



Economic Impact Analysis Virginia Department of Planning and Budget

18 VAC 115-20 – Regulations Governing the Practice of Professional Counseling
18 VAC 115-50 – Regulations Governing the Practice of Marriage and Family Therapy
18 VAC 115-60 – Regulations Governing the Practice of Substance Abuse Treatment
Department Health Professions
April 9, 2015

Summary of the Proposed Amendments to Regulation

As a result of a 2011 periodic review, the Board of Counseling (Board) proposes to amend three sets of regulations under its purview. The Board proposes many clarifying changes and several substantive changes including:

- § Re-including the Council for Accreditation of Counseling and Related Educational Programs and the Council on Rehabilitative Education as groups that can approve educational programs under the professional counselor licensure program,
- § Not requiring a transcript to be included when applying for licensure if one was already submitted for approval of residency,
- § Modifying experience requirements in 18 VAC 115-50 and 18 VAC 115-60 for individuals seeking licensure by endorsement so that they only have to have clinical practice 24 of the 60 months immediately before licensure application (rather than the now required five of the last six years),
- § Allowing the use of real time visual contact technology (Skype or other like services) to meet face-to-face supervision requirements during residency,
- § Allowing 20 hours of supervision obtained during an internship to count toward the 200 hours of face-to-face supervision required during residency (so long as the internship supervision was under a licensed professional counselor or, in the case of interns working

toward licensure as a marriage and family therapist, a licensed professional counselor or a licensed marriage and family therapist),

- § Requiring that residencies be completed in not less than 18 months and not more than four years,
- § Adding local governments to the groups whose continuing education programs are approved by the Board to count toward continuing education requirements,
- § Disallowing certain professionals from providing supervision for residencies because the Board does not have disciplinary or regulatory authority over these groups and
- § Requiring applicants for licensure to provide a current report from the U.S. Department of Health and Human Services Data Bank which contains disciplinary and malpractice history.

Result of Analysis

Benefits likely outweigh costs for most proposed regulatory changes. For several regulatory changes, there is insufficient information to ascertain whether benefits will outweigh costs.

Estimated Economic Impact

According to Board staff, the Council for Accreditation of Counseling and Related Educational Programs (CACREP) and the Council on Rehabilitative Education (CORE) used to be listed in 18 VAC 115-20 as groups that could approve educational programs but that they were removed at some point. The Board now proposes to add these groups back into the regulation. This change will allow students more flexibility in choosing education that will allow them to eventually be licensed. This may allow them to choose cheaper educational opportunities if there is a cost differential between programs that are currently approved and ones that will be approved once CACREP and CORE are added as approving bodies. Students may also benefit if increasing educational opportunities allow them to choose programs that are more convenient to where they live.

Currently, the Board requires that a transcript of coursework completed be submitted with an application for licensure. Since transcripts must also be submitted for approval of residency, some individuals have ended up submitting the same transcript twice. To fix this

situation, the Board proposes to only require that new transcripts be submitted during application for licensure if additional course work has been done since they were submitted for approval of residency. This change will benefit applicants because they would normally only have to obtain and submit transcripts once rather than twice. This will save them time and, when they are getting and mailing paper copies of transcripts also save them copy fees and mailing costs.

Current regulations for marriage and family therapists and drug abuse treatment practitioners require that applicants for licensure by endorsement show that they have actively practiced their craft for five of the six years immediately preceding application for licensure. The Board proposes to amend this requirement so that applicants will only have to show active practice for 24 of the 60 months immediately preceding. This change will likely benefit licensees in other states who may wish to move to Virginia as they will have to show a shorter period of active practice before they can apply for licensure to ensure their ability to practice in Virginia also. This change will also harmonize these regulations with those for professional therapists.

Current regulations require residents to complete 200 hours of face-to-face (in person) supervision. The Board proposes to allow 20 hours of face-to-face supervision completed during an internship to count toward those 200 hours. The Board also proposes to allow supervisors to use Skype or other real time visual contact technology to meet with their supervisees. Both of these changes will likely benefit residents because they normally have to pay by the hour for supervision. These changes will allow them to pay for 20 fewer hours of supervision and will also allow them to meet with their supervisors using technology. This will likely require less travel on the part of the supervisor or the resident or both which may lower the per hour cost of supervision.

Currently there is no time limit on residencies for these licensure programs. The Board proposes to require that residencies be completed in not less than 18 months and not more than four years (individuals who are in the midst of completing their residencies when these proposed regulations become effective will have four years from the regulations' effective date to finish). Individuals who cannot finish their residencies in four years will be able to explain the delay to the Board and ask for a time extension. Board staff reports that residents must complete 3,400 hours during their residency (plus 600 hours that are normally credited from their supervised internship) so it would be very hard, if not impossible, to complete these hours in fewer than 18

months. Individuals would be working slightly over 44 hours per week to complete 3,400 hours in 18 months. Board staff reports that most programs already would not allow individuals to complete their residencies in fewer than 18 months and that the Board has never had an issue with any applicant for licensure having a residency that would breach this new rule. Some individuals in the future may incur some time costs for applying for a time variance if they need more than four years to complete their residency.

For licensees with continuing education requirements, the Board has listed in these regulations education criteria and groups that may offer continuing education that the Board will accept. The Board proposes to add local governments to the list of groups whose educational opportunities are acceptable to the Board. This will benefit licensees as they will have additional continuing education possibilities with local community service boards. This may allow licensees to complete continuing education at lower cost or at more convenient times or places.

Current regulations allow residencies for those seeking licensure as professional counselors to be supervised by a licensed professional counselor, a licensed marriage and family therapist, a licensed substance abuse treatment practitioner, a school psychologist, a clinical psychologist, a clinical social worker or a psychiatrist. Residencies for those seeking licensure as marriage and family therapists can be supervised by a licensed professional counselor, a licensed marriage and family therapist, a clinical psychologist, a clinical social worker or a psychiatrist. Residencies for those seeking licensure as a substance abuse treatment practitioner can be supervised by a licensed professional counselor, a licensed marriage and family therapist, a licensed substance abuse treatment practitioner, a school psychologist, a clinical psychologist, a clinical social worker, a clinical nurse specialist or a psychiatrist.

The Board proposes to eliminate all non-Board licensees from the lists of approved supervisors and to remove licensed substance abuse treatment practitioners from the list of licensees who may supervise professional counseling residents. Under the proposed regulations professional counseling residents and marriage and family therapy residents may only be supervised by licensed professional counselors and licensed marriage and family therapists and substance abuse treatment practitioner residents may be supervised by licensed professional counselors, licensed marriage and family therapists, and licensed substance abuse treatment practitioners. This change will eliminate issues that may arise with the Board being unable to

discipline or set rules for individuals that they do not license. To the extent that this change limits the pool of available supervisors, costs for supervision may increase and it may take longer for residents to obtain supervision and complete their residencies.

The Board also proposes to add the requirement that all individuals applying for licensure provide a current report from the U.S. Department of Health and Human Services Data Bank. This will allow the Board to check if applicants have any disciplinary or malpractice history in another state. Applicants will have to pay a \$5 fee to obtain this report.

Businesses and Entities Affected

Board staff reports that these proposed regulations will affect all applicants for licensure as professional counselors, marriage and family therapists and substance abuse treatment practitioners. Board staff further reports that the Board has, in the last year, received 1,387 applications for licensure as professional counselors, 118 applications for licensure as marriage and family therapists and 11 applications for licensure as substance abuse treatment practitioners.

Localities Particularly Affected

No locality will be particularly affected by this regulatory action.

Projected Impact on Employment

This regulatory action will likely have little impact on employment in the Commonwealth.

Effects on the Use and Value of Private Property

This regulatory action will likely not affect the use or value of private property in the Commonwealth.

Small Businesses: Costs and Other Effects

No small businesses will be affected by this proposed regulatory package.

Small Businesses: Alternative Method that Minimizes Adverse Impact

No small businesses will be affected by this proposed regulatory package.

Real Estate Development Costs

This regulatory action will likely have no effect on real estate development costs in the Commonwealth.

Legal Mandate

General: The Department of Planning and Budget (DPB) has analyzed the economic impact of this proposed regulation in accordance with § 2.2-4007.04 of the Code of Virginia and Executive Order Number 17 (2014). Section 2.2-4007.04 requires that such economic impact analyses determine the public benefits and costs of the proposed amendments. Further the report should include but not be limited to:

- the projected number of businesses or other entities to whom the proposed regulation would apply,
- the identity of any localities and types of businesses or other entities particularly affected,
- the projected number of persons and employment positions to be affected,
- the projected costs to affected businesses or entities to implement or comply with the regulation, and
- the impact on the use and value of private property.

Small Businesses: If the proposed regulation will have an adverse effect on small businesses, § 2.2-4007.04 requires that such economic impact analyses include:

- an identification and estimate of the number of small businesses subject to the proposed regulation,
- the projected reporting, recordkeeping, and other administrative costs required for small businesses to comply with the proposed regulation, including the type of professional skills necessary for preparing required reports and other documents,
- a statement of the probable effect of the proposed regulation on affected small businesses, and
- a description of any less intrusive or less costly alternative methods of achieving the purpose of the proposed regulation.

Additionally, pursuant to § 2.2-4007.1, if there is a finding that a proposed regulation may have an adverse impact on small business, the Joint Commission on Administrative Rules (JCAR) is notified at the time the proposed regulation is submitted to the *Virginia Register of Regulations* for publication. This analysis shall represent DPB's best estimate for the purposes of public review and comment on the proposed regulation.

AMH

Town Hall ID: Action # 4182/Stage # 7085