



Fast Track Regulation Agency Background Document

Agency name	Board of Social Work, Department of Health Professions
Virginia Administrative Code (VAC) citation	18 VAC 140-20
Regulation title	Regulations Governing the Practice of Social Work
Action title	Experience and examination requirements
Document preparation date	February 27, 2008

This information is required for executive review (www.townhall.state.va.us/dpbpages/apaintro.htm#execreview) and the Virginia Registrar of Regulations (legis.state.va.us/codecomm/register/regindex.htm), pursuant to the Virginia Administrative Process Act (www.townhall.state.va.us/dpbpages/dpb_apa.htm), Executive Orders 21 (2002) and 58 (1999) (www.governor.state.va.us/Press_Policy/Executive_Orders/EOHome.html), and the *Virginia Register Form, Style and Procedure Manual* (http://legis.state.va.us/codecomm/register/download/styl8_95.rtf).

Brief summary

In a short paragraph, please summarize all substantive changes that are being proposed in this regulatory action.

The Board is clarifying regulations by eliminating references to part-time work in the section on supervised post-master's degree experience required for licensure as a clinical social worker. The total of 3,000 hours within no less than two years or no more than four years is unchanged. A requirement to take an examination within two years of application approval is added for consistency with document retention policies of the Department and to resolve an issue of a candidate who returns to take the examination years after completion and approval of his education and experience.

Statement of agency final 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 January 11, 2008, the Board of Social Work took action to amend sections 50 and 70 of 18VAC140-20-10 et seq., Regulations Governing the Practice of Social Work, through the fast-track regulatory process.

Legal basis

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

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

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

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

- 1. To establish the qualifications for registration, certification, licensure or the issuance of a multistate licensure privilege 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, license or issue a multistate licensure privilege to qualified applicants as practitioners of the particular profession or professions regulated by such board.*
- 4. To establish schedules for renewals of registration, certification, licensure, and the issuance of a multistate licensure privilege.*
- 5. To levy and collect fees for application processing, examination, registration, certification or licensure or the issuance of a multistate licensure privilege and renewal that are sufficient to cover all expenses for the administration and operation of the Department of Health Professions, the Board of Health Professions and the health regulatory boards.*
- 6. To promulgate regulations in accordance with the Administrative Process Act (§ 9-6.14:1 et seq.) which are reasonable and necessary to administer effectively the regulatory system. Such regulations shall not conflict with the purposes and intent of this chapter or of Chapter 1 (§ [54.1-100](#) et seq.) and Chapter 25 (§ [54.1-2500](#) et seq.) of this title. ...*

Purpose

Please explain the need for the new or amended regulation by (1) detailing the specific reasons why this regulatory action is essential to protect the health, safety, or welfare of citizens, and (2) discussing the goals of the proposal and the problems the proposal is intended to solve.

The purpose of the first action is to eliminate confusion that persons sometimes express about the “part-time equivalency” language in the section on supervised experience. Clarity in the regulation may result in better compliance without unnecessary time spent in the residency. Additionally, the purpose of a limitation on the time an applicant can take to sit for the licensing examination is intended to ensure the minimal competency of such applicant. If someone has completed his education and supervised clinical experience many years ago, but has not practiced in the field of social work in the interim, even passage of the examination would not assure that his knowledge and skills are adequate to protect the health and welfare of the clients that he would be treating.

Rationale for using fast track process

Please explain why the fast track process is being used to promulgate this regulation.

Please note: If an objection to the use of the fast-track process is received within the 60-day public comment period from (1) 10 or more persons, (2) any member of the applicable standing committee of either house of the General Assembly or (3) any member of the Joint Commission on Administrative Rules, the agency shall (i) file notice of the objection with the Registrar of Regulations for publication in the Virginia Register, and (ii) proceed with the normal promulgation process with the initial publication of the fast-track regulation serving as the Notice of Intended Regulatory Action.

The fast-track process is being used to promulgate the amendments because there is unanimous agreement with the changes proposed. The action is not controversial and will resolve questions and issues that have come to the Board in recent months.

Substance

Please briefly identify and explain the new substantive provisions, the substantive changes to existing sections, or both where appropriate. (More detail about these changes is requested in the “Detail of changes” section.)

The proposed action eliminates reference to part-time equivalency in supervised experience because it is confusing and unnecessary. The Board also proposes to establish a requirement that an applicant must sit for the licensing examination within two years of approval or must reapply and meet requirements in effect at the time.

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 the regulatory action poses no disadvantages to the public or the Commonwealth, please so indicate.

- 1) There are no advantages or disadvantages to the public. Candidates who do not take the licensing examination within a reasonable time following completion of their education and clinical experience are not likely to be as qualified to provide clinical care to clients. Therefore, the time limit of taking the exam may be beneficial in assuring minimal competency.
- 2) There are no advantages or disadvantages to the agency or the Commonwealth.
- 3) There are no other matters of interest.

Economic impact

<p>Projected cost to the state to implement and enforce the proposed regulation, including (a) fund source / fund detail, and (b) a delineation of one-time versus on-going expenditures</p>	<p>a) As a special fund agency, the Board must generate sufficient revenue to cover its expenditures from non-general funds, specifically the renewal and application fees it charges to practitioners for necessary functions of regulation; b) The agency will incur some one-time costs (less than \$1,000) for mailings to the Public Participation Guidelines mailing lists, conducting a public hearing, and sending notice of final regulations to regulated entities. Every effort will be made to incorporate those into anticipated mailings and Board meetings already scheduled. There are no on-going costs to the agency.</p>
<p>Projected cost of the regulation on localities</p>	<p>None</p>
<p>Description of the individuals, businesses or other entities likely to be affected by the regulation</p>	<p>The only entities that are likely to be affected by these regulations would be persons who have applied for licensure and have been approved to sit for the examination.</p>
<p>Agency’s best estimate of the number of such entities that will be affected. Please include an estimate of the number of small businesses affected. Small business means a business entity, including its affiliates, that (i) is independently owned and operated and (ii) employs fewer than 500 full-time employees or has gross annual sales of less than \$6 million.</p>	<p>There is no estimate of the number that might be affected, but it would be very small. Once an applicant has completed his education and years of supervised clinical experience and has been approved by the Board, he is likely to sit for the examination in a relatively short period of time.</p>
<p>All projected costs of the regulation for affected individuals, businesses, or other entities. Please be specific. Be sure to include the projected reporting, recordkeeping, and other administrative costs required for compliance by small businesses.</p>	<p>There would be no cost for compliance for changes to the supervised experience rules; those changes are clarifying. If an applicant did not sit for the examination within two years of approval and was required to re-apply, he would incur an application fee of \$100.</p>

Alternatives

Please describe any viable alternatives to the proposal considered and the rationale used by the agency to select the least burdensome or intrusive alternative that meets the essential purpose of the action.

The Board has considered two issues relating to the national examination – whether there should be a limitation on the number of times an applicant can sit for the examination, and whether there should be a limitation on the time following completion of education and experience and Board approval to sit for the examination. To become informed about policies in other states, the Executive Director inquired of other state boards about the number of times a candidate who fails can retake the examination, whether they require any remedial action to address domains in which the candidate showed deficiencies, and whether there is a time limit after approval to sit within which the candidate must take the examination. Some states responded directly and the Board also received results of a survey from the Association of Social Work Boards (ASWB).

North Carolina requires applicants to pass the qualifying examination within two years of initial application; failure to do so necessitates that the applicant reapply. There is no limit on the number of times a candidate may sit for the examination, but the NC board may require remedial training before considering approval for another examination. Ohio reported that approval to sit for the examination is valid for six months, after which the candidate must be re-approved. The Ohio board requires completion of six semester hours of appropriate coursework or other approved remediation after four unsuccessful attempts to pass the examination. Of the states that responded to the ASWB survey, eight allow a candidate two years to take the examination, eleven allow one year or three attempts (whichever comes first), and two allow from three to five years. Ten states, including Virginia, currently have no limitation on the time from application approval to examination.

After much discussion, the Board decided to establish a time limit for taking the examination after approval of an application, but not to set any limitation on the number of attempts or any requirement for remediation. While remediation is certainly encouraged, the Board did not want to take responsibility for approving the remedial coursework or clinical experience an applicant might need based on deficiencies identified. It should be the applicant’s responsibility to do what is necessary to remediate and improve his chances of passage on the next attempt.

Family impact

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

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

Detail of changes

Please detail all changes that are being proposed and the consequences of the proposed changes.

Current section number	Proposed new section number, if applicable	Current requirement	Proposed change and rationale
40	n/a	Establishes the hours and requirements for supervised experience in clinical social work	<p>Deletes the phrase “or the equivalent in part-time experience” to reduce confusion among applicants who have tried to work with a formula for part-time equivalency. Also eliminates the phrase “in the two-year period” in reference to the required number of hours of direct client contact within the supervised experience.</p> <p><i>The requirement is 3,000 hours in no less than two years and no more than four years. There is a minimum of one hour of individual face-to-face supervision for each week for a total of 100 hours, so the language “or the equivalent in part-time experience” is often confusing. An applicant will need to have the one hour of supervision for at least 100 weeks, but there is flexibility in the span of two to four years. Likewise, regulations require 1,380 hours of face-to-face client contact with an average of no less than 15 hours per week. The reference to “the two-year period” is confusing because the applicant is allowed to take four years to complete the requirements.</i></p>
70	n/a	Sets the examination requirements for a licensed social worker or licensed clinical social worker	<p>Specifies that a candidate approved by the board to sit for an examination must take that examination within two years of the date of the initial board approval. If the candidate has not taken the examination by the end of the two-year period here prescribed, the applicant has to reapply according to the requirements of the regulations in effect at that time.</p> <p><i>Guidance document 76-19.2 of the Department of Health Professions specifies that a board should retain an incomplete application (all requirements for licensure have not been met) for one year from date of receipt. The policy allows a board to vary from the limit if it is favorable to the applicant. The Board has not adhered to the policy because there was no limitation in regulation on the length of time for an applicant to take the national examination.</i></p>

			<p><i>Recently, the Board had an applicant who completed his education and supervised experience more than a decade ago to request to sit for the examination. Without a regulatory limitation, the Board had to allow the applicant to sit, without any assurance he was minimally competent since his social work education and experience was many years past.</i></p>
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