



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

## 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) Chapter citation(s)</b>	18VAC140-20
<b>VAC Chapter title(s)</b>	Regulations Governing the Practice of Social Work
<b>Action title</b>	Elimination of certain requirements; addition to standards of practice
<b>Date this document prepared</b>	10/5/20

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), Executive Order 14 (as amended, July 16, 2018), the Regulations for Filing and Publishing Agency Regulations (1VAC7-10), and the *Form and Style Requirements for the Virginia Register of Regulations and Virginia Administrative Code*.

### Brief Summary

*Provide a brief summary (preferably no more than 2 or 3 paragraphs) of the subject matter, intent, and goals of this regulatory change (i.e., new regulation, amendments to an existing regulation, or repeal of an existing regulation).*

The Board will consider amendments to the regulations for: 1) licensure by endorsement to eliminate all requirements for either supervised experience or active practice in another jurisdiction; 2) reinstatement or reactivation of licensure to eliminate requirements for a person whose license has been lapsed for 10 or more years to provide evidence of either active practice in another jurisdiction or in an exempt setting, or supervised practice of no less than 360 hours in a 12-month period; and 3) additions to the standards of practice to specify that persons licensed by the board shall not engage in physical contact with a client when there is a likelihood of psychological harm to the client and shall not sexually harass a client.

## Acronyms and Definitions

*Define all acronyms or technical definitions used in this form.*

---

LBSW = licensed bachelor social worker  
LMSW = licensed master social worker  
LCSW = licensed clinical social worker

## Mandate and Impetus

*Identify the mandate for this regulatory change and any other impetus that specifically prompted its initiation (e.g., new or modified mandate, petition for rulemaking, periodic review, or board decision). For purposes of executive branch review, “mandate” has the same meaning as defined in Executive Order 14 (as amended, July 16, 2018), “a directive from the General Assembly, the federal government, or a court that requires that a regulation be promulgated, amended, or repealed in whole or part.”*

---

There is no mandate for this regulatory change; the impetus comes from recommendations of the Regulation Committee or to address situations in which the Board did not have specific grounds to address a complaint from a client about the actions of a licensed social worker.

## Legal Basis

*Identify (1) the promulgating agency, and (2) the state and/or federal legal authority for the regulatory change, including the most relevant citations to the Code of Virginia and Acts of Assembly chapter number(s), if applicable. Your citation must include a specific provision, if any, authorizing the promulgating agency 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 Pharmacy 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:*

*6. To promulgate regulations in accordance with the Administrative Process Act (§ [2.2-4000 et seq.](#)) that are reasonable and necessary to administer effectively the regulatory system, which shall include provisions for the satisfaction of board-required continuing education for individuals registered, certified, licensed, or issued a multistate licensure privilege by a health regulatory board through delivery of health care services, without compensation, to low-income individuals receiving health services through a local health department or a free clinic organized in whole or primarily for the delivery of those health services. 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.](#)).*

The specific authority of the Board of Social Work is found in:

**§ 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.*
- 4. Expired.*
- 5. To license baccalaureate social workers, master's social workers, and clinical social workers to practice consistent with the requirements of the chapter and regulations of the Board.*
- 6. To register persons proposing to obtain supervised post-degree experience in the practice of social work required by the Board for licensure as a clinical social worker.*
- 7. To pursue the establishment of reciprocal agreements with jurisdictions that are contiguous with the Commonwealth for the licensure of baccalaureate social workers, master's social workers, and clinical social workers. Reciprocal agreements shall require that a person hold a comparable, current, unrestricted license in the other jurisdiction and that no grounds exist for denial based on the Code of Virginia and regulations of the Board.*

### Purpose

*Describe the specific reasons why the agency has determined that this regulation is essential to protect the health, safety, or welfare of citizens. In addition, explain any potential issues that may need to be addressed as the regulation is developed.*

The amendments to the standards of practice are intended to address a situation in which a practitioner's action may be clearly unprofessional and detrimental to the welfare of a client, but the Board does not have specific grounds to take some disciplinary action. Amendments will ensure that the Board can take action as necessary to protect the health and safety of the public.

### Substance

*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 Board will consider the following amendments:

In section 45, an amendment to the requirement for licensure by endorsement for LBSWs, LMSWs, and LCSWs to eliminate all requirements for either supervised experience or active practice in another jurisdiction.

In section 110, elimination of requirements for a person whose license has been lapsed for 10 or more years to provide evidence of either active practice in another jurisdiction or in an exempt setting, or supervised practice of no less than 360 hours in a 12-month period in order to reinstate or reactive a license.

In section 150, additions to the standards of practice to specify that persons licensed by the board shall not engage in physical contact with a client when there is a likelihood of psychological harm to the client and shall not sexually harass a client.

### Alternatives to Regulation

*Describe any viable alternatives to the regulatory change that were considered, and the rationale used by the agency to select the least burdensome or intrusive alternative that meets the essential purpose of the regulatory change. 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 regulatory change.*

---

The requirements identified in this NOIRA are set out in regulation and can only be revised by amending regulations. There are no alternatives.

### Periodic Review and Small Business Impact Review Announcement

This NOIRA is not being used to announce a periodic review or a small business impact review.

### Public Participation

*Indicate how the public should contact the agency to submit comments on this regulation, and whether a public hearing will be held, by completing the text below. In addition, as required by § 2.2-4007.02 of the Code of Virginia describe any other means that will be used to identify and notify interested parties and seek their input, such as regulatory advisory panels or general notices.*

---

The Board of Social Work is providing an opportunity for comments on this regulatory proposal, including but not limited to (i) the costs and benefits of the regulatory proposal, (ii) any alternative approaches, and (iii) the potential impacts of the regulation.

Anyone wishing to submit written comments for the public comment file may do so through the Public Comment Forums feature of the Virginia Regulatory Town Hall web site at: <https://townhall.virginia.gov>. Comments may also be submitted by mail, email or fax to Elaine Yeatts, 9960 Mayland Drive, Suite 300, Richmond, VA 23233; phone (804) 367-4688; fax (804) 527-4434; [Elaine.yeatts@dhp.virginia.gov](mailto:Elaine.yeatts@dhp.virginia.gov). In order to be considered, comments must be received by 11:59 pm on the last day of the public comment period.

A public hearing will be held following the publication of this stage, and notice of the hearing will be posted on the Virginia Regulatory Town Hall website (<https://townhall.virginia.gov>) and on the Commonwealth Calendar website (<https://commonwealthcalendar.virginia.gov/>). Both oral and written comments may be submitted at that time.