



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 Counseling
**18 VAC 115-60 – Regulations Governing the Practice of Licensed Substance Abuse
Treatment Practitioners**

Department of Health Professions

April 9, 2007

Summary of the Proposed Regulation

The Board of Counseling proposes to amend three chapters of its regulations that govern Licensed Professional Counselors (LPC), Marriage and Family Therapists (MFT), and Licensed Substance Abuse Treatment Practitioners (LSATP). For all three of these chapters, the Board proposes to allow individuals that have been licensed as a LPC, MFT or LSATP in another state, and who has been in practice five of the preceding six years, to be licensed by endorsement in the Commonwealth. The Board proposes to allow, but not require, licensees, and potential licensees, to bank their credentials with the American Association of State Counseling Boards (AASCB). The Board also proposes to eliminate references in these regulations to “face-to-face” supervision, to require that individuals who are completing their 4,000 hour residency receive a minimum of one hour and a maximum of two hours of supervision per 40 hours worked and to require that all individuals who are completing a residency register their supervision with the Board. In addition, the Board proposes to require that supervisors receive specific training in supervision.

Result of Analysis

The benefits likely exceed the costs for these proposed regulatory changes.

Estimated Economic Impact

Currently, individuals who were initially licensed in other states may only be licensed by endorsement in Virginia if these individuals have “completed education and experience requirements substantially equivalent to those in affect in Virginia at the time of initial

licensure.” Currently, individuals who apply for licensure by endorsement must submit official transcripts and original application materials (from initial licensure in another state) to prove they have completed all relevant education and experience requirements. Individuals who have not accrued education and experience hours that are “substantially equivalent” to those required for licensure in Virginia are barred from licensure in the Commonwealth even if they have been licensed in another state, and have been in practice, for many years. Additionally, individuals who apply for licensure by endorsement (or for that matter, licensure by examination) must produce official transcripts and other original documentation that may be difficult to compile... especially if the applicant has been out of school for many years.

The Board proposes to allow greater flexibility by adding a path to licensure that allows individuals to be licensed by endorsement if: 1) they have met the requirements to be licensed in another state, 2) they have no unresolved disciplinary actions pending against their licenses and 3) they have been in clinical practice five out of the last six years. This change will benefit individuals who are licensed in other states as it will allow greater license portability should they choose to practice in Virginia. Although it appears that relatively few individuals are licensed by endorsement in any given year (see *Businesses and Entities Affected* below), this change will also likely slightly benefit the citizens of Virginia by slightly broadening the pool of counselors from whom they can choose to seek services.

The Board also proposes to allow all applicants for licensure to bank all their credentials (hours of education for initial licensure, hours of supervised work experience, continuing education hours, etc.) with AASCB. AASCB could then certify to the Board that these individuals meet licensure requirements. This option will likely mostly benefit individuals who are now in the process of completing licensure requirements, or who will complete these requirements at some point in the future, since these individuals can easily bank their credentials as they earn them. Individuals who have been licensed for a number of years, particularly those who are applying for licensure by endorsement, will likely not find this option to be of value. They will still have to gather official transcripts and original application information to either submit to the Board or to AASCB. They will likely expend the same amount of effort no matter where their information ends up.

Current regulations require applicants for licensure as LPC's, MFT's and LSATP's to complete, among other things, a 4,000 hour residency. To meet current requirements, 200 of these 4,000 hours must be supervised "face-to-face" and, at a minimum, one out of every 20 hours must be supervised. Current regulations do not require individuals who are completing their residencies in exempt settings like Community Service Boards or state hospitals to register supervision with the Board (all other residents must do this).

The Board proposes to eliminate references to "face-to-face" supervision and instead frame supervision requirements as either "individual supervision" or "group supervision". The Department of Health Professions (DHP) reports that the term "face-to-face" is not specific enough. Eliminating this term will make these regulations clearer and will also allow supervisors to track residents' progress electronically. This change will benefit both residents and their supervisors by clarifying what the regulations require of them. This change will also allow electronic supervision which may provide a more efficient means of meeting regulatory requirements for both supervisors and residents.

Additionally, the Board proposes to require a minimum of one hour and a maximum of two hours of supervision for every 40 residency hours worked. DHP reports that the Board wants to guard against residents bunching their hours of supervision at the beginning or end of their residency rather than being supervised fairly evenly throughout. This change, on its face, appears to offer residents some flexibility since there is a range of supervision per 40 hours of work experience that would be acceptable to the Board. In reality, residents would have to be supervised at the rate of two hours per 40 hours of work experience for the entirety of their residency in order to get the required 200 hours of supervision during a 4,000 hour residency.¹ This provision may create confusion for residents who are trying to meet Board requirements. DHP has agreed to take this issue to the Board. The Board may choose to change the wording of this provision so that the regulation either offers a viable range for hours of supervision or no range at all.

¹ 4,000 divided by 40 (hour increments) equals 100 time blocks that would need to be supervised at an allowable rate. At one hour of supervision per time block, residents would only have accrued 100 hours of supervision at the end of their residency. No combination of supervision ratios but two hours of supervision for all 100 time blocks will allow residents to have 200 hours of supervision within the parameter of a 4,000 hour residency.

The Board also proposes to begin requiring all residents, even those working in exempt settings, to register supervision with the Board. This change will eliminate the possibility that residents in exempt settings would inadvertently choose supervisors who do not meet Board criteria. Hours of supervision completed with unqualified supervisors could not be counted toward the Board required 200 hours of supervision and, so, residents might inadvertently delay their own licensure if they use unqualified supervisors. DHP believes that most residents in exempt settings already register supervision with the Board (see *Businesses and Entities Affected* below). Those who do not already register will incur costs that include a \$50 fee per supervisor registered plus the value of the likely small amount of time spent filling out and filing registration paperwork.

All three chapters of the affected regulations currently require that supervisors have “professional training in supervision” but only one chapter, the one that regulates LSATP’s, offers any sort of guidance as to what education qualifies as professional training. LSATP supervisors are currently required to complete a three credit-hour course in supervision.

The Board proposes to expand the types of education that will meet the criteria for “professional training in supervision” for LSATP’s and to add identical language to the regulations that govern LPC’s and MFT’s so that all three chapters are consistent on this point. The Board proposes to require supervisors in all three fields to complete: 1) a three credit-hour course in supervision, 2) a 4.0 quarter-hour course in supervision or 3) at least 20 hours of approved continuing education in supervision. LPC and MFT supervisors, who until now have not had to meet specific criteria, will have two years from the effective date for these regulatory changes to complete the required education. Since these supervisors must complete 20 hours of continuing education annually in order to renew their licenses, they will likely incur no extra fees on account of this regulatory requirement.

Businesses and Entities Affected

These proposed regulatory changes will affect residents who are working toward licensure as LPC’s, MFT’s or LSATP’s, as well as licensees who act as supervisors for these residents. LPC’s, MFT’s and LSATP’s who are initially licensed in another state, and who wish to also (or instead) be licensed in Virginia will also be affected. In 2006, 17 MFT’s, 7 LSATP’s

and 62 LPC's were licensed by endorsement. During the same period, 135 individuals registered supervision with the Board and 133 individuals were granted initial licensure by the Board.

Localities Particularly Affected

No locality will be particularly affected by these regulatory changes.

Projected Impact on Employment

The number of LPC's, MFT's and LSATP's practicing in the Commonwealth may increase slightly on account of more flexible licensure by endorsement provisions. The change in supply of counselors will likely be too slight to affect the market price of counseling services.

Effects on the Use and Value of Private Property

Individuals who are initially licensed in another state may see the value of their licenses increase slightly if the new path for licensure by endorsement allows them to be licensed in the Commonwealth and they are able to increase their profits by practicing in Virginia.

Small Businesses: Costs and Other Effects

The Board currently licenses 2,884 Licensed Professional Counselors, 838 Marriage and Family Therapists and 177 Licensed Substance Abuse Treatment Practitioners. Neither DHP nor DPB can estimate how many of these licensees practice in private settings that qualify as small businesses. In any case, affected small businesses will likely incur no extra costs on account of these regulatory changes.

Small Businesses: Alternative Method that Minimizes Adverse Impact

Affected small businesses will likely incur no extra costs on account of these regulatory changes.

Legal Mandate

The Department of Planning and Budget (DPB) has analyzed the economic impact of this proposed regulation in accordance with Section 2.2-4007.H of the Administrative Process Act and Executive Order Number 21 (02). Section 2.2-4007.H requires that such economic impact analyses include, but need not be limited to, the projected number of businesses or other entities to whom the 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. Further, if the proposed regulation has adverse effect on small businesses, Section 2.2-4007.H requires that such economic impact analyses include (i) an identification and estimate of the number of small businesses subject to the regulation; (ii) the projected reporting, recordkeeping, and other administrative costs required for small businesses to comply with the regulation, including the type of professional skills necessary for preparing required reports and other documents; (iii) a statement of the probable effect of the regulation on affected small businesses; and (iv) a description of any less intrusive or less costly alternative methods of achieving the purpose of the regulation. The analysis presented above represents DPB's best estimate of these economic impacts.