



Virginia
Regulatory
Town Hall

Proposed Regulation Agency Background Document

Agency Name:	Department of Health Professions, Board of Social Work
VAC Chapter Number:	18 VAC 140-20-10 et seq.
Regulation Title:	Regulations Governing the Practice of Social Work
Action Title:	Continuing Education Requirements
Date:	Enter Date

This information is required pursuant 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*. Please refer to these sources for more information and other materials required to be submitted in the regulatory review package.

Summary

Please provide a brief summary of the proposed new regulation, proposed amendments to an existing regulation, or the regulation proposed to be repealed. There is no need to state each provision or amendment or restate the purpose and intent of the regulation; instead give a summary of the regulatory action and alert the reader to all substantive matters or changes. If applicable, generally describe the existing regulation.

In compliance with a statutory mandate, the Board is proposing continuing education requirements for the renewal of social work and clinical social work licensure. The Board is proposing a requirement of 30 contact hours per biennium, with two-thirds of the hours coming from formally organized activities, and the remaining third of the hours coming from independent professional activities. The proposal includes a provision for an inactive licensure status to accommodate individuals who are not actively practicing social work, and who may be unable to meet the continuing education requirements.

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 must be provided. Please state that the Office of the Attorney General has certified that the agency has the statutory authority to promulgate the proposed regulation and that it comports with applicable state and/or federal law.

18 VAC 140-20-10 et seq. Regulations Governing the Practice of Social Work was promulgated under the general authority of Title 54.1 of the Code of Virginia.

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.*

In addition to provisions in § 54.1-2400 which authorize the Board to set qualifications and standards for licensure, the Code provides a mandate for this licensure in §54.1-3706.

§ 54.1-3706. License required. *In order to engage in the practice of social work, it shall be necessary to hold a license.*

The mandate for the Board to establish requirements for continuing education of licensed social workers is set forth under § 54.1-3708. This section authorizes the Board to approve individuals or programs that provide continuing education.

§ 54.1-3708. Continuing education requirements. *The Board shall establish in regulations requirements for the continuing education of licensed social workers.*

The board may approve persons who provide continuing education or accredit continuing education programs in order to accomplish the purposes of this section.

The Office of the Attorney General has certified that the agency has the statutory authority to promulgate the proposed regulation and that it comports with applicable state and/or federal law.

The web address for the text of these statutes is <http://leg1.state.va.us>.

Purpose

Please provide a statement explaining the need for the new or amended regulation. This statement must include the rationale or justification of the proposed 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.

Chapter 575 of the 1999 Acts of the Assembly provides a specific mandate in § 54.1-3608 for the board to develop continuing education requirements for licensure renewal. In compliance with this mandate, the Board adopted a proposed regulation setting forth an hour requirement, approved categories of activities, approved providers and instructions for documentation of compliance. The Board has included a provision for an inactive licensure status to allow practitioners who are not actively practicing social work in Virginia to defer the continuing education requirement until they reactivate the license.

In developing the requirements, the board contemplated the financial and time burdens the requirements might have on licensees, and at the same time strove to develop a meaningful standard that would ensure continued competency to protect the public health, safety and welfare. For alternatives, the Board considered the continuing education requirements of 41 other state social work boards, and the requirements of other boards in the Department of Health Professions. The Board also considered public comment regarding the content of the training. The Board considered a range of hours from 20 to 40 per biennium, and selected 30 hours as a reasonable number of hours compared with the requirements in other states.

The Board also considered the alternatives of formal training versus self-directed or independent study. The Board determined that a combination of the two would provide the most flexible alternative, while ensuring the quality of the bulk of the training. The Board is proposing that two-thirds of the hours come from formal didactic training in behavioral health topics offered or approved by recognized institutions and organizations. One organization that was recommended in public comment, the International Association of Continuing Education and Training, was not included in the proposal, because the programs it approves are not specific to behavioral health.

For the remaining one-third of the hours, the Board developed a list of individual activities which could be counted for a limited number of hours toward the requirement. The first alternative the Board considered was to accept two hours for each activity. This alternative was rejected because some social workers are not involved in academic or professional association activities and would not be able to obtain the required ten hours. For this reason, the Board elected to accept up to five

hours for staff meetings and independent study. The Board also opted to raise the hours accepted for publications of books and articles and preparation of courses and workshops above two hours due to the extensive amount of work involved in these activities. The Board considered accepting hours for subsequent preparation of a course or workshop due to the work involved in updating materials, but elected not to do this, since some individuals might not do additional work to present a course multiple times.

The Board included an outline of its proposal in its winter newsletter to allow all licensees an opportunity to comment on the feasibility and the impact of the requirement on them. Of the approximately 4,000 individuals who received the newsletter, only three contacted the Board office with comments. One comment was in opposition to having to obtain any continuing education. Another comment asked for recognition of education offered through the work place. The Board felt this was covered under Category I. The third comment pointed to an omission in the instructions for documentation which the Board corrected.

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 providing detail of the regulatory action's changes.

The Board is proposing new sections outlining continuing education requirements and instructions for documentation of those requirements. The Board is also proposing amendments to existing sections covering licensure renewal and late renewal to provide for inactive licensure status, and instruct licensees on compliance with continuing education in the event of late renewal or reinstatement.

Issues

Please provide a statement identifying the issues associated with the proposed regulatory action. The term "issues" means: 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 include a sentence to that effect.

At the Board's initial meeting to begin developing the proposed regulation, public comment raised concerns about possible restrictions on course topics, learning methods, and continuing education providers. Concerns were also raised about the cost to the licensees to meet the requirement, and the cost to the Board administer the programs and to monitor compliance. Other issues the Board addressed included availability of training in remote areas of the state and developing a requirement that would be appropriate to both levels of licensure it regulates.

Advantages to the licensees:

Because the Board is frequently contacted by individuals and organizations who wish to provide continuing education programs, it is likely that the requirement will result in the development of more training opportunities for social workers. The training will benefit licensees by keeping them abreast of changes in their profession, and reinforcing ethical issues which are frequently the basis for disciplinary actions for clinical social workers, which make up the large majority of licensees.

Disadvantages to the licensees:

Although many licensees will be able to count hours for activities they would be involved in regardless of the requirement, additional time and effort will be required to obtain all of the required hours. Likewise, although some of the activities can be accomplished as part of the job without additional charge, most of the activities under Category I will involve some expense which will be borne by licensees unless an employer is to cover the cost. The cost per contact hour will range from \$10 to \$20 per contact hour, but could be more costly if travel and hotel expenses are incurred. This is more likely to affect individuals in remote areas of the state. 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 they are receiving services from are staying abreast of advances in the profession. Reinforcement of training in professional ethics may result in less exploitation of 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 pay for the licensing expenses of their staff.

Advantages or disadvantages to government agencies:

Government agencies that employ social workers may incur additional costs if they elect to hire private individuals to present workshops or seminars to their staff. The Board will incur additional costs to monitor compliance of licensees, and to hold additional disciplinary hearings for individuals who do not comply with the requirement.

Fiscal Impact

Please identify the anticipated fiscal impacts and at a minimum include: (a) the projected cost to the state to implement and enforce the proposed regulation, including (i) fund source / fund detail, (ii) budget activity with a cross-reference to program and subprogram, and (iii) a delineation of one-time versus on-going expenditures; (b) the projected cost of the regulation on localities; (c) a description of the individuals, businesses or other entities that are likely to be affected by the regulation; (d) the agency's

best estimate of the number of such entities that will be affected; and e) the projected cost of the regulation for affected individuals, businesses, or other entities.

Estimated Impact of the Regulations

A. Projected cost to the state to implement and enforce:

(i) Fund source: As a special fund agency, the Board of Social Work 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.

(ii) Budget activity by program or subprogram: There is no change required in the budget of the Commonwealth as a result of this program.

(iii) One-time versus ongoing expenditures: The agency will incur some costs (less than \$1000) for mailings to the Public Participation Guidelines Mailing List, conducting a public hearing, and sending copies of final regulations to regulated entities.

There will be some additional on-going costs for monitoring compliance of licensees with the requirements. Compliance monitoring will incur additional costs for the Board, depending on the number of licensees audited each year. Generally, less than 5% of licensees are audited for other Boards within the Department of Health Professions. Because there are no facility inspections for social workers, it is likely that the Board will have to contract an outside reviewer to ensure that the documentation meets the requirements in regulation. For an auditing range of 2% to 5% of licensees at an estimate of 15 minutes per file reviewed at \$50 per hour, the cost to the Board could range from \$1000 to \$2500 per renewal period, plus \$100 to \$350 in mailing costs to notify applicants that they are being audited. Additional costs will be incurred to hold disciplinary hearings for individuals who are not in compliance with the requirement. Each hearing will cost approximately \$550. It is likely that there will also be an increase in disciplinary hearings to individuals who are found not to comply with the regulations. There is no estimate of what percentage of licensees will not comply with the requirement.

B. Projected cost on localities:

Agencies may elect to provide continuing education programs for their licensed staff. However, this would depend on the policy of individual agencies, and is not influenced by the Board of Social Work.

C. Description of entities that are likely to be affected by regulation:

Licensed social workers and licensed clinical social workers will be affected by the regulations.

D. Estimate of number of entities to be affected:

There are approximately 3600 licensed clinical social workers and 260 licensed social workers who will be affected by these regulations.

E. Projected cost of the regulation for affected individuals.

Category II activities are essentially free, since they incorporate professional activities the licensee may be undertaking regardless of the requirement. The cost for Category I activities will vary depending on the source of the training. Workshops offered by state or federal government agencies or by health facilities and hospitals are provided at no cost to employees. The majority of licensed social workers are employed in these settings. Licensed clinical social workers, however, may be employed in these kinds of settings or in private practice settings where this free training is not as readily available. The cost per contact hour for university coursework or workshops offered by professional associations ranges from \$10 to \$20 per contact hour, which would total \$200 to \$400 each biennium to cover the full 20 hour requirement for this category. Individuals who attend professional association meetings are sometimes able to have all or part of the cost covered by their employers. Attendance at conferences is not only for the purpose of attaining continuing education, so the travel and hotel costs cannot be attributed entirely to this requirement. The Board addressed other training venues which would not involve travel such as distance learning, internet and video training, and made sure that the regulation would not preclude those types of training, as long as provided by an approved organization. This type of training has a wide range from \$15 to several hundred dollars per course, depending on length and complexity of the material. The longer courses, such as those offered for college credit, would count for more contact hours. A video course could be purchased by a practice group or institution for use to train many employees.

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 cross-walk - of changes implemented by the proposed regulatory action. Where applicable, include citations to the specific sections of an existing regulation being amended and explain the consequences of the proposed changes.

3. Substance of Regulations:**18 VAC 140-20-100. Biennial renewal of licensure.**

- The Board proposes amending this section by adding an inactive licensure status which would 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 social work in Virginia. A title change to this section is also proposed.

18 VAC 140-20-105. Continued competency requirements for renewal of an active license

- This new section outlines the types of activities the Board will accept toward meeting the continued competency requirement. The Board proposes a total of 30 contact hours of continuing education per biennium, of which a minimum of two hours must relate to

professional ethics. The proposed regulation provides for exemption or extension of the requirement for special circumstances.

- The Board proposes that two-thirds of the contact hours come from formally organized activities such as university coursework or programs offered by public institutions, social work organizations, or individuals approved by those organizations.
- For the remaining third of the contact hours, the Board proposes a variety of individual professional activities which may include publication of a book or article, preparation of a course, seminar, workshop or program, supervision of graduate field instruction, professional board or association activities, attendance at formal staffings or independent study.

18 VAC 140-20-106. 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 140-20-110. Renewal of expired license.

- The Board proposes amendments to this section to 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 proposed for this section.

18 VAC 140-20-150. Professional Conduct.

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

- The current regulation lists continuing education activities that the Board would consider only in the event that a practitioner's competency is in question. The Board proposes rescinding this list since it is redundant with 18 VAC 140-20-105. The board also proposes adding failure to comply with the continued competency requirements as a basis for disciplinary action.

Alternatives

Please describe the specific 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.

For alternatives, the Board considered the continuing education requirements of 41 other state social work boards, and the requirements of other boards in the Department of Health Professions. The Board also considered public comment regarding the content of the training. The Board considered a range of hours from 20 to 40 per biennium, and selected 30 hours as a reasonable number of hours compared with the requirements in other states.

The Board also considered the alternatives of formal training versus self-directed or independent study. The Board determined that a combination of the two would provide the most flexible alternative, while ensuring the quality of the bulk of the training. The Board is proposing that two-thirds of the hours come from formal didactic training in behavioral health topics offered or approved by recognized institutions and organizations. One organization that was recommended in public comment, the International Association of Continuing Education and Training, was not included in the proposal, because the programs it approves are not specific to behavioral health.

For the remaining one-third of the hours, the Board developed a list of individual activities which could be counted for a limited number of hours toward the requirement. The first alternative the Board considered was to accept 2 hours for each activity. This alternative was rejected because some social workers are not involved in academic or professional association activities and would not be able to obtain the required ten hours. For this reason, the Board elected to accept up to five hours for staff meetings and independent study. The Board also opted to raise the hours accepted for publications of books and articles and preparation of courses and workshops above two hours due to the extensive amount of work involved in these activities. The Board considered accepting hours for subsequent preparation of a course or workshop due to the work involved in updating materials, but elected not to do this, since some individuals might not do additional work to present a course multiple times.

Public Comment

Please summarize all public comment received during the NOIRA comment period and provide the agency response.

One comment was received from the Virginia branch of the National Association of Social Workers asking that the Board list the association as an approved provider of continuing education courses, and that a requirement for training in professional ethics be included. Both of these items had already been included in the draft proposed regulation.

Clarity of the Regulation

Please provide a statement indicating that the agency, through examination of the regulation and relevant public comments, has determined that the regulation is clearly written and easily understandable by the individuals and entities affected.

Prior to the adoption of proposed regulations, the Board and its Legislative/Regulatory Committee discussed the issues related to the new license in open sessions, which included members of the public. The Board members received positive comments from colleagues regarding the clarity and reasonableness of the language which was adopted. To solicit additional input from all of its licensees, the Board plans to include the listings of Category I and II activities in its December newsletter. This is a much larger audience than the Board would reach through its public participation mailing list.

Periodic Review

Please supply a schedule setting forth when the agency will initiate a review and re-evaluation to determine if the regulation should be continued, amended, or terminated. The specific and measurable regulatory goals should be outlined with this schedule. The review shall take place no later than three years after the proposed regulation is expected to be effective.

The proposed amendments to these regulations will be reviewed following publication in the Register and the 60-day public comment period. If there are any oral or written comments received, the Board will consider revisions to the proposal prior to adoption of final regulations.

Public Participation Guidelines of the Board of Social Work (18 VAC 140-20-10 et seq.) require a thorough review of regulations each biennium. Therefore, the Board will review this set of regulations in 2002 and will bring any recommended amended regulations to the full board for consideration.

In addition, the Board receives public comment at each of its meetings and will consider any request for amendments. Petitions for rule-making also receive a response from the Board during the mandatory 180 days in accordance with its Public Participation Guidelines.

Family Impact Statement

Please provide an analysis of the proposed regulatory action that assesses the potential 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 proposed amendments will have no impact on the authority and rights of parents in the education, nurturing or supervision of their children. They may encourage self-pride 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 marriage and family therapy. Disposable income of practitioners who are required to obtain the training will decrease depending on the type of training selected. Hopefully, the additional training can lead to career advancement for many practitioners.