

Adverse impact notification sent to Joint Commission on Administrative Rules, House Committee on Appropriations, and Senate Committee on Finance (COV § 2.2-4007.04.C): Yes  Not Needed

If/when this economic impact analysis (EIA) is published in the *Virginia Register of Regulations*, notification will be sent to each member of the General Assembly (COV § 2.2-4007.04.B).



## Virginia Department of Planning and Budget Economic Impact Analysis

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**18 VAC 115-20 – Regulations Governing the Practice of Counseling**  
**Department of Health Professions**  
**Town Hall Action/Stage: 4259/8032 (re-proposed stage)**  
October 1, 2017

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### **Summary of the Proposed Amendments to Regulation**

Pursuant to a petition for rulemaking,<sup>1</sup> the Board of Counseling (Board) proposed in 2016 to add a requirement for all counseling programs leading to licensure as a professional counselor to be approved by the Council for Accreditation of Counseling and Related Educational Programs (CACREP) or its affiliate, the Council on Rehabilitation Education (CORE). The Board now proposes to amend this action to also specify that applicants may qualify for licensure by examination if they have a Certified Clinical Mental Health Counselor (CCMHC) credential from the National Board of Certified Counselors (NBCC) and to also specify that “any other accrediting body acceptable to the board” may be allowed to accredit education programs and another “certification recognized by the board” may qualify individuals for licensure by examination.

### **Result of Analysis**

Costs likely outweigh benefits for this proposed regulation.

### **Estimated Economic Impact**

The Board’s initial proposed stage for the action can be found at:  
<http://townhall.virginia.gov/l/ViewStage.cfm?stageid=7390>. The Board now proposes to amend

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<sup>1</sup> <http://townhall.virginia.gov/l/viewpetition.cfm?petitionid=210>

that action to 1) specify that NBCC's CCMHC credential may qualify individuals for licensure by examination, 2) allow any educational program approved by any credentialing body approved by the Board in the future to allow individuals to meet the Board's educational requirements and 3) allow any credential approved by the Board in the future to qualify individuals for licensure by examination.

The NBCC requires counselors to have and maintain their National Certified Counselor (NCC) credential in order to be eligible for CCMHC credentialing. Current requirements for the NCC credential (including educational, supervision and post graduate work experience requirements) can be found here: <http://nbcc.org/Certification/NCC>. Current requirements for the CCMHC (including educational, supervision and post graduate clinical work experience requirements) can be found at: <http://nbcc.org/Certification/CCMHC>. Both the NCC and CCMHC credentials require an endorsement from another professional colleague with at least a master's degree education in a mental health field. The CCMHC credential requires 100 hours of post-graduate supervision which is many fewer hours than the supervised residency that the Board requires (3,400 hours). Because the CCMHC credential requires post- graduation clinical practice with clients, this alternate licensure path would only be available to counselors who have been in practice in other states and are moving to Virginia. It would not be available for individuals who are applying for licensure right after completing their education and supervised experience requirements. Both NBCC credentials also require completion of continuing education and payment of both initial and annual fees to maintain credentials. An NBCC representative reports that initial fees would vary but for counselors who are already licensed, initial fees for each credential (NCC and CCMHC) would be \$250. The same source reports that the maintenance fee for the NCC credential is \$85 per year but a jointly held credential like the CCMHC would only be \$45 extra annually. **Any individuals applying for NCC credentials on or after January 1, 2022 will have to have graduated from a CACREP accredited program.**<sup>2</sup> A representative of the NBCC reports that NBCC currently certifies 1,621 CCMHCs. These CCMHCs would be dispersed across the US and the 40<sup>3</sup> other countries in which NBCC operates.<sup>4</sup> Because of the differential in supervised experience requirements between the

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<sup>2</sup> <http://www.nbcc.org/Assets/EducationalStandards.pdf>

<sup>3</sup> <http://www.nbcc.org/About>

<sup>4</sup> NBCC also reports that they currently credential approximately 62,000 NCCs across the US and 40 other countries.

CCMHC credential and the Board's requirements for licensure by examination, it is unclear how many of those 1,621 would qualify for licensure by examination in Virginia. Some portion of the 1,621 individuals who currently have the CCMHC credential, and some portion of the individuals who may obtain it before December 31, 2021, who to move to Virginia and wish to continue their profession may benefit from this change.

While the Board also proposes to allow for some future accrediting group or credential to be approved by the Board, Board staff also reports in the agency background document for this stage that "CACREP is the only identified accrediting body for counseling education". Given the Board's position on the existence of viable alternatives, the Board seems unlikely to approve any other accrediting body or credential. Therefore the two proposed language changes that allow the Board to expand approval are unlikely to have any effect.

Given that NBCC will require a CACREP accredited education as of January 1, 2022, and the paucity of individuals who currently have the CCMHC credential, this change is unlikely to benefit more than a handful of people. Accordingly, the economic analysis completed on the initial proposed stage is likely still the best estimate of the costs and benefits<sup>5</sup> of this proposed action and costs likely still outweigh benefits. That economic analysis can be found at: [http://townhall.virginia.gov/l/GetFile.cfm?File=C:\TownHall\docroot\25\4259\7390\EIA\\_DHP\\_7390\\_vE.pdf](http://townhall.virginia.gov/l/GetFile.cfm?File=C:\TownHall\docroot\25\4259\7390\EIA_DHP_7390_vE.pdf).

## **Businesses and Entities Affected**

The Board's proposed amendments will affect all applicants for counseling licensure as well as any colleges or universities inside or outside of Virginia that currently do not have CACREP approval and whose students may choose to seek initial or subsequent counseling

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<sup>5</sup> One issue that was not emphasized in the economic analysis at the last stage is that CACREP accreditation already has many requirements that appear to go beyond what is necessary to protect the public health and safety and do not meet Executive Order 17's requirement that "regulatory activity should be undertaken with the least possible intrusion into the lives of the citizens of the Commonwealth". For instance, programs meet CACREP's requirement that they have "Settings for individual counseling, with assured privacy and sufficient space for appropriate equipment" by building observation rooms with one way glass and recording capacity (see page 5 of one university's self-analysis narrative for CACREP here: [http://coe.eku.edu/DataDashboard/CACREP2011/S1\\_LE/Standard1Narrative.pdf](http://coe.eku.edu/DataDashboard/CACREP2011/S1_LE/Standard1Narrative.pdf)). Neither the Board nor any other entity in state government has the capability to veto CACREP requirements for their private accrediting program or to provide active supervision of future CACREP accreditation requirements that may violate Virginia's best regulatory practices and raise costs for affected entities.

licensure in Virginia.<sup>6</sup> The proposed amendment will also affect programs that already have CACREP approval as it will constrain their choice to drop CACREP approval in the future if costs increase (or the benefits of CACREP accreditation decrease).

### **Localities Particularly Affected**

No locality is likely to be particularly affected by these proposed regulatory changes.

### **Projected Impact on Employment**

Seven years after its effective date<sup>7</sup>, the proposed amendment will likely limit the number of individuals qualified to seek licensure by examination as professional counselors in Virginia to some unknown extent because it will likely make it more expensive to get the required education. Additionally, there will likely be fewer individuals who would be qualified to seek licensure by endorsement as they would need to have CACREP approved education or meet active practice requirements. This proposed change will also adversely affect the employment opportunities of doctoral level teaching professionals who have counseling activities within their scope of practice but who are not trained or licensed as professional counselors. This group would include psychologists, psychiatrists, and social workers.

### **Effects on the Use and Value of Private Property**

These proposed regulatory changes are unlikely to affect the use or value of private property in the Commonwealth.

### **Real Estate Development Costs**

These proposed regulatory changes are unlikely to affect real estate development costs in the Commonwealth.

### **Small Businesses:**

#### **Definition**

Pursuant to § 2.2-4007.04 of the Code of Virginia, small business is defined as “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.”

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<sup>6</sup> As the CACREP requirement would not be enforced until 7 years after the effected date of the regulation, the adverse impacts of this regulation will be delayed.

<sup>7</sup> The Board’s proposal would not require applicants for licensure to graduate from a CACREP accredited program until seven years after the effective date of the proposed regulation.

**Costs and Other Effects**

The Board's proposed amendments would likely reduce the number of small business licensed professional counselors practicing in Virginia in the future below the number that would qualify to practice under current regulation.

**Alternative Method that Minimizes Adverse Impact**

Given that there are no apparent health or safety problems identified by the Board that might be addressed by requiring CACREP approved education, one alternative that would minimize adverse impact would be maintain the status quo and continue to evaluate educational programs as it is done now.

Additionally, pursuing reciprocity agreements based on similar residency and testing requirements with counseling boards in other political jurisdictions might address any issues of portability without requiring universities, and thus applicants for licensure, to undergo the expense of CACREP accreditation.

**Adverse Impacts:****Businesses:**

The Board's proposed amendments would likely reduce the number of licensed professional counselors practicing independently in Virginia in the future below the number that would qualify to practice under current regulation.

**Localities:**

Localities in the Commonwealth are unlikely to see any adverse impacts on account of these proposed regulatory changes.

**Other Entities:**

The Board's proposed amendments would require George Mason University to obtain CACREP approval for their counseling program within seven years if their counseling students are to remain eligible for licensure. It appears that George Mason will incur significant initial costs and ongoing costs to obtain this accreditation. The proposed amendment will likely also increase future costs at CACREP approved programs and will constrain those programs from dropping CACREP approval if they judge the costs of having that approval are no longer outweighed by the perceived benefits.

## Legal Mandates

**General:** The Department of Planning and Budget has analyzed the economic impact of this proposed regulation in accordance with § 2.2-4007.04 of the Code of Virginia (Code) and Executive Order Number 17 (2014). Code § 2.2-4007.04 requires that such economic impact analyses determine the public benefits and costs of the proposed amendments. Further the report should include but not be limited to: (1) the projected number of businesses or other entities to whom the proposed regulatory action would apply, (2) the identity of any localities and types of businesses or other entities particularly affected, (3) the projected number of persons and employment positions to be affected, (4) the projected costs to affected businesses or entities to implement or comply with the regulation, and (5) the impact on the use and value of private property.

**Adverse impacts:** Pursuant to Code § 2.2-4007.04(C): In the event this economic impact analysis reveals that the proposed regulation would have an adverse economic impact on businesses or would impose a significant adverse economic impact on a locality, business, or entity particularly affected, the Department of Planning and Budget shall advise the Joint Commission on Administrative Rules, the House Committee on Appropriations, and the Senate Committee on Finance within the 45-day period.

If the proposed regulatory action may have an adverse effect on small businesses, Code § 2.2-4007.04 requires that such economic impact analyses include: (1) an identification and estimate of the number of small businesses subject to the proposed regulation, (2) the projected reporting, recordkeeping, and other administrative costs required for small businesses to comply with the proposed regulation, including the type of professional skills necessary for preparing required reports and other documents, (3) a statement of the probable effect of the proposed regulation on affected small businesses, and (4) a description of any less intrusive or less costly alternative methods of achieving the purpose of the proposed regulation. Additionally, pursuant to Code § 2.2-4007.1, if there is a finding that a proposed regulation may have an adverse impact on small business, the Joint Commission on Administrative Rules shall be notified.

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