



Virginia
Regulatory
Town Hall

Final Regulation Agency Background Document

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| Agency Name: | Board of Psychology, Department of Health Professions |
| VAC Chapter Number: | 18 VAC 125-20-10 et seq. |
| Regulation Title: | Regulations Governing the Practice of Psychology |
| Action Title: | Continuing education |
| Date: | 4/24//00 |

Please refer to the Administrative Process Act (§ 9-6.14:9.1 *et seq.* of the *Code of Virginia*), Executive Order Twenty-Five (98), Executive Order Fifty-Eight (99) , and the *Virginia Register Form, Style and Procedure Manual* for more information and other materials required to be submitted in the final regulatory action package.

Summary

Please provide a brief summary of the new regulation, amendments to an existing regulation, or the regulation being repealed. There is no need to state each provision or amendment; instead give a summary of the regulatory action. If applicable, generally describe the existing regulation. Do not restate the regulation or the purpose and intent of the regulation in the summary. Rather, alert the reader to all substantive matters or changes contained in the proposed new regulation, amendments to an existing regulation, or the regulation being repealed. Please briefly and generally summarize any substantive changes made since the proposed action was published.

In compliance with a statutory mandate, the Board has adopted continuing education requirements for the renewal of licensure. As required by the statute, the regulation includes a requirement of 14 contact hours of continuing education courses each year, for a total of 28 hours for each biennial licensure renewal. It also includes a provision for an inactive licensure status to accommodate individuals who are not actively practicing psychology and who may be unable to meet the continuing education requirements.

Changes Made Since the Proposed Stage

Please detail any changes, other than strictly editorial changes, made to the text of the proposed regulation since its publication. Please provide citations of the sections of the proposed regulation that have been altered since the proposed stage and a statement of the purpose of each change.

The following changes were made to the proposed regulation:

18 VAC 125-20-120. Biennial renewal of licensure.

In subdivision 2, it was clarified that the licensee must “verify” compliance with continuing education requirements rather than “document” compliance. The word “document” seems to indicate that licensees would be required to submit some documentation – in fact, the Board will require attestation on the renewal form and will only require submission of documentation for those licensees selected for audit.

18 VAC 125-20-121. Continuing education course requirements for renewal of an active license.

There was some confusion about whether use of the term “licensed psychologists” meant all licensees of the Board (including school psychologist-limited). Some thought that it implied that not all licensees were included in the requirement for continuing education. Since it was the Board’s intent that all licensees be included, the language in subsection A was amended for consistency with other parts of the regulation.

18 VAC 125-20-122. Continuing education providers.

A. In response to comment, the Board has added language in subsection A (1, 2, and 3) to clarify its intent to consider CE providers as approved providers if approved by a recognized association or organization. For example, the American Psychological Association may be an approved provider or it may approve other entities to be providers. Amendments clarify that the Board would accept either.

C. In response to comment, the Board added a requirement for approved providers to maintain documentation of course titles and objectives for a period of four years. Such information may be necessary in order for the licensee to provide sufficient documentation for proof of compliance with regulations. For example, the course title may be insufficient to verify that the hours were related to ethics, but the course objectives would provide further evidence.

Statement of Final Agency Action

Please provide a statement of the final action taken by the agency: including the date the action was taken, the name of the agency taking the action, and the title of the regulation.

On April 24, 2001, the Board of Psychology adopted final amendments to 18 VAC 125-20-10 et seq., Regulations Governing the Practice of Psychology, in order to implement statutory requirements for continuing education as a condition of renewal.

Basis

Please identify the state and/or federal source of legal authority to promulgate the regulation. The discussion of this statutory authority should: 1) describe its scope and the extent to which it is mandatory or discretionary; and 2) include a brief statement relating the content of the statutory authority to the specific regulation. In addition, where applicable, please describe the extent to which proposed changes exceed federal minimum requirements. Full citations of legal authority and, if available, web site addresses for locating the text of the cited authority, shall be provided. If the final text differs from that of the proposed, please state that the Office of the Attorney General has certified that the agency has the statutory authority to promulgate the final regulation and that it comports with applicable state and/or federal law

Chapter 24 establishes the general powers and duties of health regulatory boards including the responsibility to promulgate regulations, levy fees, administer a licensure and renewal program, and discipline regulated professionals.

§ 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.*
- 4. To establish schedules for renewals of registration, certification and licensure.*
- 5. To levy and collect fees for application processing, examination, registration, certification or licensure and renewal that are sufficient to cover all expenses for the administration and operation of the Department of Health Professions, the Board of Health Professions and the health regulatory boards.*
- 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 and Chapter 25 of this title.*
- 7. To revoke, suspend, restrict, or refuse to issue or renew a registration, certificate or license which such board has authority to issue for causes enumerated in applicable law and regulations.*

8. *To appoint designees from their membership or immediate staff to coordinate with the Intervention Program Committee and to implement, as is necessary, the provisions of Chapter 25.1 (§ 54.1-2515 et seq.) of this title. Each health regulatory board shall appoint one such designee.*
9. *To take appropriate disciplinary action for violations of applicable law and regulations.*
10. *To appoint a special conference committee, composed of not less than two members of a health regulatory board, to act in accordance with § 9-6.14:11 upon receipt of information that a practitioner of the appropriate board may be subject to disciplinary action. The special conference committee may (i) exonerate the practitioner; (ii) reinstate the practitioner; (iii) place the practitioner on probation with such terms as it may deem appropriate; (iv) reprimand the practitioner; (v) modify a previous order; and (vi) impose a monetary penalty pursuant to § 54.1-2401. The order of the special conference committee shall become final thirty days after service of the order unless a written request to the board for a hearing is received within such time. If service of the decision to a party is accomplished by mail, three days shall be added to the thirty-day period. Upon receiving a timely written request for a hearing, the board or a panel of the board shall then proceed with a hearing as provided in § 9-6.14:12, and the action of the committee shall be vacated. This subdivision shall not be construed to affect the authority or procedures of the Boards of Medicine and Nursing pursuant to §§ 54.1-2919 and 54.1-3010.*
11. *To convene, at their discretion, a panel consisting of at least five board members or, if a quorum of the board is less than five members, consisting of a quorum of the members to conduct formal proceedings pursuant to § 9-6.14:12, decide the case, and issue a final agency case decision. Any decision rendered by majority vote of such panel shall have the same effect as if made by the full board and shall be subject to court review in accordance with the Administrative Process Act. No member who participates in an informal proceeding conducted in accordance with § 9-6.14:11 shall serve on a panel conducting formal proceedings pursuant to § 9-6.14:12 to consider the same matter.*
12. *To issue inactive licenses and certificates and promulgate regulations to carry out such purpose. Such regulations shall include, but not be limited to, the qualifications, renewal fees, and conditions for reactivation of such licenses or certificates.*

The Board is mandated under a new statutory requirement set forth under § 54.1-3606.1 to establish requirements for continuing education.

§ 54.1-3606.1. Continuing education.

A. The Board shall promulgate regulations governing continuing education requirements for psychologists licensed by the Board. Such regulations shall require the completion of the equivalent of fourteen hours annually in Board-approved continuing education courses for any license renewal or reinstatement after the effective date.

B. The Board shall approve criteria for continuing education courses that are directly related to the respective license and scope of practice of school psychology, applied psychology and clinical psychology. Approved continuing education courses for clinical psychologists shall emphasize, but not be limited to, the diagnosis, treatment and care of patients with moderate and severe mental disorders. Any licensed hospital, accredited institution of higher education, or national, state or local health, medical,

psychological or mental health association or organization may submit applications to the Board for approval as a provider of continuing education courses satisfying the requirements of the Board's regulations. Approved course providers may be required to register continuing education courses with the Board pursuant to Board regulations. Only courses meeting criteria approved by the Board and offered by a Board-approved provider of continuing education courses may be designated by the Board as qualifying for continuing education course credit.

C. All course providers shall furnish written certification to licensed psychologists attending and completing respective courses, indicating the satisfactory completion of an approved continuing education course. Each course provider shall retain records of all persons attending and those persons satisfactorily completing such continuing education courses for a period of four years following each course. Applicants for renewal or reinstatement of licenses issued pursuant to this article shall retain for a period of four years the written certification issued by any course provider. The Board may require course providers or licensees to submit copies of such records or certification, as it deems necessary to ensure compliance with continuing education requirements.

D. 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.

The Assistant Attorney General who provides counsel to the Board of Psychology has provided a letter of assurance that the amended regulations are consistent with statutory law.

Purpose

Please provide a statement explaining the need for the new or amended regulation. This statement must include the rationale or justification of the final regulatory action and detail the specific reasons it is essential to protect the health, safety or welfare of citizens. A statement of a general nature is not acceptable, particular rationales must be explicitly discussed. Please include a discussion of the goals of the proposal and the problems the proposal is intended to solve.

By enacting the new mandate for continuing education, the 2000 General Assembly determined that such a requirement is essential to protect the health, safety and welfare of the public. The statute stipulates that the regulations require fourteen hours per year of Board-approved continuing education, that the education be in the form of courses, and that the courses relate directly to the respective license and scope of practice of the three licenses issued by the board. It also stipulates that the courses for clinical psychologists emphasize the diagnosis, treatment and care of patients with moderate and severe disorders. In compliance with this mandate, the Board adopted a regulation which includes the 14-hour requirement set forth in statute, lists categories of course providers that will have automatic approval, establishes requirements and a fee for becoming a Board-approved course provider, and includes instructions for documentation of compliance. The Board has included a provision for an inactive licensure status to allow practitioners who are not actively practicing psychology in Virginia to defer the continuing education requirement until they reactivate the license.

During discussion of implementation of the legislation, it was the Board's intention to establish a variety of acceptable activities and include a category for independent self-study to alleviate some of the financial and geographic burdens that the requirement would place on licensees. However, the legislation specifically mandates that the education be presented in the form of "courses." The Board considered the unavailability of university coursework to individuals who are not enrolled in

a degree program and the expense and difficulty of attending a professional association conference. Although independent self-study is precluded by the law, the Board developed a definition of the word “course” to include supervised training under a Board-approved provider. To further increase the accessibility of courses, the Board also provided for half of the hours to come from non face-to-face activities such as internet courses, as long as the other requirements are met.

The second problem the Board addressed was the mechanism for approving providers of continuing education courses. The Board considered the administrative burden of having to approve the provider for every continuing education credit documented by its licensees. To resolve the problem, the Board developed a list of institutions and organizations which are recognized as providers of education for psychologists, such as universities, hospitals and government agencies. These institutions commonly have established training mechanisms in place with standards for content and quality. The Board also plans to develop a list of established professional organizations such as the American Psychological Association, the Virginia Academy of School Psychologists and the American Medical Association which will be recognized by the Board as continuing education providers or may approve other entities as providers. Such a list could be placed on the internet for easy access by licensees and updated as additional organizations are included. The Board will still have to consider private providers individually, and to that end has proposed criteria for approval in the regulation.

The implementation of continuing education requirements creates difficulties for individuals who choose to maintain the license, but are no longer practicing due to retirement, illness, or relocation to another jurisdiction. To accommodate these individuals, the Board proposes developing an inactive licensure status to waive the continuing education requirement for individuals who are not practicing. The Board has established a fee that is half that for active licensure renewal. Individuals who wish to reactivate their licenses will be required to pay the active licensure renewal fee and document completion of the continuing education hours for each inactive year, not to exceed four years.

Substance

Please identify and explain the new substantive provisions, the substantive changes to existing sections, or both where appropriate. Please note that a more detailed discussion is required under the statement of the regulatory action’s detail.

The Board has adopted amendments to create new sections outlining continuing education requirements, requirements for approved course providers and instructions for documentation of satisfaction of the requirements. The Board has amended existing sections to cover licensure renewal and late renewal and to provide for inactive licensure status. Amendments also set forth the requirements for documenting continuing education hours in the event of late renewal or reinstatement.

Issues

Please provide a statement identifying the issues associated with the final regulatory action. The term "issues" means: 1) the advantages and disadvantages to the public of implementing the new provisions; 2) the 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 include a sentence to that effect.

Advantages to licensees:

Licensees will benefit from exposure to advances in psychological theory and methods. Individuals who practice in isolation with little peer interaction will benefit from expanding their network of colleagues and learning different approaches to treatment issues. Training in ethics will reinforce awareness of situations which may lead to disciplinary actions.

Disadvantages to the licensees:

Although some licensees will be able to count the hours already provided by their agency or institution, clinical psychologists, which constitute the greatest number of licensees, primarily work in private practice settings and will have to bear the expense of the training. The cost will range from \$10 to \$20 per contact hour, but could be more costly if the licensee chooses continuing education activities that require travel and hotel expenses. Although half of the required hours must be face-to-face, the Board members will accept distance learning with an interactive component, such as teleconferencing, as meeting the requirement. The cost to the Board to monitor compliance with the requirement will be borne by licensees in their renewal fees. Additionally, licensees who do not comply with the requirement will be subject to disciplinary action by the Board.

Advantages to the public:

The public will have the advantage of knowing that the practitioners who treat them are staying abreast of advances in the profession. Reinforcement of training in professional ethics and skills in handling difficult situations may avert potential problems for clients. Some individuals and organizations will benefit financially by becoming providers of continuing education programs.

Disadvantages to the public:

Employers may incur additional costs if they provide continuing education or reimburse expenses for their staff.

Advantages or disadvantages to government agencies:

Employees of government agencies are exempted by law from the licensure requirement. Those agencies that employ licensed psychologists may incur additional costs if they choose to bear the expense of sending staff to conferences, pay for courses, or hire private individuals to present courses on-site. The Board will incur additional costs to monitor compliance of licensees, and to hold disciplinary hearings for individuals who do not comply with the requirement.

Public Comment

Please summarize all public comment received during the public comment period and provide the agency response. If no public comment was received, please include a statement indicating that fact.

Proposed regulations were published in the Virginia Register of Regulations on January 29, 2001. Public comment was requested for a 60-day period ending March 30, 2001; during that period one written comment was received. It is summarized as follows:

A licensee should be allowed to count the hours spent teaching a course in Psychology towards some of the CE credits. Teaching requires the instructor to keep abreast of current knowledge which is one of the purposes of continuing education.

***Board response:** While the Board would agree that preparation for teaching may have the effect of keeping the instructor current in his knowledge, there are many other self-learning activities that have the same benefit. There is no pathway for recognition of unapproved, self-learning activities or study in these regulations, but the Board believes that 14 hours of accredited CE per year is minimal and leaves room for any additional work that the licensee might want to do.*

The range of topics that the Board will accept for credit should be expanded beyond the emphasis on diagnosis and treatment of moderate to severe illness. That may not account for training in assessment tools and methods.

***Board response:** Courses required for clinical psychologists should emphasize diagnosis, treatment and care of patients with moderate and severe mental disorders but are not limited to only those topics. However, courses must directly relate to the category of licensure held.*

Hours gained before 2002 should be counted for renewal in 2004.

***Board response:** The Code of Virginia requires that psychologists acquire 14 hours annually, so there must be a minimum of 28 hours earned in the two years prior to renewal in 2004.*

There is no mechanism for psychologists in public agencies to earn credits without going outside their institutions and no opportunities for intensive workshops without going out of state. More of these programs should be established within state government and available to psychologists locally.

***Board response:** Hours offered by any governmental agency would be approved hours according to board regulations. Intensive workshops with more than 14 hours of CE are not a requirement of these regulations, and the Board does believe there are sufficient continuing education opportunities from a variety of sources.*

A Public Hearing before the Board was held on February 8, 2001, at which time the following comments were made:

Two persons commented that the proposed regulation did not provide appropriate oversight for those organizations set out as approved providers. For example, the American Psychological Association may be board-approved, but it in turn approves providers of continuing education.

There is concern that appropriate content will be offered by many of these “approved” entities, especially at the doctoral level. Many educational experiences offered by hospitals, governmental agencies, etc. are not appropriate CE for psychologists. The Board should engage in a process of reviewing and selecting all appropriate CE providers.

***Board response:** The Board does not have sufficient resources to review and monitor every offering by a continuing education provider. For that reason, it has determined that certain entities should be approved through regulation. Every licensee has the obligation to ensure that the courses chosen meet the requirements of regulation including a minimum of three hours in ethics or standards of practice or in the laws governing the profession. The licensee must chose courses that are “directly related to the practice of psychology: and “directly related to the scope of practice in the category of licensure held.”*

The Board did amend 18 VAC 125-20-122 A to specify that it also recognizes providers approved by board-approved associations or organizations.

One person commented that providers should be required to maintain course educational objectives and feedback from participants in addition to the requirement for documentation of attention and completion of courses.

***Board response:** In response to the comment, the Board amended 18 VAC 125-20-122 C to include in the requirement for maintenance of documentation by providers the course title and objectives. Compliance with CE requirements is the responsibility of the licensee, including maintenance of records and the relevance of the courses to the category of licensure. If the relevance is not evident from the provider’s documentation on hours, it would be advisable for the licensee to retain the course description or the educational objectives.*

Detail of Changes

Please detail any changes, other than strictly editorial changes, that are being proposed. Please detail new substantive provisions, all substantive changes to existing sections, or both where appropriate. This statement should provide a section-by-section description - or crosswalk - of changes implemented by the proposed regulatory action. Include citations to the specific sections of an existing regulation being amended and explain the consequences of the changes.

18 VAC 125-20-120. Biennial renewal of licensure.

- The Board has amended this section by including a requirement to verify continuing education as a condition of renewal and by adding an inactive licensure status. In order to allow a full renewal period for licensees to obtain the required hours, compliance will not be required to be documented until after the 2004 renewal date. Therefore, licensees will begin accruing the hours following their renewal in 2002. The inactive status will provide an exemption to the continuing education requirement for individuals who, for reasons such as illness, family leave or relocation to another state or country, are not actively practicing psychology in Virginia.

18 VAC 125-20-121. Continuing education course requirements for renewal of an active license.

- This new section defines the term “course” and states the hour requirement as set forth in statute. This section also sets forth a minimum of three hours per biennium in ethics and requires that half the hours be earned in face-to-face group educational experiences. Interactive video conferencing would be accepted as face-to-face, but a non-interactive electronic course would only be accepted as a non face-to-face activity. This section also reiterates the statutory requirement that the training must be relevant to the scope of practice for the category of licensure held and that courses for clinical psychologists emphasize moderate and severe mental disorders. The proposed regulation provides for exemption or extension of the requirement for special circumstances.

18 VAC 125-20-122. Continuing education providers.

- This new section lists types of institutions and organizations that the Board will recognize as approved providers of continuing education or may approved other entities as providers and sets forth a mechanism for individual providers to be considered for approval. The two-year time limit of the approval is proposed to enable the Board to periodically monitor the content and quality of the courses. This section also sets forth a requirement for monitoring attendance, maintaining records of attendees course titles, and objectives, and providing a certificate to all attendees.

18 VAC 125-20-123. Documenting compliance with continuing education requirements.

- This new section outlines the type of documentation that the Board will accept when monitoring compliance of licensees and sets forth a maintenance requirement for that documentation.

18 VAC 125-20-130. Late renewal; reinstatement, reactivation.

- The Board amendments to this section establish a requirement for documentation of continued competency hours for individuals who are reinstating either a lapsed or inactive license. A title change is also adopted for this section.

18 VAC 140-20-160. Grounds for disciplinary action or denial of a license.

- Failure to comply with the continued competency requirements is added as a basis for disciplinary action.

Family Impact Statement

Please provide an analysis of the regulatory action that assesses the impact on the institution of the family and family stability including the extent to which 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.

The amendments will have no impact on the authority and rights of parents in the education, nurturing or supervision of their children. They may encourage increased confidence for licensees who obtain additional training which they may not have otherwise pursued. The amendments may enhance the marital commitment for clients who may benefit from a practitioner who has chosen training in family systems theory. Disposable income of practitioners who are required to obtain the training may decrease slightly depending on the type of training selected.