



Final Regulation Agency Background Document

Agency name	Board of Psychology, Department of Health Professions
Virginia Administrative Code (VAC) citation	18VAC125-20
Regulation title	Regulations Governing the Practice of Psychology
Action title	Clarify and update regulations pursuant to a periodic review; Allow certain pre-doctoral supervised experience to count toward residency requirement
Date this document prepared	5/10/11

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

Brief summary

Please provide a brief summary (no more than 2 short paragraphs) of the proposed new regulation, proposed amendments to the existing regulation, or the regulation proposed to be repealed. Alert the reader to all substantive matters or changes. If applicable, generally describe the existing regulation. Also, please include a brief description of changes to the regulation from publication of the proposed regulation to the final regulation.

The regulatory action will address: 1) criteria for licensure by endorsement by reducing the requirement of experience as a licensee in another state from 20 to 10 years; 2) acceptance of pre-internship supervised professional experience in lieu of all or part of the post-doctoral residency currently required; 3) consistency in requirements for a jurisprudence examination; 4) extension of the prohibition on sexual intimacies with clients from two years to five years following termination; and 5) clarification of existing regulations.

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 or board taking the action, and (3) the title of the regulation.

On May 10, 2011, the Board of Psychology adopted final amendments to 18VAC125-20-10 et seq., Regulations Governing the Practice of Psychology.

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 number(s), 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.

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

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

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

...

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. ...

In addition, the powers and duties of the Board are set forth in:

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

In addition to the powers granted in other provisions of this title, the Board shall have the following specific powers and duties:

1. To cooperate with and maintain a close liaison with other professional boards and the community to ensure that regulatory systems stay abreast of community and professional needs.

2. To conduct inspections to ensure that licensees conduct their practices in a competent manner and in conformance with the relevant regulations.

3. To designate specialties within the profession.

4. To issue a temporary license for such periods as the Board may prescribe to practice psychology to persons who are engaged in a residency or pursuant to subdivision 7 of § [54.1-3601](#).

5. To promulgate regulations for the voluntary certification of licensees as sex offender treatment providers.

6. To administer the mandatory certification of sex offender treatment providers for those professionals who are otherwise exempt from licensure under subdivision 4 of §§ [54.1-3501](#), [54.1-3601](#) or § [54.1-3701](#) and to promulgate regulations governing such mandatory certification. The regulations shall include provisions for fees for application processing, certification qualifications, certification issuance and renewal and disciplinary action.

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

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.

The agency has determined that the regulatory action is necessary to eliminate any impediments to licensure for psychologists. For licensure by endorsement, it should be possible to assure minimum competency through documentation of having the appropriate degree, passage of the national examination, a license in good standing with practice in another U. S. jurisdiction, and malpractice and disciplinary history as evidence that the applicant has not committed acts that would be cause for discipline in Virginia. A requirement for lengthy practice in another state does not ensure competency for clients receiving services by an endorsement applicant.

For licensure by examination, the hours of post-doctoral clinical experience may be an unnecessary extension of the supervised training and experience an applicant would have received in his educational program. By standardizing the requirements for pre-internship experience, the board may be able to count hours of supervised experience in a pre-doctoral program in lieu of hours of post-doctoral experience. That may allow a person to obtain a license and began providing clinical services after completing a doctorate without having to complete an additional 1,500 hours in a residency. With the oversight incorporated in an accredited educational program for the supervised professional experience, the board is confident that a licensee would be qualified to provide clinical services with safety and competency.

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.

The substantive changes or provisions of this proposal are as follows:

1) Prerequisites for licensure by endorsement (Section 42) – The board has added a requirement for a report on malpractice and disciplinary history from the national data banks to ensure applicants from other states do not have a significant malpractice history or disciplinary actions that would represent grounds for denial of licensure in Virginia. To simplify the qualifications for endorsement and make the process less burdensome, the board proposes eliminating the 20-year practice regulation and replacing it with requirements for 10 years in practice with an appropriate degree evidence of holding the degree appropriate to the level of licensure sought,

passage of the national examination (EPPP), verification of a license in good standing, and no unresolved disciplinary or malpractice history.

Education requirements for clinical psychologists (Section 54) – The board has proposed changes or clarification to the requirements for graduate hours and practicum experiences in consultation and supervision. The proposed changes will allow an applicant to provide evidence of clinical experience that would a part of his doctoral experience. Provided the supervised experience in a pre-doctoral program is part of an organized sequence of training and meets the criteria for set out in regulation, those hours may be used to fulfill the supervised experience requirements for licensure.

Supervised experience (Section 65) – Subsection B is amended to eliminate the “one-year, full-time” language and provide that the residency (consisting of 1,500 hours of delivery of services) shall be completed in not less than one or more than three years. The board has added a hardship provision to allow approval of alternative supervision arrangements for geography or disability. The board proposes to allow the required 1,500 hours of supervised experience or some part thereof to be accomplished in pre-doctoral experiences as specified in subsection D of section 54. If the supervised experiences in the practicum do not total 1,500, the remaining hours may be accomplished in a residency, as currently specified in subsection B.

Standards of practice (Section 150) – The board has amended its prohibition on sexual intimacies from two years after cessation of professional services to five years, for consistency with other behavioral health professions.

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 advantage to the public is the likelihood of an increased supply of clinical psychologists available to provide clinical services to citizens and institutions. There are no disadvantages; the regulations are amended with appropriate safeguards for supervised experience and evidence of competency to practice.
 - 2) There are no disadvantages to the agency or the Commonwealth; mental health facilities may have more access to licensed psychologists as a result of less restrictive requirements for licensure by endorsement and examination.
 - 3) There are no other pertinent issues.

Changes made since the proposed stage

There were no changes made to the regulations since the proposed stage.

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.

There was no public comment.

All changes made in this regulatory action

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

Current section number	Proposed new section	Current requirement	Proposed change, rationale, and consequences
10	n/a	Sets out the definition of words and terms used in regulation	A new definition for “practicum” is included to be used in standards for pre-doctoral training for clarity in its meaning.
30	n/a	Sets out fees for applicants and licensees	The fee for a continuing education provider is eliminated since the board has eliminated approval of individual providers, and the examination fee language is eliminated since the board does not administer examinations directly to applicants.
41	n/a	Establishes requirements for licensure by examination for all categories of psychology licenses.	The examinations listed in subsection B are outdated; the examination for all types of licensees is the Examination for Professional Practice of Psychology (EPPP). The board has proposed elimination of the jurisprudence examination and replacement with an attestation of having read and agreed to comply with current standards of practice and laws governing psychology in Virginia (current requirement for licensure by endorsement).
42	n/a	Establishes requirements for licensure by endorsement for all categories of psychology licenses.	The board proposes to eliminate the prohibition of “not history of disciplinary action” as a barrier to licensure and to add a requirement for a current report from HIPDB and NPDB. <i>Applicants will still be asked about disciplinary action in other states, and a HIPDB and NPDB report will ensure accuracy in that information and offer additional information about malpractice claims. If there are grounds to deny licensure, the board has the option to do so, but a prior disciplinary action should not</i>

			<p><i>be a total bar to licensure in Virginia. Disciplinary action might have been taken for an offense unrelated to patient care (failure to obtain the requisite number of CE hours).</i></p> <p>Currently, an applicant for licensure by endorsement may be licensure based on 20 years of active licensure and an official transcript indicating the appropriate degree was earned. Proposed regulations would reduce the years of licensure to 10, as an indication of qualification for licensure in Virginia.</p> <p><i>Currently, if an applicant does not have 20 years of licensure, he must provide documentation of education, experience and examination substantially equivalent to requirements in Virginia. Such a requirement is burdensome for someone who completed a residency many years ago. The board has determined that 10 years of practice should provide ample evidence of competency, particularly with the added safeguard of a HIPDB and HPDB report. There is a need to receive the NPDB report as well as the report from HIPDB because only the NPDB report contains the malpractice history, which is necessary to assess whether there may be grounds for denial of the applicant’s request for licensure. When a self-report is requested by a health practitioner from HIPDB, the applicant also receives the NPDB report</i></p>
43	n/a	Sets out requirements for licensure as a school psychologist-limited	To clarify the regulation, the Board will specify current employment by a school system under the Virginia Department of Education.
54	n/a	Sets out educational requirements for clinical licensure	<p>In order to ensure consistency and quality in those experiences, it is necessary to establish standards for pre-doctoral training. Those standards would include the following:</p> <ol style="list-style-type: none"> 1. The supervised professional experience must be part of an organized sequence of training within the applicant’s doctoral program, which meets the criteria specified in this section. 2. The supervised experience must include face-to-face direct client services, service-related activities, and supporting activities. Those terms are defined as follows: <ol style="list-style-type: none"> a. “Face-to-face direct client services”

			<p>means treatment/intervention, assessment and interviewing of clients.</p> <p>b. “Service-related activities” means scoring, reporting or treatment note writing, and consultation related to face-to-face direct services.</p> <p>c. “Supporting activities” means time spent under supervision of face-to-face direct services and service-related activities provided on-site or in the trainee’s academic department, as well as didactic experiences, such as laboratories or seminars, directly related to such services or activities.</p> <p>3. In order for pre-doctoral practicum hours to fulfill the all or part of the residency requirement, the following is required:</p> <p>a. Not less than one-quarter of the hours must be spent in providing face-to-face direct client services;</p> <p>a. Not less than one-half of the hours must be in a combination of face-to-face direct service hours and hours spent in service-related activities; and</p> <p>b. The remainder of the hours may be spent in a combination of face-to-face direct services, service-related activities and supporting activities.</p> <p>4. A minimum of one hour of individual face-to-face supervision must be provided for every eight hours of supervised professional experience spent in direct client contact and service-related activities.</p> <p>5. The hours of pre-doctoral supervised experience reported by an applicant must be certified by the program’s director of clinical training on a form provided by the board.</p> <p><i>The current regulations for supervised experience in section 65 would remain unchanged for those electing to obtain the entire second year of required supervised experience through a postdoctoral residency.</i></p>
65	n/a	Sets out the requirements for supervised experience	Subsection B is amended to eliminate the “one-year, full-time” language and provide that the residency (consisting of 1,500 hours of delivery of services) shall be completed in not

			<p>less than one or more than three years. The Board has added a hardship provision to allow approval of alternative supervision arrangements for geography or disability. The Board proposes to allow the required 1,500 hours of supervised experience or some part thereof to be accomplished in pre-doctoral experiences as specified in subsection D of section 54. If the supervised experiences in the practicum do not total 1,500, the remaining hours may be accomplished in a residency, as currently specified in subsection B.</p> <p><i>Revising regulations to specify that the 1,500 hours may be accomplished in no less than 12 months or more than 3 years (rather than one year, full time) allows a resident more flexibility to obtain the required hours. The opportunity for a waiver of requirements for a supervisor also allows more flexibility for an applicant seeking to meet requirements for licensure. The proposal to allow pre-doctoral supervised experiences to count toward the 1,500 hours will enable many applicants to obtain a full license a year earlier.</i></p>
80	n/a	Sets out requirements general examination requirements	<p>In subsection A, the requirement for a state examination is eliminated. The “jurisprudence” examination is not required for licensure by endorsement, so the change is consistent.</p> <p><i>Currently, the jurisprudence examination is open-book, has not been deemed psychometrically sound, and has not been routinely updated with changes in law and regulation. Other boards have eliminated such examination with no noticeable effect.</i></p>
120	n/a	Sets out requirements for annual renewal of licensure	<p>Amendments will eliminate unnecessary dates and specify that the waiver of continuing education is only for those initially licensed by examination.</p>
150	n/a	Sets out the standards of practice, a violation of which could subject a licensee to disciplinary action	<p>The prohibition on sexual intimacies by licensees is amended to include a romantic relationship, and the prohibition extended from two to five years after cessation or termination of services.</p> <p><i>The proposed language and time frame for the prohibition is consistent with standards of the other two behavioral health boards, social</i></p>

		<p><i>work and counseling. Psychologists should not have a lesser standard than their colleagues with regard to inappropriate relationships with clients, students, residents or others in a collateral therapeutic relationship.</i></p>
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Regulatory flexibility analysis

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

There were no alternative methods considered; requirements for the residency are set out in regulations and may only be changed by amendments to regulation. Other changes are clarifications and are recommended as the result of a periodic review mandated by law.

Family impact

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

There is no impact on the family or family stability.