



Virginia  
Regulatory  
Town Hall

[townhall.virginia.gov](http://townhall.virginia.gov)

## Fast Track Proposed Regulation Agency Background Document

<b>Agency name</b>	Board of Social Work; Department of Health Professions
<b>Virginia Administrative Code (VAC) citation</b>	18VAC140-20-10 et seq.
<b>Regulation title</b>	Regulations Governing the Practice of Social Work
<b>Action title</b>	Regulatory reform changes
<b>Date this document prepared</b>	2/11/13

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), Executive Orders 14 (2010) 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of the proposed new regulation, proposed amendments to the existing regulation, or the regulation proposed to be repealed.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.*

Amendments are adopted pursuant to the Governor's Regulatory Reform Project to: 1) allow certain electronic face-to-face supervision; 2) facilitate on-line submission of application packages; 3) permit practice in an exempt setting to count towards the active practice requirement for licensure by endorsement; 4) accept qualified practitioners from out-of-state to provide supervision; 5) list the required examinations in regulation; and 6) eliminate required documentation of category II continuing education.

### 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.*

The Board of Social Work adopted the amendments to 18VAC140-20-10 et seq., Regulations Governing the Practice of Social Work on January 25, 2013.

## Legal basis

*Please identify the state and/or federal legal authority to promulgate this proposed regulation, including (1) the most relevant citations to the Code of Virginia or General Assembly chapter number(s), if applicable, and (2) promulgating entity, i.e., agency, board, or person. Your citation should include a specific provision authorizing the promulgating entity to regulate this specific subject or program, as well as a reference to the agency/board/person's overall regulatory authority.*

**Chapter 24 of Title 54.1** establishes the general powers and duties of the Board of Social Work including the responsibility to promulgate regulations.

*§ 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 (§ 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...*

For Social Work in particular:

*§ 54.1-3705. Specific powers and duties of the Board.*

*In addition to the powers granted in § [54.1-2400](#), the Board shall have the following specific powers and duties:*

1. *To cooperate with and maintain a close liaison with other professional boards and the community to ensure that regulatory systems stay abreast of community and professional needs.*
2. *To conduct inspections to ensure that licensees conduct their practices in a competent manner and in conformance with the relevant regulations.*
3. *To designate specialties within the profession.*

## 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 proposed regulatory action is intended to ease some of the burdens of applying for licensure and obtaining supervised experience. The goal is to eliminate any requirement that is not

necessary to ensure that the Board is licensing qualified individuals for protection of health and safety. Several problems encountered with applications, registration of supervision and receiving credit for hours of supervised experience have been addressed during the review of regulations. Additionally, the unnecessary burden of obtaining and maintaining documentation of Category II continuing education hours has been eliminated.

**Rationale for using fast track process**

*Please explain the rationale for using the fast track process in promulgating this regulation. Why do you expect this rulemaking to be noncontroversial?*

*Please note: If an objection to the use of the fast-track process is received within the 30-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 objections 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 amendments are less restrictive and/or clarifying, and they are not controversial. The Board was responsive to comments on the Notice of Periodic Review and did not include any changes that could be considered more burdensome or were not fully supported.

**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.) Please be sure to define any acronyms.*

Amendments are adopted pursuant to the Governor’s Regulatory Reform Project to: 1) allow certain electronic face-to-face supervision; 2) facilitate on-line submission of application packages; 3) permit practice in an exempt setting to count towards the active practice requirement for licensure by endorsement; 4) accept qualified practitioners from out-of-state to provide supervision; 5) list the required examinations in regulation; and 6) eliminate required documentation of category II continuing education.

**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.*

- 1) The primary advantage to the public is more timely resolution of applications that may be submitted electronically and less burdensome rules for supervision that may facilitate completion of licensure requirements. There are no disadvantages.
- 2) The advantage to the Commonwealth is facilitation of on-line applications.
- 3) There are no other pertinent matters.

**Requirements more restrictive than federal**

*Please identify and describe any requirement of the proposal which is more restrictive than applicable federal requirements. Include a rationale for the need for the more restrictive requirements. If there are no applicable federal requirements or no requirements that exceed applicable federal requirements, include a statement to that effect.*

There are no applicable federal requirements.

**Localities particularly affected**

*Please identify any locality particularly affected by the proposed regulation. Locality particularly affected means any locality which bears any identified disproportionate material impact which would not be experienced by other localities.*

There are no localities particularly affected.

**Regulatory flexibility analysis**

*Please describe the agency's analysis of alternative regulatory methods, consistent with health, safety, environmental, and economic welfare, that will accomplish the objectives of applicable law while minimizing the adverse impact on small business. Alternative regulatory methods include, at a minimum: 1) the establishment of less stringent compliance or reporting requirements; 2) the establishment of less stringent schedules or deadlines for compliance or reporting requirements; 3) the consolidation or simplification of compliance or reporting requirements; 4) the establishment of performance standards for small businesses to replace design or operational standards required in the proposed regulation; and 5) the exemption of small businesses from all or any part of the requirements contained in the proposed regulation.*

There are no alternative regulatory methods. The Code requires that the Board set out the criteria for licensure in regulation.

**Economic impact**

*Please identify the anticipated economic impact of the proposed new regulations or amendments to the existing regulation. When describing a particular economic impact, please specify which new requirement or change in requirement creates the anticipated economic impact.*

<p><b>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</b></p>	<p>a) 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 for necessary functions of regulation; b) The agency will not incur additional costs for email notification to persons on the Public Participation Guidelines mailing lists. There will be no on-going expenditures related to this action.</p>
<p><b>Projected cost of the <i>new regulations or changes to existing regulations</i> on localities.</b></p>	<p>There are no costs to localities.</p>
<p><b>Description of the individuals, businesses or other entities likely to be affected by the <i>new regulations or changes to existing regulations</i>.</b></p>	<p>Persons affected by changes would be licensed clinical social workers, licensed social workers, applicants for licensure and persons obtaining supervised experience</p>
<p><b>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.</b> 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>There are 5639 licensed clinical social workers, and 460 licensed social workers. The number of applicants and persons obtaining clinical supervision varies from time to time.</p>
<p><b>All projected costs of the <i>new regulations or changes to existing regulations</i> for affected individuals, businesses, or other entities. Please be specific and include all costs. Be sure to include the projected reporting, recordkeeping, and other administrative costs required for compliance by small businesses. Specify any costs related to the development of real estate for commercial or residential purposes that are a consequence of the proposed regulatory changes or new regulations.</b></p>	<p>There should be no costs associated with this action. There would be cost-avoidance by less recordkeeping and electronic submission of information required for licensure.</p>
<p><b>Beneficial impact the regulation is designed to produce.</b></p>	<p>Greater efficiency in supervision and applying for licensure; less documentation and retention of documents for compliance with continuing education</p>

**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.*

There are no alternatives that will accomplish the purpose of facilitation and efficiency. The Board reviewed comments received in response to the Notice of Periodic Review and incorporated those that met the criteria of reducing the regulatory burden.

**Family impact**

*Please assess the impact of the proposed regulatory action on the institution of the family and family stability including to what extent 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.*

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

**Detail of changes**

*Please list all changes that are being proposed and the consequences of the proposed changes. If the proposed regulation is a new chapter, describe the intent of the language and the expected impact. Please describe the difference between existing regulation(s) and/or agency practice(s) and what is being proposed in this regulatory action.*

<b>Current section number</b>	<b>Current requirement</b>	<b>Proposed change, intent, rationale, and likely impact of proposed requirements</b>
10	Sets out the definitions of words and terms used in the regulations	<p>The term “ancillary services” is used in requirements for supervision but has not previously been defined. <i>A definition will be helpful to an understanding of what activities constitute such services.</i></p> <p>The term “face-to-face supervision” is amended to allow the use of technology that provides real-time, visual contact among the individuals involved.</p> <p><i>The amendment may make supervision of those gaining experience less costly and more accessible, especially in rural areas where there are fewer persons qualified to provide supervision and a face-to-face requirement may necessitate traveling some distance to achieve.</i></p>
40	Sets out the requirements for licensure by examination as a licensed clinical social worker	<p>The requirement to submit all required documentation and information in “one package” is eliminated to facilitate on-line applications in which elements of the package may be sent electronically from the applicant and/or third parties. Also eliminated are:</p> <ul style="list-style-type: none"> <li>• The requirement for the application to be notarized, which does not ensure accuracy of the information being submitted (such as criminal convictions or disciplinary actions).</li> <li>• The requirement for the transcript to be sent directly to the applicant and then submitted to the board in the original sealed envelope. Educational institutions prefer to send transcripts electronically directly to the board, which is less costly for all parties.</li> </ul>

45	Sets out the requirements for licensure by endorsement	<ul style="list-style-type: none"> <li>• The requirement for the Board to establish a passing score on an examination is eliminated because the Board relies on the testing body to deem what score constitutes passing a particular examination.</li> <li>• The requirement for the transcript to be sent directly to the applicant and then submitted to the board in the original sealed envelope is eliminated. Educational institutions prefer to send transcripts electronically directly to the board, which is less costly for all parties.</li> <li>• The board currently requires active practice for 36 out of the past 60 months to be licensed by endorsement. Active practice in another jurisdiction has been presumed to be licensed practice. An amendment will allow the board to accept practice in an exempt setting, which may not require licensure in the other jurisdiction.</li> </ul>
50	Sets out the experience requirements for a licensed clinical social worker	<ul style="list-style-type: none"> <li>• An amendment to subsection A will clarify that the requirements apply to a person’s post-master’s experience rather than to an internship or experience gained in the context of an educational program. Language about supervision that was begun before 2008 and accepted until 2012 is eliminated as it is no longer valid or necessary.</li> <li>• A requirement to average no less than 15 hours in face-to-face client contact “per week” is amended to require 15 hours per “40 hours of work experience.” The “per week” requirement is burdensome because if a supervisee misses a single week of face-to-face client contact, he may not be able to meet the requirement of regulations. The intent is to ensure face-to-face contact throughout period of supervised experience rather than having it all at the beginning or all at the end. Changes in terminology about the remaining hours of supervision are made for consistency with terms defined in section 10.</li> <li>• An amendment to subsection B will allow supervisees to use supervisors from another jurisdiction provided they have similar qualifications but were not required to be licensed or were not designated as <i>clinical</i> social workers because the jurisdiction did not require such designation. The change will alleviate problems that several applicants have had in getting their hours of supervision approved for licensure.</li> </ul>
51	Sets out the requirements for licensure by examination as a licensed social worker	<p>The requirement to submit all required documentation and information in “one package” is eliminated to facilitate on-line applications in which elements of the package may be sent electronically from the applicant and/or third parties. Also eliminated are:</p> <ul style="list-style-type: none"> <li>• The requirement for the application to be notarized, which does not ensure accuracy of the information being submitted (such as criminal convictions or disciplinary actions).</li> </ul>

		<ul style="list-style-type: none"> <li>The requirement for the transcript to be sent directly to the applicant and then submitted to the board in the original sealed envelope. Educational institutions prefer to send transcripts electronically directly to the board, which is less costly for all parties.</li> </ul>
60	Sets out the education and experience requirements for a licensed social worker	Language about supervision that was begun before 2008 and accepted until 2012 is eliminated as it is no longer valid or necessary.
70	Sets out the examination requirement	Currently, the examinations prescribed by the Board for licensure as an LCSW or an LSW are the licensing examinations of the Association of Social Work Boards (ASWB). The amendment so states in regulation so there is clarity for applicants. Subsection B is eliminated because the Board does not establish passing scores on the examinations; it relies on ASWB to determine the passing scores.
100	Sets out the requirements for licensure renewal	An outdated phrase (beginning with the 2003 renewal) is eliminated.
106	Sets out requirements for documentation of continuing education requirements	Amendments to subsection C will eliminate the documentation required to verify completion of Category II activities. Category I activities are verifiable by transcripts or certificates of completion from approved continuing education providers. However, Category II activities are intended to be self-study or learning opportunities within the profession. The current requirement for documentation of such activities is unnecessary to achieve the intent. Acquisition of documentation of Category II activities is burdensome on licensees and others who are asked to provide verification.