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Proposed Regulation
Agency Background Document

Agency name	Board of Social Work, Department of Health Professions
Virginia Administrative Code (VAC) Chapter citation(s)	18VAC140-20
VAC Chapter title(s)	Regulations Governing the Practice of Social Work
Action title	Continuing education hours for supervisors
Date this document prepared	7/23/21

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 this regulatory change (i.e., new regulation, amendments to an existing regulation, or repeal of an existing regulation). Alert the reader to all substantive matters. If applicable, generally describe the existing regulation.

The Board is proposing an amendment to reduce the number of continuing education (CE) hours necessary to continue being approved as a supervisor. The regulation will retain the requirement for 14 hours of CE for the initial registration of supervision; thereafter, a supervisor will only have to obtain seven hours of CE relating to provision of supervision every five years. The current requirement is 14 hours of CE every five years to continue as an approved supervisor.

Acronyms and Definitions

Define all acronyms used in this form, and any technical terms that are not also defined in the "Definitions" section of the regulation.

N/A

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the General Assembly, the federal government, or a court that requires that a regulation be promulgated, amended, or repealed in whole or part."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 to eliminate burdensome requirements, to clarify current provisions, and to eliminate any ambiguity in the regulations.

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 Social Work 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:

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. ...

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.).

Purpose

Explain the need for the regulatory change, including a description of: (1) the rationale or justification, (2) the specific reasons the regulatory change is essential to protect the health, safety or welfare of citizens, and (3) the goals of the regulatory change and the problems it's intended to solve.

The regulatory change is intended to reduce the burden on supervisors of persons who are gaining experience necessary to become licensed clinical social workers by lowering the number of continuing education requirements needed every five years. The purpose of this regulatory change is to protect the public health and safety in the clinical practice of social work by ensuring that licensed clinical social workers who are responsible for supervisees and the clients they serve are appropriately trained and knowledgeable.

Substance

Briefly identify and explain the new substantive provisions, the substantive changes to existing sections, or both. A more detailed discussion is provided in the "Detail of Changes" section below.

The Board proposes amending 18VAC140-20-50(B)(2) to reduce the number of continuing education hours necessary for a supervisor of licensed clinical social workers to obtain from fourteen hours within five years immediately preceding registration of supervision to seven hours every five years.

Issues

Identify the issues associated with the regulatory change, 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, include a specific statement to that effect.

1) The advantage to the public is that persons seeking supervisors for clinical experience in order to become licensed in Virginia may find a greater supply of supervisors if the continuing education requirements are less burdensome and expensive; there are no disadvantages to the public.
2) There are no specific advantages or disadvantages to the agency.
3) The Director of the Department of Health Professions has reviewed the proposal and performed a competitive impact analysis. The proposed regulation promulgated by the Board does not represent any restraint on that competition. Regulations are a foreseeable result of the statute requiring the Board to protect the health and safety of patients in the Commonwealth. The Board is authorized under § 54.1-2400 to "*promulgate regulations in accordance with the Administrative Process Act which are reasonable and necessary to administer effectively the regulatory system*".

Requirements More Restrictive than Federal

Identify and describe any requirement of the regulatory change which is more restrictive than applicable federal requirements. Include a specific citation for each applicable federal requirement, and 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 specific statement to that effect.

There are no applicable federal requirements.

Agencies, Localities, and Other Entities Particularly Affected

Identify any other state agencies, localities, or other entities particularly affected by the regulatory change. "Particularly affected" are those that are likely to bear any identified disproportionate material impact which would not be experienced by other agencies, localities, or entities. "Locality" can refer to either local governments or the locations in the Commonwealth where the activities relevant to the regulation or regulatory change are most likely to occur. If no agency, locality, or entity is particularly affected, include a specific statement to that effect.

Other State Agencies Particularly Affected – None

Localities Particularly Affected - None

Other Entities Particularly Affected - None

Economic Impact

Pursuant to § 2.2-4007.04 of the Code of Virginia, identify all specific economic impacts (costs and/or benefits), anticipated to result from the regulatory change. When describing a particular economic impact, specify which new requirement or change in requirement creates the anticipated economic impact. Keep in mind that this is change versus the status quo.

Impact on State Agencies

For your agency: projected costs, savings, fees or revenues resulting from the regulatory change, including: a) fund source / fund detail; b) delineation of one-time versus on-going expenditures; and c) whether any costs or revenue loss can be absorbed within existing resources	There are no costs to the state for implementation or enforcement; all funding for the Board is derived from fees charged to applicants and licensees.
For other state agencies: projected costs, savings, fees or revenues resulting from the regulatory change, including a delineation of one-time versus on-going expenditures.	There are no costs to other agencies
For all agencies: Benefits the regulatory change is designed to produce.	There may be a benefit to agencies that utilize clinical social workers or employ persons under supervision if the amendment results in more

	persons being willing to serve as a clinical supervisor.

Impact on Localities

Projected costs, savings, fees or revenues resulting from the regulatory change.	There are no projected costs, savings, fees or revenues resulting from the regulatory change.
Benefits the regulatory change is designed to produce.	There are no benefits.

Impact on Other Entities

Description of the individuals, businesses, or other entities likely to be affected by the regulatory change. If no other entities will be affected, include a specific statement to that effect.	Individuals likely to be affected include persons who are currently registered as clinical supervisors. The change may also benefit persons who would be willing to serve as a supervisor but are not yet qualified.
Agency's best estimate of the number of such entities that will be affected. Include an estimate of the number of small businesses affected. Small business means a business entity, including its affiliates, that: a) is independently owned and operated and; b) employs fewer than 500 full-time employees or has gross annual sales of less than $6 million.	There are currently 184 LCSWs registered to provide supervision to supervisees in clinical social work. It is unknown how many of those are independent practitioners (small businesses) and how many are employed by government agencies or entities such as community services boards.
All projected costs for affected individuals, businesses, or other entities resulting from the regulatory change. Be specific and include all costs including, but not limited to: a) projected reporting, recordkeeping, and other administrative costs required for compliance by small businesses; b) specify any costs related to the development of real estate for commercial or residential purposes that are a consequence of the regulatory change; c) fees; d) purchases of equipment or services; and e) time required to comply with the requirements.	There would be a cost savings by the reduction of hours. A seven-hour credit course with NASW costs $151.25 for members and $192.50 for non-members, so a licensee would potentially save that amount in a five-year period by a reduction from 14 to seven hours of CE required for a supervisor.
Benefits the regulatory change is designed to produce.	There would be savings in terms of monetary costs and time with the number of hours required reduced by 50%.

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.

There are no alternatives to the promulgation of regulations in order to achieve the intent of a less burdensome requirement for supervisors.

Regulatory Flexibility Analysis

Pursuant to § 2.2-4007.1B of the Code of Virginia, 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) establishing less stringent compliance or reporting requirements; 2) establishing less stringent schedules or deadlines for compliance or reporting requirements; 3) consolidation or simplification of compliance or reporting requirements; 4) establishing 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 regulatory change.

In order to make a regulation less intrusive and less costly, the Board must adopt amendments to regulation; there is no alternative to a regulatory action.

Periodic Review and Small Business Impact Review Report of Findings

If you are using this form to report the result of a periodic review/small business impact review that is being conducted as part of this regulatory action, and was announced during the NOIRA stage, indicate whether the regulatory change meets the criteria set out in Executive Order 14 (as amended, July 16, 2018), e.g., is necessary for the protection of public health, safety, and welfare; minimizes the economic impact on small businesses consistent with the stated objectives of applicable law; and is clearly written and easily understandable.

In addition, as required by § 2.2-4007.1 E and F of the Code of Virginia, discuss the agency's consideration of: (1) the continued need for the regulation; (2) the nature of complaints or comments received concerning the regulation; (3) the complexity of the regulation; (4) the extent to the which the regulation overlaps, duplicates, or conflicts with federal or state law or regulation; and (5) the length of time since the regulation has been evaluated or the degree to which technology, economic conditions, or other factors have changed in the area affected by the regulation. Also, discuss why the agency's decision, consistent with applicable law, will minimize the economic impact of regulations on small businesses.

The regulatory change is not a result of a periodic review/small business impact review.

Public Comment

Summarize all comments received during the public comment period following the publication of the previous stage, and provide the agency response. Include all comments submitted: including those received on Town Hall, in a public hearing, or submitted directly to the agency. If no comment was received, enter a specific statement to that effect.

There was a comment period from 6/7/21 to 7/7/21. One licensed clinical social worker commented that she was very interested in becoming a supervisor and strongly supported reducing the number of CE hours required every five years.

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.

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, (iii) the potential impacts of the regulation, and (iv) the agency's regulatory flexibility analysis stated in that section of this background document.

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. Written comments must include the name and address of the commenter. Comments may also be submitted by mail, email or fax to Elaine Yeatts, Senior Policy Analyst, 9960 Mayland Drive, Suite 300, Henrico, VA 23233; email: Elaine.yeatts@dhp.virginia.gov; FAX- 804-527-4434. 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.

Detail of Changes

List all regulatory changes and the consequences of the changes. Explain the new requirements and what they mean rather than merely quoting the text of the regulation. For example, describe the intent of the language and the expected impact. Describe the difference between existing requirement(s) and/or agency practice(s) and what is being proposed in this regulatory change. Use all tables that apply, but delete inapplicable tables.

If an existing VAC Chapter(s) is being amended or repealed, use Table 1 to describe the changes between existing VAC Chapter(s) and the proposed regulation. If existing VAC Chapter(s) or sections are being repealed and replaced, ensure Table 1 clearly shows both the current number and the new number for each repealed section and the replacement section.

Table 1: Changes to Existing VAC Chapter(s)

Current chapter-section number	Current requirements in VAC	Change, intent, rationale, and likely impact of new requirements
20-50	Sets out the supervised experience requirements for a licensed clinical social worker, including the requirements in subsection B for the supervisors	18VAC140-20-50 B 2 is amended to reduce the number of hours of continuing education required within the five year immediately preceding registration of supervision from 14 hours to 7 hours. A supervisor is still required to have a graduate course or 14 hours of continuing education to be initially registered as a supervisor.

		Thereafter, only seven hours every five years will be required to continue as a supervisor in clinical social work. Licensees who provided supervision for persons seeking to qualify for licensure have noted that the requirement for 14 hours of continuing education is burdensome and often results in repetitive coursework. The National Association of Social Workers – Virginia (NASWVA) offers a variety of courses to meet the training requirements for supervisors. The Foundation of Supervision (14-hour course) is recommended for first-time supervisors. Then NASWVA offers several seven-hours courses to "expand the participant's evidence-based knowledge of best practices in supervision. Reducing the requirement to seven hours within a five-year period will allow a supervisor to take relevant courses without repetition. While the Board accepts coursework offered by approved providers as listed in section 105, NASWVA is most commonly used as the source for continuing education in supervision. Other courses are offered by Community Services Boards, the Association of Social Work Boards, or schools of social work.