



townhall.virginia.gov

Proposed Regulation Agency Background Document

Agency name	Board of Social Work, Department of Health Professions
Virginia Administrative Code (VAC) citation(s)	18VAC140-20-10 et seq.
Regulation title(s)	Regulations Governing the Practice of Social Work
Action title	Definition of psychosocial interventions and requirement for supervision in a reinstatement or reactivation
Date this document prepared	2/22/17

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), Executive Orders 17 (2014) and 58 (1999), and the *Virginia Register Form, Style, and Procedure Manual*.

Brief summary

Please provide a brief summary (preferably no more than 2 or 3 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of the proposed new regulation, proposed amendments to the existing regulation, or the regulation proposed to be repealed.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 amended two sections of regulation by the following: 1) amend the definition of clinical social work services to include psychosocial interventions; 2) require applicants for reinstatement to provide verification of licensure in another state, if applicable, and a report from NPDB; and 3) amend section 110 to specify an amount of supervision that is required for a person who has not actively practiced for 10 or more years and applies to reinstate or reactivate his license.

Acronyms and Definitions

Please define all acronyms used in the Agency Background Document. Also, please define any technical terms that are used in the document that are not also defined in the “Definition” section of the regulations.

NPDB = U. S. Department of Health and Human Services National Practitioner Data Bank

Legal basis

Please identify the state and/or federal legal authority to promulgate this proposed regulation, including: 1) the most relevant citations to the Code of Virginia or General Assembly chapter number(s), if applicable; and 2) promulgating entity, i.e., agency, board, or person. Your citation should include a specific provision authorizing the promulgating entity to regulate this specific subject or program, as well as a reference to the agency/board/person’s overall regulatory authority.

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:

...

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. Describe the rationale or justification of the proposed regulatory action. Describe the specific reasons the regulation 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 purpose of adding “psychosocial interventions” is to broaden the definition of clinical social work to be more inclusive of those therapeutic modalities that expand beyond the strict definition of “psychotherapy.” The addition of psychosocial interventions is intended to update the current definition of clinical social work services to more accurately reflect the scope of practice for clinical social workers.

The addition of requirements for documentation of a licensure or certification in another jurisdiction and a report from NPDB will provide the Board with important information about possible disciplinary in another state or malpractice action against an applicant for reinstatement whose license has been lapsed for more than one year.

The purpose of specifying an amount of supervision during the 360 hours of supervised practice is intended to ensure that a person who has not been practicing is now competent to resume active practice with clients. A supervisor would be required to have specific oversight for the person seeking reinstatement or reactivation, so the Board can have some assurance that a client’s health, safety and welfare is protected when in the care of a supervisee.

Specifying an amount of supervision for applicants for reinstatement or reactivation who have not been actively practicing is intended to clarify the intent in requiring **supervised** practice for at least 360 hours in the 12 months immediately preceding licensure in Virginia. Currently, regulations provide no definitive guidance on how much supervision is required during the 360 hours. In amended regulations, the Board has specified a minimum of 60 hours of face-to-face direct client contact and nine hours of face-to-face supervision during the 360 hours. Since the amended regulation would only require active practice or supervised hours of practice for those who have been lapsed or inactive for 10 or more years, there is a heightened necessity for more specificity about the supervised practice to ensure safety and competency when a full license is granted.

Substance

Please briefly identify and explain the new substantive provisions, the substantive changes to existing sections, or both. A more detailed discussion is provided in the “Detail of changes” section below.

The Board has amended two sections of regulation by: 1) amending the definition of clinical social work services to include psychosocial interventions; 2) requiring applicants for reinstatement to provide verification of licensure in another state, if applicable, and a report from NPDB; and 3) amending section 110 to specify an amount of supervision that is required for a person who has not actively practiced for 10 or more years and applies to reinstate or reactivate his license.

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.

- 1) The primary advantage to the public is more explicit rule about supervision for applicants whose licenses have been lapsed or inactive. There are no disadvantages to the public;
- 2) There are no advantages and disadvantages to the agency or the Commonwealth; and
- 3) There are no other pertinent matters of interest to the regulated community, government officials, and the public. The Director of the Department of Health Professions has reviewed the proposal and performed a competitive impact analysis. The Board is authorized under § 54.1-2400 to “promulgate regulations in accordance with the Administrative Process Act which are reasonable and

necessary to administer effectively the regulatory system.” Any restraint on competition that results from this regulation is in accord with the General Assembly’s policy as articulated in § 54.1-100 and is necessary for the preservation of the health, safety, and welfare of the public and will further the public’s need for assurances of quality care.

Requirements more restrictive than federal

Please identify and describe any requirement of the proposal which is more restrictive than applicable federal requirements. Include a rationale for the need for the more restrictive requirements. If there are no applicable federal requirements or no requirements that exceed applicable federal requirements, include a statement to that effect.

There are no applicable federal requirements.

Localities particularly affected

Please identify any locality particularly affected by the proposed regulation. Locality particularly affected means any locality which bears any identified disproportionate material impact which would not be experienced by other localities.

There are no localities particularly affected.

Public participation

Please include a statement that in addition to any other comments on the proposal, the agency is seeking comments on the costs and benefits of the proposal and the impacts of the regulated community.

In addition to any other comments, the Board of Social Work is seeking comments on the costs and benefits of the proposal and the potential impacts of this regulatory proposal. Also, the agency/board is seeking information on impacts on small businesses as defined in § 2.2-4007.1 of the Code of Virginia. Information may include 1) projected reporting, recordkeeping and other administrative costs, 2) probable effect of the regulation on affected small businesses, and 3) description of less intrusive or costly alternative methods of achieving the purpose of the regulation.

Anyone wishing to submit written comments may do so via the Regulatory Townhall website, www.townhall.virginia.gov, or by mail to Elaine Yeatts at Department of Health Professions, 9960 Mayland Drive, Suite 300, Richmond, VA 23233 or elaine.yeatts@dhp.virginia.gov or by fax to (804) 527-4434. Comments may also be submitted through the Public Forum feature of the Virginia Regulatory Town Hall web site at: <http://www.townhall.virginia.gov>. Written comments must include the name and address of the commenter. In order to be considered, comments must be received by 11:59 pm on the last day of the public comment period.

A public hearing will be held following the publication of this stage and notice of the hearing will be posted on the Virginia Regulatory Town Hall website

(<http://www.townhall.virginia.gov>) and on the Commonwealth Calendar website (<https://www.virginia.gov/connect/commonwealth-calendar>). Both oral and written comments may be submitted at that time.

Economic impact

Please identify the anticipated economic impact of the proposed new regulations or amendments to the existing regulation. When describing a particular economic impact, please specify which new requirement or change in requirement creates the anticipated 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 no additional costs for mailings to the Public Participation Guidelines mailing lists, conducting a public hearing, and sending notice of final regulations to regulated entities. Since most mailings to the PPG list are handled electronically, there is very little cost involved. Every effort will be made to incorporate those into anticipated mailings and Board meetings already scheduled. There are no on-going expenditures.</p>
<p>Projected cost of the new regulations or changes to existing regulations on localities.</p>	<p>There are no costs to localities.</p>
<p>Description of the individuals, businesses, or other entities likely to be affected by the new regulations or changes to existing regulations.</p>	<p>Applicants for licensure by reinstatement or reactivation.</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: a) is independently owned and operated and; b) 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 of applicants who could potentially be affected. Since the requirement for active or supervised practice would now only apply to persons who have been lapsed or inactive or 10 or more years, the number affected is likely to be very small.</p>
<p>All projected costs of the new regulations or changes to existing regulations for affected individuals, businesses, or other entities. Please be specific and include all costs including: a) the projected reporting, recordkeeping, and other administrative costs required for compliance by small businesses; and b) specify any costs related to the development of real estate for commercial or residential purposes that are a consequence of the proposed regulatory changes or new regulations.</p>	<p>The cost for obtaining documentation of licensure in another state, if applicable, depends on what the jurisdiction charges for licensure verification – typically \$25 or less. The cost for a NPDB report is \$6.</p>
<p>Beneficial impact the regulation is designed</p>	<p>The beneficial impact would be clarification of</p>

<p>to produce.</p>	<p>the rules and a more explicit regarding supervision for applicants for reinstatement or reactivation.</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. Also, include discussion of less intrusive or less costly alternatives for small businesses, as defined in § 2.2-4007.1 of the Code of Virginia, of achieving the purpose of the regulation.

These three changes are intended to ensure the safety and competency of applicants who have been out of practice for a period of time and are seeking re-licensure. There are no viable alternatives that are less burdensome or intrusive and consistent with the Board’s mission of protecting the public.

Regulatory flexibility analysis

Pursuant to § 2.2-4007.1B of the Code of Virginia, 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 are no alternative methods for accomplishing the intent of this action.

Public comment

Please summarize all comments received during the public comment period following the publication of the NOIRA, and provide the agency response.

The NOIRA was published on 1/28/16 with comment requested until 12/28/16; there was no comment received.

Family impact

Please assess the impact of this 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.

Detail of changes

Please list all changes that are being proposed and the consequences of the proposed changes; explain the new requirements and what they mean rather than merely quoting the proposed text of the regulation. If the proposed regulation is a new chapter, describe the intent of the language and the expected impact. Please describe the difference between existing regulation(s) and/or agency practice(s) and what is being proposed in this regulatory action. If the proposed regulation is intended to replace an emergency regulation, please follow the instructions in the text following the three chart templates below.

Current section number	Current requirement	Proposed change, intent, rationale, and likely impact of proposed requirements
10	Sets out definitions of words and terms used in the chapter.	<p>The term "Clinical social work services" is amended to include <u>psychosocial interventions</u>.</p> <p><i>In the Model Practice Act for the Association of Social Work Boards (ASWB), the practice of clinical social work is described in terms of restoration or enhancement of "social, psychosocial, or biopsychosocial functioning of individuals, couples, families, groups, organizations, and communities..." Psychosocial is defined in a dictionary of modern medicine as: "A nonpharmacologic maneuver intended to alter a patient's environment or reaction to lessen the impact of a mental disorder."</i></p> <p><i>The National Alliance on Mental Illness describes psychosocial as: "Psychosocial treatments include different types of psychotherapy and social and vocational training, and aim to provide support, education and guidance to people with mental illness and their families. Psychosocial treatments are an effective way to improve the quality of life for individuals with mental illness and their families. They can lead to fewer hospitalizations and less difficulties at home, at school and at work."</i></p> <p><i>The definition of clinical social work services is more complete with the inclusion of the term psychosocial interventions because it is descriptive of a large part of clinical social work services.</i></p>
110	Sets out the requirements for reinstatement or reactivation of a license that has been lapsed or inactive for more than one year.	<p>Subsection B is amended to require: 1) Documentation of any other health or mental health licensure or certification held in another U. S. jurisdiction, if applicable; and 2) A current report from the U.S. Department of Health and Human Services National Practitioner Data Bank (NPDB).</p> <p><i>Both requirements are intended to check on possible disciplinary action or malpractice judgments during the period in which a Virginia license was lapsed. If an applicant has not been practicing in another jurisdiction, the documentation about licensure is not required, but the NPDB report may provide information about malpractice</i></p>

		<p><i>that occurred during or after licensure in Virginia. Both are necessary to determine whether there are grounds to deny reinstatement.</i></p> <p><i>Subsection C is amended to reduce the burden of reinstatement by only requiring evidence of active practice or supervised practice if an applicant has been lapsed for 10 or more years. By only requiring continuing education rather than supervised practice, an applicant will find it far less costly and burdensome to reinstate a lapsed license. Applicants who have not been in active practice in another state or in an exempt setting typically have to volunteer their services and pay a licensee to act as a supervisor to obtain the required 360 hours. With the amended regulation, only those who have been out of practice for an extended period of time will have to have supervised practice before a full license can be granted.</i></p> <p><i>The supervised practice has been clarified to include a minimum of 60 hours of face-to-face direct client contact and nine hours of face-to-face supervision. The hours are proportional to the requirement for supervised practice for initial licensure.</i></p> <p>Subsection D is amended for reactivation to be consistent with the requirement for evidence of active practice or supervised practice for an applicant whose license has been inactive for 10 or more years. The amendment to the fee for reactivation is a clarification that only the difference between an active and an inactive fee is owed by an applicant for reactivation.</p>
--	--	--