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Regulatory
Town Hall

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Fast Track Proposed Regulation Agency Background Document

Agency name	Virginia Board of Counseling - Dept. of Health Professions
Virginia Administrative Code (VAC) citation	18VAC115 - 20; 18VAC115 - 50; and 18VAC115 - 60;
Regulation title	Regulations Governing The Practice Of Professional Counseling; Regulations Governing The Practice Of Marriage And Family Therapy; Regulations Governing The Practice Of Licensed Substance Abuse Treatment Practitioners.
Action title	Name change of credentialing organizations for continuing education
Document preparation date	December 30, 2005

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), Executive Orders 21 (2002) 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of the proposed new regulation, proposed amendments to the existing regulation, or the regulation proposed to be repealed.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.

The Board proposes to amend existing sections: 18 VAC 115-20-106B1d6 of Regulations Governing the Practice Professional Counseling; 18 VAC 115-50-96.B1d6 of Regulations Governing the Practice of Marriage and Family Therapy; and 18 VAC 115-60-116B1d6 of Regulations Governing the Practice of Licensed Substance Abuse Treatment Practitioners to correctly designate the responsible organization referenced in that section. Currently each section references the "Commission on Rehabilitation Education." It has been brought the Board's attention that the correct name should be "The Commission on Rehabilitation Counselor Certification."

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

On November 4, 2005 the Virginia Board of Counseling voted to amend sections: 18 VAC 115-20-106B6 of Regulations Governing the Practice of Professional Counseling; 18 VAC 115-50-96.B1d6 of Regulations Governing the Practice of Marriage and Family Therapy; and 18 VAC 115-60-116B1d6 of Regulations Governing the Practice of Licensed Substance Abuse Treatment Practitioners by correcting the regulation sections to read "The Commission on Rehabilitation Counselor Certification."

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 General Assembly chapter number(s), if applicable, and (2) promulgating entity, i.e., the agency, board, or person. Describe the scope of the legal authority and the extent to which the authority is mandatory or discretionary.

Regulations Governing the Practice of Counseling, 18 VAC 115-20-10 et seq., Regulations Governing the Practice of Marriage and Family Therapy, 18 VAC 115-50-10 et seq., and Regulations Governing the Practice of Licensed Substance Abuse Treatment Practitioners, 18 VAC 115-60-10 et seq., are promulgated in the general authority of Chapter 24 of Title 54.1 of the Code of Virginia. Section 54.1-2400(6), which provide the Board of Counseling the authority to promulgate regulation 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 (§ 2.2-4000 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.

The specific statutory authority for the Board of Counseling to promulgate continued competency requirements is found in § 54.1-3505.1 of the Code of Virginia.

§ 54.1-3505.1 Continuing competency requirements.

The Board shall promulgate regulations establishing requirements for evidence of continued competency as a condition of renewal of a license under the provisions of this chapter. The Board may approve persons who provide or accredit continuing education programs in order to accomplish the purposes of this section. The Board shall have the authority to grant exemptions or waivers or to reduce the number of continuing education hours required in cases of certified illness or undue hardship.

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 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 Board intends to amend existing regulation regarding approval of hours of continuing education competency activity to correct the name of a certifying organization.

At the November 4, 2005 board meeting Lori Cowan, representing the Commission on Rehabilitation Counselor Certification (CRCC), and the Commission on Rehabilitation Education (CRE), brought to the board's attention that regulation 18 VAC 115-20-106.B1d6 was in error. She stated that the approved provider should be the CRCC as it is organization that provides the trainings, not the CRE.

Organizations providing continuing education related to rehabilitation counseling may have their programs pre-approved by CRCC. This benefits certified individuals who are seeking continuing education opportunities because they know that the program is appropriate. The CRCC's approval process for programs or training taken for certification renewal assures that high quality continuing education programs are being offered to increase rehabilitation counselors' expertise. Organizations offering programs may seek pre-approval in order to promote its program offerings to certified rehabilitation counselors.

The amendment of this regulation is essential to protect the health, safety or welfare of citizens because it will clarify and the proper name of the organization responsible for authorizing the provision of rehabilitation counseling continuing education. Counseling professionals who provide rehabilitation counseling need approved courses and seminars to further their knowledge in this area in order to practice in a safe and competent manner. Consequentially, safe and competent practitioners lessen the chance of harm to consumers of these services.

Rationale for using fast track process

Please explain the rationale for using the fast track process in promulgating this regulation. Please note: If an objection to the use of the fast-track process is received within the 60-day public comment period from 10 or more persons, any member of the applicable standing committee of either house of the General Assembly or of the Joint Commission on Administrative Rules, the agency shall (i) file notice of the objection with the Registrar of Regulations for publication in the Virginia Register, and (ii) proceed with the normal promulgation process with the initial publication of the fast-track regulation serving as the Notice of Intended Regulatory Action.

The fast track process is being utilized in promulgating this regulation due to the relatively minor amendment being made and the unlikely chance of objection to the amendment.

Substance

Please briefly identify and explain the new substantive provisions, the substantive changes to existing sections, or both where appropriate. (Provide more detail about these changes in the "Detail of changes" section.)

The Board of Counseling does not regulate nor approve providers of continuing education for its licensees. Instead, the board sets out in regulation a list of eleven organizations and associations that may approve or certify workshops, seminars, conferences, or courses in the behavioral health field offered by an individual or organization. One of this eleven is the "Commission on Rehabilitation Education."

The board has always attempted to maintain current up-to-date information in all of its regulations governing the practice of professions under its statutory authority. Although this change is fairly minor in nature the board nevertheless feels that amendment of regulation at this time is absolutely necessary.

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 advantages and disadvantages to the public, such as individual private citizens or businesses, of implementing the new or amended provisions:

The primary advantages to the public of implementing the new or amended provisions will be clarification in areas where unnecessary or outdated language needs to be rescinded, and where new language is needed for improved consistency within the regulation.

There are no disadvantages to the public or to individual businesses, which are not affected by these amendments.

2) The primary advantages and disadvantages to the agency or the Commonwealth:

The primary advantage to the agency or the Commonwealth may be a decrease in the amount of questions received asking about the continuing education provider status of the "Commission on Rehabilitation Education" and the "The Commission on Rehabilitation Counselor Certification."

There are no disadvantages to the agency or the Commonwealth, which are not affected by these amendments.

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.

There are no other pertinent matters of interest to the regulated community, government officials, and the public.

Financial impact

Please identify the anticipated financial impact of the proposed regulation and at a minimum provide the following information:

<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>(i) Fund source: 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 or entities for necessary functions of regulation.</p> <p>(ii) Budget activity by program or subprogram: There is no change required in the budget of the Commonwealth as a result of this program.</p> <p>(iii) One-time versus ongoing expenditures: The agency will incur some one-time costs (less than \$1,000) for mailings to the Public Participation Guidelines mailing lists, conducting a public hearing, and sending copies of final regulations to regulated entities. Every effort will be made to incorporate those into anticipated mailings and Board meetings already scheduled.</p>
<p>Projected cost of the regulation on localities</p>	<p>There are no projected costs to localities.</p>
<p>Description of the individuals, businesses or other entities likely to be affected by the regulation.</p>	<p>The individuals that are likely to be affected by these regulations would be professional counselors, marriage and family therapists, and substance abuse treatment practitioners licensed by the Board of Counseling who rely on providers of continuing education to maintain competency levels necessary for safe practice.</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 (i) is independently owned and operated and (ii) employs fewer than 500 full-time employees or has gross annual sales of less than \$6 million.</p>	<p>Currently, there are approximately 2,714 professional counselors, 823 marriage and family therapists, and 169 substance abuse treatment practitioners licensed in the Commonwealth.</p> <p>CRCC is located in Rolling Meadows, Illinois, and approves continuing education providers throughout the United States. In that these providers can offer training throughout the country at will it would be impossible to accurately estimate the number of business affected by this regulation. In that this regulation clarifies, rather than requiring a condition of continuing education there would be few if any businesses affected by the regulation.</p>

<p>All projected cost of the regulation for affected individuals, businesses, or other entities. Be specific. Be sure to include the projected reporting, recordkeeping, and other administrative costs required for compliance by small business.</p>	<p>There should be no additional costs associated with the proposed amendments. Organizations are currently subject to a \$50 fee per program/activity.</p>
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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.

As an alternative, the Board considered retaining existing language and continuing to apply the criteria of each section. This alternative was not accepted because inconsistency in the identification of the provider approval organization may not adequately protect the licensees against unprofessional practices of unacceptable providers of continuing education.

Family impact

Please assess the impact of the proposed regulatory action on the institution of the family and family stability.

The proposed regulatory action will have no impact on the institution of the family and family stability.

Detail of changes

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

If the proposed regulation is intended to replace an emergency regulation, please list separately (1) all changes between the pre-emergency regulation and the proposed regulation, and (2) only changes made since the publication of the emergency regulation.

For changes to existing regulations, use this chart:

Current section number	Proposed new section number, if applicable	Current requirement	Proposed change and rationale
20-106.B1d6		Commission on Rehabilitation Education	<p>Commission on Rehabilitation Education Commission on Rehabilitation Education Counselor Certification.</p> <p>Amendment proposed to clarify existing</p>

			language.
50-96.B1d6		Commission on Rehabilitation Education	<p>Commission on Rehabilitation Education <u>Commission on Rehabilitation Education</u> <u>Counselor Certification.</u></p> <p>Amendment proposed to clarify existing language.</p>
60-116B1d6		Commission on Rehabilitation Education	<p>Commission on Rehabilitation Education <u>Commission on Rehabilitation Education</u> <u>Counselor Certification.</u></p> <p>Amendment proposed to clarify existing language.</p>