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Notice of Intended Regulatory Action (NOIRA)
Agency Background Document

Agency name	Board of Counseling, Department of Health Professions
Virginia Administrative Code (VAC) citation(s)	18VAC115-20
Regulation title(s)	Regulations Governing the Practice of Professional Counseling
Action title	Acceptance of practicum hours in a doctoral program
Date this document prepared	6/12/17

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.*

Subject matter and intent

Please describe briefly the subject matter, intent, and goals of the planned regulatory action.

At its meeting on May 19, 2017, the Board voted to initiate rulemaking in response to a petition filed by Dominique Adkins requesting acceptance of supervised practicum and internship hours in a doctoral program accredited by the Council for Accreditation of Counseling and Related Educational Programs (CACREP). The intent is to recognize hours acquired in an accredited doctoral programs as meeting a portion of the hours of supervised practice required for licensure.

Legal basis

Please identify the (1) the agency (includes any type of promulgating entity) and (2) the state and/or federal legal authority for the proposed regulatory action, including the most relevant citations to the Code of Virginia or General Assembly chapter number(s), if applicable. Your citation should include a specific

provision, if any, authorizing the promulgating entity to regulate this specific subject or program, as well as a reference to the agency'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 Counseling 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:*
>
> *1. To establish the qualifications for registration, certification or licensure in accordance with the applicable law which are necessary to ensure competence and integrity to engage in the regulated professions.*
>
> *2. To examine or cause to be examined applicants for certification or licensure. Unless otherwise required by law, examinations shall be administered in writing or shall be a demonstration of manual skills.*
>
> *3. To register, certify or license qualified applicants as practitioners of the particular profession or professions regulated by such board.*
>
> *...*
> *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. ...*

Specific authority for regulation of the profession of counseling is found in Chapter 35 of Title 54.1:

> ***§ 54.1-3503. Board of Counseling.***
> *The Board of Counseling shall regulate the practice of counseling, substance abuse treatment, and marriage and family therapy.*
>
> ***§ 54.1-3506. License required.***
> *In order to engage in the practice of counseling or marriage and family therapy or in the independent practice of substance abuse treatment, as defined in this chapter, it shall be necessary to hold a license*

Purpose

Please describe the specific reasons why the agency has determined that the proposed regulatory action is essential to protect the health, safety, or welfare of citizens. In addition, please explain any potential issues that may need to be addressed as the regulation is developed.

The proposed regulatory action will allow persons who have obtained a doctoral degree in counseling to become licensed with a smaller number of post-graduate hours in a supervised residency. It will accelerate the licensure process for those candidates and will allow them to provide counseling services in independent practice more quickly. Since the practicum/internship hours are within a CACREP program and under the supervision of credentialed faculty, the Board is assured of appropriate oversight to protect the health, safety, and welfare of the public.

Substance

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

The petitioner requested acceptance towards a supervised residency of up to 900 direct/indirect hours and up to 100 supervision hours, if:

- The hours are obtained in a CACREP accredited doctoral program (the petitioner provided the CACREP standards for doctoral practicum and internship hours);
- The professor or supervisor has an active professional counselor license;
- The applicant can provide logs and verification of their supervisor's license when applying for licensure.

The Board will determine the specific number of hours to be credited towards completion of a supervised residency and the qualification for those hours following receipt of comment on the NOIRA.

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.

Since the requirements for licensure and supervision are set in regulation, amendments are necessary to make any changes. There are no alternatives that meet the essential purpose of protection of the public.

There were 17 comments on the petition for rulemaking that requested this action; all supported the requested change.

Public participation

Please indicate whether the agency is seeking comments on the intended regulatory action, including ideas to assist the agency in the development of the proposal and the costs and benefits of the

alternatives stated in this notice or other alternatives. Also, indicate whether a public hearing is to be held to receive comments. Please include one of the following choices: 1) a panel will be appointed and the agency's contact if you're interested in serving on the panel is _____; 2) a panel will not be used; or 3) public comment is invited as to whether to use a panel to assist in the development of this regulatory proposal.

The agency is seeking comments on this regulatory action, including but not limited to: ideas to be considered in the development of this proposal, the costs and benefits of the alternatives stated in this background document or other alternatives, and the potential impacts of the regulation.

The agency is also seeking information on impacts on small businesses as defined in § 2.2-4007.1 of the Code of Virginia. Information may include: projected reporting, recordkeeping, and other administrative costs; the probable effect of the regulation on affected small businesses; and the description of less intrusive or costly alternatives for achieving the purpose of the regulation.

Anyone wishing to submit comments may do so via the Regulatory Townhall website , www.townhall.virginia.gov, or by mail, email or fax to Elaine Yeatts, Agency Regulatory Coordinator, 9960 Mayland Drive, Henrico, VA 23233 or **elaine.yeatts@dhp.virginia.gov** or by fax to (804) 527-4434. Written comments must include the name and address of the commenter. In order to be considered comments must be received by the last day of the public comment period.

A public hearing will be held following the publication of the proposed stage of this regulatory action 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.

A regulatory panel will not be used to develop the proposed regulation, which will be drafted by the Regulatory Committee of the Board.