



## 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) citation</b>	18 VAC 140-20-10 et seq.
<b>Regulation title</b>	Regulations Governing the Practice of Social Work
<b>Action title</b>	Licensure requirements
<b>Document preparation date</b>	May 3, 2010

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*.

### Purpose

*Please describe the subject matter and intent of the planned regulatory action. Also include a brief explanation of the need for and the goals of the new or amended regulation.*

The board intends to consider amendments to make it less burdensome for persons who have been actively practicing as social workers or clinical social workers in another state to be licensed in Virginia. To do so, regulations will need to clarify or define the intent and meaning of “active practice” to ensure current competency to practice. With active practice and no grounds for denial of licensure, the applicant could be licensed by credentials and the requirements for documentation of education and supervised experience could be eliminated.

Additionally, the board intends to address an issue of competency for applicants who passed the national examination some years ago but were never licensed and never practiced social work in any jurisdiction. To do so, a regulation may be proposed to specify that the examination must have been passed within three to five years prior to application or the applicant must provide evidence of practice in an exempt setting in the category of social work for which he has applied to be licensed.

Finally, the board will address concerns about persons who are seeking to reinstate or reactivate a license that has been lapsed or inactive for four or more years. If the applicant has been practicing in another state during that period, that practice could serve as evidence of current

competency; but if the applicant has not practicing social work for a number of years, they may need to be a period of supervised practice or some other evidence of competency.

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

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 Social Work the authority to determine the qualifications for licensure and reinstatement and 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, licensure or the issuance of a multistate licensure privilege 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, license or issue a multistate licensure privilege to qualified applicants as practitioners of the particular profession or professions regulated by such board.*
- 4. To establish schedules for renewals of registration, certification, licensure, and the issuance of a multistate licensure privilege.*
- 5. To levy and collect fees for application processing, examination, registration, certification or licensure or the issuance of a multistate licensure privilege 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 (§ 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.*
- 7. To revoke, suspend, restrict, or refuse to issue or renew a registration, certificate, license or multistate licensure privilege which such board has authority to issue for causes enumerated in applicable law and regulations...*

## Substance

*Please detail any changes that will be proposed. For new regulations, include a summary of the proposed regulatory action. Where provisions of an existing regulation are being amended, explain how the existing regulation will be changed. Include the specific reasons why the agency has determined that the proposed regulatory action is essential to protect the health, safety, or welfare of citizens. Delineate any potential issues that may need to be addressed as the regulation is developed.*

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The Regulatory Committee of the Board of Social Work reviewed staff concerns regarding application requirements and recommended that the board adopt a NOIRA to consider amendments of the following regulatory sections:

- Amend Regulation 18VAC140-20-40 and 18VAC140-20-51 to address the problem of applicants who passed the examination a number of years prior to application but were never licensed in Virginia or in another jurisdiction. The amendment would require that the national licensing examination be passed within three to five years prior to application or, if the examination was passed before that time period, that the applicant demonstrate evidence of social work practice at the appropriate level (social worker or clinical social worker) within an exempt setting prior to application.
- Amend Regulation 18VAC140-20-45 to eliminate certain application requirements for licensure by endorsement applicants and, at the same time, to clarify the meaning of “active practice” to demonstrate competency in the field of social work. Currently, regulations require an applicant for licensure by endorsement to have actively practiced for 36 of the past 60 months.
- Amend Regulation 18VAC140-20-110 to address the issue of reactivation and reinstatement for applicants who have either been not practicing social work in recent years or practicing elsewhere in an exempt setting.

## Alternatives

*Please describe all viable alternatives to the proposed regulatory action that have been or will be considered to meet the essential purpose of the action.*

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There are no alternatives to the proposed regulatory action that would provide the clarity necessary for making decisions on the competency of an applicant to practice. Currently, if an applicant passed the examination a number of years ago but never completed the application process and never practiced, the board has no grounds on which to deny licensure even though there is no recent evidence of competency or even minimal knowledge of social work practice. Likewise, the board has no grounds to deny an applicant for licensure by endorsement, who is required to be engaged in active practice for 36 of the past 60 months, if evidence shows that “active practice” was one day of volunteer work each year.

Conversely, current regulations require an applicant for licensure by endorsement to provide extensive documentation of education and supervised experience substantially equivalent to such requirements for a new applicant by examination. If a person has been licensed in another state,

has been actively practicing, has no unresolved disciplinary action and no history that would provide grounds for denial, requirements for documentation on which the original license was issued by another state is unnecessary and overly burdensome.

Currently, if an applicant is denied licensure or if there are questions about eligibility, credentialing issues must be resolved through a lengthy and costly administrative process involving the Credentials Committee or an informal conference and finally a formal hearing. By clarifying the regulations with more precise rules to follow, an applicant, board staff and board members will all have a clearer understanding of the competency requirements for licensure.

### Family impact

*Assess the potential impact of the proposed regulatory action on the institution of the family and family stability.*

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There is no impact on the institution of the family and family stability.