 115-60			
60-130.A		The protection of the public health, safety, and welfare and the best interest of the public shall be the primary guide in determining the appropriate professional conduct of all persons whose activities are regulated by the board.	The protection of the public health, safety, and welfare and the best interest of the public shall be the primary guide in determining the appropriate professional conduct of all persons whose activities are regulated by the board. <u>Regardless of the delivery method, whether in person, by phone or electronically, these standards shall apply to the practice of substance abuse treatment.</u> Amendments are proposed to apply these standards regardless of the method of delivery of services. Also, to provide consistency with proposed LPC & LMFT regulations.
60-130.B1		Practice in a manner that does not endanger the public health, safety, or welfare.	Practice in a manner that <u>is in the best interest of the public and</u> does not endanger the public health, safety, or welfare. Amendment is proposed to provide consistency with proposed LPC & LMFT regulations.
60-130.B2		Practice only within the competency areas for which they are qualified by training or experience.	Practice only within the competency areas for which they are qualified by training or <u>boundaries of their competence, based on their education, training, supervised experience and appropriate professional experience and represent their education, training and experience accurately to clients;</u> Consistency with proposed LPC & LMFT regulations.
Current section number	Proposed new section number, if applicable	Current requirement	Proposed change and rationale
60-130.B3		Be aware of competencies of practitioners in other fields of practice and make referrals for services when appropriate.	Be aware of competencies of practitioners in other fields of practice and make referrals for services when appropriate. The board proposes to strike this language in that it deems it as unenforceable.
60-130.B4	60-130.B3	Stay abreast of new developments, concepts and practices which are important to providing	Stay abreast of new developments <u>substance abuse treatment information,</u> concepts, <u>application</u> and practices which are important <u>necessary</u> to providing appropriate.

		appropriate professional services.	<u>effective professional services;</u> To provide consistency with proposed LPC & LMFT regulations.
60-130.B5		Terminate a service or consulting relationship when it is apparent that the client is not benefiting from the relationship.	Terminate a service or consulting relationship when it is apparent that the client is not benefiting from the relationship. The board proposes striking current language. Subject matter addressed in proposed 60-130.B5. And to provide consistency with proposed LPC & LMFT regulations.
60-130.B6	60-130.B4	Provide to clients only those services which are related to diagnostic or therapeutic goals.	Provide to clients only those services which are related to <u>Be able to justify all services rendered to clients as necessary and appropriate for diagnostic or therapeutic goals purposes;</u> The board proposes amendment for clarity purposes.
	60-130.B5		<u>Document the need for and steps taken to terminate a counseling relationship when it becomes clear that the client is not benefiting from the relationship. Document the assistance provided in making appropriate arrangements for the continuation of treatment for clients, when necessary, following termination of a counseling relationship;</u> The board proposes new language to provide consistency with proposed LPC & LMFT regulations.
Current section number	Proposed new section number, if applicable	Current requirement	Proposed change and rationale
	60-130.B6		<u>Make appropriate arrangements for continuation of services, when necessary, during interruptions such as vacations, unavailability, relocation, illness, and disability;</u> The board proposes new language to provide consistency with proposed LPC & LMFT regulations.

60-130.B7		Not offer services to a client who is receiving services from other mental health professionals without attempting to inform such other professionals of the planned provision of services.	Not offer services to a client who is receiving services from other mental health professionals without attempting to inform such other professionals of the planned provision of services. Propose striking current language. Subject matter to be addressed in proposed 60-130.B11.
60-130.B8	60-130.B7	Inform clients fully of the risks and benefits of services and treatment and obtain informed consent to all such services and treatment.	Inform Disclose to clients all experimental methods of treatment and inform clients fully of the risks and benefits of services and any such treatment, and obtain informed consent to all such services and treatment Ensure that the welfare of the clients is in no way <u>compromised in any experimentation or research involving those clients;</u> ; Proposed amendment for clarification purpose and to provide for consistency with proposed LPC & LMFT regulations.
60-130.B9		Ensure that the welfare of clients is not compromised by experimentation or research involving those clients and conform practice involving research or experimental treatment to the requirements of Chapter 5.1 (§ 32.1-162.16 et seq.) of Title 32.1 of the Code of Virginia.	Ensure that the welfare of clients is not compromised by experimentation or research involving those clients and conform practice involving research or experimental treatment to the requirements of Chapter 5.1 (§32.1-162.16 et seq.) of Title 32.1 of the Code of Virginia. Propose striking current language. Subject matter covered under proposed 60-130.B7.
60-130.B10	60-130.B8	Neither accept nor give commissions, rebates, or other forms of remuneration for referral of clients for professional services.	Neither accept nor give commissions, rebates, or other forms of remuneration for referral of clients for professional services; Renumbering only.
Current section number	Proposed new section number, if applicable	Current requirement	Proposed change and rationale
60-130.B11	60-130.B9	Inform clients of (i) the purposes of an interview, testing or evaluation session and (ii) the ways in which information obtained in such sessions will be used before asking the client to reveal personal	Inform clients of (i) the purposes of an interview, testing or evaluation session and (ii) the ways in which information obtained in such sessions will be used before asking the client to reveal personal information the purposes, goals, techniques, procedures, limitations, potential risks, and benefits of services to be performed, the limitations of

		information.	<p><u>confidentiality, and other pertinent information when counseling is initiated, and throughout the counseling process as necessary. Provide clients with accurate information regarding the implications of diagnosis, the intended use of tests and reports, fees, and billing arrangements;</u></p> <p>The board proposes amendments to provide consistency with proposed LPC & LMFT regulations.</p>
60-130.B12	60-130.B10	Consider the validity, reliability and appropriateness of assessments selected for use with clients and carefully interpret the performance of individuals from groups not represented in standardized norms.	<p>Consider the validity, reliability and appropriateness of assessments tests selected for use with clients <u>Select tests for use with clients that are valid, reliable and appropriate</u> and carefully interpret the performance of individuals from groups not represented in standardized norms. ;</p> <p>The board proposes amendment for clarity purposes.</p>
	60-130.B11		<p><u>Determine whether a client is receiving services from another mental health service provider, and if so, refrain from providing services to the client without having an informed consent discussion with the client and having been granted communication privileges with the other professional;</u></p> <p>The board proposes language to provide consistency with proposed LPC and LFMT regulations.</p>
60-130.B13		Represent accurately their competence, education, training and experience.	<p>Represent accurately their competence, education, training and experience.</p> <p>The board proposes striking current language. Subject matter to be covered in proposed 60-130.B12.</p>
Current section number	Proposed new section number, if applicable	Current requirement	Proposed change and rationale
60-130.B14	60-130.B12	In connection with practice as a substance abuse treatment practitioner, represent to the public only those educational and professional credentials as are related to such practice.	<p>In connection with practice as a substance abuse treatment practitioner, represent to the public <u>Use only in connection with one' practice as a mental health professional</u> those educational and professional credentials as are related to such practice <u>degrees or titles that have been earned at a</u></p>

			<p><u>college or university accredited by an accrediting agency recognized by the United States Department of Education, or credentials granted by a national certifying agency, and that are counseling in nature;</u> <u>and</u></p> <p>Proposed amendment provides for consistency with proposed LPC and LMFT regulations.</p>
60-130.B15		<p>Not use the title "Doctor" or the abbreviation "Dr." in writing or in advertising in connection with practice without including simultaneously a clarifying title, initials, abbreviation or designation or language that identifies the basis for use of the title, such as M.D., Ph.D., D.Min.</p>	<p>Not use the title "Doctor" or the abbreviation "Dr." in writing or in advertising in connection with practice without including simultaneously a clarifying title, initials, abbreviation or designation or language that identifies the basis for use of the title, such as M.D., Ph.D., D.Min.</p> <p>The board proposes striking this language. The subject matter is covered in the proposed 60-130.B13.</p>
60-130.B16	60-130.B13	<p>Announce professional services fairly and accurately in a manner which will aid the public in forming their own informed judgments, opinions and choices and which avoids fraud and misrepresentation.</p>	<p>Announce <u>Advertise</u> professional services fairly and accurately in a manner which will aid the public in forming their own informed judgments, opinions and choices and which avoids fraud and misrepresentation <u>is not false, misleading or deceptive.</u></p> <p>The board proposes amendments to provide for consistency with proposed LPC and LMFT regulations.</p>
	60-130.C		<p><u>In regard to patient records, persons licensed by the board shall:</u></p> <p>It is proposed that a heading be created to specifically delineate the sections that follow. And to provide consistency with proposed LPC & LMFT regulations.</p>
Current section number	Proposed new section number, if applicable	Current requirement	Proposed change and rationale
	60-130.C1		<p><u>Maintain written or electronic clinical records for each client to include treatment dates and identifying information to substantiate diagnosis and treatment plan, client progress, and termination;</u></p>

			The board proposes language to encompass all types of records which should be maintained as well as specify the minimum of information that should be included. And to provide consistency with proposed LPC & LMFT regulations.
60-130.B17	60-130.C2	Maintain client records securely, inform all employees of the requirements of confidentiality and provide for the disposal of records in a manner consistent with professional requirements.	Maintain client records securely, inform all employees of the requirements of confidentiality and provide for the <u>disposal</u> <u>destruction</u> of records which are <u>no longer useful</u> in a manner <u>consistent with professional requirements that ensures client confidentiality</u> . The board proposes amendments for consistency with proposed LPC and LMFT regulations.
60-130.B18	60-130.C3	Disclose client records to others in accordance with state and federal statutes and regulations including, but not limited to, §§ <u>32.1-127.1:03</u> (Patient Health Records Privacy Act), 2.2-3704 (Virginia Freedom of Information Act) and <u>54.1-2400.1</u> (Mental Health Service Providers; Duty to Protect Third Parties; Immunity) of the Code of Virginia; 42 USC §290dd-2 (Confidentiality of Drug and Alcohol Treatment Records); and 42 CFR Part 2 (Alcohol and Drug Abuse Patient Records and Regulations).	Disclose <u>or release</u> client records to others <u>in accordance with state and federal statutes and regulations including, but not limited to, §§32.1-127.1:03 (Patient Health Records Privacy Act), 2.2-3704 (Virginia Freedom of Information Act) and 54.1-2400.1 (Mental Health Service Providers; Duty to Protect Third Parties; Immunity) of the Code of Virginia; 42 USC §290dd-2 (Confidentiality of Drug and Alcohol Treatment Records); and 42 CFR Part 2 (Alcohol and Drug Abuse Patient Records and Regulations) only with client's expressed written consent or that of his legally authorized representative in accordance with §32.1-127.1:03 of the Code of Virginia;</u> The board proposes amendment to provide for consistency with proposed LPC & LMFT regulations.
60-130.B19	60-130.C5	Maintain client records for a minimum of five years from the date of termination of the substance abuse treatment relationship, or as otherwise required by employer, hospital or insurance carrier.	Maintain client records for a minimum of five years <u>or as otherwise required by law</u> from the date of termination of the substance abuse treatment relationship, <u>or as otherwise required by employer, hospital or insurance carrier</u> with the following exceptions: The board proposed amendment to provide for consistency with proposed LPC & LMFT regulations.
Current section number	Proposed new section number, if applicable	Current requirement	Proposed change and rationale
	60-130.C5a		<u>At minimum, records of a minor child shall be maintained for five years after attaining the age of majority (18) or ten years following termination, which ever comes later;</u>

			The board proposed amendment to provide for consistency with proposed LPC & LMFT regulations.
	60-130.C5b		<u>Records that are required by contractual obligation or federal law to be maintained for a longer period of time; or</u> The board proposed amendment to provide for consistency with proposed LPC & LMFT regulations.
	60-130.C5c		<u>Records that have transferred to another mental health service provider or given to the client; and</u> The board proposed amendment to provide for consistency with proposed LPC & LMFT regulations.
60-130.B20	60-130.C4	Obtain informed consent from clients before (i) videotaping, (ii) audio recording, (iii) permitting third party observation, or (iv) using client records and clinical materials in teaching, writing or public presentations.	Obtain informed consent from clients <u>Ensure confidentiality in the usage of client records and clinical materials by obtaining informed consent from clients or their legally authorized representative before</u> (i a) videotaping, (ii b) audio recording, (iii c) permitting third party observation, or (iv d) using identifiable client records and clinical materials in teaching, writing or public presentations. The board proposed amendment to provide for consistency with proposed LPC & LMFT regulations.
	60-130.D		<u>In regard to dual relationships, persons licensed by the board shall:</u> The board proposes a new section on “dual relationships” that mirrors new regulation promulgated within the last year by the Board of Social Work. The proposed regulation added clarity to the types of relationships that should be avoided, specifically addresses sexual intimacy, and includes guidance on dual relationship issues concerning supervisees. And to provide consistency with proposed LPC & LMFT regulations.
Current section number	Proposed new section number, if applicable	Current requirement	Proposed change and rationale
60-130.B21		Not engage in dual relationships with clients, former clients, residents, supervisees, and	Not engage in dual relationships with clients, former clients, residents, supervisees, and supervisors that compromise the client's or resident's well being, impair the practitioner's

		<p>supervisors that compromise the client's or resident's well being, impair the practitioner's or supervisor's objectivity and professional judgment or increase the risk of client or resident exploitation. This includes, but is not limited to, such activities as treating close friends, former sexual partners, employees or relatives, and engaging in business relationships with clients.</p> <p>Engaging in sexual intimacies with current clients or residents is strictly prohibited. For at least five years after cessation or termination of professional services, licensees shall not engage in sexual intimacies with a therapy client or those included in collateral therapeutic services. Since sexual or romantic relationships are potentially exploitative, licensees shall bear the burden of demonstrating that there has been no exploitation. A patient's consent to, initiation of or participation in sexual behavior or involvement with a practitioner does not change the nature of the conduct nor lift the regulatory prohibition.</p>	<p>or supervisor's objectivity and professional judgment or increase the risk of client or resident exploitation. This includes, but is not limited to, such activities as treating close friends, former sexual partners, employees or relatives, and engaging in business relationships with clients.</p> <p>Engaging in sexual intimacies with current clients or residents is strictly prohibited. For at least five years after cessation or termination of professional services, licensees shall not engage in sexual intimacies with a therapy client or those included in collateral therapeutic services. Since sexual or romantic relationships are potentially exploitative, licensees shall bear the burden of demonstrating that there has been no exploitation. A patient's consent to, initiation of or participation in sexual behavior or involvement with a practitioner does not change the nature of the conduct nor lift the regulatory prohibition.</p> <p>The board proposes striking current language in favor of language promulgated last year by the Board of Social Work. And to provide consistency with proposed LPC and LMFT regulations.</p>
<p>Current section number</p>	<p>Proposed new section number, if applicable</p>	<p>Current requirement</p>	<p>Proposed change and rationale</p>
	<p>60-130.D1</p>		<p><u>Avoid dual relationships with clients that could impair professional judgment or increase the risk of harm to clients. (Examples of such relationships include, but are not limited to,</u></p>

			<p><u>familial, social, financial, business, bartering, or close personal relationships with clients.) Counselors shall take appropriate professional precautions when a dual relationship cannot be avoided, such as informed consent, consultation, supervision, and documentation to ensure that judgment is not impaired and no exploitation occurs;</u></p> <p>The board proposes to use language promulgated last year by the Board of Social Work. And to provide consistency with proposed LPC and LMFT regulations.</p>
	60-130.D2		<p><u>Not engage in any type of sexual intimacies with clients or those included in collateral therapeutic services, and not counsel persons with whom they have had a sexual relationship. Licensed substance abuse treatment practitioners shall not engage in sexual intimacies with former clients within a minimum of five years after terminating the counseling relationship. Licensed substance abuse treatment practitioners who engage in such relationship after five years following termination shall have the responsibility to examine and document thoroughly that such relations did not have an exploitive nature, based on factors such as duration of counseling, amount of time since counseling, termination circumstances, client's personal history and mental status, adverse impact on the client. A client's consent to, initiation of or participation in sexual behavior or involvement with a licensed substance abuse treatment practitioner does not change the nature of the conduct nor lift the regulatory prohibition;</u></p> <p>The board proposes to use language promulgated last year by the Board of Social Work. And to provide consistency with proposed LPC and LMFT regulations.</p>
Current section number	Proposed new section number, if applicable	Current requirement	Proposed change and rationale
	130-60.D3		<p><u>Not engage in any sexual relationship or establish a counseling or psychotherapeutic relationship with a supervisee. Licensed</u></p>

			<p><u>substance abuse treatment practitioners shall avoid any non-sexual dual relationship with a supervisee in which there is a risk of exploitation or potential harm to the supervisee or the potential for interference with the supervisor’s professional judgment; and</u></p> <p>The board proposes to use language promulgated last year by the Board of Social Work. And to provide consistency with proposed LPC and LMFT regulations.</p>
60-130.B22		Recognize conflicts of interest and inform all parties of obligations, responsibilities and loyalties to third parties.	<p>Recognize conflicts of interest and inform all parties of obligations, responsibilities and loyalties to third parties.</p> <p>The board proposes to strike this language. Subject matter covered by proposed 60-130.D4.</p>
	60-130.D4		<p><u>Recognize conflicts of interest and inform all parties of the nature and directions of loyalties and responsibilities involved.</u></p> <p>The board propose to add language that will replace and clarify current regulation in 60-130.B22 and to provide for consistency with proposed LPC & LMFT regulations.</p>
60-130.B23	60-130.E	Report to the board known or suspected violations of the laws and regulations governing the practice of licensed or certified health care practitioners.	<p><u>Persons licensed by the board shall report to the board known or suspected violations of the laws and regulations governing the practice of licensed or certified health care practitioners any information of which he may become aware in his professional capacity indicating that there is a reasonable probability that a person licensed or certified as a mental health service provider, as defined in §54.1-2400.1 of the Code of Virginia, may have engaged in unethical, fraudulent or unprofessional conduct as defined by the pertinent licensing statutes and regulations.</u></p> <p>The board proposes amendment to clarify reporting responsibilities of licensees. And to provide consistency with proposed LPC & LMFT regulations.</p>
Current section number	Proposed new section number, if applicable	Current requirement	Proposed change and rationale
60-140.A		Action by the board to revoke, suspend or decline to renew a license may be	Action by the board to revoke, suspend or decline to renew , deny issuance or renewal of a license, or take other disciplinary action may

		taken in accord with the following:	be taken in accord with the following: The board proposes amendment to allow for alternative disciplinary actions available under the powers of the Board. And to provide consistency with proposed LPC & LMFT regulations.
60-140.A1		Conviction of a felony, of a misdemeanor involving moral turpitude, or violation of or aid to another in violating any provision of Chapter 35 of Title 54.1 (§ 54.1-3500 et seq.) of the Code of Virginia, any other statute applicable to the practice of substance abuse treatment, or any provision of this chapter.	Conviction of a felony, <u>or</u> of a misdemeanor involving moral turpitude, or violation of or aid to another in violating any provision of Chapter 35 (§ 54.1-3500 et seq.) of Title 54.1 (§ 54.1-3500 et seq.) of the Code of Virginia, any other statute applicable to the practice of substance abuse treatment, or any provision of this chapter.; Clerical change.
60-140.A2		Procuring of license by fraud or misrepresentation.	Procuring <u>Procurement of a</u> license by fraud or misrepresentation.; Proposed amendment for purpose of clarity and consistency with LPC and LMFT regulations.
60-140.A4		Negligence in professional conduct or nonconformance with the Standards of Practice (18 VAC 115-60-130).	Negligence in professional conduct or nonconformance with the Standards of Practice (18 VAC 115-60-130) <u>Intentional or negligent conduct that causes or is likely to cause injury to a client.;</u> Proposed amendment for purpose of clarity and consistency with LPC and LMFT regulations.
	60-140.A6		<u>Violating or abetting another person in the violation of any provision of any statute applicable to the practice of licensed substance abuse therapy, or any part or portion of this chapter.</u> To provide consistency with proposed LPC & LMFT regulations.
Current section number	Proposed new section number, if applicable	Current requirement	Proposed change and rationale
60-140.B		Petition for rehearing. Following the revocation or	Petition for rehearing. Following the revocation or suspension of a license, the licensee may

		suspension of a license the licensee may petition the board for rehearing upon good cause shown or as a result of substantial new evidence having been obtained that would alter the determination reached.	petition the board for rehearing <u>reinstatement</u> upon good cause shown or as a result of substantial new evidence having been obtained that would alter the determination reached. To provide consistency with proposed LPC & LMFT regulations.
60-150.A		Any person whose license has been revoked, suspended or denied renewal by the board under the provisions of 18 VAC 115-60-140 may, two years subsequent to such board action, submit a new application to the board for reinstatement of licensure.	Any person whose license has been revoked , suspended or <u>who has been denied renewal</u> reinstatement by the board order, <u>having met the terms of the order</u> , under the provisions of 18 VAC 115-60-140 may, two years subsequent to such board action, submit a new application <u>and fee</u> to the board for reinstatement of licensure. Amendment is proposed to comply with changes to statute concerning revocation of licensure. Amendment is also proposed to provide the correct regulation citation.
60-150.B		The board in its discretion may, after a hearing, grant the reinstatement sought in subsection A of this section.	The board in its discretion may, after a hearing <u>an administrative proceeding</u> , grant the reinstatement sought in subsection A of this section. Amendment is proposed to substitute language which better represents terms utilized by this agency.
60-150.C		The applicant for such reinstatement, if approved, shall be licensed upon the payment of the appropriate fee applicable at the time of reinstatement.	The applicant for such reinstatement, if approved, shall be licensed upon payment of the appropriate fee applicable at the time of reinstatement. The board proposed striking this language in light of amendment to 60-150.A.

Family impact

Please assess the impact of the proposed regulatory action on the institution of the family and family stability.

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