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## Notice of Intended Regulatory Action (NOIRA) Agency Background Document

<b>Agency name</b>	Board of Social Work, Department of Health Professions
<b>Virginia Administrative Code (VAC) Chapter citation(s)</b>	18VAC140-20
<b>VAC Chapter title(s)</b>	Regulations Governing the Practice of Social Work
<b>Action title</b>	Implementation of 2022 Periodic Review Changes
<b>Date this document prepared</b>	June 7, 2022

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), Executive Order 14 (as amended, July 16, 2018), the Regulations for Filing and Publishing Agency Regulations (1VAC7-10), and the *Form and Style Requirements for the Virginia Register of Regulations and Virginia Administrative Code*.

### Brief Summary

*Provide a brief summary (preferably no more than 2 or 3 paragraphs) of the subject matter, intent, and goals of this regulatory change (i.e., new regulation, amendments to an existing regulation, or repeal of an existing regulation).*

Following a periodic review initiated November 17, 2021, the Board identified several areas of Chapter 20 it will consider amending. Those areas include: clarifying terminology and requirements for LCSWs, LMSWs, and LBSWs within the regulations; reviewing the definition of “ancillary services” for comprehensiveness and clarity; amending 18VAC140-20-150 to include diagnosing third parties and providing children sex education without express parental consent as actions that constitute unprofessional conduct; removing redundant provisions, terms, and definitions; clarify responsibilities of supervisors of LCSW candidates; and include additional organizations for approval of continuing education.

### Acronyms and Definitions

*Define all acronyms or technical definitions used in this form.*

LBSW = licensed bachelor social worker  
LMSW = licensed master social worker  
LCSW = licensed clinical social worker

### Mandate and Impetus

*Identify the mandate for this regulatory change and any other impetus that specifically prompted its initiation (e.g., new or modified mandate, petition for rulemaking, periodic review, or board decision). For purposes of executive branch review, “mandate” has the same meaning as defined in Executive Order 14 (as amended, July 16, 2018), “a directive from the General Assembly, the federal government, or a court that requires that a regulation be promulgated, amended, or repealed in whole or part.”*

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The impetus for this regulatory action is implementation of recommendations from the Board’s periodic review of regulations. A general notice was published with a listed comment period from December 20, 2021 to January 19, 2022. There were no comments received.

### Legal Basis

*Identify (1) the promulgating agency, and (2) the state and/or federal legal authority for the regulatory change, including the most relevant citations to the Code of Virginia and Acts of Assembly chapter number(s), if applicable. Your citation must include a specific provision, if any, authorizing the promulgating agency to regulate this specific subject or program, as well as a reference to the agency’s overall regulatory authority.*

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Regulations of the Board of Social Work are promulgated under the general authority of Chapter 24 of Title 54.1 of the Code of Virginia. Virginia Code § 54.1-2400(6) specifically states that the general powers and duties of health regulatory boards shall be “[t]o promulgate regulations in accordance with the Administrative Process Act (§ 2.2-4000 et seq.) that are reasonable and necessary to administer effectively the regulatory system.”

### Purpose

*Describe the specific reasons why the agency has determined that this regulation is essential to protect the health, safety, or welfare of citizens. In addition, explain any potential issues that may need to be addressed as the regulation is developed.*

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The amendments being considered are necessary to protect public health and safety by ensuring that social workers are working under conditions that allow for safe practice and by removing any barriers to practice that are not essential to safety of patients and the public.

### Substance

*Briefly identify and explain the new substantive provisions that are being considered, the substantive changes to existing sections that are being considered, or both.*

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The amendments the Board is considering consist of: clarifying terminology and requirements for LCSWs, LMSWs, and LBSWs within the regulations; reviewing the definition of “ancillary services” for

comprehensiveness and clarity; amending 18VAC140-20-150 to include diagnosing third parties and providing children sex education without express parental consent as actions that constitute unprofessional conduct; removing redundant provisions, terms, and definitions; clarify responsibilities of supervisors of LCSW candidates; and include additional organizations for approval of continuing education.

### Alternatives to Regulation

*Describe any viable alternatives to the regulatory change that were considered, and the rationale used by the agency to select the least burdensome or intrusive alternative that meets the essential purpose of the regulatory change. 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 regulatory change.*

The Board is required to license social workers and promulgate standards of practice through the use of regulation. There is no alternative to a regulatory action to edit the regulations already in place.

### Periodic Review and Small Business Impact Review Announcement

*If you wish to use this regulatory action to conduct, and this NOIRA to announce, a periodic review (pursuant to § 2.2-4017 of the Code of Virginia and Executive Order 14 (as amended, July 16, 2018)), and a small business impact review (§ 2.2-4007.1 of the Code of Virginia) of this regulation, keep the following text. Modify as necessary for your agency. Otherwise, delete the paragraph below and insert "This NOIRA is not being used to announce a periodic review or a small business impact review."*

This action is the result of a periodic review; it is not being used to announce a periodic review or small business impact review.

### Public Participation

*Indicate how the public should contact the agency to submit comments on this regulation, and whether a public hearing will be held, by completing the text below. In addition, as required by § 2.2-4007.02 of the Code of Virginia describe any other means that will be used to identify and notify interested parties and seek their input, such as regulatory advisory panels or general notices.*

The Board of Pharmacy is providing an opportunity for comments on this regulatory proposal, including but not limited to (i) the costs and benefits of the regulatory proposal, (ii) any alternative approaches, and (iii) the potential impacts of the regulation.

Anyone wishing to submit written comments for the public comment file may do so through the Public Comment Forums feature of the Virginia Regulatory Town Hall web site at: <https://townhall.virginia.gov>. Comments may also be submitted by mail or email to Erin Barrett at [erin.barrett@dhp.virginia.gov](mailto:erin.barrett@dhp.virginia.gov) or at 9960 Mayland Drive, Henrico, VA 23233 or by fax at (804) 915-0382. 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 (<https://townhall.virginia.gov>) and on the

Commonwealth Calendar website (<https://commonwealthcalendar.virginia.gov/>). Both oral and written comments may be submitted at that time.