

10:00 a.m. Call to Order– Danielle Hunt, LPC, Board Vice-Chairperson

- Welcome and Introductions
- Establishment of Quorum
- Mission of the Board

Adoption of Agenda

Public Comment

*The Board will receive public comment related to agenda items at this time. The Board will not receive comment on any pending regulation process for which a public comment period has closed or any pending or closed complaint or disciplinary matter.....*Page 6

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Consideration of Agency Subordinate Recommendations – Jennifer Lang

Next Meetings:

- Board Meeting: October 13, 2023

Meeting Adjournment

Formal Hearing

*Indicates a Board Vote is required.

**Indicates these items will be discussed within closed session.

This information is in **DRAFT** form and is subject to change. The official agenda and packet will be approved by the public body at the meeting and will be available to the public pursuant to Virginia Code Section 2.2-3708(D).



Virginia Department of
Health Professions
Board of Counseling

MISSION STATEMENT

Our mission is to ensure safe and competent patient care by licensing health professionals, enforcing standards of practice, and providing information to health care practitioners and the public.

PERIMETER CENTER CONFERENCE CENTER
EMERGENCY EVACUATION OF BOARD AND TRAINING ROOMS
(Script to be read at the beginning of each meeting.)

PLEASE LISTEN TO THE FOLLOWING INSTRUCTIONS ABOUT EXITING THESE PREMISES IN THE EVENT OF AN EMERGENCY.

In the event of a fire or other emergency requiring the evacuation of the building, alarms will sound.

When the alarms sound, leave the room immediately. Follow any instructions given by Security staff

Board Room 1

Exit the room using one of the doors at the back of the room. **(Point)** Upon exiting the room, turn **RIGHT**. Follow the corridor to the emergency exit at the end of the hall.

Upon exiting the building, proceed straight ahead through the parking lot to the fence at the end of the lot. Wait there for further instructions.

Board Room 2

Exit the room using one of the doors at the back of the room. **(Point)** Upon exiting the room, turn **RIGHT**. Follow the corridor to the emergency exit at the end of the hall.

Upon exiting the building, proceed straight ahead through the parking lot to the fence at the end of the lot. Wait there for further instructions.

You may also exit the room using the side door **(Point)**, turn **Right** out the door and make an immediate **Left**. Follow the corridor to the emergency exit at the end of the hall.

Upon exiting the building, proceed straight ahead through the parking lot to the fence at the end of the lot. Wait there for further instructions.

Board Rooms 3 and 4

Exit the room using one of the doors at the back of the room. **(Point)** Upon exiting the room, turn **RIGHT**. Follow the corridor to the emergency exit at the end of the hall.

Upon exiting the building, proceed straight ahead through the parking lot to the fence at the end of the lot. Wait there for further instructions.

Training Room 1

Exit the room using one of the doors at the back of the room. **(Point)** Upon exiting the room, turn **LEFT**. Follow the corridor to the emergency exit at the end of the hall.

Upon exiting the building, proceed straight ahead through the parking lot to the fence at the end of the lot. Wait there for further instructions.

Training Room 2

Exit the room using one of the doors at the back of the room. **(Point)** Upon exiting the doors, turn **LEFT**. Follow the corridor to the emergency exit at the end of the hall.

Upon exiting the building, proceed straight ahead through the parking lot to the fence at the end of the lot. Wait there for further instructions.



*Joseph G. Lynch
3549 Majestic Circle
Broadway, VA 22815*

May 21, 2023

Virginia Board of Counseling
Dr. Johnston Brendel, LPC, LMFT, Chairperson
Perimeter Center
9960 Mayland Drive, Suite 300
Henrico, Virginia 23233-1463

PUBLIC COMMENT OPPOSED TO *PETITION 382 License QMHPs*

Dear Dr Brendel:

I am writing to you to make Public Comment **opposed** to Petition 382, “License QMHPs.”

PETITION 382 License QMHPs:

The petitioner request that the Board of Counseling:

The petitioner requests that the Board license qualified mental health professionals as licensed mental health professionals. The petitioner states that QMHPs are highly trained in the behavioral aspect of mental health and many hold masters degrees or higher. The petitioner also requests that those who meet certain criteria should be able to practice independently.

REASONS WHY I AM OPPOSED TO *Petition #382*:

1. The petitioner’s request exceeds the statutory authority of the Board of Counseling. The QMHP registration was created by the Virginia General Assembly passing legislation to amend *Chapter 35 of Title 54.1 of the Code of Virginia, Professional Counseling*, that authorized the Board of Counseling to:

§ 54.1-3505. Specific powers and duties of the Board.

9. To promulgate regulations for the registration of qualified mental health professionals, including qualifications, education, and experience necessary for such registration, and for the registration of persons receiving supervised training in order to qualify as a qualified mental health professional.

The Board’s authority is limited to “registration” of QMHPs. Only the Virginia General Assembly has the authority to pass legislation to change the authority of the Board to “license” QMHPs. ***Therefore, I am opposed to Petition 382 because the Petitioner request the Board of Counseling to do something that the Board does not have the statutory authority to do.***

2. The Board of Health Professions has previously published *Policies and Procedures for the Evaluation of the Need to Regulate Health Occupations and Professions*, (Revised Feb 2019- see hyperlink)

<https://www.dhp.virginia.gov/Boards/BHP/PractitionerResources/GuidanceDocuments/>.

The policies present an outline of levels of professional regulation:

“...outline delineates the characteristics of licensure, certification, and registration (the three most commonly used methods of regulation) and specifies the criteria applicable to each level.

LICENSURE. Licensure confers a monopoly upon a specific profession whose practice is well defined. It is the most restrictive level of occupational regulation. It generally involves the delineation in statute of a scope of practice which is reserved to a select group based upon their possession of unique, identifiable, minimal competencies for safe practice. In this sense, state licensure typically endows a particular occupation or profession with a monopoly in a specified scope of practice.

STATUTORY CERTIFICATION. Certification by the state is also known as "title protection." No scope of practice is reserved to a particular group, but only those individuals who meet certification standards (defined in terms of education and minimum competencies which can be measured) may title or call themselves by the protected title.

REGISTRATION. Registration requires only that an individual file his name, location, and possibly background information with the State. No entry standard is typically established for a registration program

Registration is the lowest level of professional regulation. The General Assembly specifically directed the QMHP designation to only be used by persons who are “...an employee or independent contractor...” of DBHDS, DOC, or licensed by the DBHDS. This definition is intentional by the General Assembly and excludes independent practice by QMHPs.

“...A qualified mental health professional-adult (child) shall provide such services **as an employee or independent contractor** of the Department of Behavioral Health and Developmental Services or the Department of Corrections, or as a provider licensed by the Department of Behavioral Health and Developmental Services...”

The Board of Counseling placed the same language in the Regulations for the QMHP. The statutory language and the language in the regulations explicitly prohibit the request put forward in petition #382. ***Another reason I oppose the petitioner’s request is that it is a request for the Board of Counseling to violate the Code of Virginia statute that created the QMHP designation.***

3. The Petitioner provides criteria to the Board that the petitioner suggest are sufficient for the granting of independent practice licensure. One of the criteria mentioned in the petition is “...who hold a Master’s or higher in Social Work, ...”

Licensure for independent practice for social work was established by the Commonwealth of Virginia in 1976:

Chapter 37 of Title 54.1 of the Code of Virginia Social Work Article 1. Social Work.

- § 54.1-3700. Definitions.
 - "Clinical social worker" means a social worker who, by education and experience, is professionally qualified at the autonomous practice level to provide direct diagnostic, preventive and treatment services where functioning is threatened or affected by social and psychological stress or health impairment.
- § 54.1-3706. License required.
 - In order to engage in the practice of social work, it shall be necessary to hold a license.

The General Assembly did not create a “*backdoor*” to independent licensed practice when they provided the definition of QMHP-Adult and QMHP-Child.

Another reason I oppose the petitioner’s request is that they ask the Board of Counseling to violate the Code of Virginia statutes on Social Work licensure.

4. The petitioner seems to have some confusion between the definitions of “*Mental health professional*” and “*Mental health service provider*” as defined in the Code of Virginia, § 54.1-2400.1. *Mental health service providers; duty to protect third parties; immunity.*

“Mental health professional” means a person who by education and experience is professionally qualified and licensed in Virginia to provide counseling interventions designed to facilitate an individual’s achievement of human development goals and remediate mental, emotional, or behavioral disorders and associated distresses which interfere with mental health and development.

“Mental health service provider” or “provider” refers to any of the following: (i) a person who provides professional services as a certified substance abuse counselor, clinical psychologist, clinical social worker, licensed substance abuse treatment practitioner, licensed practical nurse, marriage and family therapist, mental health professional, physician, physician assistant, professional counselor, psychologist, qualified mental health professional, registered nurse, registered peer recovery specialist, school psychologist, or social worker; (ii) a professional corporation, all of whose shareholders or members are so licensed; or (iii) a partnership, all of whose partners are so licensed.

The Commonwealth of Virginia has contributed to this confusion. According to the Code of Virginia the “*Mental Health Professional*” must be licensed. The Commonwealth then created the designation of “*Qualified Mental Health Professional.*” I believe that the average citizen would assume that a “*Qualified Mental Health Professional*” would be licensed since the Commonwealth’s definition of a “*Mental Health Professional*” includes that they must be licensed. But that is not the case. As defined in the Code of Virginia the “*Qualified Mental*

Health Professional” paradoxically does not meet the definition of “Mental Health Professional”.

I am also opposed to petition 382 because it attempts to move a provider from the “Mental health service provider” category to the “Mental Health Professional” category without meeting the statutory requirements for licensure for social work, counseling or psychology.

Respectfully submitted by

Joseph G. Lynch LCSW

Former Vice President of the Virginia Society for Clinical Social Workers

PLEASE SEE ATTACHMENTS

ATTACHMENTS


1. *Petition # 382- License QMHPs*
2. *§ 38.2-3407.10:1. Reimbursement for services rendered during pendency of a participating provider's credentialing application.*
3. *Chapter 35 of Title 54.1 of the Code of Virginia, Professional Counseling, Article 1. General Provisions, Title 54.1-3500 Definitions*
4. *§ 54.1-3505. Specific powers and duties of the Board.*
5. *Regulations Governing the Registration of Qualified Mental Health Professionals, 18VAC115-80-10. Definitions.*
6. *§ 54.1-2400.1. Mental health service providers; duty to protect third parties; immunity.*
7. *§ 8.01-400.2. Communications between certain mental health professionals and clients*
8. *§ 38.2-3407.10:1. Reimbursement for services rendered during pendency of a participating provider's credentialing application.*

Secretariat Health and Human Resources

Agency
Department of Health Professions

Board
Board of Counseling

Petition 382

Petition Title	License QMHPs
Date Filed	3/22/2023 [Transmittal Sheet]
Petitioner	Kathy Johnson
Petitioner's Request	The petitioner requests that the Board license qualified mental health professionals as licensed mental health professionals. The petitioner states that QMHPs are highly trained in the behavioral aspect of mental health and many hold masters degrees or higher.
Agency's Plan	The petition for rulemaking will be published in the Virginia Register of Regulations on April 24, 2023. The petition will also be published on the Virginia Regulatory Town Hall at www.townhall.virginia.gov to receive public comment, which will open on April 24, 2023 and close on May 24, 2023. The Board will consider the petition at its next meeting after the close of public comment, currently scheduled for July 21, 2023. The petitioner will be notified of the Board's decision after that meeting.
Comment Period	 In Progress! Ends 5/24/2023 Currently 12 comments
Agency Decision	Pending

Contact Information

Name / Title:	Jaime Hoyle / <i>Executive Director</i>
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**Code of Virginia
Professional Counseling**

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[§ 54.1-3500. Definitions.](#)**Error! Bookmark not defined.**

"Qualified mental health professional" includes qualified mental health professionals-adult and qualified mental health professionals-child.

"Qualified mental health professional-adult" means a qualified mental health professional who provides collaborative mental health services for adults. A qualified mental health professional-adult shall provide such services as an employee or independent contractor of the Department of Behavioral Health and Developmental Services or the Department of Corrections, or as a provider licensed by the Department of Behavioral Health and Developmental Services.

"Qualified mental health professional-child" means a person who by education and experience is professionally qualified and registered by the Board to provide collaborative mental health services for children and adolescents up to 22 years of age. A qualified mental health professional-child shall provide such services as an employee or independent contractor of the Department of Behavioral Health and Developmental Services or the Department of Corrections, or as a provider licensed by the Department of Behavioral Health and Developmental Services.

"Qualified mental health professional-trainee" means a person who is receiving supervised training to qualify as a qualified mental health professional and is registered with the Board.

§ 54.1-3505. Specific powers and duties of the Board.

9. To promulgate regulations for the registration of qualified mental health professionals, including qualifications, education, and experience necessary for such registration, and for the registration of persons receiving supervised training in order to qualify as a qualified mental health professional.

Regulations Governing the Registration of Qualified Mental Health Professionals

Virginia Board of Counseling

Title of Regulations: 18 VAC 115-80-10 et seq.

Statutory Authority: §§ 54.1-2400 and Chapter 35 of Title 54.1
of the Code of Virginia

Revised Date: October 29, 2020

18VAC115-80-10. Definitions.

"Mental health professional" means a person who by education and experience is professionally qualified and licensed in Virginia to provide counseling interventions designed to facilitate an individual's achievement of human development goals and remediate mental, emotional, or behavioral disorders and associated distresses that interfere with mental health and development.

"Qualified mental health professional" or "QMHP" includes qualified mental health professionals-adult and qualified mental health professionals-child.

"Qualified mental health professional-adult" or "QMHP-A" means a qualified mental health professional who provides collaborative mental health services for adults. A qualified mental health professional-adult shall provide such services as an employee or independent contractor of the Department of Behavioral Health and Developmental Services or the Department of Corrections, or as a provider licensed by the Department of Behavioral Health and Developmental Services.

"Qualified mental health professional-child" or "QMHP-C" means a person who by education and experience is professionally qualified and registered by the board to provide collaborative mental health services for children and adolescents up to 22 years of age. A qualified mental health professional-child shall provide such services as an employee or independent contractor of the Department of Behavioral Health and Developmental Services or the Department of Corrections, or as a provider licensed by the Department of Behavioral Health and Developmental Services.

"Qualified mental health professional-trainee" means a person who is receiving supervised training to qualify as a qualified mental health professional and is registered with the board.

"Registrant" means a QMHP registered with the board.

Chapter 35 of Title 54.1 of the Code of Virginia, Professional Counseling

§ 54.1-2400.1. Mental health service providers; duty to protect third parties; immunity.

A. As used in this section:

"Certified substance abuse counselor" means a person certified to provide substance abuse counseling in a state-approved public or private substance abuse program or facility.

"Client" or "patient" means any person who is voluntarily or involuntarily receiving mental health services or substance abuse services from any mental health service provider.

"Clinical psychologist" means a person who practices clinical psychology as defined in § 54.1-3600.

"Clinical social worker" means a person who practices social work as defined in § 54.1-3700.

"Licensed practical nurse" means a person licensed to practice practical nursing as defined in § 54.1-3000.

"Licensed substance abuse treatment practitioner" means any person licensed to engage in the practice of substance abuse treatment as defined in § 54.1-3500.

"Marriage and family therapist" means a person licensed to engage in the practice of marriage and family therapy as defined in § 54.1-3500.

"Mental health professional" means a person who by education and experience is professionally qualified **and licensed in Virginia** to provide counseling interventions designed to facilitate an individual's achievement of human development goals and remediate mental, emotional, or behavioral disorders and associated distresses which interfere with mental health and development.

"Mental health service provider" or "provider" refers to any of the following: (i) a person who provides professional services as a certified substance abuse counselor, clinical psychologist, clinical social worker, licensed substance abuse treatment practitioner, licensed practical nurse, marriage and family therapist, mental health professional, physician, physician assistant, professional counselor, psychologist, qualified mental health professional, registered nurse, registered peer recovery specialist, school psychologist, or social worker; (ii) a professional corporation, all of whose shareholders or members are so licensed; or (iii) a partnership, all of whose partners are so licensed.

<https://law.lis.virginia.gov/vacode/title54.1/chapter24/section54.1-2400.1/>

§ 8.01-400.2. Communications between certain mental health professionals and clients (Supreme Court Rule 2:506 derived from this section).

Except at the request of or with the consent of the client, no *licensed professional counselor, as defined in § 54.1-3500; licensed clinical social worker, as defined in § 54.1-3700; licensed psychologist, as defined in § 54.1-3600; or licensed marriage and family therapist, as defined in § 54.1-3500*, shall be required in giving testimony as a witness in any civil action to disclose any information communicated to him in a confidential manner, properly entrusted to him in his professional capacity and necessary to enable him to discharge his professional or occupational services according to the usual course of his practice or discipline, wherein such person so communicating such information about himself or another is seeking professional counseling or treatment and advice relative to and growing out of the information so imparted; provided, however, that when the physical or mental condition of the client is at issue in such action, or when a court, in the exercise of sound discretion, deems such disclosure necessary to the proper administration of justice, no fact communicated to, or otherwise learned by, such practitioner in connection with such counseling, treatment or advice shall be privileged, and disclosure may be required. The privileges conferred by this section shall not extend to testimony in matters relating to child abuse and neglect nor serve to relieve any person from the reporting requirements set forth in § 63.2-1509.

1982, c. 537; 2005, c. 110.

<https://law.lis.virginia.gov/vacode/8.01-400.2/>

§ 38.2-3407.10:1. Reimbursement for services rendered during pendency of a participating provider's credentialing application.

A. As used in this section:

"Carrier" means an entity subject to the insurance laws and regulations of the Commonwealth and subject to the jurisdiction of the Commission that contracts or offers to contract to provide, deliver, arrange for, pay for, or reimburse any of the costs of health care services or mental health services, including an insurer licensed to sell accident and sickness insurance, a health maintenance organization, a health services plan, or any other entity providing a plan of health insurance, health benefits, health care services, or mental health services.

"Covered person" means a policyholder, subscriber, enrollee, participant, or other individual covered by a health benefit plan.

"Health benefit plan" means a policy, contract, certificate, or agreement offered by a carrier to provide, deliver, arrange for, pay for, or reimburse any of the costs of health care services.

"Mental health professional" has the meaning ascribed thereto in § [54.1-2400.1](#).

"Mental health services" means benefits with respect to items or services provided by mental health professionals for mental health conditions as defined under the terms of a health benefit plan.

"Network" means a group of participating providers who provide health care services under the carrier's health benefit plan that requires or creates incentives for a covered person to use the participating providers.

*Joseph G. Lynch
3549 Majestic Circle
Broadway, VA 22815*

June 1, 2023

Virginia Board of Counseling
Dr. Johnston Brendel, LPC, LMFT, Chairperson
Perimeter Center 300
9960 Mayland Drive, Suite

Henrico, Virginia 23233-1463

**Re: Public Comment Opposed To
Petition 383- QMHP Supervisor Qualifications and Independent Practice**

Dear Dr Brendel:

I am writing to you to make Public Comment opposed to Petition 383- *QMHP Supervisor Qualifications and Independent Practice*. The original petition requested the Board of Counseling to consider both items but was revised into two separate petitions, *Petition #382 License QMHPs* and *Petition # 383 QMHP Supervision Qualifications*. My comments in this letter are directed toward *Petition # 383 QMHP Supervision Qualifications* (See copy attached #1).

Specifically, the Petitioner Request:

“...that Qualified Mental Health Professionals (QMHPs) who are dually registered, Child and Adult, who were grandfathered in, who hold a Master's or higher in Social Work, Human Services or Psychology and more than 10 years professional work experience in mental/behavioral health should be considered qualified supervisors for QMHP-T's.”

The petitioner notes that there are QMHP's with Master's degrees and many years of experience in providing QMHP services. Furthermore, the petitioner suggests that this qualifies them to provide supervision to QMHP Trainees. I acknowledge that there are skilled and experienced QMHP's that were grandfathered into the requirement for QMHP's to be Registered. However, the petitioner neglects to recognize the specific and clear intent of the General Assembly was to establish the Registration of QMHP's in order to add **increased accountability**. The Department of Health Professions on June 14, 2019, submitted an *Agency Background Statement*, to the Virginia Regulatory Town Hall that defined the purpose for the QMHP regulations. Below is the section on Statement of Purposes for the QMHP regulations (See attached “Agency Background Statement” pages 1-5 attached #2)

Statement of Purpose

*This regulation is the result of collaborative efforts by DHP, DBHDS, DMAS, private providers, and other licensing boards to address concerns about the use of unlicensed and unregistered persons in the provision of services to clients and the **lack of accountability for those services.***

*DBHDS has been working with DHP to make titles and definitions for mental health professionals more consistent with licensure and certification under health regulatory boards, but there remained a large group of "qualified" mental health professionals who have no such oversight. **The intent of the regulation was to establish a registry of QMHPs, so there is some accountability** for their practice and a listing of qualified persons for the purpose of reimbursement by DMAS.*

The purpose of the registration is to address concerns jointly expressed by DHP, DBHDS, and DMAS about the lack of oversight and accountability for persons who are providing mental health, but who are not responsible to a health regulatory board with authority to take disciplinary action. By requiring a person who works as a QMHP in a program approved by DBHDS, to be registered by the Board of Counseling, persons who have been disciplined and removed from the registry would no longer be able to be employed in that capacity. The purpose is greater protection for the public and a reduction in the incidents of abuse and fraud in Medicaid-funded programs.

(See attached Agency Background Statement, submitted June 14, 2019- pages 1-5 attached #2)

The requirement for the QMHP to be supervised by a “licensed mental health professional” is a critical component of that accountability. The definitions for QMHP’s are in *Chapter 35 of Title 54.1 of the Code of Virginia* (See below and attached #3).

“. A qualified mental health professional-adult shall provide such services as an employee or independent contractor of the Department of Behavioral Health and Developmental Services or the Department of Corrections, or as a provider licensed by the Department of Behavioral Health and Developmental Services...”

The Board of Counseling does not have the authority to change the language selected by the Virginia General Assembly for the definitions of QMHP. The Board of Counseling replicated the Code of Virginia definitions in the QMHP regulations. That is a little unusual. The trend now is to not repeat in regulations language that is already in the Code of Virginia. If you look at the regulations for Professional Counselors, it refers the reader back to the Code of Virginia for definitions of words that are defined in the Code. Below is a copy of that part of the regulations:

- A. The following words and terms when used in this chapter shall have the meaning ascribed to them in § [54.1-3500](#) of the Code of Virginia:
- "Board"
 - "Counseling"
 - "Professional counselor"

The mission of the Board of Counseling “...is to ensure safe and competent patient care by licensing health professionals, enforcing standards of practice, and providing information to health care practitioners and the public...” One way that the Board implements this mission statement is through the disciplinary process. The Board of Counseling website has a page called “Case Decisions.” This page lists the most recent Case Decisions that the Board of Counseling has made as part of the disciplinary process. This page also allows the visitor to select a date range to see the Case Decisions the Board of Counseling has made in that date range. Looking at the Case Decisions for the dates January 1, 2018, to March 31, 2023, (See attached #4) includes the time that the QMHP began and goes up to March 31st, 2023 (the most recent DHP Quarterly report). The DHP also provides Quarterly Reports on all the health regulatory boards. Examining the same time period, it shows **that in just 6 years the QMHP has become the largest group regulated by the Board of Counseling (20,302). All the other groups regulated by the Bboard of Counseling combined (18,489) equal less than the number of OHMP’s.** (See attached Current Count of Licenses #5 and formatted by group #6).

The Case Decisions information 2018-2023 (March 31st) has 282 entries and is listed by date of the case decision. It would not be accurate to say that 282 licensees had actions against their license. One licensee may have several case decisions listed that are all part of the actions taken by the Board on that specific case and license (For an explanation of the Case Decision list see attached *Note on Case Decision*, #7)

The Case Decision Count Chart 2018 to 2023 shows that over the 6-year time period, the QMHP group accounts for 37 % of the Disciplinary actions by the Board of Counseling (See Case Decision Count Chart 2018-2013 #8). In the minutes of the Board of Counseling Full Board meeting on May 13, 2022, in the Executive Director’s Report, Jaime Hoyle cautions the Board about the cost associated with the QMHP:

“.... Ms. Hoyle reported that the Code of Virginia dictates that if the budget is 10% over or under, DHP will consider a one-time renewal fee reduction, or an increase in fees. At this point, the DHP is being conservative, as we do not know the cost of the discipline associated with the addition of the QMHPs and the eventual addition of art therapist. Currently, we are seeing an increase in discipline cases related to QMHPs, so there is reason to be cautious. ...”

Considering the data on Disciplinary Actions on the QMHP group and with Ms. Hoyle’s cautionary note, I am opposed to the petitioner’s request to expand and lessen the QMHP regulations concerning criteria for supervisors of QMHP Trainees. Now is a time for the Board of Counseling to hold tight to the original purpose of regulation of QMHP’s- that is **“increased accountability.”**

I apologize to the Board for this lengthy Public Comment. I wanted to provide the Board with the data that led to my opposition to Petition 383 as I believed the information would be helpful to the Board.

Submitted by:

Joseph G. Lynch LCSW

Please see attachments.



Virginia Department of Health Professions

Current Count of Licenses

Quarterly Summary

Quarter 3 - Fiscal Year 2023

Current licenses by board and occupation as of the last day of the quarter.

** New Occupation

*** Veterinary Establishments are now grouped together, as the board works on designating existing establishments as "Ambulatory" or "Stationary", instead of "Full Service" or "Restricted Service".

Quarter Date Ranges	
Quarter 1	July 1 - September 30
Quarter 2	October 1- December 31
Quarter 3	January 1 - March 31
Quarter 4	April 1 - June 30

BOARD	Occupation	Q3 2020	Q4 2020	Q1 2021	Q2 2021	Q3 2021	Q4 2021	Q1 2022	Q2 2022	Q3 2022	Q4 2022	Q1 2023	Q2 2023	CURRENT Q3 2023
Audiology and Speech Pathology	Audiologist	565	578	533	550	570	528	549	571	583	598	569	583	592
	School Speech Pathologist	471	476	404	405	407	314	334	341	344	350	314	324	334
	Speech Pathologist	4,618	4,711	4,438	4,572	4,685	4,272	4,549	4,693	4,829	4,946	4,788	4,902	5,049
	Total	5,654	5,765	5,375	5,527	5,662	5,114	5,432	5,605	5,756	5,894	5,671	5,809	5,975
Counseling	Certified Substance Abuse Counselor	1954	1972	1876	1913	1940	1707	1770	1803	1833	1878	1718	1748	1779
	Licensed Marriage and Family Therapist	935	938	909	930	955	924	957	979	1019	1047	1017	1049	1078
	Licensed Professional Counselor	6401	6562	6649	6892	7102	6972	7353	7618	7899	8155	8190	8458	8749
	Marriage & Family Therapist Resident	220	224	229	236	127	134	143	152	139	139	144	155	159
	Post Graduate Trainee (ROS)	-	-	-	-	-	-	-	-	-	-	-	-	-
	Qualified Mental Health Prof-Adult**	7749	7924	7194	7403	7590	6355	6714	6931	7126	7297	6361	6622	6861
	Qualified Mental Health Prof-Child**	6903	7042	5745	5928	6060	4607	4910	5085	5229	5396	4368	4555	4744
	Registered Peer Recovery Specialist**	305	313	295	310	333	285	331	361	401	452	437	502	569
	Registration of Supervision	-	-	-	-	-	-	-	-	-	-	-	-	-
	Rehabilitation Provider	188	192	195	198	175	177	178	179	151	157	161	163	144
	Substance Abuse Treatment Practitioner	4159	-	-	-	-	-	-	-	-	-	-	-	-
	Substance Abuse Counseling Assistant	267	280	244	265	276	215	239	249	266	277	244	252	270
	Resident in Counseling	1994	4181	4179	4228	2486	2593	2709	2771	2659	2711	2894	2938	2965
	Substance Abuse Treatment Practitioner	288	307	307	316	330	331	346	362	378	393	395	408	430
	Substance Abuse Treatment Residents	8	9	10	11	9	10	12	14	13	12	11	11	14
	Substance Abuse Trainee	-	-	1958	1957	1967	1994	2067	2129	2153	2145	2191	2243	2332
Trainee for Qualified Mental Health Prof**	3513	3845	4238	4589	4896	5465	5964	6387	6875	7377	7966	8408	8697	
Total		34,884	33,789	34,028	35,176	34,246	31,769	33,693	35,020	36,141	37,436	36,097	37,512	38,791

Case Decision Count Chart 2018 to 2023

	2018	2019	2020	2021	2022	2023	TOTALS	
Certified Substance Abuse Counselor	4	6	0	0	1	0	11	} 19 = (12%)
CSAC Supervisee	0	1	1	0	0	1	3	
Substance Abuse Counseling Assistant	1	0	0	2	0	1	4	
Substance Abuse Treatment Practitioner	1	0	0	0	0	0	1	
Licensed Marriage and Family Therapist	4	3	2	3	1	0	13	} 16 = (10%)
Resident in Marriage and Family Therapy	1	0	2	0	0	0	3	
Licensed Professional Counselor	7	15	8	2	12	5	49	} 61 = (40%)
Resident in Counseling	0	1	3	2	4	2	12	
Qualified Mental Health Prof-Adult	0	6	7	9	6	4	32	} 57 = (37%)
Qualified Mental Health Prof-Child	0	6	4	6	2	1	19	
Trainee for Qualified Mental Health Prof	0	0	0	1	3	2	6	
Registered Peer Recovery Specialist	0	0	0	0	0	1	1	
	18	38	27	25	29	17	154	

NOTE ON CASE DECISION DATA

In order to use the Case Decision data to understand my opposition to the petition you need to look at the way the data is organized. Below is an example. If this table below showed all the Case Decisions for the year 2018. At first it looks like there are 8 rows so, there are 8 cases. But the first line is the label for that column. So, then there are 7 cases. But that is not accurate. Person “C” appears three times on the list. That is because this is a list of “*Case Decisions*” or “*actions*” the Board takes on a case and the Board may take actions several times in the same case., in the same year, or in a few different years. Some of the characteristics of the list are:

- Within the 282 entries they are grouped together by year. That means that row number 2 to row number 36 are for the year 2018.
- Within the year the entries are sequential by date of action taken.
- The name entered in the name column is the full name of each licensee. That led me to have a column with only the last name in order to sort alphabetically.
- I also needed to sort by credential first and then within each credential for each year to then sort alphabetically.
- A person may have more than one credential from the Board of Counseling.

EXAMPLE 1-

1	License Number	Name	Locality	Occupation	Action	Date
2	730000341	A	NORFOLK, VA	Resident in Marriage and Family Therapy	Terms Imposed-Other	3/6/2018
3	701006978	C	RESTON, VA	Licensed Professional Counselor	Summary Suspension	5/23/2018
4	701006978	C	RESTON, VA	Certified Substance Abuse Counselor	Summary Suspension	5/23/2018
5	701004696	B	VIRGINIA BEACH, VA	Licensed Professional Counselor	Monetary Penalty	6/19/2018
6	701006978	C	RESTON, VA	Licensed Professional Counselor	Suspension	7/5/2018
7	701006978	C	RESTON, VA	Certified Substance Abuse Counselor	Suspension	7/5/2018
8	717000512	D	MCLEAN, VA	Licensed Marriage and Family Therapist	Probation Terminated	11/7/2018

SHOWS IN DATE COLUMN SEQUENTIAL DATES IN 2018

License Number	Name	COUNT	Locality	Occupation	Action	Date
701006978	C	1	RESTON, VA	Certified Substance Abuse Counselor	Summary Suspension	5/23/2018
701006978	C	1	RESTON, VA	Certified Substance Abuse Counselor	Suspension	7/5/2018
730000341	A	1	NORFOLK, VA	Resident in Marriage and Family Therapy	Terms Imposed-Other	3/6/2018
717000512	D	2	MCLEAN, VA	Licensed Marriage and Family Therapist	Probation Terminated	11/7/2018
701006978	C	1	RESTON, VA	Licensed Professional Counselor	Summary Suspension	5/23/2018
701006978	C	1	RESTON, VA	Licensed Professional Counselor	Suspension	7/5/2018
701004696	B	2	VIRGINIA BEACH, VA	Licensed Professional Counselor	Monetary Penalty	6/19/2018

REVISED TABLE SHOWS SORTING:

- BY OCCUPATION
- WITHIN OCCUPATION BY ALPHEBITICALLY LAST NAME

COUNTING WITHIN OCCUPATION EACH PERSON ONLY 1 TIME.

EXAMPLE 2 SHOWS A PERSON WITH 3 DIFFERENT CREDENTIALS FROM THE BOARD OF COUNSELING. THE SAME ACTIONS WERE TAKEN ON EACH CREDENTIAL ON THE SAME DATE. THIS ONE PERSON THAT HAS THREE CREDENTIALS HAS 12 ENTRIES LISTED ON THE CASE DECISIONS LIST

License Number	Name	COUNT	Locality	Occupation	Action	Date
710000854	CD	1	HAYMARKET, VA	Certified Substance Abuse Counselor	Probation	7/30/2018
710000854	CD	1	HAYMARKET, VA	Certified Substance Abuse Counselor	Reinstatement Granted	7/30/2018
710000854	CD	1	HAYMARKET, VA	Certified Substance Abuse Counselor	Terms Imposed-Other	7/30/2018
710000854	CD	1	HAYMARKET, VA	Certified Substance Abuse Counselor	Probation Terminated	3/14/2019
710000854	CD	1	HAYMARKET, VA	Certified Substance Abuse Counselor	Terms Terminated	3/14/2019
717000124	CD	1	HAYMARKET, VA	Licensed Marriage and Family Therapist	Probation	7/30/2018
717000124	CD	1	HAYMARKET, VA	Licensed Marriage and Family Therapist	Reinstatement Granted	7/30/2018
717000124	CD	1	HAYMARKET, VA	Licensed Marriage and Family Therapist	Terms Imposed-Other	7/30/2018
717000124	CD	1	HAYMARKET, VA	Licensed Marriage and Family Therapist	Probation Terminated	3/14/2019
717000124	CD	1	HAYMARKET, VA	Licensed Marriage and Family Therapist	Terms Terminated	3/14/2019
701002496	CD	1	HAYMARKET, VA	Licensed Professional Counselor	Probation	7/30/2018
701002496	CD	1	HAYMARKET, VA	Licensed Professional Counselor	Reinstatement Granted	7/30/2018
701002496	CD	1	HAYMARKET, VA	Licensed Professional Counselor	Terms Imposed-Other	7/30/2018
701002496	CD	1	HAYMARKET, VA	Licensed Professional Counselor	Probation Terminated	3/14/2019
701002496	CD	1	HAYMARKET, VA	Licensed Professional Counselor	Terms Terminated	3/14/2019



**Virginia Board of Counseling
Full Board Meeting Minutes
Friday, May 5, 2023, at 10:00 a.m.
9960 Mayland Drive, Henrico, VA 23233
Board Room 2**

PRESIDING OFFICER: Johnston Brendel, Ed.D., LPC, LMFT, Chairperson

BOARD MEMBERS PRESENT: Angela Charlton, Ph.D., LPC
Benjamin Allison, Citizen Member
Danielle Hunt, LPC, Vice-Chairperson
Natalie Franklin, LPC, LMFT
Gerard Lawson, Ph.D., LPC, LSATP
Maria Stransky, LPC, CSAC, CSOTP
Matthew Scott, LMFT
Terry R. Tinsley, Ph. D., LPC, LMFT, CSOTP
Tiffinee Yancey, Ph.D., LPC

BOARD STAFF PRESENT: Anne Atkinson, Executive Assistant
Charlotte Lenart, Deputy Executive Director
Jaime Hoyle, JD, Executive Director
Jennifer Lang, Deputy Executive Director

BOARD COUNSEL PRESENT: James Rutkowski, Assistant Attorney General, Board Counsel

DHP STAFF PRESENT: Arne Owens, Director, Department of Health Professions
Erin Barrett, JD, Director of Legislative and Regulatory Affairs
James Jenkins, Jr., Chief Deputy, Department of Health Professions
Matthew Novak, Policy Analyst, Department of Health Professions

PUBLIC ATTENDEES: Cinda Caiella, LMFT, Mind Health Center
Denise Daly Conrad, Director of Strategic Initiatives, Virginia Healthcare Foundation

CALL TO ORDER: Dr. Brendel called the board meeting to order at 10:00 a.m.

ESTABLISHMENT OF A QUORUM: With ten members present at roll call, a quorum was established.

MISSION STATEMENT: Ms. Hoyle read the mission statement of the Department of Health Professions, which was also the mission statement of the Board. Ms. Hoyle also read the emergency egress instructions.

ADOPTION OF AGENDA: The meeting agenda was adopted as presented.

PUBLIC COMMENT: No public comment provided.

APPROVAL OF MINUTES: The Board approved the January 20, 2023, minutes as presented.

AGENCY DIRECTOR REPORT:

Mr. Owens, announced that Fentanyl Awareness Day events will take place on May 9, 2023, throughout the Commonwealth. Various locations will host events, some to be attended by the Governor and First Lady. Training will be conducted for individuals to administer the drug Naloxone, which is used to treat fentanyl overdose when administered right away.

Mr. Owens reported on the importance of the Governor's initiative, Right Help, Right Now. (Pillar 5) of which Ms. Hoyle and Mr. Jenkins are co-leads.

Mr. Owens stated DHP has recently completed an internal strategic planning process to make DHP the best place to work and continue to retain and attract other state agencies employees to work at DHP.

DHP is already underway to address the healthcare worker shortage through preparation of legislative proposals for the 2024 General Assembly.

CHAIR REPORT:

Dr. Brendel reported that he and Vice Chair Danielle Hunt's second term as Board Members will end on June 30, 2023. Ms. Charlton's first term will expire on June 30, 2023. Dr. Brendel stated that he will be resigning at the end of his term.

Dr. Brendel recognized Ms. Hunt and Ms. Stransky for their time and dedication on the Special Committee. The Special Committee conducts Informal Conferences which allows applicants and licensees their due process.

Dr. Brendel also recognized the effort of those Board members who attended the Regulatory Advisory Panel.

Dr. Brendel discussed the advancements over the years to include Virginia becoming the 20th state to join the Counseling Compact; board staff customer service improvements; process efficiencies; board members and staff participation in national organizations; counselor identity and the addition of QMHPs in 2018.

Dr. Brendel thanked staff for their ongoing efforts to improve the Board and commented on the staff's amazing performance during the pandemic. He remarked that the Agency should continue to keep an eye on retention of the staff.

Dr. Brendel talked about learning about the profession from a bird's eye view and being able to listen to perspectives from others that he would not ordinarily encounter.

LEGISLATION & REGULATORY REPORT:

Ms. Barrett reviewed the Board of Counseling chart of regulatory actions.

Ms. Barrett discussed the exempt regulatory changes to allow agency subordinates to hear credential cases. The change to the regulations were presented in the agenda packet.

Motion: Ms. Stransky moved, which was properly seconded, to adopt the exempt regulatory action changes effective July 1, 2023. The motion passed unanimously.

Ms. Barrett presented the proposed emergency regulation changes to implement provisions of the Counseling Compact. Ms. Barrett reported that the Regulatory Committee recommended the full Board adopt the language as presented.

Motion:

Dr. Lawson moved, which was properly seconded, to adopt the emergency regulations and Notice of Intended Regulatory Action (NOIRA) to implement provisions of the Counseling Compact as discussed. The motion passed unanimously. Refer to Attachment A.

Petition for Rulemaking:

The petitioner requested Guidance Document 115-1.4 be amended to exclude residents from the regulatory requirements outlined in 18VAC11520-52(B)(5) to allow teleaudio services to count as client contact hours.

The Board decided to take no action on the petitioners request to amend Guidance Document 115-1.4.

NEW BUSINESS:

Ms. Hoyle discussed Article IX of the Counseling Compact which requires that each state appoint a delegate to vote on promulgation of rules and creation of bylaws and participate in the business and affairs of the Commission by attend meetings on behalf of the Board.

Motion:

Ms. Hunt moved, which was properly seconded, to appoint Ms. Hoyle or her designee to service as the delegate for the Board. The motion passed unanimously.

Update Discussion from Jaime Hoyle, Executive Director, on Right Help. Right Now. Behavioral Health Transformation Initiative

Ms. Hoyle indicated that DHP is working on the Governor's three-year plan to transform Virginia's Behavioral Health system. Ms. Hoyle and Mr. Jenkins, DHP Chief Deputy, serve as co-leads on the Pillar 5 - Behavioral Workforce Committee.

American Association of State Counseling Boards (AASCB) Conference Update

Dr. Lawson, Ms. Hunt, and Ms. Lenart gave the highlights on the recent AASCB conference which included information on the Counseling Compact, technology, development and results for the National Clinical Mental Health Counseling examination (NCMHCE), and diversity on the Board.

BSU Technology Initiatives and Implementations

Board staff has updated all online and paper applications as it relates to HB1573/SB970 which required the Board to amend its application questions removing existing questions pertaining to mental health conditions and impairment and to include specific questions.

Ms. Lenart discussed the new technology that now allows for applicants to upload their supplemental documentation when applying online. Ms. Lenart gave the Board a short demonstration of this process.

Ms. Lenart provided ongoing information on the BOT automated emails and stated that the Board website will be updated with a new look and feel in the next few weeks.

Discussion on the Department of Health Professions, Workforce Dashboards – Diane Powers, Communication Manager

Ms. Powers provided information on the launch of DHPs new 2023 digital Virginia's Behavioral Health Workforce Dashboard. This dashboard gives state-specific data regarding licensees of Virginia's behavioral healthcare workforce. Refer to Attachment B.

REGULATORY COMMITTEE:

Dr. Lawson provided an update on the Regulatory Advisory Panel (RAP) meeting on March 3, 2023. The Board met with the stakeholders to discuss the recent petitions for rulemaking that asked the Board to modify the regulations lowering the standards by broadening the education requirements and reducing or expanding the supervision allowing seasoned QMHPs to supervise. The Board is reluctant to lessen the requirements as they continue to see discipline complaints about QMHPs that raise questions about their preparation and whether they understand their scope of practice and appropriate ethical behavior. The Committee would like to explore specific training that would provide QMHPs with specific training to help prepare them for their scope of practice.

The Committee may request another RAP meeting in July. Staff suggested that a survey be sent to the constituencies that participated at the RAP to get their feedback on critical issues to conduct a more productive meeting. Dr. Lawson suggested that we gather information from QMHPs to identify if QMHPs feel well prepared or supported in their roles as a QMHPs.

EXECUTIVE DIRECTOR'S REPORT:

Ms. Hoyle recognized the staff dedication to the mission of the Board. Ms. Hoyle recognized Ms. Lang and Ms. Lenart for their ongoing effort and dedication to the Board.

Ms. Hoyle reported on the budget for the board. A copy of the financial report was included in the on page 83 of the agenda packet.

Ms. Hoyle praised Board Deputy Directors Jennifer Lang and Charlotte Lenart, for their outstanding work which includes website changes, good relationships with enforcement and overall outstanding reputations throughout the Commonwealth.

Ms. Hoyle talked about Dr. Brendel and Ms. Hunt's hard work and dedication to the Board by responding to emails, reviewing cases, attending conferences, leading meaningful discussions, and being fierce advocates for staff.

LICENSING REPORT:

Ms. Lenart referenced the licensing report on page 84. She discussed the new endorsement application process which has enabled endorsement applications to be reviewed in an expedited manner.

Ms. Lenart thanked Dr. Brendel and Ms. Hunt for their dedication, leadership and support throughout their years serving on the Board.

DISCIPLINE REPORT:

Ms. Lang referenced the discipline report included in the agenda. She reported that the Board of Counseling has received 128 completed investigations to date (through April 14), which is a 14.3% increase for the same period in 2022.

Ms. Lang also reported that she is recruiting for a new part-time position to concentrate on CE audits and hopes to have someone in the position soon. She reminded board members that discipline staff currently consists of Ms. Lang and Christy Evans, so this new position will allow Ms. Evans to focus more on the discipline process and compliance case management.

Ms. Lang thanked Dr. Brendel and Ms. Hunt for their dedication to the board and staff during their time serving as board members.

**SUBORDINATE
RECOMMENDATIONS:**

Refer to Attachment C.

NEXT MEETING DATES:

Dr. Brendel announced that the next Board meeting will occur on July 21, 2023.

ADJOURNMENT:

Dr. Brendel adjourned the May 5, 2023, Board meeting at 12:00 p.m.

Johnston Brendel, Ed.D. LPC, LMFT, Chairperson

Jaime Hoyle, JD, Executive Director

DRAFT

Attachment A

18VAC115-20-10 **Definitions**

A. The following words and terms when used in this chapter shall have the meaning ascribed to them in § 54.1-3500 of the Code of Virginia:

"Board"

"Counseling"

"Professional counselor"

B. The following words and terms when used in this chapter shall have the following meanings, unless the context clearly indicates otherwise:

"Ancillary counseling services" means activities such as case management, recordkeeping, referral, and coordination of services.

"Applicant" means any individual who has submitted an official application and paid the application fee for licensure as a professional counselor.

"CACREP" means the Council for Accreditation of Counseling and Related Educational Programs.

"Candidate for licensure" means a person who has satisfactorily completed all educational and experience requirements for licensure and has been deemed eligible by the board to sit for its examinations.

"Clinical counseling services" means activities such as assessment, diagnosis, treatment planning, and treatment implementation.

"Compact" means the Counseling Compact.

"Compact privilege" means a legal authorization, which is equivalent to a license, permitting the practice of professional counseling in a remote state.

"Competency area" means an area in which a person possesses knowledge and skill and the ability to apply them in the clinical setting.

"Conversion therapy" means any practice or treatment as defined in § 54.1-2409.5 A of the Code of Virginia.

"CORE" means Council on Rehabilitation Education.

"Counseling Compact Commission" or "commission" means the national administrative body whose membership consists of all states that have enacted the compact.

"Exempt setting" means an agency or institution in which licensure is not required to engage in the practice of counseling according to the conditions set forth in § 54.1-3501 of the Code of Virginia.

"Face-to-face" means the in-person delivery of clinical counseling services for a client.

"Group supervision" means the process of clinical supervision of no more than six persons in a group setting provided by a qualified supervisor.

"Home state" means the member state of the compact that is the licensee's primary state of residence.

"Internship" means a formal academic course from a regionally accredited college or university in which supervised, practical experience is obtained in a clinical setting in the application of counseling principles, methods, and techniques.

"Jurisdiction" means a state, territory, district, province, or country that has granted a professional certificate or license to practice a profession, use a professional title, or hold oneself out as a practitioner of that profession.

"Member state" means a state that has enacted the compact.

"Nonexempt setting" means a setting that does not meet the conditions of exemption from the requirements of licensure to engage in the practice of counseling as set forth in § 54.1-3501 of the Code of Virginia.

"Practitioner" means an individual who holds a license to practice professional counseling, license to practice as a resident in counseling, or a compact privilege to practice professional counseling in Virginia.

"Regional accrediting agency" means one of the regional accreditation agencies recognized by the U.S. Secretary of Education responsible for accrediting senior postsecondary institutions.

"Remote state" means a member state of the compact other than the home state where the licensee is exercising or seeking to exercise the privilege to practice.

"Residency" means a postgraduate, supervised, clinical experience.

"Resident" means an individual who has a supervisory contract and has been issued a temporary license by the board to provide clinical services in professional counseling under supervision.

"Supervision" means the ongoing process performed by a supervisor who monitors the performance of the person supervised and provides regular, documented individual or group consultation, guidance, and instruction that is specific to the clinical counseling services being performed with respect to the clinical skills and competencies of the person supervised.

"Supervisory contract" means an agreement that outlines the expectations and responsibilities of the supervisor and resident in accordance with regulations of the board.

18VAC115-20-20 Fees required by the board

A. The board has established the following fees applicable to licensure as a professional counselor or a resident in counseling:

Initial licensure by examination: Application processing and initial licensure as a professional counselor	\$175
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Initial licensure by endorsement: Application processing and initial licensure as a professional counselor	\$175
Application for initial compact privilege	\$50
Annual renewal of compact privilege	\$50
Application and initial licensure as a resident in counseling	\$65
Pre-review of education only	\$75
Duplicate license	\$10
Verification of licensure to another jurisdiction	\$30
Active annual license renewal for a professional counselor	\$130
Inactive annual license renewal for a professional counselor	\$65
Annual renewal for a resident in counseling	\$30
Late renewal for a professional counselor	\$45
Late renewal for a resident in counseling	\$10
Reinstatement of a lapsed license for a professional counselor	\$200
Reinstatement following revocation or suspension	\$600
Replacement of or additional wall certificate	\$25
Returned check or dishonored credit or debit card	\$50

B. All fees are nonrefundable.

C. Examination fees shall be determined and made payable as determined by the board.

18VAC115-20-41 Compact privilege to practice professional counseling

To obtain a compact privilege to practice professional counseling in Virginia, a licensed professional counselor in a member state shall comply with the rules adopted by the Counseling Compact Commission in effect at the time of application.

18VAC115-20-100 Annual renewal of licensure or compact privilege

A. Every licensed professional counselor who intends to continue an active practice shall submit to the board on or before June 30 of each year:

1. A completed form for renewal of the license on which the licensee attests to compliance with the continuing competency requirements prescribed in this chapter; and

2. The renewal fee prescribed in 18VAC115-20-20.

B. A licensed professional counselor who wishes to place his license in an inactive status may do so upon payment of the inactive renewal fee as established in 18VAC115-20-20. No person shall practice counseling in Virginia unless he holds a current active license. A licensee who has placed himself in inactive status may become active by fulfilling the reactivation requirements set forth in subsection C of 18VAC115-20-110.

C. For renewal of a resident license in counseling, the following shall apply:

1. A resident license shall expire annually in the month the resident license was initially issued and may be renewed up to five times by submission of the renewal form and payment of the fee prescribed in 18VAC115-20-20.

2. On the annual renewal, the resident shall attest that a supervisory contract is in effect with a board-approved supervisor for each of the locations at which the resident is currently providing clinical counseling services.

3. On the annual renewal, the resident in counseling shall attest to completion of three hours in continuing education courses that emphasize the ethics, standards of practice, or laws governing behavioral science professions in Virginia, offered by an approved provider as set forth in subsection B of 18VAC115-20-106.

D. In order to renew a compact privilege to practice in Virginia, the compact privilege holder shall comply with the rules adopted by the Counseling Compact Commission in effect at the time of the renewal.

E. Licensees Practitioners shall notify the board of a change in the address of record or the public address, if different from the address of record within 60 days. Failure to receive a renewal notice from the board shall not relieve the license holder practitioner from the renewal requirement.

~~E.F.~~ Practice with an expired license or compact privilege is prohibited and may constitute grounds for disciplinary action.

18VAC115-20-130 Standards of practice

A. The protection of the public health, safety, and welfare and the best interest of the public shall be the primary guide in determining the appropriate professional conduct of all persons whose activities are regulated by the board. Regardless of the delivery method, whether in person, by phone, or electronically, these standards shall apply to the practice of counseling.

B. ~~Persons licensed or registered by the board~~ Practitioners shall:

1. Practice in a manner that is in the best interest of the public and does not endanger the public health, safety, or welfare;

2. Practice only within the boundaries of their competence, based on their education, training, supervised experience, and appropriate professional experience and represent their education, training, and experience accurately to clients;

3. Stay abreast of new counseling information, concepts, applications, and practices that are necessary to providing appropriate, effective professional services;
 4. Be able to justify all services rendered to clients as necessary and appropriate for diagnostic or therapeutic purposes;
 5. Document the need for and steps taken to terminate a counseling relationship when it becomes clear that the client is not benefiting from the relationship. Document the assistance provided in making appropriate arrangements for the continuation of treatment for clients, when necessary, following termination of a counseling relationship;
 6. Make appropriate arrangements for continuation of services, when necessary, during interruptions such as vacations, unavailability, relocation, illness, and disability;
 7. Disclose to clients all experimental methods of treatment and inform clients of the risks and benefits of any such treatment. Ensure that the welfare of the clients is in no way compromised in any experimentation or research involving those clients;
 8. Neither accept nor give commissions, rebates, or other forms of remuneration for referral of clients for professional services;
 9. Inform clients of the purposes, goals, techniques, procedures, limitations, potential risks, and benefits of services to be performed; the limitations of confidentiality; and other pertinent information when counseling is initiated and throughout the counseling process as necessary. Provide clients with accurate information regarding the implications of diagnosis, the intended use of tests and reports, fees, and billing arrangements;
 10. Select tests for use with clients that are valid, reliable, and appropriate and carefully interpret the performance of individuals not represented in standardized norms;
 11. Determine whether a client is receiving services from another mental health service provider, and if so, refrain from providing services to the client without having an informed consent discussion with the client and having been granted communication privileges with the other professional;
 12. Use only in connection with one's practice as a mental health professional those educational and professional degrees or titles that have been earned at a college or university accredited by an accrediting agency recognized by the U.S. Department of Education, or credentials granted by a national certifying agency, and that are counseling in nature;
 13. Advertise professional services fairly and accurately in a manner that is not false, misleading, or deceptive; and
 14. Not engage in conversion therapy with any person younger than 18 years of age.
- C. In regard to patient records, ~~persons licensed by the board~~ **practitioners** shall:
1. Maintain written or electronic clinical records for each client to include treatment dates and identifying information to substantiate diagnosis and treatment plan, client progress, and termination;

2. Maintain client records securely, inform all employees of the requirements of confidentiality, and provide for the destruction of records that are no longer useful in a manner that ensures client confidentiality;

3. Disclose or release records to others only with the client's expressed written consent or that of the client's legally authorized representative in accordance with § 32.1-127.1:03 of the Code of Virginia;

4. Ensure confidentiality in the usage of client records and clinical materials by obtaining informed consent from the client or the client's legally authorized representative before (i) videotaping, (ii) audio recording, (iii) permitting third party observation, or (iv) using identifiable client records and clinical materials in teaching, writing, or public presentations; and

5. Maintain client records for a minimum of five years or as otherwise required by law from the date of termination of the counseling relationship with the following exceptions:

a. At minimum, records of a minor child shall be maintained for five years after attaining the age of majority (18 years) or 10 years following termination, whichever comes later;

b. Records that are required by contractual obligation or federal law to be maintained for a longer period of time; or

c. Records that have been transferred to another mental health service provider or given to the client or his legally authorized representative.

D. In regard to dual relationships, ~~persons licensed by the board~~ practitioners shall:

1. Avoid dual relationships with clients that could impair professional judgment or increase the risk of harm to clients. Examples of such relationships include familial, social, financial, business, bartering, or close personal relationships with clients. Counselors shall take appropriate professional precautions when a dual relationship cannot be avoided, such as informed consent, consultation, supervision, and documentation to ensure that judgment is not impaired and no exploitation occurs;

2. Not engage in any type of romantic relationships or sexual intimacies with clients or those included in a collateral relationship with the client and not counsel persons with whom they have had a romantic relationship or sexual intimacy. Counselors shall not engage in romantic relationships or sexual intimacies with former clients within a minimum of five years after terminating the counseling relationship. Counselors who engage in such relationship or intimacy after five years following termination shall have the responsibility to examine and document thoroughly that such relations do not have an exploitive nature, based on factors such as duration of counseling, amount of time since counseling, termination circumstances, client's personal history and mental status, or adverse impact on the client. A client's consent to, initiation of, or participation in sexual behavior or involvement with a counselor does not change the nature of the conduct nor lift the regulatory prohibition;

3. Not engage in any romantic relationship or sexual intimacy or establish a counseling or psychotherapeutic relationship with a supervisee or student. Counselors shall avoid any nonsexual dual relationship with a supervisee or student in which there is a risk of exploitation or

potential harm to the supervisee or student or the potential for interference with the supervisor's professional judgment; and

4. Recognize conflicts of interest and inform all parties of the nature and directions of loyalties and responsibilities involved.

E. ~~Persons licensed by this board~~ **Practitioners** shall report to the board known or suspected violations of the laws and regulations governing the practice of professional counseling.

F. ~~Persons licensed by the board~~ **Practitioners** shall advise their clients of their right to report to the Department of Health Professions any information of which the licensee may become aware in his professional capacity indicating that there is a reasonable probability that a person licensed or certified as a mental health service provider, as defined in § 54.1-2400.1 of the Code of Virginia, may have engaged in unethical, fraudulent, or unprofessional conduct as defined by the pertinent licensing statutes and regulations.

18VAC115-20-140 Grounds for revocation, suspension, probation, reprimand, censure, or denial of renewal of license

A. Action by the board to revoke, suspend, deny issuance or renewal of a license **or compact privilege**, or take disciplinary action may be taken in accordance with the following:

1. Conviction of a felony, or of a misdemeanor involving moral turpitude, or violation of or aid to another in violating any provision of Chapter 35 (§ 54.1-3500 et seq.) of Title 54.1 of the Code of Virginia, any other statute applicable to the practice of professional counseling, or any provision of this chapter;
2. Procurement of a license **or compact privilege**, including submission of an application or supervisory forms, by fraud or misrepresentation;
3. Conducting one's practice in such a manner as to make it a danger to the health and welfare of one's clients or to the public, or if one is unable to practice counseling with reasonable skill and safety to clients by reason of illness, abusive use of alcohol, drugs, narcotics, chemicals, or other type of material or result of any mental or physical condition;
4. Intentional or negligent conduct that causes or is likely to cause injury to a client or clients;
5. Performance of functions outside the demonstrable areas of competency;
6. Failure to comply with the continued competency requirements set forth in this chapter;
7. Violating or abetting another person in the violation of any provision of any statute applicable to the practice of counseling, or any part or portion of this chapter; or
8. Performance of an act likely to deceive, defraud, or harm the public.

B. Following the revocation or suspension of a license **or compact privilege**, the ~~licensee~~ **practitioner** may petition the board for reinstatement upon good cause shown or as a result of substantial new evidence having been obtained that would alter the determination reached.

18VAC115-20-150 Reinstatement following disciplinary action

A. Any person whose license or compact privilege has been suspended or who has been denied reinstatement by board order, having met the terms of the order, may submit a new application and fee for reinstatement of licensure or compact privilege.

B. The board in its discretion may, after an administrative proceeding, grant the reinstatement sought in subsection A of this section.

Attachment B



COMMONWEALTH of VIRGINIA

Department of Health Professions

Perimeter Center
9960 Mayland Drive, Suite 300
Henrico, Virginia 23233-1463

www.dhp.virginia.gov
PHONE (804) 367- 4400

May 3, 2023

Dear Colleague—

As a practitioner on the front lines, you are already aware of the unprecedented demand to meet the mental health needs of Virginia’s 8 million residents. Behavioral Health practitioners licensed by the Commonwealth’s health regulatory boards range from *Psychiatrists, Psychiatric-Mental Health Nurse Practitioners* and *Clinical Psychologists* to *Licensed Clinical Social Workers* and *Licensed Professional Counselors*.

Based on the information they provide, Virginia’s Department of Health Professions’ (DHP) [Healthcare Workforce Data Center](#) (HWDC) is pleased to announce the launch of it’s a new 2023 digital [Behavioral Health Dashboard](#).

The seventh in a series of customized visualization tools, the *DHP HWDC Behavior Health Dashboard* is timely. Implemented this spring to meet the need for quantifiable, state-specific data regarding licensees of Virginia’s behavioral healthcare workforce, the dashboard provides workforce indicators by practice type. Findings can be used to quantify the workforce habits and preferences of behavioral health practitioners licensed in the Commonwealth. Not unlike other DHP HWDC products, all searchable findings are based on the confidential, voluntary participation of licenses surveyed by the state’s health regulatory boards during licensure or renewal.

Each of HWDC’s customized visualization tools can be used by students making career decisions, policy makers, program designers, healthcare practitioners and the general public. Updated regularly, each data set provides users with an understanding of existing and emerging issues that impact Virginia’s healthcare workforce as well as patient access to regional and statewide care.

For further information regarding the DHP HWDC Behavioral Health Dashboard or to schedule a presentation on use of the materials, please contact DHP HWDC Director, Yetty Shobo at Yetty.Shobo@DHP.Virginia.Gov.

Sincerely,
Yetty Shobo, Ph.D.
Director,
DHP Healthcare Workforce Data Center

CONSIDERATION OF RECOMMENDED DECISIONS

Page 1 of 1

BOARD MEMBERS IN ATTENDANCE:

Johnston Brendel, Ed.D., LPC, LMFT, Chairperson
Angela Charlton, Ph.D., LPC
Gerard Lawson, Ph.D., LPC, LSATP
Terry Tinsley, Ph.D., LPC, LMFT, CSOTP

Benjamin Allison, Citizen Member
Natalie Franklin, LPC, LMFT
Matthew Scott, LMFT
Tiffinee Yancey, Ph.D., LPC

CLOSED MEETING:

Mr. Scott moved that the Board of Counseling convene in closed session pursuant to §2.2-3711(A)(27) of the *Code of Virginia* to consider agency subordinate recommendations. He further moved that James Rutkowski, Jaime Hoyle, Jennifer Lang, Charlotte Lenart, and Anne Atkinson attend the closed meeting because their presence in the meeting was deemed necessary and would aid the Board in its consideration of the matters. The motion was seconded and passed unanimously.

RECONVENE:

Mr. Scott certified that pursuant to §2.2-3712 of the *Code of Virginia*, the Board of Counseling heard, discussed or considered only those public business matters lawfully exempted from open meeting requirements under the Virginia Freedom of Information Act and only such public business matters as identified in the original motion.

RECOMMENDATIONS AND DECISIONS:

Erin Hampton Davis, LPC

License No.: 0701008360
Case No.: 213626

Erin Davis did not appear before the board. The board considered the agency subordinate's recommendation to place Erin Davis' license to practice professional on indefinite probation, with certain terms and conditions, for a period of not less than 18 months.

Gretchen McDaniel, CSAC, QMHP-A

CSAC Certificate No.: 0710103362
QMHP Registration No.: 0732005884
Case No.: 217351

Gretchen McDaniel did not appear before the board. The board considered the agency subordinate's recommendation to revoke Gretchen McDaniel's certificate to practice as a substance abuse counselor and registration to practice as a qualified mental health professional-adult.

DECISION:

Dr. Lawson made a motion to accept the recommendations of the agency subordinates. The motion was seconded by Ms. Franklin and passed unanimously.

**VIRGINIA BOARD OF COUNSELING
FORMAL HEARING
MINUTES**

May 5, 2023

Department of Health Professions
Perimeter Center, 9960 Mayland Drive
Board Room 2
Henrico, Virginia 23233

Matter: Famika Robertson, LSATP Applicant

Attorney: None
Case No.: 192382

Call to Order: A panel of the Board of Counseling convened on May 5, 2023 at 12:40 p.m.

Presiding: Maria Stransky, LPC, CSAC, CSOTP, Hearing Chairperson

Board Members Present: Benjamin Allison, Citizen Member
Angela Charlton, Ph.D., LPC
Natalie Franklin, LPC, LMFT
Gerard Lawson, Ph.D., LPC, LSATP
Matthew Scott, LMFT
Terry Tinsley, Ph.D., LPC, LMFT, CSOTP
Tiffinee Yancey, Ph.D., LPC

Board Staff: James Rutkowski, Assistant Attorney General, Board Counsel
Jaime Hoyle, Executive Director
Charlotte Lenart, Deputy Executive Director
Christy Evans, Discipline and Compliance Case Manager
Anne Atkinson, Administrative Assistant

Court Reporter: Juan Ortega
Freelance Court Reporter

Establishment of a Panel: With 8 members present, a panel of the board was established.

Parties on Behalf of the Commonwealth: Emily Tatum, Sr. Adjudication Specialist, APD

Discussion: Famika Robertson appeared before the board in person, in accordance with the board's Notice of Formal Hearing dated September 29, 2021, and an Amended Notice dated April 7, 2023. Famika Robertson was not represented by legal counsel.

The Board received evidence and sworn testimony regarding the allegations contained in the Notice dated.

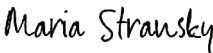
Closed Session: Upon a motion by Dr. Lawson, and duly seconded by Mr. Allison, the Board voted to convene a closed meeting pursuant to §2.2-3711(A)(27) of the Code of Virginia for the purpose of deliberation to reach a decision in the matter. Additionally, he moved that James Rutkowski, Jaime Hoyle, Charlotte Lenart, Christy Evans, and Anne Atkinson attend the closed meeting because their presence was deemed necessary and would aid the Board in its deliberation.

Reconvene: Having certified that the matters discussed in the preceding closed session met the requirements of §2.2-3712 of the Code, the Board reconvened in open session and announced its decision.

Decision and Vote: Dr. Lawson moved to deny Famika Robertson's application for licensure by endorsement as a Substance Abuse Treatment Practitioner. The basis for this decision will be set forth in a final Board Order which will be sent to Famika Robertson at the address of record. The motion was seconded by Dr. Yancey and carried unanimously.


Adjournment: The Board adjourned at 1:20 p.m.

The decision shall be effective upon the entry by the Board of a written Order stating the findings, conclusions and decisions of this formal hearing panel.

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Maria Stransky, LPC, CSAC, CSOTP, Hearing Chairperson
Virginia Board of Counseling

5/10/2023

Date

DocuSigned by:

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Jaime Hoyle, Executive Director
Virginia Board of Counseling

5/16/2023

Date

**VIRGINIA BOARD OF COUNSELING
SPECIAL CONFERENCE COMMITTEE
INFORMAL CONFERENCE MINUTES – MAY 19, 2023**

CALL TO ORDER: A Special Conference Committee (“Committee”) of the Board of Counseling (“Board”) convened on May 19, 2023 at 10:13 a.m., at the Department of Health Professions, Perimeter Center, 9960 Mayland Drive, Richmond, Virginia, Board Room 1.

MEMBERS PRESENT: Danielle Hunt, LPC, Chairperson
Maria Stransky, LPC, CSAC, CSOTP

STAFF PRESENT: Christy Evans, Discipline Case Manager, Board of Counseling
Anne Joseph, Adjudication Consultant, Administrative Proceedings Division

APPLICANT: **Tiffani Savage, QMHP-C Applicant**
Case No.: 226506

DISCUSSION: Tiffani Savage appeared in person before the Committee, without legal counsel, and fully discussed the allegations contained in the Notice dated April 12, 2023.

CLOSED MEETING: Upon a motion by Ms. Stransky, and duly seconded by Ms. Hunt, the Committee voted to convene in a closed meeting pursuant to § 2.2-3711(A)(27) of the *Code of Virginia* for the purpose of deliberation to reach a decision in the matter of Tiffani Savage, QMHP-C Applicant. Additionally, she moved that Christy Evans attend the closed meeting because her presence would aid the Committee in its deliberations.

RECONVENE: Having certified that the matters discussed in the preceding closed session met the requirements of § 2.2-3712 of the *Code of Virginia*, the Committee reconvened in open session and announced its decision.

DECISION: Upon a motion by Ms. Stransky, and duly seconded by Ms. Hunt, the Committee voted to deny Tiffani Savage's application for registration as a QMHP-C. The motion carried.

ADJOURN: With all business concluded, the Committee adjourned at 11:01 a.m.

As provided by law this decision shall become a Final Order thirty (30) days after service of such Order on the applicant, unless the applicant makes a written request to the Board within such time for a formal hearing on the allegations made. If service of the Order is made by mail, three (3) additional days shall be added to that period. Upon such timely request for a formal hearing, the decision of the Special Conference Committee shall be vacated

DocuSigned by:
DANIELLE HUNT
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Danielle Hunt, LPC, Chairperson
Special Conference Committee of the Board of Counseling

5/22/2023
Date

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Jennifer Lang
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Jennifer Lang, Deputy Executive Director
Virginia Board of Counseling

5/26/2023
Date

**VIRGINIA BOARD OF COUNSELING
SPECIAL CONFERENCE COMMITTEE
INFORMAL CONFERENCE MINUTES – MAY 19, 2023**

CALL TO ORDER: A Special Conference Committee (“Committee”) of the Board of Counseling (“Board”) convened on May 19, 2023 at 11:11 a.m., at the Department of Health Professions, Perimeter Center, 9960 Mayland Drive, Richmond, Virginia, Board Room 1.

MEMBERS PRESENT: Danielle Hunt, LPC, Chairperson
Maria Stransky, LPC, CSAC, CSOTP

STAFF PRESENT: Christy Evans, Discipline Case Manager, Board of Counseling
Emily Tatum, Adjudication Specialist, Administrative Proceedings Division

APPLICANT: **Joao Pedro Benzaquen Perosa, Applicant for Residency in Counseling**
Case No.: 222502

DISCUSSION: Joao Pedro Benzaquen Perosa appeared in person before the Committee, without legal counsel, and fully discussed the allegations contained in the Notice dated April 12, 2023.

CLOSED MEETING: Upon a motion by Ms. Stransky, and duly seconded by Ms. Hunt, the Committee voted to convene in a closed meeting pursuant to § 2.2-3711(A)(27) of the *Code of Virginia* for the purpose of deliberation to reach a decision in the matter of Joao Pedro Benzaquen Perosa, Applicant for Residency in Counseling. Additionally, she moved that Christy Evans attend the closed meeting because her presence would aid the Committee in its deliberations.

RECONVENE: Having certified that the matters discussed in the preceding closed session met the requirements of § 2.2-3712 of the *Code of Virginia*, the Committee reconvened in open session and announced its decision.

DECISION: Upon a motion by Ms. Stransky, and duly seconded by Ms. Hunt, the Committee voted to refer this matter to a formal hearing before the Board of Counseling. The motion carried.

ADJOURN: With all business concluded, the Committee adjourned at 12:18 p.m.

As provided by law this decision shall become a Final Order thirty (30) days after service of such Order on the applicant, unless the applicant makes a written request to the Board within such time for a formal hearing on the allegations made. If service of the Order is made by mail, three (3) additional days shall be added to that period. Upon such timely request for a formal hearing, the decision of the Special Conference Committee shall be vacated

DocuSigned by:
DANIELLE HUNT
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Danielle Hunt, LPC, Chairperson
Special Conference Committee of the Board of Counseling

5/22/2023

Date

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Jennifer Lang
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Jennifer Lang, Deputy Executive Director
Virginia Board of Counseling

5/26/2023

Date

**VIRGINIA BOARD OF COUNSELING
SPECIAL CONFERENCE COMMITTEE
INFORMAL CONFERENCE MINUTES – MAY 19, 2023**

CALL TO ORDER: A Special Conference Committee (“Committee”) of the Board of Counseling (“Board”) convened on May 19, 2023 at 12:34 p.m., at the Department of Health Professions, Perimeter Center, 9960 Mayland Drive, Richmond, Virginia, Board Room 1.

MEMBERS PRESENT: Danielle Hunt, LPC, Chairperson
Maria Stransky, LPC, CSAC, CSOTP

STAFF PRESENT: Christy Evans, Discipline Case Manager, Board of Counseling
Emily Tatum, Adjudication Specialist, Administrative Proceedings Division

APPLICANT: **Suzanne Schuler, Applicant for Residency in Counseling**
Case No.: 226720

DISCUSSION: Suzanne Schuler appeared in person before the Committee, without legal counsel, and fully discussed the allegations contained in the Notice dated April 12, 2023.

CLOSED MEETING: Upon a motion by Ms. Stransky, and duly seconded by Ms. Hunt, the Committee voted to convene in a closed meeting pursuant to § 2.2-3711(A)(27) of the *Code of Virginia* for the purpose of deliberation to reach a decision in the matter of Suzanne Schuler, Applicant for Residency in Counseling. Additionally, she moved that Christy Evans attend the closed meeting because her presence would aid the Committee in its deliberations.

RECONVENE: Having certified that the matters discussed in the preceding closed session met the requirements of § 2.2-3712 of the *Code of Virginia*, the Committee reconvened in open session and announced its decision.

DECISION: Upon a motion by Ms. Stransky, and duly seconded by Ms. Hunt, the Committee voted to deny Suzanne Schuler’s application for licensure as a resident in counseling. The motion carried.

ADJOURN: With all business concluded, the Committee adjourned at 1:35 p.m.

As provided by law this decision shall become a Final Order thirty (30) days after service of such Order on the applicant, unless the applicant makes a written request to the Board within such time for a formal hearing on the allegations made. If service of the Order is made by mail, three (3) additional days shall be added to that period. Upon such timely request for a formal hearing, the decision of the Special Conference Committee shall be vacated.

DocuSigned by:

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Danielle Hunt, LPC, Chairperson
Special Conference Committee of the Board of Counseling

5/22/2023
Date

DocuSigned by:

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Jennifer Lang, Deputy Executive Director
Virginia Board of Counseling

5/26/2023
Date

Virginia Board of Counseling
Informal Conferences – Agency Subordinate
June 7, 2023

The informal conferences, held before an Agency Subordinate of the Board of Counseling, were convened at 10:41 a.m. on June 7, 2023 at the Department of Health Professions, 9960 Mayland Drive, Ste. 201, Henrico, Virginia, Board Room 4.

Agency Subordinate: Maria Stransky, LPC, CSAC, CSOTP
Staff Present: Christy Evans, Discipline Case Manager, Board of Counseling

Cases Considered:

Robert Ashford, QMHP-A

Others Present: Emily Tatum, Sr. Adjudication Specialist, APD
Registration No.: 0732004509
Case No.: 210678

Robert Ashford appeared in person, without legal counsel, and discussed the allegations in the Notice dated March 10, 2022, and Amended Notices dated August 15, 2022 and April 18, 2023.

A recommended decision will be made and mailed to Robert Ashford within 90 days. This recommendation will be presented to the full Board and, if accepted, an Order will be entered. As provided by law, this decision shall become a Final Order 30 days after service of such order on Robert Ashford unless a written request to the Board for a formal hearing is received within such time. If service of the order is made by mail, three additional days shall be added to that period. Upon such timely request for a formal hearing, the Order shall be vacated.

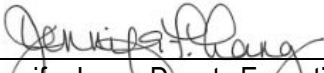
Jacqueline Graham, QMHP-A

Others Present: Emily Tatum, Sr. Adjudication Specialist, APD
Registration No.: 0732004817
Case No.: 209783

Jacqueline Graham did not appear in accordance with the Notice dated March 8, 2023, and an Amended Notice dated April 19, 2023, and was not represented by legal counsel. Based upon information provided by Emily Tatum, the Agency Subordinate ruled that adequate notice was provided.

A recommended decision will be made and mailed to Jacqueline Graham within 90 days. This recommendation will be presented to the full Board and, if accepted, an Order will be entered. As provided by law, this decision shall become a Final Order 30 days after service of such order on Jacqueline Graham unless a written request to the Board for a formal hearing is received within such time. If service of the order is made by mail, three additional days shall be added to that period. Upon such timely request for a formal hearing, the Order shall be vacated.

Adjournment: The conferences concluded at 11:10 a.m.



Jennifer Lang, Deputy Executive Director
Virginia Board of Counseling

06/08/2023
Date



Virginia Board of Counseling Telephone Conference Call – Summary Suspension Consideration July 7, 2023

- CALL TO ORDER:** Pursuant to § 54.1-2408.1 of the *Code of Virginia*, a telephone conference call of the Virginia Board of Counseling was called to order on July 7, 2023 at 12:03 p.m., to consider the possible summary suspension of the license of Erica Church, LPC.
- PRESIDING:** Danielle Hunt, LPC, Chairperson
- BOARD MEMBERS PRESENT:** Benjamin Allison, Citizen Member
Johnston Brendel, Ed.D., LPC, LMFT, Chairperson
Angela Charlton, Ph.D., LPC
Natalie Franklin, LPC, LMFT
Gerard Lawson, Ph.D., LPC, LSATP
Matthew Scott, LMFT
Terry Tinsley, Ph.D., LPC, LMFT
- QUORUM:** With eight (8) members participating, a quorum was established.
- POLL OF MEMBERS:** The board members were polled as to whether they could have attended a regular meeting at the office of the board in a timely manner, for the purpose of hearing evidence in a possible summary suspension case. With the eight (8) members participating, it was established that a quorum could not have been convened in person.
- BOARD COUNSEL PRESENT:** James Rutkowski, Assistant Attorney General
- BOARD STAFF PRESENT:** Jaime Hoyle, Executive Director
Jennifer Lang, Deputy Executive Director
Charlotte Lenart, Deputy Executive Director
Christy Evans, Discipline and Compliance Case Manager
- PARTIES FOR THE COMMONWEALTH:** Mandy Wilson, Assistant Attorney General, OAG
Christine Corey, Adjudication Specialist, APD
- MATTER CONSIDERED:** Erica Church, LPC
License No. 0701005987
Case No. 224833
- PRESENTATION:** Ms. Wilson presented a summary of the evidence in the case.
- CLOSED MEETING:** Dr. Lawson moved that the Board convene in a closed meeting pursuant to § 2.2-3711(A)(27) of the *Code of Virginia* to consider a settlement proposal. Additionally he moved that James Rutkowski, Jaime Hoyle, Jennifer Lang, Charlotte Lenart, and Christy Evans attend the meeting because their presence was deemed necessary and would aid the Board in its deliberations. The motion was seconded and passed unanimously by a roll call vote.
- RECONVENE:** Having certified that the matters discussed in the preceding closed meeting met the requirements of § 2.2-3712 of the *Code*, the Board reconvened in an open meeting.

Telephone Conference Call
July 7, 2023
Page 2

DECISION:

Dr. Lawson made a motion to summarily suspend the license of Erica Church to practice as a professional counselor, pending a hearing, and to offer Ms. Church a Consent Order for revocation of her license in lieu of a formal hearing. The motion was seconded and passed unanimously by a roll call vote.

The formal hearing of this matter will be scheduled on August 18, 2023 at 10:00 a.m.

ADJOURNMENT:

With all business concluded, the Board adjourned at 12:25 p.m.

DocuSigned by:
DANIELLE HUNT
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Danielle Hunt, LPC, Chairperson
Board of Counseling

7/12/2023

Date

DocuSigned by:
Jennifer Lang
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Jennifer Lang, Deputy Executive Director
Board of Counseling

7/13/2023

Date

Board of Counseling
Current* Regulatory Actions

At Secretary's Office

Chapter	Action	Stage	Location	Duration
18VAC115-90	New chapter for licensure of art therapists	Proposed	Secretary	473 days
18VAC115-20	Removal of redundant provisions related to conversion therapy	NOIRA	Secretary	279 days
18VAC115-20	Regulatory reduction September 2022	Fast-Track	Secretary	206 days

At Attorney General's Office

Chapter	Action	Stage	Location	Duration
18VAC115-20 18VAC115-50 18VAC115-60	Changes resulting from periodic review	Final	OAG	292 days
18VAC115-20	Implementation of the Counseling Compact	Emergency/NOIRA	OAG	63 days
18VAC115-15	Exempt regulatory changes to allow agency subordinates to hear credentials cases	Exempt/Final	OAG	8 days

*As of July 10, 2023

Agenda Item: Initiation of periodic review of 18VAC115-40

Included in your agenda packet:

- 18VAC115-40, Regulations Governing the Certification of Rehabilitation Providers

Action Needed:

- Motion to initiate periodic review of 18VAC115-40.

Commonwealth of Virginia



REGULATIONS

**GOVERNING THE CERTIFICATION OF
REHABILITATION PROVIDERS**

VIRGINIA BOARD OF COUNSELING

Title of Regulations: 18 VAC 115-40-10 et seq.

**Statutory Authority: §§ 54.1-2400 and Chapter 35 of Title 54.1
of the *Code of Virginia***

Revised Date: September 29, 2021

9960 Mayland Drive
Henrico, VA 23233

Phone: (804) 367-4610
FAX: (804) 527-4435
email: coun@dhp.virginia.gov

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Part I. General Provisions.

18VAC115-40-10. Definitions.

A. The terms "board," "certified rehabilitation provider," and "professional judgment," when used in this chapter, shall have the meanings ascribed to them in §§54.1-3500 and 54.1-3510 of the Code of Virginia.

B. The following words and terms, when used in this chapter, shall have the following meanings unless the context indicates otherwise:

"Competency area" means an area in which a person possesses knowledge and skills and the ability to apply them in the rehabilitation setting.

"Experience" means on-the-job experience under appropriate supervision as set forth in this chapter.

"Internship" means a supervised field experience as part of a degree requirement obtained from a regionally accredited university as set forth in 18VAC115-40-22.

"Regionally accredited" means an institution accredited by one of the regional accreditation agencies recognized by the United States Secretary of Education as responsible for accrediting senior post-secondary institutions and training programs.

"Rehabilitation client" means an individual receiving rehabilitation services whose benefits are regulated by the Virginia Workers' Compensation Commission.

"Supervisee" means any individual who has met the education requirements and is under appropriate supervision and working towards certification according to the requirements of this chapter. Services provided by the supervisee shall not involve the exercise of professional judgment as defined in §54.1-3510 of the Code of Virginia.

"Supervision" means the ongoing process performed by a supervisor who monitors the performance of the person supervised and provides regular, documented, personal instruction, guidance, and education with respect to the skills and competencies of the person supervised.

"Supervisor" means one who provides case-related supervision, consultation, education, and guidance for the applicant. The supervisor must be credentialed as defined in 18VAC115-40-27.

"Training" means the educational component of on-the-job experience.

18VAC115-40-20. Fees required by the board.

A. The board has established the following fees applicable to the certification of rehabilitation providers:

Initial certification by examination: Processing and initial certification	\$115
--	-------

Initial certification by endorsement: Processing and initial certification	\$115
Certification renewal	\$65
Duplicate certificate	\$10
Verification of certification	\$25
Late renewal	\$25
Reinstatement of a lapsed certificate	\$125
Replacement of or additional wall certificate	\$25
Returned check or dishonored credit card or debit card	\$50
Reinstatement following revocation or suspension	\$600

B. Fees shall be paid to the board. All fees are nonrefundable.

Part II. Requirements for Certification.

18VAC115-40-22. Criteria for eligibility.

A. Education and experience requirements for certification are as follows:

1. Any baccalaureate degree from a regionally accredited college or university or a current registered nurse license in good standing in Virginia; and
2. Documentation of 2,000 hours of supervised experience in performing those services that will be offered to a workers' compensation claimant under § ~~65.2-603~~ of the Code of Virginia. Experience may be acquired through supervised training or experience or both. A supervised internship in rehabilitation services may count toward part of the required 2,000 hours. Any individual who does not meet the experience requirement for certification must practice under the supervision of an individual who meets the requirements of 18VAC115-40-27. Individuals shall not practice in an internship or supervisee capacity for more than five years.

B. A passing score on a board-approved examination shall be required.

C. The board may grant certification without examination to applicants certified as rehabilitation providers in other states or by nationally recognized certifying agencies, boards, associations and commissions by standards substantially equivalent to those set forth in the board's current regulation.

D. The applicant shall have no unresolved disciplinary action against a health, mental health, or rehabilitation-related license, certificate, or registration in Virginia or in another jurisdiction. The board will consider history of disciplinary action on a case-by-case basis.

18VAC115-40-23 to 18VAC115-40-24. (Reserved.)

18VAC115-40-25. Application process.

The applicant shall submit to the board:

1. A completed application form;
2. The official transcript or transcripts submitted from the appropriate institutions of higher education;
3. Documentation, on the appropriate forms, of the successful completion of the supervised experience requirement of 18VAC115-40-26. Documentation of supervision obtained outside of Virginia must include verification of the supervisor's out-of-state license or certificate;
4. Documentation of passage of the examination required by 18VAC115-40-28;
5. A current report from the U.S. Department of Health and Human Services National Practitioner Data Bank (NPDB); and
6. Verification that the applicant's national or out-of-state license or certificate is in good standing where applicable.

18VAC115-40-26. Supervised experience requirement.

The following shall apply to the supervised experience requirement for certification:

1. On average, the supervisor and the supervisee shall consult for two hours per week in group or personal instruction. The total hours of personal instruction shall not be less than 100 hours within the 2,000 hours of experience. Group instruction shall not exceed six persons in a group.
2. Half of the personal instruction contained in the total supervised experience shall be face-to-face between the supervisor and supervisee. A portion of the face-to-face instruction shall include direct observation of the supervisee-rehabilitation client interaction.

18VAC115-40-27. Supervisor requirements.

A. A supervisor shall:

1. Be a licensed professional counselor, licensed psychologist, licensed clinical social worker, licensed marriage and family therapist, licensed substance abuse treatment practitioner, licensed physician or licensed registered nurse with a minimum of one year of experience in rehabilitation service provision;
2. Be a rehabilitation provider certified by the board who has national certification in rehabilitation service provision as outlined in subsection C of 18VAC115-40-22; or
3. Have two years experience as a board certified rehabilitation provider.

B. The supervisor shall assume responsibility for the professional activities of the supervisee.

C. At the time of application for certification by examination, the supervisor shall document for the board: (i) credentials to provide supervision in accordance with this section, (ii) the applicant's total hours of supervision, (iii) length of work experience, (iv) competence in rehabilitation service provision, and (v) any needs for additional supervision or training.

D. Supervision by any individual whose relationship to the supervisee compromises the objectivity of the supervisor is prohibited. This includes but is not limited to immediate family members (spouses, parents, siblings, children and in-laws).

Part III. Examinations.

18VAC115-40-28. General examination requirements.

Every applicant for certification as a rehabilitation provider shall take a written examination approved by the board and achieve a passing score as determined by the board.

18VAC115-40-29. (Reserved.)

Part IV. Renewal and Reinstatement.

18VAC115-40-30. Annual renewal of certificate.

Every certificate issued by the board shall expire on June 30 of each year.

1. To renew certification, the certified rehabilitation provider shall submit a renewal form and fee as prescribed in 18VAC115-40-20.
2. Failure to receive a renewal notice and form shall not excuse the certified rehabilitation provider from the renewal requirement.

18VAC115-40-35. Reinstatement.

A. A person whose certificate has expired may renew it within one year after its expiration date by paying the renewal fee and the late renewal fee prescribed in 18VAC115-40-20.

B. A person who fails to renew a certificate for one year or more shall apply for reinstatement, pay the reinstatement fee and submit evidence regarding the continued ability to perform the functions within the scope of practice of the certification, such as certificates of completion for continuing education, verification of practice in another jurisdiction, or maintenance of national certification.

18VAC115-40-36 to 18VAC115-40-37. (Reserved.)

18VAC115-40-38. Change of address.

A certified rehabilitation provider whose name has changed or whose address of record or public address, if different from the address of record, has changed shall submit the name change or new address in writing to the board within 60 days of such change.

18VAC115-40-39. (Reserved.)

Part V. Standards of Practice; Disciplinary Actions; Reinstatement.

18VAC115-40-40. Standards of practice.

A. The protection of the public health, safety and welfare, and the best interest of the public shall be the primary guide in determining the appropriate professional conduct of all persons whose activities are regulated by the board.

B. Each person certified by the board shall:

1. Provide services in a manner that is in the best interest of the public and does not endanger the public health, safety, or welfare.
2. Provide services only within the competency areas for which one is qualified by training or experience.
3. Not provide services under a false or assumed name, or impersonate another practitioner of a like, similar or different name.
4. Be aware of the areas of competence of related professions and make full use of professional, technical and administrative resources to secure for rehabilitation clients the most appropriate services.

5. Not commit any act which is a felony under the laws of this Commonwealth, other states, the District of Columbia or the United States, or any act which is a misdemeanor under such laws and involves moral turpitude.
6. Stay abreast of new developments, concepts and practices which are important to providing appropriate services.
7. State a rationale in the form of an identified objective or purpose for the provision of services to be rendered to the rehabilitation client.
8. Not engage in offering services to a rehabilitation client who is receiving services from another rehabilitation provider without attempting to inform such other providers in order to avoid confusion and conflict for the rehabilitation client.
9. Represent accurately one's competence, education, training and experience.
10. Refrain from undertaking any activity in which one's personal problems are likely to lead to inadequate or harmful services.
11. Not engage in improper direct solicitation of rehabilitation clients and shall announce services fairly and accurately in a manner which will aid the public in forming their own informed judgments, opinions and choices and which avoids fraud and misrepresentation through sensationalism, exaggeration or superficiality.
12. Recognize conflicts of interest and inform all parties of the nature and directions of loyalties and responsibilities involved.
13. Report to the board known or suspected violations of the laws and regulations governing the practice of rehabilitation providers.
14. Report to the board any unethical or incompetent practices by other rehabilitation providers that jeopardize public safety or cause a risk of harm to rehabilitation clients.
15. Provide rehabilitation clients with accurate information of what to expect in the way of tests, evaluations, billing, rehabilitation plans and schedules before rendering services.
16. Provide services and submission of reports in a timely fashion and ensure that services and reports respond to the purpose of the referral and include recommendations, if appropriate. All reports shall reflect an objective, independent opinion based on factual determinations within the provider's area of expertise and discipline. The reports of services and findings shall be distributed to appropriate parties and shall comply with all applicable legal regulations.

17. Specify, for the referral source and the rehabilitation client, at the time of initial referral, what services are to be provided and what practices are to be conducted. This shall include the identification, as well as the clarification, of services that are available by that member.

18. Assure that the rehabilitation client is aware, from the outset, if the delivery of service is being observed by a third party. Professional files, reports and records shall be maintained for three years beyond the termination of services.

19. Never engage in nonprofessional relationships with rehabilitation clients that compromise the rehabilitation client's well-being, impair the rehabilitation provider's objectivity and judgment or increase the risk of rehabilitation client exploitation.

20. Never engage in sexual intimacy with rehabilitation clients or former rehabilitation clients, as such intimacy is unethical and prohibited.

18VAC115-40-50. Grounds for revocation, suspension, probation, reprimand, censure, denial of renewal of certificate; petition for rehearing.

Action by the board to revoke, suspend, decline to issue or renew a certificate, to place such a certificate holder on probation or to censure, reprimand or fine a certified rehabilitation provider may be taken in accord with the following:

1. Procuring, attempting to procure, or maintaining a license, certificate, or registration by fraud or misrepresentation.
2. Violation of, or aid to another in violating, any regulation or statute applicable to the provision of rehabilitation services.
3. The denial, revocation, suspension or restriction of a registration, license, or certificate to practice in another state, or a United States possession or territory or the surrender of any such registration, license, or certificate while an active administrative investigation is pending.
4. Conviction of any felony, or of a misdemeanor involving moral turpitude.
5. Providing rehabilitation services without reasonable skill and safety to clients by virtue of physical, mental, or emotional illness or substance misuse;
6. Conducting one's practice in such a manner as to be a danger to the health and welfare of one's clients or to the public;
7. Performance of functions outside of one's board-certified area of competency;

8. Intentional or negligent conduct that causes or is likely to cause injury to a client;
9. Performance of an act likely to deceive, defraud, or harm the public;
10. Failure to cooperate with an employee of the Department of Health Professions in the conduct of an investigation;
11. Failure to report evidence of child abuse or neglect as required by § [63.2-1509](#) of the Code of Virginia or elder abuse or neglect as required by § [63.2-1606](#) of the Code of Virginia;
12. Knowingly allowing persons under supervision to jeopardize client safety or provide care to clients outside of such person's scope of practice or area of responsibility; or
13. Violating any provisions of this chapter, including practice standards set forth in [18VAC115-40-40](#).

18VAC115-40-60. [Repealed]

18VAC115-40-61. Reinstatement following disciplinary action.

- A. Any person whose certificate has been revoked, suspended or denied renewal by the board under the provisions of 18VAC115-40-50 must submit a new application for reinstatement of certification.
- B. The board in its discretion may, after a hearing, grant the reinstatement sought in subsection A of this section.
- C. The applicant for such reinstatement, if approved, shall be certified upon payment of the appropriate fee applicable at the time of reinstatement.

Agenda Item: Initiation of periodic review of public participation guidelines contained in 18VAC115-11

Included in your agenda packet:

- 18VAC115-11

Staff Note: Agencies are required to conduct periodic reviews of regulatory chapters every 4 years. Although this particular chapter is only changed when the Department of Planning and Budget provides new model language, the Board is still required to conduct a periodic review.

Action Needed:

- Motion to initiate periodic review of 18VAC115-11.

Commonwealth of Virginia



PUBLIC PARTICIPATION GUIDELINES

VIRGINIA BOARD OF COUNSELING

Title of Regulations: 18 VAC 115-11-10 et seq.

**Statutory Authority: §§ 54.1-2400 and 2.2-4007
of the *Code of Virginia***

Revised Date: January 12, 2017

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Part I

Purpose and Definitions

18VAC115-11-10. Purpose.

The purpose of this chapter is to promote public involvement in the development, amendment or repeal of the regulations of the Board of Counseling. This chapter does not apply to regulations, guidelines, or other documents exempted or excluded from the provisions of the Administrative Process Act (§2.2-4000 et seq. of the Code of Virginia).

18VAC115-11-20. Definitions.

The following words and terms when used in this chapter shall have the following meanings unless the context clearly indicates otherwise:

"Administrative Process Act" means Chapter 40 (§2.2-4000 et seq.) of Title 2.2 of the Code of Virginia.

"Agency" means the Board of Counseling, which is the unit of state government empowered by the agency's basic law to make regulations or decide cases. Actions specified in this chapter may be fulfilled by state employees as delegated by the agency.

"Basic law" means provisions in the Code of Virginia that delineate the basic authority and responsibilities of an agency.

"Commonwealth Calendar" means the electronic calendar for official government meetings open to the public as required by §2.2-3707 C of the Freedom of Information Act.

"Negotiated rulemaking panel" or "NRP" means an ad hoc advisory panel of interested parties established by an agency to consider issues that are controversial with the assistance of a facilitator or mediator, for the purpose of reaching a consensus in the development of a proposed regulatory action.

"Notification list" means a list used to notify persons pursuant to this chapter. Such a list may include an electronic list maintained through the Virginia Regulatory Town Hall or other list maintained by the agency.

"Open meeting" means any scheduled gathering of a unit of state government empowered by an agency's basic law to make regulations or decide cases, which is related to promulgating, amending or repealing a regulation.

"Person" means any individual, corporation, partnership, association, cooperative, limited liability company, trust, joint venture, government, political subdivision, or any other legal or commercial entity and any successor, representative, agent, agency, or instrumentality thereof.

"Public hearing" means a scheduled time at which members or staff of the agency will meet for the purpose of receiving public comment on a regulatory action.

"Regulation" means any statement of general application having the force of law, affecting the rights or conduct of any person, adopted by the agency in accordance with the authority conferred on it by applicable laws.

"Regulatory action" means the promulgation, amendment, or repeal of a regulation by the agency.

"Regulatory advisory panel" or "RAP" means a standing or ad hoc advisory panel of interested parties established by the agency for the purpose of assisting in regulatory actions.

"Town Hall" means the Virginia Regulatory Town Hall, the website operated by the Virginia Department of Planning and Budget at www.townhall.virginia.gov, which has online public comment forums and displays information about regulatory meetings and regulatory actions under consideration in Virginia and sends this information to registered public users.

"Virginia Register" means the Virginia Register of Regulations, the publication that provides official legal notice of new, amended and repealed regulations of state agencies, which is published under the provisions of Article 6 (§2.2-4031 et seq.) of the Administrative Process Act.

Part II

Notification of Interested Persons

18VAC115-11-30. Notification list.

A. The agency shall maintain a list of persons who have requested to be notified of regulatory actions being pursued by the agency.

B. Any person may request to be placed on a notification list by registering as a public user on the Town Hall or by making a request to the agency. Any person who requests to be placed on a notification list shall elect to be notified either by electronic means or through a postal carrier.

C. The agency may maintain additional lists for persons who have requested to be informed of specific regulatory issues, proposals, or actions.

D. When electronic mail is returned as undeliverable on multiple occasions at least 24 hours apart, that person may be deleted from the list. A single undeliverable message is insufficient cause to delete the person from the list.

E. When mail delivered by a postal carrier is returned as undeliverable on multiple occasions, that person may be deleted from the list.

F. The agency may periodically request those persons on the notification list to indicate their desire to either continue to be notified electronically, receive documents through a postal carrier, or be deleted from the list.

18VAC115-11-40. Information to be sent to persons on the notification list.

A. To persons electing to receive electronic notification or notification through a postal carrier as described in 18VAC115-11-30, the agency shall send the following information:

1. A notice of intended regulatory action (NOIRA).
2. A notice of the comment period on a proposed, a repropoed, or a fast-track regulation and hyperlinks to, or instructions on how to obtain, a copy of the regulation and any supporting documents.
3. A notice soliciting comment on a final regulation when the regulatory process has been extended pursuant to §2.2-4007.06 or 2.2-4013 C of the Code of Virginia.

B. The failure of any person to receive any notice or copies of any documents shall not affect the validity of any regulation or regulatory action.

Part III Public Participation Procedures

18VAC115-11-50. Public comment.

A. In considering any nonemergency, nonexempt regulatory action, the agency shall afford interested persons an opportunity to (i) submit data, views, and arguments, either orally or in writing, to the agency; and (ii) be accompanied by and represented by counsel or other representative. Such opportunity to comment shall include an online public comment forum on the Town Hall.

1. To any requesting person, the agency shall provide copies of the statement of basis, purpose, substance, and issues; the economic impact analysis of the proposed or fast-track regulatory action; and the agency's response to public comments received.
2. The agency may begin crafting a regulatory action prior to or during any opportunities it provides to the public to submit comments.

B. The agency shall accept public comments in writing after the publication of a regulatory action in the Virginia Register as follows:

1. For a minimum of 30 calendar days following the publication of the notice of intended regulatory action (NOIRA).
2. For a minimum of 60 calendar days following the publication of a proposed regulation.
3. For a minimum of 30 calendar days following the publication of a repropoed regulation.

4. For a minimum of 30 calendar days following the publication of a final adopted regulation.
5. For a minimum of 30 calendar days following the publication of a fast-track regulation.
6. For a minimum of 21 calendar days following the publication of a notice of periodic review.
7. Not later than 21 calendar days following the publication of a petition for rulemaking.

C. The agency may determine if any of the comment periods listed in subsection B of this section shall be extended.

D. If the Governor finds that one or more changes with substantial impact have been made to a proposed regulation, he may require the agency to provide an additional 30 calendar days to solicit additional public comment on the changes in accordance with § 2.2-4013 C of the Code of Virginia.

E. The agency shall send a draft of the agency's summary description of public comment to all public commenters on the proposed regulation at least five days before final adoption of the regulation pursuant to § 2.2-4012 E of the Code of Virginia.

18VAC115-11-60. Petition for rulemaking.

A. As provided in §2.2-4007 of the Code of Virginia, any person may petition the agency to consider a regulatory action.

B. A petition shall include but is not limited to the following information:

1. The petitioner's name and contact information;
2. The substance and purpose of the rulemaking that is requested, including reference to any applicable Virginia Administrative Code sections; and
3. Reference to the legal authority of the agency to take the action requested.

C. The agency shall receive, consider and respond to a petition pursuant to §2.2-4007 and shall have the sole authority to dispose of the petition.

D. The petition shall be posted on the Town Hall and published in the Virginia Register.

E. Nothing in this chapter shall prohibit the agency from receiving information or from proceeding on its own motion for rulemaking.

18VAC115-11-70. Appointment of regulatory advisory panel.

A. The agency may appoint a regulatory advisory panel (RAP) to provide professional specialization or technical assistance when the agency determines that such expertise is necessary to address a specific regulatory issue or action or when individuals indicate an interest in working with the agency on a specific regulatory issue or action.

B. Any person may request the appointment of a RAP and request to participate in its activities. The agency shall determine when a RAP shall be appointed and the composition of the RAP.

C. A RAP may be dissolved by the agency if:

1. The proposed text of the regulation is posted on the Town Hall, published in the Virginia Register, or such other time as the agency determines is appropriate; or
2. The agency determines that the regulatory action is either exempt or excluded from the requirements of the Administrative Process Act.

18VAC115-11-80. Appointment of negotiated rulemaking panel.

A. The agency may appoint a negotiated rulemaking panel (NRP) if a regulatory action is expected to be controversial.

B. A NRP that has been appointed by the agency may be dissolved by the agency when:

1. There is no longer controversy associated with the development of the regulation;
2. The agency determines that the regulatory action is either exempt or excluded from the requirements of the Administrative Process Act; or
3. The agency determines that resolution of a controversy is unlikely.

18VAC115-11-90. Meetings.

Notice of any open meeting, including meetings of a RAP or NRP, shall be posted on the Virginia Regulatory Town Hall and Commonwealth Calendar at least seven working days prior to the date of the meeting. The exception to this requirement is any meeting held in accordance with §2.2-3707 D of the Code of Virginia allowing for contemporaneous notice to be provided to participants and the public.

18VAC115-11-100. Public hearings on regulations.

A. The agency shall indicate in its notice of intended regulatory action whether it plans to hold a public hearing following the publication of the proposed stage of the regulatory action.

B. The agency may conduct one or more public hearings during the comment period following the publication of a proposed regulatory action.

C. An agency is required to hold a public hearing following the publication of the proposed regulatory action when:

1. The agency's basic law requires the agency to hold a public hearing;
2. The Governor directs the agency to hold a public hearing; or
3. The agency receives requests for a public hearing from at least 25 persons during the public comment period following the publication of the notice of intended regulatory action.

D. Notice of any public hearing shall be posted on the Town Hall and Commonwealth Calendar at least seven working days prior to the date of the hearing. The agency shall also notify those persons who requested a hearing under subdivision C 3 of this section.

18VAC115-11-110. Periodic review of regulations.

- A. The agency shall conduct a periodic review of its regulations consistent with:
 1. An executive order issued by the Governor pursuant to §2.2-4017 of the Administrative Process Act to receive comment on all existing regulations as to their effectiveness, efficiency, necessity, clarity, and cost of compliance; and
 2. The requirements in §2.2-4007.1 of the Administrative Process Act regarding regulatory flexibility for small businesses.
- B. A periodic review may be conducted separately or in conjunction with other regulatory actions.
- C. Notice of a periodic review shall be posted on the Town Hall and published in the Virginia Register.

Agenda Item: Adoption of revised policy on meetings held with electronic participation pursuant to statutory changes

Included in your agenda package:

- Proposed revised electronic participation policy;
- Virginia Code § 2.2-3708.3

Action needed:

- Motion to revise policy on meetings held with electronic participation as presented.

Virginia Department of Health Professions

Meetings Held with Electronic Participation

Purpose:

To establish a written policy for allowing electronic participation of board or committee members for meetings of the health regulatory boards of the Department of Health Professions or their committees.

Policy:

Electronic participation by members of the health regulatory boards of the Department of Health Professions or their committees shall be in accordance with the procedures outlined in this policy.

Authority:

This policy for conducting a meeting with electronic participation shall be in accordance with [Virginia Code § 2.2-3708.3](#).

Procedures:

1. One or more members of the Board or a committee may participate electronically if, on or before the day of a meeting, the member notifies the chair and the executive director that he/she is unable to attend the meeting due to:
 - a. a temporary or permanent disability or other medical condition that prevents the member's physical attendance;
 - b. a medical condition of a member of the member's family requires the member to provide care that prevents the member's physical attendance;
 - c. the member's principal residence is more than 60 miles from the meeting location identified in the required notice for such meeting; or
 - d. the member is unable to attend to the meeting due to a personal matter and identifies with specificity the nature of the personal matter.

No member, however, may use remote participation due to personal matters more than two meetings per calendar year or 25% of the meetings held per calendar year rounded up to the next whole number, whichever is greater.

2. Participation by a member through electronic communication means must be approved by the board chair or president. The reason for the member's electronic participation shall

be stated in the minutes in accordance with Virginia Code § 2.2-3708.3(A)(4). If a member's participation from a remote location is disapproved because it would violate this policy, it must be recorded in the minutes with specificity.

3. The board or committee holding the meeting shall record in its minutes the remote location from which the member participated; the remote location, however, does not need to be open to the public and may be identified by a general description.

Draft

§ 2.2-3708.3. (Effective September 1, 2022) Meetings held through electronic communication means; situations other than declared states of emergency

A. Public bodies are encouraged to (i) provide public access, both in person and through electronic communication means, to public meetings and (ii) provide avenues for public comment at public meetings when public comment is customarily received, which may include public comments made in person or by electronic communication means or other methods.

B. Individual members of a public body may use remote participation instead of attending a public meeting in person if, in advance of the public meeting, the public body has adopted a policy as described in subsection D and the member notifies the public body chair that:

1. The member has a temporary or permanent disability or other medical condition that prevents the member's physical attendance;
2. A medical condition of a member of the member's family requires the member to provide care that prevents the member's physical attendance;
3. The member's principal residence is more than 60 miles from the meeting location identified in the required notice for such meeting; or
4. The member is unable to attend the meeting due to a personal matter and identifies with specificity the nature of the personal matter. However, the member may not use remote participation due to personal matters more than two meetings per calendar year or 25 percent of the meetings held per calendar year rounded up to the next whole number, whichever is greater.

If participation by a member through electronic communication means is approved pursuant to this subsection, the public body holding the meeting shall record in its minutes the remote location from which the member participated; however, the remote location need not be open to the public and may be identified in the minutes by a general description. If participation is approved pursuant to subdivision 1 or 2, the public body shall also include in its minutes the fact that the member participated through electronic communication means due to a (i) temporary or permanent disability or other medical condition that prevented the member's physical attendance or (ii) family member's medical condition that required the member to provide care for such family member, thereby preventing the member's physical attendance. If participation is approved pursuant to subdivision 3, the public body shall also include in its minutes the fact that the member participated through electronic communication means due to the distance between the member's principal residence and the meeting location. If participation is approved pursuant to subdivision 4, the public body shall also include in its minutes the specific nature of the personal matter cited by the member.

If a member's participation from a remote location pursuant to this subsection is disapproved because such participation would violate the policy adopted pursuant to subsection D, such

disapproval shall be recorded in the minutes with specificity.

C. With the exception of local governing bodies, local school boards, planning commissions, architectural review boards, zoning appeals boards, and boards with the authority to deny, revoke, or suspend a professional or occupational license, any public body may hold all-virtual public meetings, provided that the public body follows the other requirements in this chapter for meetings, the public body has adopted a policy as described in subsection D, and:

1. An indication of whether the meeting will be an in-person or all-virtual public meeting is included in the required meeting notice along with a statement notifying the public that the method by which a public body chooses to meet shall not be changed unless the public body provides a new meeting notice in accordance with the provisions of § 2.2-3707;
2. Public access to the all-virtual public meeting is provided via electronic communication means;
3. The electronic communication means used allows the public to hear all members of the public body participating in the all-virtual public meeting and, when audio-visual technology is available, to see the members of the public body as well;
4. A phone number or other live contact information is provided to alert the public body if the audio or video transmission of the meeting provided by the public body fails, the public body monitors such designated means of communication during the meeting, and the public body takes a recess until public access is restored if the transmission fails for the public;
5. A copy of the proposed agenda and all agenda packets and, unless exempt, all materials furnished to members of a public body for a meeting is made available to the public in electronic format at the same time that such materials are provided to members of the public body;
6. The public is afforded the opportunity to comment through electronic means, including by way of written comments, at those public meetings when public comment is customarily received;
7. No more than two members of the public body are together in any one remote location unless that remote location is open to the public to physically access it;
8. If a closed session is held during an all-virtual public meeting, transmission of the meeting to the public resumes before the public body votes to certify the closed meeting as required by subsection D of § 2.2-3712;
9. The public body does not convene an all-virtual public meeting (i) more than two times per calendar year or 25 percent of the meetings held per calendar year rounded up to the next whole number, whichever is greater, or (ii) consecutively with another all-virtual public meeting; and
10. Minutes of all-virtual public meetings held by electronic communication means are taken as required by § 2.2-3707 and include the fact that the meeting was held by electronic communication means and the type of electronic communication means by which the meeting was held. If a member's participation from a remote location pursuant to this subsection is disapproved because such participation would violate the policy adopted pursuant to subsection D, such disapproval shall be recorded in the minutes with specificity.

D. Before a public body uses all-virtual public meetings as described in subsection C or allows members to use remote participation as described in subsection B, the public body shall first

adopt a policy, by recorded vote at a public meeting, that shall be applied strictly and uniformly, without exception, to the entire membership and without regard to the identity of the member requesting remote participation or the matters that will be considered or voted on at the meeting. The policy shall:

1. Describe the circumstances under which an all-virtual public meeting and remote participation will be allowed and the process the public body will use for making requests to use remote participation, approving or denying such requests, and creating a record of such requests; and
2. Fix the number of times remote participation for personal matters or all-virtual public meetings can be used per calendar year, not to exceed the limitations set forth in subdivisions B 4 and C 9.

Any public body that creates a committee, subcommittee, or other entity however designated of the public body to perform delegated functions of the public body or to advise the public body may also adopt a policy on behalf of its committee, subcommittee, or other entity that shall apply to the committee, subcommittee, or other entity's use of individual remote participation and all-virtual public meetings.

2022, c. [597](#).

The chapters of the acts of assembly referenced in the historical citation at the end of this section(s) may not constitute a comprehensive list of such chapters and may exclude chapters whose provisions have expired.

Discipline Reports

April 15, 2023 - June 30, 2023

NEW CASES RECEIVED BY BOARD April 15, 2023 - June 30, 2023
88

OPEN CASE STAGES as of June 30, 2023	
Probable Cause Review	66
Scheduled for Informal Conferences	18
Scheduled for Formal Hearings	5
Other (pending CCA, PHCO, hold, etc.)	4
Cases with APD for processing (IFC, FH, Consent Order)	13
TOTAL CASES AT BOARD LEVEL	106

TOTAL OPEN INVESTIGATIONS (ENFORCEMENT)
119

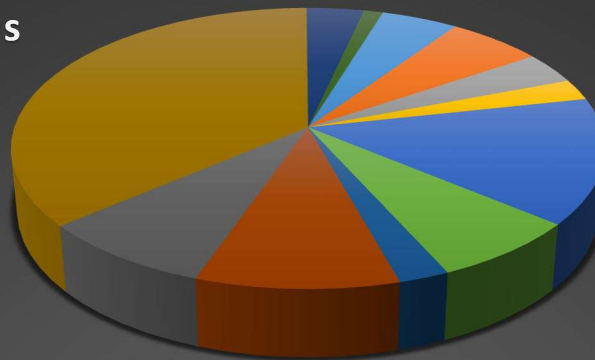
UPCOMING CONFERENCES AND HEARINGS		
Informal Conferences	Conferences Held:	May 19, 2023 (Special Conference Committee) June 7, 2023 (Agency Subordinate)
	Scheduled Conferences:	August 25, 2023 (Special Conference Committee) September 13, 2023 (Agency Subordinate) October 18, 2023 (Special Conference Committee) November 17, 2023 (Agency Subordinate) December 13, 2023 (Special Conference Committee)
Formal Hearings	Hearings Held:	May 5, 2023
	Scheduled Hearings:	October 27, 2023 February 24, 2024

CASES CLOSED April 15, 2023 - June 30, 2023	
Closed – no violation	69
Closed – undetermined	3
Closed – violation	6
Credentials/Reinstatement – Denied	5
Credentials/Reinstatement – Approved	0
TOTAL CASES CLOSED	83



AVERAGE CASE PROCESSING TIMES (counted on closed cases)	
Average time for case closures	170
Avg. time in Enforcement (investigations)	114
Avg. time in APD (IFC/FH preparation)	61
Avg. time in Board (includes hearings, reviews, etc).	59

Closed Case Categories



- Abuse/Abandonment/Neglect (4)
1 violation
(1-QMHP-A)
- Business Practice Issues (5)
- CE Noncompliance (3)
3 violations
(1-LPC, 1-QMHP-A, 1-QMHP-C)
- Confidentiality Breach (2)
- Diagnosis/Treatment (12)
- Eligibility (6)
5 denied
(3-RIC App, 1-QMHP-C App, 1-LSATP App)
- Fraud, patient care (2)
- Inability to Safely Practice (8)
1 violation
(1-CSAC, 1-LPC)
- Inappropriate Relationship (7)
1 violation
(LPC)
- No jurisdiction (30)
- Scope of Practice (3)
- Unlicensed Activity (1)

Behavioral Science Boards

Boards of Counseling, Psychology, and Social Work

CASES RECEIVED YEAR-TO-DATE PER BOARD January 1, 2023 – June 30, 2023	
Board of Counseling	216
Board of Psychology	58
Board of Social Work	67
TOTAL CASES RECEIVED	341

CURRENT OPEN CASES PER BOARD as of June 30, 2023	
Board of Counseling	106
Board of Psychology	130
Board of Social Work	111
TOTAL CASES WITH BOARD STAFF	347

HEARINGS/MEETINGS HELD April 15, 2023 - June 30, 2023	
Board of Counseling	Informal Conferences (5) Formal Hearings (1) Summary Suspension Hearings (0) Board Meetings (1) Regulatory Committee Meetings (1)
Board of Psychology	Informal Conferences (0) Formal Hearings (0) Summary Suspension Hearings (0) Board Meetings (1) Regulatory Committee Meetings (1)
Board of Social Work	Informal Conferences (0) Formal Hearings (0) Summary Suspension Hearings (0) Board Meetings (1) Regulatory Committee Meetings (0)

Discipline Staff

Jennifer Lang, Deputy Executive Director
 Christy Evans, Discipline and Compliance Case Manager
 Jessica Byrum, Audit Specialist (part-time)
 Discipline Reviewer, Board of Counseling (part-time)
 Discipline Reviewer, Board of Psychology (part-time)
 Discipline Reviewer, Board of Social Work (part-time)

BEFORE THE VIRGINIA BOARD OF COUNSELING

**IN RE: LAVERNE POWELL, RESIDENT IN COUNSELING APPLICANT
A.K.A. LAVERNE ETUH
Case Number: 221852**

ORDER

JURISDICTION AND PROCEDURAL HISTORY

Pursuant to Virginia Code §§ 2.2-4019 and 54.1-2400(10), a Special Conference Committee of the Virginia Board of Counseling (“Board”) held an informal conference on March 31, 2023, in Henrico County, Virginia, to receive and act upon Laverne Powell’s application for licensure to practice as a resident in counseling in the Commonwealth of Virginia and to inquire into evidence that grounds may exist to deny said application.

Laverne Powell did not appear at this proceeding and was not represented by legal counsel.

NOTICE

By letter dated February 14, 2023, the Board sent a Notice of Informal Conference (“Notice”) to Ms. Powell notifying her that an informal conference would be held on March 31, 2023. The Notice was sent by certified and first class mail to the legal address of record on file with the Board. According to the tracking information available on the website for the United States Postal Service, the Notice sent by certified mail was left unclaimed at the post office and was being returned to the Board office as of March 14, 2023. The Notice sent by first class mail was not returned to the Board office. Accordingly, the Committee Chair concluded that adequate notice was provided to Ms. Powell and the informal conference proceeded in her absence.

Upon consideration of the evidence, the Committee adopts the following Findings of Fact and Conclusions of Law and issues the Order contained herein.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

1. Laverne Powell submitted an application for licensure to practice as a resident in counseling in the Commonwealth of Virginia. Said application, with all supporting documentation, was considered complete on March 9, 2022.


2. Ms. Powell does not meet the requirements of 18 VAC 115-20-51(A)(7) and (11) of the Regulations Governing the Practice of Professional Counseling (“Regulations”), which are incorporated by reference into 18 VAC 115-20-52(A)(2) of the Regulations, in that she failed to demonstrate that she completed a minimum of three semester hours or four quarter hours of graduate level counseling coursework in each of the following subjects: appraisal, evaluation, and diagnostic procedures; and diagnosis and treatment of addictive disorders.

ORDER

Based on the foregoing Findings of Fact and Conclusions of Law, the Virginia Board of Counseling hereby ORDERS that the application of Laverne Powell for licensure to practice as a resident in counseling in the Commonwealth of Virginia is DENIED.

Pursuant to Virginia Code §§ 2.2-4023 and 54.1-2400.2, the signed original of this Order shall remain in the custody of the Department of Health Professions as a public record, and shall be made available for public inspection and copying upon request.

FOR THE BOARD

for 

Jaime Hoyle, J.D.
Executive Director
Virginia Board of Counseling

ENTERED AND MAILED: April 17, 2023

NOTICE OF RIGHT TO APPEAL

Pursuant to Virginia Code § 54.1-2400(10), Ms. Powell may, not later than 5:00 p.m., on May 22, 2023, notify Jaime Hoyle, Executive Director, Board of Counseling, 9960 Mayland Drive, Suite 300, Henrico, Virginia 23233, in writing that she desires a formal administrative hearing before the Board. Upon the filing with the Executive Director of a request for the hearing, this Order shall be vacated. This Order shall become final on May 22, 2023, unless a request for a formal administrative hearing is received as described above.

BEFORE THE VIRGINIA BOARD OF COUNSELING

IN RE: TIFFANI FYNISHA SAVAGE, Q.M.H.P.-C. APPLICANT
Case Number: 226506

ORDER

JURISDICTION AND PROCEDURAL HISTORY

Pursuant to Virginia Code §§ 2.2-4019 and 54.1-2400(10), a Special Conference Committee of the Virginia Board of Counseling (“Board”) held an informal conference on May 19, 2023, in Henrico County, Virginia, to receive and act upon Tiffani Fynisha Savage’s application for registration to practice as a qualified mental health professional-child in the Commonwealth of Virginia and to inquire into evidence that grounds may exist to deny said application.

Tiffani Fynisha Savage appeared at this proceeding and was not represented by legal counsel.

Upon consideration of the evidence, the Committee adopts the following Findings of Fact and Conclusions of Law and issues the Order contained herein.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

1. Tiffani Fynisha Savage submitted an application for registration to practice as a qualified mental health professional-child in the Commonwealth of Virginia. Said application, with all supporting documentation, was considered complete on December 14, 2022.

2. Ms. Savage does not meet any of the requirements of 18 VAC 115-80-50(B) of the Regulations Governing the Registration of Qualified Mental Health Professionals in that:

 a. She does not have a master’s degree in psychology, social work, substance abuse, or marriage and family therapy.

 b. She does not have a master’s or bachelor’s degree in a human services field or in special education.

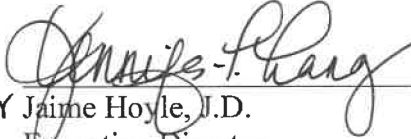
- c. She is not a registered nurse licensed in Virginia.
- d. She is not a licensed occupational therapist.

ORDER

Based on the foregoing Findings of Fact and Conclusions of Law, the Virginia Board of Counseling hereby ORDERS that the application of Tiffani Fynisha Savage for registration to practice as a qualified mental health professional-child is DENIED.

Pursuant to Virginia Code §§ 2.2-4023 and 54.1-2400.2, the signed original of this Order shall remain in the custody of the Department of Health Professions as a public record, and shall be made available for public inspection and copying upon request.

FOR THE BOARD


for Jaime Hoyle, J.D.
Executive Director
Virginia Board of Counseling

ENTERED AND MAILED: May 26, 2023

NOTICE OF RIGHT TO APPEAL

Pursuant to Virginia Code § 54.1-2400(10), Ms. Savage may, not later than 5:00 p.m., on June 28, 2023, notify Jaime Hoyle, Executive Director, Board of Counseling, 9960 Mayland Drive, Suite 300, Henrico, Virginia 23233, in writing that she desires a formal administrative hearing before the Board. Upon the filing with the Executive Director of a request for the hearing, this Order shall be vacated. This Order shall become final on June 28, 2023, unless a request for a formal administrative hearing is received as described above.

BEFORE THE VIRGINIA BOARD OF COUNSELING

IN RE: ELLA RHONDA DAMRON, QMHP-C APPLICANT
Case Number: 224207

ORDER

JURISDICTION AND PROCEDURAL HISTORY

Pursuant to Virginia Code §§ 2.2-4019 and 54.1-2400(10), a Special Conference Committee of the Virginia Board of Counseling (“Board”) held an informal conference on March 31, 2023, in Henrico County, Virginia, to receive and act upon Ella Rhonda Damron’s application for registration to practice as a qualified mental health professional - adult in the Commonwealth of Virginia and to inquire into evidence that grounds may exist to deny said application.

Ella Rhonda Damron did not appear at this proceeding and was not represented by legal counsel.

NOTICE

By letter dated February 15, 2023, the Board sent a Notice of Informal Conference (“Notice”) to Ms. Damron notifying her that an informal conference would be held on March 31, 2023. The Notice was sent by certified and first class mail to the legal address of record on file with the Board. According to the tracking information available on the website for the United States Postal Service, the Notice sent by certified mail was delivered on February 24, 2023. The Notice sent by first class mail was not returned to the Board office. In addition, by email dated March 21, 2023, Ms. Damron notified the Board that she would not be able to attend the informal conference on March 31, 2023, and she requested that the Committee proceed with the informal conference in her absence. Accordingly, the Committee Chair concluded that adequate notice was provided to Ms. Damron and the informal conference proceeded in her absence.

Upon consideration of the evidence, the Committee adopts the following Findings of Fact and Conclusions of Law and issues the Order contained herein.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

1. Ella Rhonda Damron submitted an application for registration to practice as a qualified mental health professional - child in the Commonwealth of Virginia. Said application, with all supporting documentation, was considered complete on August 10, 2022.

2. Ms. Damron does not meet the requirements of 18 VAC 115-80-50(B)(1) through (4) of the Regulations Governing the Registration of Qualified Mental Health Professionals (“Regulations”) in that:

a. Ms. Damron failed to demonstrate that she had obtained a master's degree in psychology, social work, counseling, substance abuse, or marriage and family therapy, as verified by an official transcript, from an accredited college or university with an internship or practicum of at least 500 hours of experience with persons who have mental illness. Specifically, Ms. Damron earned an Associate of Applied Science in Psychology degree from Ashworth College and a Bachelor of Arts degree in Criminal Justice from Bluefield State College.

b. Ms. Damron failed to demonstrate that she obtained a master's or bachelor's degree in a human services field or in special education, as verified by an official transcript, from an accredited college. Specifically, Ms. Damron’s Bachelor of Arts degree from Bluefield State College was in Criminal Justice, which is not a human services field.

c. Ms. Damron failed to demonstrate that she had a license to practice as a registered nurse in Virginia or a license to practice as an occupational therapist. Specifically, on her application for registration, Ms. Damron denied that she had ever been issued a mental health or health professional license/certification/registration in any jurisdiction.

3. Ms. Damron does not meet the requirements of 18 VAC 115-80-50(C)(1) in that she failed to demonstrate that she completed 1,500 hours of supervised experience in providing direct services appropriate to the practice of a qualified mental health professional – child under the supervision of a licensed mental health professional or under supervisions that has been approved by the Board of


Counseling, Board of Psychology, or Board of Social Work as a prerequisite for licensure. Specifically, Ms. Damron provided paperwork demonstrating that she received supervised experience under the supervision of an individual licensed in West Virginia to practice as a doctor of osteopathy, which is not a mental health license. Ms. Damron also provided paperwork demonstrating that she received supervised experience in Virginia under the supervision of an individual who is not a licensed mental health professional. In addition, neither supervisor was under supervision approved by the Board of Counseling, Board of Psychology, or Board of Social Work as a prerequisite for licensure.

ORDER

Based on the foregoing Findings of Fact and Conclusions of Law, the Virginia Board of Counseling hereby ORDERS that the application of Ella Rhonda Damron for registration to practice as a qualified mental health professional - child in the Commonwealth of Virginia is DENIED.

Pursuant to Virginia Code §§ 2.2-4023 and 54.1-2400.2, the signed original of this Order shall remain in the custody of the Department of Health Professions as a public record, and shall be made available for public inspection and copying upon request.

FOR THE BOARD

for 
Jaime Hoyle, J.D.
Executive Director
Virginia Board of Counseling

ENTERED AND MAILED: April 17, 2023

NOTICE OF RIGHT TO APPEAL

Pursuant to Virginia Code § 54.1-2400(10), Ms. Damron may, not later than 5:00 p.m., on May 22, 2023, notify Jaime Hoyle, Executive Director, Board of Counseling, 9960 Mayland Drive, Suite 300, Henrico, Virginia 23233, in writing that she desires a formal administrative hearing before the Board. Upon the filing with the Executive Director of a request for the hearing, this Order shall be vacated. This Order shall become final on May 22, 2023, unless a request for a formal administrative hearing is received as described above.

BEFORE THE VIRGINIA BOARD OF COUNSELING

IN RE: MARCUS S. VANDIVIERE, L.P.C.
License Number: 0701-001404
Case Number: 227654

CONSENT ORDER

JURISDICTION AND PROCEDURAL HISTORY

The Virginia Board of Counseling (“Board”) and Marcus S. Vandiviere, L.P.C., as evidenced by their signatures hereto, in lieu of proceeding to an informal conference, enter into the following Consent Order affecting Mr. Vandiviere’s license to practice professional counseling in the Commonwealth of Virginia.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

1. Marcus S. Vandiviere, L.P.C., was issued License Number 0701-001404 to practice professional counseling on December 28, 1988. Said license is scheduled to expire on June 30, 2023.
2. Mr. Vandiviere violated 18 VAC 115-20-105(A) and 18 VAC 115-20-140(A)(6) of the Regulations Governing the Practice of Professional Counseling (“Regulations”) in that he failed to complete a minimum of 20 hours of continuing competency, including two hours in courses that emphasize the ethics, standards of practice, or laws governing behavioral science professions in Virginia, between July 1, 2021, and June 30, 2022, as required for the renewal of his license. Specifically, as part of an audit of licensees to verify compliance with the continued competency requirements pursuant 18 VAC 115-20-107 of the Regulations, the Board contacted Mr. Vandiviere by email on September 12, and October 12, 2022, and by certified mail on October 26, 2022, requesting documentation verifying completion of the required continuing competency hours. However, Mr. Vandiviere failed to respond to the Board’s requests and failed to provide documentation verifying that he completed any continuing competency hours between July 1, 2021, and June 30, 2022.

Marcus S. Vandiviere, L.P.C.

CONSENT ORDER

Page 2 of 3

3. On April 20, 2023, Mr. Vandiviere contacted the Board and advised them that he had not practiced professional counseling in over a year and that he intended to let his license expire on June 30, 2023, and not renew it.

CONSENT

Marcus S. Vandiviere, L.P.C., by affixing his signature to this Consent Order, agrees to the following:

1. I have been advised to seek advice of counsel prior to signing this document;
2. I am fully aware that without my consent, no legal action can be taken against me or my license except pursuant to the Virginia Administrative Process Act, Virginia Code § 2.2-4000 *et seq.*;
3. I acknowledge that I have the following rights, among others: the right to an informal fact-finding conference before the Board; and the right to representation by counsel;
4. I waive my right to an informal conference;
5. I admit to the Findings of Fact and Conclusions of Law contained herein and waive my right to contest such Findings of Fact and Conclusions of Law and any sanction imposed hereunder in any future judicial or administrative proceeding in which the Board is a party;
6. I consent to the entry of the following Order affecting my license to practice professional counseling in the Commonwealth of Virginia.

ORDER

Based on the foregoing Findings of Fact and Conclusions of Law, the Virginia Board of Counseling hereby ORDERS as follows:

1. The Board accepts the VOLUNTARY SURRENDER of Marcus S. Vandiviere's license to practice professional counseling in the Commonwealth of Virginia IN LIEU OF DISCIPLINARY ACTION.

Marcus S. Vandiviere, L.P.C.

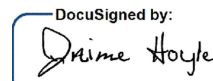
CONSENT ORDER

Page 3 of 3

2. The license of Mr. Vandiviere will be recorded as SURRENDERED IN LIEU OF DISCIPLINARY ACTION.

Pursuant to Virginia Code §§ 2.2-4023 and 54.1-2400.2, the signed original of this Order shall remain in the custody of the Department of Health Professions as a public record, and shall be made available for public inspection and copying upon request.

FOR THE BOARD

DocuSigned by:

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Jaime Hoyle, J.D.
Executive Director
Virginia Board of Counseling

ENTERED: 5/12/2023 _____

SEEN AND AGREED TO:

DocuSigned by:

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Marcus S. Vandiviere, L.P.C.

5/11/2023 _____

Date

LICENSING REPORT

Satisfaction Survey Results	
2023 3rd Quarter (January 1 – March 31)	96.3%

Totals as of July 5, 2023*

Current Active Licenses	
Certified Substance Abuse Counselor	1,643
CSAC Supervisee	2,351
Substance Abuse Counseling Assistant	239
Licensed Marriage and Family Therapist	1,031
Marriage & Family Therapist Resident	160
Licensed Professional Counselor	8,719
Resident in Counseling	3,083
Substance Abuse Treatment Practitioner	436
Substance Abuse Treatment Residents	14
Rehabilitation Provider	146
Qualified Mental Health Prof-Adult	5,934
Qualified Mental Health Prof-Child	3,903
Trainee for Qualified Mental Health Prof	9,057
Registered Peer Recovery Specialist	549
Total	37,265*

*Unofficial numbers (for informational purposes only)



Licenses, Certifications and Registrations Issued

License Type	February 2023	March 2023	April 2023	May 2023	June 2023*
Certified Substance Abuse Counselor	11	7	10	6	14
CSAC Supervisee	39	46	12	31	22
Certified Substance Abuse Counseling Assistant	3	4	4	7	8
Licensed Marriage and Family Therapist	6	7	10	5	7
Marriage & Family Therapist Resident	5	4	2	3	2
Pre-Education Review for LMFT	0	0	0	0	0
Licensed Professional Counselor	87	111	89	92	93
Resident in Counseling	121	77	46	76	155
Pre-Education Review for LPC	9	12	12	9	7
Substance Abuse Treatment Practitioner	9	8	3	5	11
Substance Abuse Treatment Residents	0	2	1	0	0
Pre-Education Review for LSATP	0	1	0	0	1
Rehabilitation Provider	0	1	0	1	0
Qualified Mental Health Prof-Adult	65	54	66	36	56
Qualified Mental Health Prof-Child	49	42	47	23	33
Trainee for Qualified Mental Health Prof	165	216	150	148	205
Registered Peer Recovery Specialist	21	22	13	25	24
Total	590	614	465	467	638

*Unofficial numbers (for informational purposes only)



Virginia Department of
Health Professions

Board of Counseling

Licenses, Certifications and Registration Applications Received

Applications Received	February 2023*	March 2023*	April 2023*	May 2023*	June 2023*
Certified Substance Abuse Counselor	8	14	9	17	11
CSAC Supervisee	37	47	19	36	53
Certified Substance Abuse Counseling Assistant	1	6	4	6	10
Licensed Marriage and Family Therapist	10	8	6	3	9
Marriage & Family Therapist Resident	0	5	4	5	4
Pre-Education Review for LMFT	0	0	0	0	0
Licensed Professional Counselor	84	112	77	104	95
Resident in Counseling	71	74	49	124	130
Pre-Education Review for LPC	10	13	9	13	2
Substance Abuse Treatment Practitioner	6	9	7	8	11
Substance Abuse Treatment Residents	2	3	0	1	2
Pre-Education Review for LSATP	0	2	0	0	0
Rehabilitation Provider	1	1	0	1	1
Qualified Mental Health Prof-Adult	85	104	81	84	102
Qualified Mental Health Prof-Child	58	63	52	62	63
Trainee for Qualified Mental Health Prof	189	205	163	207	206
Registered Peer Recovery Specialist	19	29	21	24	18
Total	581	695	501	695	717

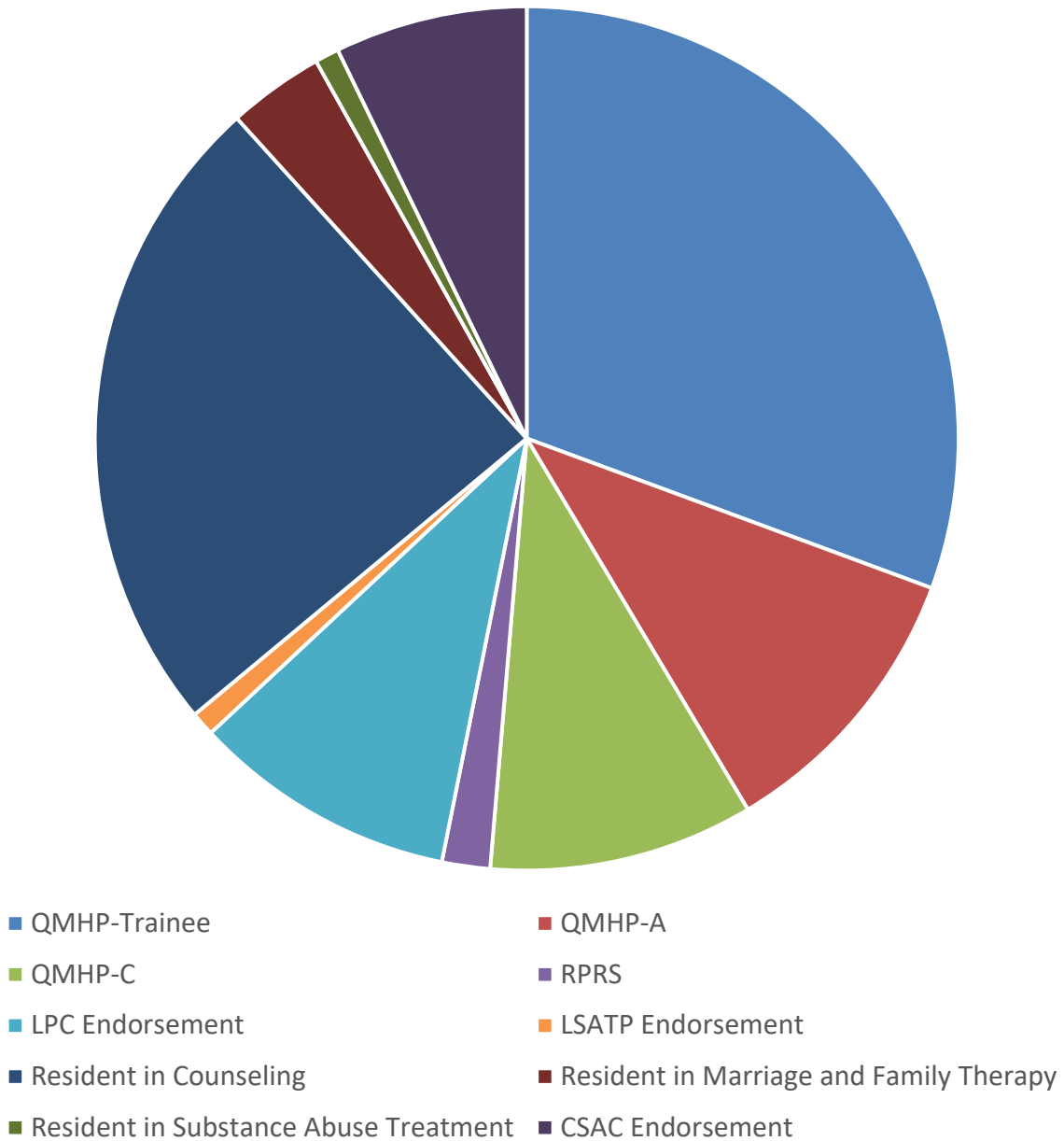
*Unofficial numbers (for informational purposes only)

2023 Deferred Applications (1/1/2023 - 7/5/2023)

Total - 111

Appealed: 10

Approved After Deferred: 10





Deferred Applications – 1/1/2023 to 7/5/2023

<u>QMHP-Trainee</u> (1 appealed, 1 approved)	
Coursework	33
Ethics/Actions	1
<u>QMHP-A</u> (2 appealed, 1 approved)	
Coursework	2
Coursework and supervision	4
Supervision	4
Ethics/Actions	2
<u>QMHP-C</u> (1 appealed, 2 approved)	
Degree	8
Degree and supervision	1
Supervision	2
<u>Registered Peer Recovery Specialists</u> (1 appealed)	
Ethics/Actions	1

<u>Resident in Marriage and Family Therapy</u> (1 appealed, 1 approved)	
Coursework	3
Degree	1

<u>LPC Endorsement</u> (3 appealed)	
Ethics/Actions	1
Coursework and supervision	3
Supervision/Supervisor	7
<u>Resident in Counseling</u> (1 appealed, 4 approved)	
Coursework	19
Degree	7
Ethics/Actions	1

<u>LSATP Endorsement</u>	
Equivalent license	1
<u>Resident in Substance Abuse Treatment</u>	
Coursework	1

<u>CSAC Endorsement</u> (1 approved)	
Equivalent license	8

Additional Information:

- **Board of Counseling Staffing Information:**

- The Board currently has six full-time and one part-time staff members to answer phone calls, emails and to process applications across all license, certification and registration types.
 - Licensing Staff:
 - Brenda Maida – Licensing Program Manager (Full-Time)
 - Victoria Cunningham – Licensing Specialist (Full-Time)
 - Dalyce Logan – Licensing Specialist (Full-Time)
 - Maya Weeks – Licensing Specialist (Full -Time)
 - QMHP Staff:
 - Sandie Cotman – Licensing Program Manager (Full-Time)
 - Shannon Brogan – Licensing Specialists (Full-Time)
 - Sarah Bryant - Licensing Administration Assistant (Part-Time)

- **New Technology**

- BOT technology sending standardized emails.
- Ability for applicants to upload documents during the application process.
- Updated Board Website (new look-same content)

Agenda Item: Consideration of Petition for Rulemaking regarding supervisors for QMHP-Ts and independent practice

Included in your agenda package:

- Petition for Rulemaking filed by Kathy Johnson to:
 - allow QMHPs dually registered A and C, who were grandfathered in as QMHPs, who hold a master’s degree or higher in Social Work, Human Services or Psychology and have more than 10 years professional work experience in mental or behavioral health be considered qualified as supervisors for QMHP-Ts; and
 - allow QMHPs who meet the above criteria to practice independently.
- Comments provided during public comment period of petition for rulemaking; and
- 18VAC115-80-40 and 18VAC115-80-50.

Staff note: This petition was considered by the Regulatory Committee, which will provide a summary of its discussion and recommendation.

Action needed:

- Motion to either:
 - Take no action on the petition, clearly stating the reason; or
 - Accept the petition and initiate rulemaking.



Petition for Rule-making

The Code of Virginia (§ 2.2-4007) and the Public Participation Guidelines of this board require a person who wishes to petition the board to develop a new regulation or amend an existing regulation to provide certain information. Within 14 days of receiving a valid petition, the board will notify the petitioner and send a notice to the Register of Regulations identifying the petitioner, the nature of the request and the plan for responding to the petition. Following publication of the petition in the Register, a 21-day comment period will begin to allow written comment on the petition. Within 90 days after the comment period, the board will issue a written decision on the petition. If the board has not met within that 90-day period, the decision will be issued no later than 14 days after it next meets.

Please provide the information requested below. (Print or Type)

Petitioner's full name (Last, First, Middle initial, Suffix,)

Street Address

Area Code and Telephone Number

City

State

Zip Code:
____ _

Email Address (optional)

Respond to the following questions:

1. What regulation are you petitioning the board to amend? Please state the title of the regulation and the section/sections you want the board to consider amending.
2. Please summarize the substance of the change you are requesting and state the rationale or purpose for the new or amended rule.
3. State the legal authority of the board to take the action requested. In general, the legal authority for the adoption of regulations by the board is found in § 54.1-2400 of the Code of Virginia. If there is other legal authority for promulgation of a regulation, please provide that Code reference.

Signature:

Kathy L Johnson

Date:



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Agency Department of Health Professions

Board Board of Counseling

Chapter Regulations Governing the Registration of Qualified Mental Health Professionals [[18 VAC 115 - 80](#)]

1 comments

All good comments for this forum [Show Only Flagged](#)

[Back to List of Comments](#)

Commenter: Anonymous

6/8/23 12:02 am

Support for Independent Practice for Those at Master's Level with Experience

I do believe that an individual who has significant experience, and a Master's degree or higher, should be able to have an independent scope of practice. It is unfortunate that there are many qualified and experienced individuals in Virginia who can not practice independently despite having significant coursework and degrees related to psychotherapy. They should at least be able to practice independently as Master's-level QMHPs after they have 10 years of experience. Right now, even some individuals with 60 credit hour Master's degrees are never able to practice independently, which is really a shame when there is so much need for mental healthcare. This change would help provide more access to healthcare throughout Virginia. One of the Boards in Virginia needs to step in and solve this problem.

CommentID: **217085**

Late

Part II. Requirements for Registration

18VAC115-80-40. Requirements for registration as a qualified mental health professional-adult.

A. An applicant for registration shall submit:

1. A completed application on forms provided by the board and any applicable fee as prescribed in 18VAC115-80-20;
2. A current report from the National Practitioner Data Bank (NPDB); and
3. Verification of any other mental health or health professional license, certification, or registration ever held in another jurisdiction. An applicant for registration as a QMHP-A shall have no unresolved disciplinary action. The board will consider a history of disciplinary action on a case-by-case basis as grounds for denial under 18VAC115-80-100.

B. An applicant for registration as a QMHP-A shall provide evidence of:

1. A master's degree in psychology, social work, counseling, substance abuse, or marriage and family therapy, as verified by an official transcript, from an accredited college or university with an internship or practicum of at least 500 hours of experience with persons who have mental illness;
2. A master's or bachelor's degree in human services or a related field, as verified by an official transcript, from an accredited college with no less than 1,500 hours of supervised experience to be obtained within a five-year period immediately preceding application for registration and as specified in subsection C of this section;
3. A bachelor's degree, as verified by an official transcript, from an accredited college in an unrelated field that includes at least 15 semester credits or 22 quarter hours in a human services field and with no less than 3,000 hours of supervised experience to be obtained within a five-year period immediately preceding application for registration and as specified in subsection C of this section;
4. A registered nurse licensed in Virginia with no less than 1,500 hours of supervised experience to be obtained within a five-year period immediately preceding application for registration and as specified in subsection C of this section; or
5. A licensed occupational therapist with an internship or practicum of at least 500 hours with persons with mental illness or no less than 1,500 hours of supervised experience to be obtained within a five-year period immediately preceding application for registration and as specified in subsection C of this section.

C. Experience required for registration.

1. To be registered as a QMHP-A, an applicant who does not have a master's degree as set forth in subdivision B 1 of this section shall provide documentation of experience in providing direct services to individuals as part of a population of adults with mental illness in a setting where mental health treatment, practice, observation, or diagnosis occurs. The services provided shall be appropriate to the practice of a QMHP-A and under the supervision of a licensed mental health professional or a person under supervision that has been approved by the Board of Counseling, Board of Psychology, or Board of Social Work as a prerequisite for licensure. Supervision obtained in another United States jurisdiction shall be provided by a mental health professional licensed in Virginia or licensed in that jurisdiction.
2. Supervision shall consist of face-to-face training in the services of a QMHP-A until the supervisor determines competency in the provision of such services, after which supervision may be indirect in which the supervisor is either onsite or immediately available for consultation with the person being trained.
3. Hours obtained in a bachelor's or master's level internship or practicum in a human services field may be counted toward completion of the required hours of experience.
4. Supervised experience obtained prior to meeting the education requirements of subsection B of this section shall not be accepted.

Statutory Authority

§§ 54.1-2400, 54.1-3500, and 54.1-3505 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 36, Issue 4, eff. November 13, 2019; amended, Virginia Register Volume 37, Issue 2, eff. October 29, 2020.

Virginia Administrative Code

Title 18. Professional And Occupational Licensing

Agency 115. Board of Counseling

Chapter 80. Regulations Governing the Registration of Qualified Mental Health Professionals

Part II. Requirements for Registration

18VAC115-80-50. Requirements for registration as a qualified mental health professional-child.

A. An applicant for registration shall submit:

1. A completed application on forms provided by the board and any applicable fee as prescribed in 18VAC115-80-20;
2. A current report from the National Practitioner Data Bank (NPDB); and
3. Verification of any other mental health or health professional license, certification, or registration ever held in another jurisdiction. An applicant for registration as a QMHP-C shall have no unresolved disciplinary action. The board will consider a history of disciplinary action on a case-by-case basis as grounds for denial under 18VAC115-80-100.

B. An applicant for registration as a QMHP-C shall provide evidence of:

1. A master's degree in psychology, social work, counseling, substance abuse, or marriage and family therapy, as verified by an official transcript, from an accredited college or university with an internship or practicum of at least 500 hours of experience with persons who have mental illness;
2. A master's or bachelor's degree in a human services field or in special education, as verified by an official transcript, from an accredited college with no less than 1,500 hours of supervised experience to be obtained within a five-year period immediately preceding application for registration and as specified in subsection C of this section;
3. A registered nurse licensed in Virginia with no less than 1,500 hours of supervised experience to be obtained within a five-year period immediately preceding application for registration and as specified in subsection C of this section; or
4. A licensed occupational therapist with an internship or practicum of at least 500 hours with persons with mental illness or no less than 1,500 hours of supervised experience to be obtained within a five-year period immediately preceding application for registration and as specified in subsection C of this section.

C. Experience required for registration.

1. To be registered as a QMHP-C, an applicant who does not have a master's degree as set forth in subdivision B 1 of this section shall provide documentation of 1,500 hours of experience in providing direct services to individuals as part of a population of children or adolescents with mental illness in a setting where mental health treatment, practice, observation, or diagnosis

occurs. The services provided shall be appropriate to the practice of a QMHP-C and under the supervision of a licensed mental health professional or a person under supervision that has been approved by the Board of Counseling, Board of Psychology, or Board of Social Work as a prerequisite for licensure. Supervision obtained in another United States jurisdiction shall be provided by a mental health professional licensed in Virginia or licensed in that jurisdiction.

2. Supervision shall consist of face-to-face training in the services of a QMHP-C until the supervisor determines competency in the provision of such services, after which supervision may be indirect in which the supervisor is either onsite or immediately available for consultation with the person being trained.

3. Hours obtained in a bachelor's or master's level internship or practicum in a human services field may be counted toward completion of the required hours of experience.

4. Supervised experience obtained prior to meeting the education requirements of subsection B of this section shall not be accepted.

Statutory Authority

§§ 54.1-2400, 54.1-3500, and 54.1-3505 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 36, Issue 4, eff. November 13, 2019; amended, Virginia Register Volume 37, Issue 2, eff. October 29, 2020.

Agenda Item: Consideration of Petition for Rulemaking to License QMHPs

Included in your agenda package:

- Petition for Rulemaking filed by Kathy Johnson to license QMHPs (rather than register);
- Comments provided during public comment period of petition for rulemaking; and
- Virginia Code § 54.1-3505, requiring the Board to register QMHPs.

Staff Notes:

- Seven public commenters in support of petition; five in opposition; seven ultimately expressed no position or were unclear in their position.
- The Board cannot decide to license a category of practitioner. Whether a practice group is licensed, certified, or registered is the jurisdiction of the General Assembly.
- This petition was considered by the Regulatory Committee, which will provide a summary of its discussion and recommendation.

Action needed:

- Motion to take no action on the petition for rulemaking because the requested action is outside of the Board's jurisdiction.



Petition for Rule-making

The Code of Virginia (§ 2.2-4007) and the Public Participation Guidelines of this board require a person who wishes to petition the board to develop a new regulation or amend an existing regulation to provide certain information. Within 14 days of receiving a valid petition, the board will notify the petitioner and send a notice to the Register of Regulations identifying the petitioner, the nature of the request and the plan for responding to the petition. Following publication of the petition in the Register, a 21-day comment period will begin to allow written comment on the petition. Within 90 days after the comment period, the board will issue a written decision on the petition. If the board has not met within that 90-day period, the decision will be issued no later than 14 days after it next meets.

Please provide the information requested below. (Print or Type)

Petitioner's full name (Last, First, Middle initial, Suffix,)

Street Address

Area Code and Telephone Number

City

State

Zip Code:
____ _

Email Address (optional)

Respond to the following questions:

1. What regulation are you petitioning the board to amend? Please state the title of the regulation and the section/sections you want the board to consider amending.

2. Please summarize the substance of the change you are requesting and state the rationale or purpose for the new or amended rule.

3. State the legal authority of the board to take the action requested. In general, the legal authority for the adoption of regulations by the board is found in § 54.1-2400 of the Code of Virginia. If there is other legal authority for promulgation of a regulation, please provide that Code reference.

Signature:

Kathy L Johnson

Date:



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Agency Department of Health Professions

Board Board of Counseling

Chapter

Regulations Governing the Registration of Qualified Mental Health Professionals [[18 VAC 115 - 80](#)]

19 comments

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Commenter: Anonymous

4/24/23 1:06 pm

QMHP

QMHP's assist with Skill-Building, ISP's and the behavioral aspect of treating mental health issues or concerns. However, we can't even teach simple courses such as Anger Management or Batters Intervention which are behavioral, w/o a license, yet we provide the technical training for individuals and families in mental health.

Many of us hold Masters or higher with over 20 years of experience we just choose not to be LPC's, LCSW's, etc. However, there are other licensed titles such as LSW, LMSW,LBA, etc., without the clinical part. QMHP's do not need to be clinical as there are other Licensed titles that are not clinical as well. Having a specific area of LQMHP's would add to the already stretched mental health field or burnt out workers. QMHP's treat/assist with the behavioral aspect of mental health disorders and provide a different skillset and form of compassion.

Allowing us to be looked upon as Licensed would be a tremendous addition to the Mental Health field and would provide more options for those seeking help. I am not asking that you allow us to diagnose, just to be considered as licensed.

CommentID: **216637**

Commenter: Laura Ann Rowsey-Collins

4/24/23 1:51 pm

Not an acceptable idea

Therapists/Counselors have a master's degree and must meet an intensive set of criteria. If this is important to ENSURE THE SAFETY AND WELLBEING OF OUR CLIENTS, then to suggest that it is in the public's best interest to license QMHPs is contradictory to the current requirements.

Further, Virginia just joined the Counseling Compact. To weaken the licensing regulations for mental health providers may cause problems with Virginia Counselors being allowed to practice in other states.

Finally, I have been previously a QMHP and am now a LPC (Licensed Professional Counselor). In no way was I prepared as a QMHP to provide the quality of services I now do. I did not have the breadth and depth of education or experience I now have. And, I was not aware enough at that time of what I did not know to have avoided causing harm were I to have been providing mental health services beyond those of the QMHP I was.

CommentID: 216638

Commenter: Anonymous

4/24/23 3:14 pm

QMHP seasoned

That was your experience. I am not saying through fresh BS/BA level QMHP's in with a license. You may not have known what you were doing..

CommentID: 216639

Commenter: Anonymous

4/24/23 3:18 pm

QMHP

I have a Masters. I have worked in mental health over 20 years. I am well equipped to provide services on a Licensed level. To the previous comment on not being prepared yourself, that's you. You are only speaking to that because you are now Licensed.

CommentID: 216640

Commenter: Kathy Johnson- Petitioner

4/24/23 3:32 pm

Reasoning

I submitted this petition because some, not all, QMHP's indeed have the knowledge and educational background that would make licensing QMHP's a good idea. There are other fields such as Licensed Bachelor/Masters Level Social Workers w/o the clinical piece. There are also LBA's and BCBA's. My reasoning for this petition is because there are plenty of areas in which QMHP's are experts and should be able to be licensed to practice in those specific areas only. We can't even provide Anger Management or Batterers Intervention without a license yet we can do skill-building, write ISP's, create behavior intervention plans and so forth. I am not asking that QMHP's be allowed to practice in areas in which they are not experts. I am not asking that you license Bachelors level QMHP's either. I am asking that it be considered, to license Masters level QMHP's who have been in the field for more than 5 years or so with the work experience.

CommentID: 216641

Commenter: Erin Holland, LPC

4/24/23 7:42 pm

disagree

I would potentially be okay with a compromise between the ideas - having a different licensing level between QMHP and LMHP. Something that differentiates between a brand new QMHP and a QMHP who has been in the field for a long time, has taken a certain amount of CEUs, perhaps can pass a certain test, and can demonstrate a higher level quality of care. But I have provided care on a QMHP level and an LMHP level and there is a vast difference between the type of care provided. There are certainly some incredible QMHPs out there, just as there are some not-amazing LMHPs out there. But just as there is a difference in the training between LCSWs and LPCs even though

both have master's degrees and some responsibilities overlap, there is a difference in the training provided to LMHPs who qualify for the title and those with a master's degree who do not qualify for the LMHP title. They have gone to schools who have demonstrated that they are providing a certain standard of education, and that the courses are also fitting a certain standard to train their students to be able to provide the more intensive services needed. I also agree with Ms. Rowsey-Collins who commented prior that this could have further reaching implications when it comes to the Counseling Compact.

CommentID: **216642**

Commenter: Courtney Holmes

4/25/23 8:48 am

More information needed

I have a few questions related to professional identity, role, training, etc. that it may be prudent to answer should these discussions move forward.

If QMHP's were licensed, what does that mean? How does it change their job responsibilities, the necessity for supervision, etc.?

What would the exact requirements be for a QMHP to be licensed? Would it be similar to other professional licenses where you would need an MS degree, supervised practice, and to pass an exam? Would the minimum be a BS degree?

Fundamentally, what is the professional role of a QMHP and how is it different from other licensed professionals?

I could see an avenue where people with MS degrees that are related but do not count for LPC would have an opportunity then for licensure -- however, I would like to see a clear distinction developed between what someone with a QMHP license does professionally vs. an LPC/LCSW/LMFT.

Alternatively, providing services as a QMHP is often a pathway for counseling MS students who are getting the training to become professional counselors, so they can provide services and get experience and training. However, they are in a clinical training MS program and obtaining the skills necessary for LPC/LMFT/LCSW licensure.

Furthermore, would the requirements to become a QMHP need to change to become more stringent? If you are allowing licensure, perhaps the pathways in which someone can take to become a QMHP need to tighten to provide further regulations about learning and practice experiences that would support the professional development of someone with a QMHP. Part of what makes a QMHP accessible is that people can get into the field under supervision and start career or change to a new career path offering direct services. If a QMHP became a path toward licensure, would that make it necessary to further restrict the accessibility of obtaining a QMHP because it would require certain background knowledge, training, and skills?

Is it possible that the scope of what QMHP's do now just needs to shift, rather than adopting an entire licensure avenue? There are comments posted about QMHP's not being able to do some behavioral interventions. Is it possible that this can be adapted to provide a slightly larger scope of interventions without changing the licensing structure?

CommentID: **216644**

Commenter: Anonymous

4/25/23 10:14 am

Agreeable

As someone who has a master's degree, completed didactic work to earn my LPC, has worked in the field for 23 years, but was unable financially to earn my license, I would think it would be advantageous to practitioners and patients in this field of practice to be able to pass an exam and

license as QMHP. Again, scope and breadth of how it would be differentiated between QMHP and LMHP can be ironed out, but in this day and age we need more qualified practitioners, and those with experience and level of education should be able to teach and train lower levels and move ahead, whether it's LMPH or QMHP. Again, not taking away anything from a licensed practitioner who has put in the hours and the education, but there are different ways to get the hours and education that should be recognized.

CommentID: **216645**

Commenter: Anonymous

4/25/23 10:21 am

Call it a Certification

Entry level practice certification can be obtained after 3-5 year license eligible Comprise

CommentID: **216646**

Commenter: Anonymous

4/25/23 10:32 am

Agreeable

I have worked in this field for over 15 years. I have a Masters Degree in Psychology and several certifications. I have worked beside some of the best LMHP's and I have worked beside some that I have had to help because they were unprepared. I do feel that the QMHP should be respected as a step down from a LMHP. I am not taking anything away from the LMHP's, but I do feel that QMHP needs to be recognized.

CommentID: **216647**

Commenter: Anonymous

4/25/23 11:27 am

Agreement with Licensure or Certification

I have a Masters in Social Work and a Bachelor in Psychology and 14+ years in the social work field. I obtained all my LSCW supervision hours, tested, did not pass, financially unable to pay to retake and my time frame was then up (have to do more supervision hours in order to test for LCSW again)

I am currently a QMHP-A and I am in agreement with **licensure** and or **certification** for us QMHP's who have obtained a **Masters** level education, who have at least 10 plus years of experience, and who have obtained a certain amount of CEU's.

I am more qualified than a straight out of grad school LPC, LSCW, LMHP to be licensed.

LQMHP (In total agreement)

C- QMHP(A/C) (C=Certified)

CommentID: **216648**

Commenter: Anonymous

4/25/23 2:25 pm

QMHP-

Every licensure level has a certain skillset. If you license a QMHP, to practice independently, you would simply "define" their scope of practice which is pretty much already in writing, you would simply be making it a licensure. However, implementing that licensure would only be available to

educational levels of Masters or higher and specifying degrees, this could work. Fields such as Human Services, Psychology, Counseling, etc. Many Human Services Masters, you can take specific courses, myself in particularly, although my degree is Human Services, Marriage and Family Therapy, the course load was primarily counseling. I have a BS in Psychology with a minor in Addiction Studies. A 30 credit Masters would be suffice to license a QMHP as the clinical piece will not be attached with the licensure. Many QMHP's indeed have a 30 credit Masters which would cover your basics along with experience and trainings. I myself have worked as an EAP Consultant for over 6 years, a QDDP for over 7 years, a QMHP grandfathered in due to experience and educational background. Not to mention, I have worked directly with SMI consumers for over 15 years. I am not interested in providing therapy as that is my choice as for many or as previous comments on the thread stated, due to finances. This can be ironed out indeed. As I stated before, the clinical piece is for LCSW's, LPC', etc., agreed. However, to license a QMHP will open doors for the current crisis in mental health overall. I agree, you need the clinical piece for diagnosing, but even for non-medical counseling, a QMHP is well qualified to provide that. Afterall, we basically write ISP's, Behavioral Intervention plans, monitor drug side effects, provide crisis management, coping skills, etc. Allowing us to practice our expertise independently would be a great addition to the mental health workforce and decrease the burnout of clinical Providers. We can actually take a load off...

CommentID: 216649

Commenter: Debra Riggs / NASWVA

5/2/23 9:26 am

QMHP licensing

The QMHP already has a registration, and a certification can be a way of giving more credibility to these folks. However, to add an additional license level, to those who already are licensed, poses another issue. Licensee's must take exams, some of which are national, and recognized by professional organizations, and other "trade organizations" For example, a Social Work Degree 'allows' one to be licensed, and work within a specific scope of practice. In order to help streamline the process, and support the workforce, the QMHP should be limited to those who are not licensed, but have experiance and specific scopes. Those with Masters Degrees in Behavioral Health, should be exempt for the QMHP registration/licensing process, as they already are under the authority of one of the Board, under the Dept of Health Professions.

To require those with specific education and training, with a degree to also be licensed as a QMHP is an undue burden on the practitioner, causing more complications in the workforce "pipeline".

In summary, please do not add another level of licensure to those who are already licensed and if not licensed, have them work under a licensee, and possibly be certified.

CommentID: 216812

Commenter: Anonymous

5/3/23 6:25 pm

In response to Debra Riggs comment

In response to Debra Riggs comment:

"Licensee's must take exams, some of which are national, and recognized by professional organizations, and other "trade organizations"

This is not always the case. For instance, in the state of Illinois a person who wishes to be a LSW licensed social worker is not required to complete an examination. (Illinois Public Act 102-0326)

To require those with specific education and training, with a degree to also be licensed as a QMHP is an undue burden on the practitioner, causing more complications in the workforce "pipeline"

How will this be a burden on the practitioner and what type of complications do you project?

"please do not add another level of licensure to those who are already licensed and if not licensed, have them work under a licensee"

What type of Licensed professional would suffice for the QMHP to work under for those who are un licensed, already a registered QMHP, holding master's level degrees with over 15+ years in the field and who have already met supervision requirements for LPC,LCSW and LMHP?

CommentID: 216817

Commenter: Anonymous

5/8/23 3:01 pm

Certification as means of demonstrating competence

If there are QMHPs with Masters degrees in an appropriate field, not occupational therapy or outside of clinical mental health, then these folks should seek independent licensure in the pathways that are appropriate to their Masters degree. Social Work, Counseling, Substance Abuse Treatment Provider, or Marriage and Family Therapy all have rigorous standards to meet for licensure, and are the prevailing graduate clinical mental health tracks in the US today. Licensure as a standard is the highest of competencies, and should not be watered down by allowing folks without at least a Masters degree, internship/practicum, and residency experiences to be seen as independent providers/practitioners. We are exceptionally honored to provide mental health services to those in need, and for ethical and competent practice, should hold graduate degrees and supervised clinical experiences to demonstrate we are worthy of working with those in need. As others have stated, I am in favor of a certification that requires at least a Masters degree, some form of supervised clinical practice, and requires them to be under regular supervision of someone licensed in a clinical mental health discipline. If folks have a Masters degree in an appropriate clinical mental health field, then they should go through the appropriate licensure track for their graduate discipline. I know there are gaps in what may have qualified someone based on their graduate program, CACREP- or other accrediting body approval, and I recognize that it may take greater effort, time, and money to complete the remaining gaps in education to complete internship and residency, but our impact on humans is too great to get wrong. Independent Licensure dictates competency, ethical practice, and ability to practice with little oversight. Folks with bachelors degrees would not have the appropriate education to do so. Licensure is and should be a different standard than certification, and should be respected as such. I am in opposition of what the original petitioner is suggesting and feel that it could be achieved through channels that already exist for Masters degree-holders.

CommentID: 216887

Commenter: Anonymous

5/9/23 6:08 pm

DISAGREE

I am reaching out to express my viewpoint regarding the licensure and regard of Qualified Mental Health Professionals (QMHPs) in comparison to Licensed Professional Counselors (LPCs) and Residents.

Firstly, I want to emphasize my respect and appreciation for QMHPs, as I myself started my career as a QMHP-E. I acknowledge the valuable contributions they make to the mental health field. However, I believe it is crucial to recognize the distinctions in the licensure requirements and professional qualifications between QMHPs, LPCs, and Residents.

QMHPs typically hold a bachelor's degree in human services and possess one year of clinical experience. While this foundation provides them with valuable knowledge and skills, it falls short in

terms of the extensive academic and residency requirements that LPCs and Residents are required to fulfill.

For instance, a Resident is expected to complete a bachelor's degree, followed by a master's degree that includes practicum placements, internships, and comprehensive exams. Additionally, LPCs are mandated to complete at least two years of supervised residency. These academic and residency requirements play a vital role in equipping LPCs and Residents with an in-depth understanding of clinical practice and ensure their readiness to address the complex mental health needs of individuals.

It is essential to emphasize that my intention is not to undermine the significance of QMHPs or question their competence. Rather, I aim to emphasize the importance of recognizing the variations in qualifications and experience among mental health professionals.

By acknowledging the distinctions, we can ensure that individuals seeking mental health support receive the appropriate level of care from professionals with diverse backgrounds and expertise. This recognition can also contribute to the overall advancement of the mental health profession and facilitate a comprehensive, multi-tiered approach to meeting the diverse needs of clients.

I welcome the opportunity for open and respectful dialogue on this topic, as it is essential for the continued growth and development of our field.

Thank you for taking the time to consider my viewpoint.

CommentID: **216939**

Commenter: Anonymous

5/11/23 12:44 pm

Disagree

Call it a certification but not a license.

CommentID: **216984**

Commenter: William Moncure; M. A. in Mental Health Counseling, Doctoral Candidate

5/15/23 3:40 pm

Support Underlying Goal; Needs Improved Execution

I believe I see this issue through a different lens than many here. I find that there is a lot to like in the petitioner's intentions. In fact I encourage those commenting here to read the actual petition if possible rather than only the summary given by the Board. I just wish the petition had more specific requirements for how a QMHP could become a licensed QMHP. I believe the petition would be more likely to be successful if it were more specific and firm about requirements.

My own background is in Clinical Mental Health Counseling and Addiction Counseling. However, I am concerned that ever since the Board of Counseling stopped allowing individuals with Counseling Psychology degrees to become LPCs (regardless of specific coursework or other training) there has been an issue where we have hundreds of individuals in Virginia who have 60 hour Master's degrees, but who are unable to ever practice independently. Generally they practice at the QMHP level.

I think this measure should be specifically limited to QMHP's with a certain level of experience, who have a Master's Degree, and have completed at least 60 credit hours at the graduate level. The Board seems to be firm in not allowing individuals with Counseling Psychology degrees to become LPCs, but if the issue is the *title* of Licensed Professional Counselor, perhaps this could be a reasonable compromise. I think ensuring that individuals with significant training and educational background can practice independently is in the best interest of the public given the

significant lack of mental health professionals in many parts of the Commonwealth and the ongoing opioid and other epidemics.

I suggest a title like "Master Qualified Mental Health Professional" to indicate the requirement for a Master's degree. Perhaps with 3-5 years of active practice at the QMHP level under appropriate supervision.

Several Psychology master's programs in Virginia shut down after the Board of Counseling decided to not allow their graduates to become LPCs, a phenomena which in part has contributed to the APA finally embracing Master's level accreditation (and presumably licensure of some sort). If the Board of Counseling does *not* provide a pathway to independent practice for those with Counseling Psychology Master's degrees, the Board of Psychology likely will in the near future. If the Board does not allow this change, those here who are in that boat might consider checking out what the Board of Psychology offers in the future. In my opinion, the question is whether the Board of Counseling wants to have these individuals under their Board, or let the Board of Psychology step in instead.

Essentially I would ask the Board to approve a modified version of the petitioner's request along the lines of requiring a Master's degree in Mental Health Counseling, Applied Psychology, Clinical Psychology, or Counseling Psychology; a total of 60 credit hours at the graduate level; and 3-5 years of experience under supervision.

CommentID: 217003

Commenter: Anonymous

5/16/23 4:29 pm

Certification to validate professional development and skillset

Because of the educational and professional gaps that require more guidelines, standards of practice, accountability, role clarification and supervision at this point Licensure is a misleading terminology appears incongruent to expectations, training, professional accountability and competence inherent in the word Licensure. This has already presented a new set of role confusion. Although many QMHP's have pursued advanced degrees this is not the expectation or most at this time.

CommentID: 217007

Code of Virginia
Title 54.1. Professions and Occupations
Chapter 35. Professional Counseling

§ 54.1-3505. 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. To administer the certification of rehabilitation providers pursuant to Article 2 (§ 54.1-3510 et seq.) of this chapter, including prescribing fees for application processing, examinations, certification and certification renewal.
5. [Expired.]
6. To promulgate regulations for the qualifications, education, and experience for licensure of marriage and family therapists. The requirements for clinical membership in the American Association for Marriage and Family Therapy (AAMFT), and the professional examination service's national marriage and family therapy examination may be considered by the Board in the promulgation of these regulations. The educational credit hour, clinical experience hour, and clinical supervision hour requirements for marriage and family therapists shall not be less than the educational credit hour, clinical experience hour, and clinical supervision hour requirements for professional counselors.
7. To promulgate, subject to the requirements of Article 1.1 (§ 54.1-3507 et seq.) of this chapter, regulations for the qualifications, education, and experience for licensure of licensed substance abuse treatment practitioners and certification of certified substance abuse counselors and certified substance abuse counseling assistants. The requirements for membership in NAADAC: the Association for Addiction Professionals and its national examination may be considered by the Board in the promulgation of these regulations. The Board also may provide for the consideration and use of the accreditation and examination services offered by the Substance Abuse Certification Alliance of Virginia. The educational credit hour, clinical experience hour, and clinical supervision hour requirements for licensed substance abuse treatment practitioners shall not be less than the educational credit hour, clinical experience hour, and clinical supervision hour requirements for licensed professional counselors. Such regulations also shall establish standards and protocols for the clinical supervision of certified substance abuse counselors and the supervision or direction of certified substance abuse counseling assistants, and reasonable access to the persons providing that supervision or direction in settings other than a licensed facility.
8. To maintain a registry of persons who meet the requirements for supervision of residents. The Board shall make the registry of approved supervisors available to persons seeking residence status.
9. To promulgate regulations for the registration of qualified mental health professionals, including qualifications, education, and experience necessary for such registration, and for the registration of persons receiving supervised training in order to qualify as a qualified mental health professional.
10. To promulgate regulations for the registration of peer recovery specialists who meet the qualifications, education, and experience requirements established by regulations of the Board of Behavioral Health and Developmental Services pursuant to § 37.2-203.
11. To promulgate regulations for the issuance of temporary licenses to individuals engaged in a counseling residency so that they may acquire the supervised, postgraduate experience required for licensure.

1976, c. 608, §§ 54-929, 54-931; 1983, c. 115; 1986, cc. 64, 100, 464; 1988, c. 765; 1994, cc. 558, 778; 1995, c. 820; 1997, c. 901; 2001 c. 460; 2013, c. 264; 2017, cc. 418, 426; 2019, cc. 101, 217, 428.

The chapters of the acts of assembly referenced in the historical citation at the end of this section may not constitute a comprehensive list of such chapters and may exclude chapters whose provisions have expired. 7/3/202


 Virginia Law Library

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- [Virginia Register of Regulations](#)
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 For Developers

The Virginia Law website data is available via a web service. 

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Board of Counseling Regulatory Committee Meeting

“QMHP Discussion”
July 21, 2023

Agenda

- Current QMHP regulations
- Background on DHP's Role
- Survey questions sent to RAP and Stakeholders
- Identified Concerns and Potential Solutions
- Summary

Background

Current QMHP Regulatory Requirements

QMHP Definitions

- “Collaborative mental health services” means those rehabilitative supportive services that are provide by a QMHP, as set forth in a service plan under the direction of and in collaboration with either a mental health professional licensed in Virginia or a person under supervision that has been approved by the Board of Counseling, Board of Psychology, or Board of Social Work as a prerequisite or licensure.
- “Mental health professional” – person who by education and experience is professionally qualified and licensed in Virginia to provide counseling interventions designed to facilitate an individual’s achievement of human development goals and remediate mental, emotional, or behavioral disorders and associated distresses that interfere with mental health and development.
- “QMHP” includes qualified mental health professionals – adult and qualified mental health professionals –child
- “QMHP-A” – a QMHP who provides collaborative mental health services for adults. A QMHP-A shall provide such services as an employee or independent contractor of DBHDS or the DDOC, or as a provider licensed by DBHDS.
- “QMHP-C” – a person who by education and experience is professionally qualified and register y the board to provide collaborative mental health services for children and adolescents up to 22 years of age. A QMHP-C shall provide such services as an employee or independent contractor of the DBHDS or the DOC, or as a provider licensed by DBHDS.
- “QMHP-Trainee” means a person who is receiving supervised training to qualify as a QMHP registered with the Board.

QMHP-Trainee Requirements

- In order to register for a QMHP-trainee, prior to receiving supervised experience toward a QMHP-A, must provide verification of ONE of the following:
- Master's degree in psychology, social work, counseling, substance abuse, or marriage and family therapy from an accredited college or university;
- Minimum of bachelor's degree in a human services or related field from an accredited college or university;
- Current enrollment in a master's program in psychology, social work, counseling, substance abuse, marriage and family therapy , or human services with at least 30 semester or 45 quarter hours;
- Bachelors from an accredited college in an unrelated field that includes 15 semester credits or 22 quarter hours in a human services field;
- License as a registered nurse in Virginia.
- License as an occupational therapist.

QMHP-Trainee Requirements

- In order to register for a QMHP-trainee, prior to receiving supervised experience toward a QMHP-C, must provide verification of ONE of the following:
- Master's degree in psychology, social work, counseling, substance abuse, or marriage and family therapy from an accredited college or university;
- Minimum of bachelor's degree in a human services or special education from an accredited college or university;
- Current enrollment in a master's program in psychology, social work, counseling, substance abuse, marriage and family therapy , or human services with at least 30 semester or 45 quarter hours;
- License as a registered nurse in Virginia.
- License as an occupational therapist.



Guidance Document on Approved QMHP Degrees

- Art Therapy
- Behavioral Sciences
- Child Development
- Child and Family Studies/Services
- Cognitive Sciences
- Community Mental Health
- Counseling (Mental health, Vocational, Pastoral, etc.)
- Counselor Education
- Early Childhood Development
- Education (with a focus in psychology and/or special education)
- Educational Psychology
- Family Development/Relations
- Gerontology
- Health and Human Services
- Human Development
- Human Services
- Marriage and Family Therapy
- Music Therapy
- Nursing
- Psychiatric Rehabilitation
- Psychology
- Rehabilitation Counseling
- School Counseling
- Social Work
- Special Education
- Therapeutic Recreation
- Vocational Rehabilitation
- Sociology – (accepted until May 31, 2021)

Pathways to QMHP-A Registration

In order to qualify, you must provide evidence of ONE of the following:

- Master's degree in psychology, social work, counseling, substance abuse, or marriage and family therapy from an accredited college or university, you need:
 - Evidence you have had an intern or practicum of at least 500 hours of experience with persons who have a mental illness.
- Minimum of bachelor's degree in a human services or related field from an accredited college, you need:
 - Evidence of 1,500 hours of supervised experience (verification of supervised experience form)
- Bachelor's from an accredited college in an unrelated field, you need:
 - 15 semester credits or 22 quarter hours in a human services field
 - 3,000 hours of supervised experience
- License as a registered nurse in Virginia, you need:
 - 1,500 hours of supervised experience
- License as an occupational therapist in Virginia, you need:
 - With an internship or practicum of at least 500 hours or,
 - 1,500 hours of supervised experience

****All supervised experience must be obtained within a 5-year period immediately preceding the application for registration****

Supervised Experience Requirements for QMHP-A

- An applicant without an approved master's degree, shall provide documentation of providing direct services to individuals as part of a population of adults with mental illness in a setting where mental health treatment, practice, observation or diagnosis occurs.
- Services provided shall be appropriate to the practice of a QMHP-A.
- Services must be provided under the supervision of a licensed mental health professional or a person under supervision approved by a board as a pre-requisite for licensure under the Boards of Counseling, Psychology, or Social Work.
- Supervision obtained in another US jurisdiction shall be provided by a mental health professional licensed in Virginia or licensed in that jurisdiction.
- Consist of face-to-face training until supervisor determines competency in the provision of QMHP-A services, then supervision may be indirect (the supervisor is either on-site or immediately available for consultation with the person being trained).
- Hours obtained in a bachelor's or master's level internship or practicum in a human services field may be counted toward completion of the required hours.
- Supervised experience obtained prior to meeting the education requirements shall not be accepted.

Pathways to QMHP-C Registration

In order to qualify, you must provide evidence of ONE of the following:

- Master's degree in psychology, social work, counseling, substance abuse, or marriage and family therapy from an accredited college or university, you need:
 - Evidence you have had an internship or practicum of at least 500 hours of experience with children or adolescents who have a mental illness.
- Minimum of bachelor's degree in a human services or in special education from an accredited college, you need:
 - Evidence of 1,500 hours of supervised experience
- License as a registered nurse in Virginia, you need:
 - 1,500 hours of supervised experience
- License as an occupational therapist in Virginia, you need:
 - 1,500 hours of supervised experience

****All supervised experience must be obtained within a 5-year period immediately preceding the application for registration****

Supervised Experience Requirements for QMHP-C

- An applicant without an approved master's degree shall provide documentation of direct services to individuals as part of a population of children or adolescents with mental illness in a setting where mental health treatment, practice, observation or diagnosis occurs.
- Services provided shall be appropriate to the practice of a QMHP-C.
- Services must be under the supervision of a licensed mental health professional or a person under supervision approved by a board as a pre-requisite for licensure under the Boards of Counseling, Psychology, or Social Work.
- Supervision obtained in another US jurisdiction shall be provided by a mental health professional licensed in Virginia or licensed in that jurisdiction.
- Supervision must consist of face-to-face training until supervisor determines competency in the provision of QMHP-C services, then supervision may be indirect (the supervisor is either on-site or immediately available for consultation with the person being trained).
- Hours obtained in a bachelor's or master's level internship or practicum in a human services field may be counted toward completion of the required hours of experience.
- Supervised experience obtained prior to meeting the education requirements shall not be accepted.

Background for BOC's Role

- Ensure QMHP's meet the minimum requirements for the role to ensure public safety and alleviate this requirement from employers.
- Provide accountability and ensure public safety.
- Ensure that DMAS funds programs and people who are not a threat to public safety or committing fraud.
- With minimum requirements, DBHDS and DMAS have the flexibility to require more supervision, more education, or more years of experience for certain roles within their programs.

Questions sent to the QMHP Regulatory Advisory Panel, Stakeholders, and Board Members (1/2)

1. What types of services are QMHP'As, QMHP-Cs, QMHP-Trainees, and QMHPs not regulated by the Board of Counseling, providing in agencies?
2. Should the Board of Counseling regulate all QMHPs, not just those in DBHDS or DOC settings?
3. Please define the scope of practice for each type if you can.
4. Would defining in the regulations or Code, scopes of practice for the QMHPs be beneficial?
5. Do you feel that a bachelor's level degree is beneficial, or if a formal degree could be replaced with more supervision and/or specialized training? If so, what level of education and which specific courses/trainings are necessary.
6. Would in-depth required training provide a better foundation than a specific degree and or coursework? What information should be included in this training, how long, training by whom and when should the training take place? Or should there be multiple required trainings?
7. Do you think there should be additional or different levels of QMHPs with defined scopes of practice, education and experience?
8. Are the QMHP-A and QMHP-C designations necessary? How could they be changed or improved?



Questions sent to the QMHP Regulatory Advisory Panel, Stakeholders, and Board Members (2/2)

9. What education do you feel is the minimum amount necessary for each registration?
10. What are the barriers to practice?
11. Should the Board be more specific in the supervision requirements?
12. Why should the Board allow a QMHP to supervise?
13. What should be the minimum requirements to be a supervisor, and should the supervision be different if it was from someone other than a LMHP or resident (supervisee)?
14. If there are levels of QMHPs, should there be levels of supervisors and supervisor requirements, and what would that look like?
15. It seems like there is a lot of misinformation out in the public about the requirements and the expectations of QMHPs, how could the Board best address this?

Identified Concerns and Possible Solutions

- The following slides attempt to provide solutions that reflect the suggestions from the RAP and stakeholders.

Identified Concerns and Possible Solutions

Education Requirements and Specialized Training

Education Requirements and Specialized Training

- **Problem:** The pathways to become a QMHP-A or a QMHP-C are numerous, varied, complicated, and subjective which ironically result in many individuals not having an affordable or appropriate pathway to becoming a QMHP.
- The regulations outline different combinations of education and experience over a long period of time and without detailed supervision requirements or prior training that would prepare QMHPs for the jobs they would work.
- The Board of Counseling (BOC) denies many applicants because they fail to meet the education requirements for this entry level position.
- The current pathways construct barriers to entry to practice as a QMHP, limit job flexibility, and fail to build or sustain a pipeline for the behavioral health care workforce.
- Community Services Boards (CSBs) report that the degree requirements have prevented people who have experience and willingness to take on the role. Specifically, they estimate that only half of the applicants for QMHP/QMHP-Trainee positions meet the requirements because many applicants have qualifying experience, but do not meet the field of study requirements. Many of those candidates have a sociology or criminal justice degree. It takes CSBs an average of 3-6 months to fill QMHP or QMHP -Trainee level positions.

Education Requirements and Specialized Training

- **Potential Overhaul Solution: The BOC should streamline the regulatory process, eliminate the specific degree requirements, and instead require specialized training focused on the QMHP supportive role in the behavioral health care workforce.**
 - Specifically, amend the regulations to eliminate the specific degree requirements and instead require a completion of a QMHP specialized 16- hour certificate program.
 - Elimination of the specific degree requirements would open the field and allow job flexibility. The degree matters less than specialized QMHP training focused on the role of the QMHP and paired with the ongoing provision of QMHP services under enhanced and tailored supervision.
 - The QMHP requirements should allow someone with certificate from an approved QMHP program to become a QMHP. This approach would allow entry points at any stage of life. For instance, a high school student enrolled in a QMHP Career and Technical Education (CTE) program would be eligible to register with the BOC as a QMHP-Trainee upon completion of the program. Likewise, a person with an associate's degree, a bachelor's degree, or even a master's degree could become a QMHP-trainee upon completion of the 16-hour certificate program.
 - The BOC, the Department of Behavioral Health and Developmental Services (DBHDS), the Virginia Counselor Association (VCA), the CSBs, and the Department of Medical Assistance Services (DMAS) should collaborate with the Department of Education (DOE) and the Community Colleges to develop a CTE program for QMHPs and develop the curriculum for a 16-hour certificate program offered through the community colleges system. A framework for this type of curriculum already exists, so we do not start from scratch. Suggested topics include Scope of work, Ethics, Fraud and Abuse reporting to DBHDS, Children's Protective Services (CPS)/Adult Protective Services (APS), DMAS, and BOC, Human Rights training, Addiction signs and symptoms, Crisis de-escalation, Person-Centered services, Accessing Emergency Services, Housing 101, Recognizing and Celebrating Diversity, HIPAA, working as a member of a treatment team, and Crisis Support Plans, and Documentation/record keeping.

Education Requirements and Specialized Training

- Potential Minimal Change Solution:
 - Amend the guidance document to allow sociology and criminal justice degrees.
- Take no action.

Identified Concerns and Possible Solutions

QMHP Designations

QMHP Designations

- **Problem:** The code and regulations provide three QMHP designations: QMHP-A, QMHP-C, and QMHP-Trainee. The QMHP-A and QMHP-C designations limit entry into the workforce and inhibit job flexibility.
- There is no reason for the separation because the Boards do not require Licensed Mental Health Providers (LMHPs) to designate whether they work with children or adults. Regulations for LMHPs only require they have taken the requisite continuing education to ensure that they have the requisite knowledge and training to provide the appropriate services. The same should be true for QMHPs.
- Having separate designations presents a barrier to providing services and recruiting staff. The scope of work remains same.

QMHP Designations

- **Potential Overhaul Solution: The QMHP-A and QMHP-C should be collapsed into one designation.**
- **TAKE NO ACTION**

Identified Concerns and Possible Solutions

QMHP Supervision Requirements and QMHP
Supervisor Training

QMHP Supervision Requirements

- **Problem:** The regulations only allow an LMHP to supervise all categories of QMHPs. A limited supply of LMHPs already exists to provide much-needed clinical services to the Commonwealth, and supervision demands prevent LMHPs from devoting time to clinical services.
- There remains a shortage of LMHPs in the public sector to supervise QMHPs, which leads to reductions in needed services. Additionally, LMHPs are also supervise residents for licensure. As such requiring only LMHPs to supervise QMHPs adds more strain to the system.
- Many LMHPs have never worked as QMHPs. To assume they can appropriately supervise a QMHP by virtue of having more education is a faulty assumption. The day-to-day challenges and their power differential within systems are different. An experienced QMHP can problem-solve from lived experience. QMHPs know QMHP work, which is mostly targeted case management. LMHPs do not necessarily make good case managers. Seasoned and specially trained QMHPs can provide supervision that is more specific to the profession.

QMHP Supervision Requirements

Potential Overhaul Solution 1: There should be QMHP Supervisor Designations and a supervision structure that relieves the supervision burden on LMHPs, allows them to reduce the amount and time supervising QMHPs by allowing certain QMHPs to provide some supervision of other QMHPs.

- A QMHP could obtain the QMHP-Supervisor designation with 5 years of experience, no founded complaints or disciplinary action, and completion of a QMHP Supervisor training. This designation would allow a QMHP, in collaboration with an LMHP, to supervise less-experienced QMHPs.
- Because the QMHPs are already a large number and continue to grow, it seems that the LMHP time would be better utilized focusing on the supervision of the smaller number of QMHP-trainees who need the most intense supervision in the beginning of their careers. Then, we could utilize experienced QMHPs to provide ongoing supervision to newer, less-experienced QMHPs. The supervision requirements would be more intensive for the trainees and would be spelled out in the regulations. Ongoing supervision of QMHPs would also be spelled out in the regulations.

QMHP Supervision Requirements

Potential Overhaul Solution 2: There should be QMHP Supervisor Designations and a supervision structure that relieves the supervision burden on LMHPs, allows them to reduce the amount and time supervising QMHPs by allowing certain QMHPs to provide some supervision of other QMHPs.

- Create a tiered supervision structure that would provide the least burdensome structure and strain on LMHPs, while also ensuring accountability and public safety. Such a supervision structure would also reflect the requirement that QMHPs work as part of a team and in collaboration with an LMHP.
 - The creation of a QMHP-Supervisor Level 1 would allow QMHPs with at least 5 years of experience and no founded complaints or disciplinary action to provide ongoing supervision to the less experienced QMHPs.
 - A person with a master's in counseling, psychology, or social work could automatically qualify as a QMHP Supervisor Level 2, after taking the QMHP Supervision course, and supervise the QMHP-Trainees and QMHP Level 1's.
 - Residents and Supervisee would qualify as a QMHP Supervisor Level 3 and could supervise the QMHP Supervisors Level 2's and Level 1's and Trainees.
 - The LMHPs would qualify as QMHP Supervisors Level 4 and supervise the QMHP Supervisors Level 2 and Level 3 and provide some portion of all overall supervision as the person responsible for each case.
- The BOC would collaborate to develop the QMHP supervision training that could be offered in modules specific to the training and supervision needs of QMHPs. At a minimum any training should include information about ways to document supervision, topics to be covered, addressing concerns, and when to escalate to a LMHP. All QMHP Supervisors regardless of degree or license would have to take the QMHP Supervisor Training and would be required to retake it to move to the next level of Supervisor. The Board could maintain this supervision registry on its website as it does now.
- TAKE NO ACTION

QMHP Supervision Requirements

Problem: The BOC currently has very loose and subjective supervision requirements that fail to improve the competency of QMHPs and potentially fail to protect the public.

Potential Overhaul Solution: Supervision requirements for registration as a QMHP, as well as ongoing supervision requirements should be detailed in the code or regulations to ensure accountability, minimum competency, and public protection.

- TAKE NO ACTION

Identified Concerns and Possible Solutions

QMHP Scope of Practice

QMHP Scope of Practice

- Problem: **Neither the Code nor the Regulations define the scope of practice for QMHPs.**
- Lack of a defined scope of practice causes confusion and uncertainty for QMHPs, LMHP supervisors, and the public.
- A QMHP cannot know what they cannot do if they are unclear as to what they can do and vice versa.

QMHP Scope of Practice

Potential Overhaul Solution: The BOC should define the scope of practice in code or regulation and produce a guidance document and chart like the one created for Substance Use Disorders

- The BOC should collaborate with DBHDS and DMAS to define the scope.

TAKE NO ACTION

Identified Concerns and Possible Solutions

Name Change

Regulating all QMHPs

Problem: **The name Qualified Mental Health Professional is misleading.**

- From the beginning the BOC has disliked the name “Qualified Mental Health Professional” because it implies a higher level of qualification by incorporating the defined term “mental health professional”.
- A “mental health professional” refers to licensed individuals who perform clinical work.
- A QMHP is not “qualified” by education or experience to perform any task that requires a license, nor is a QMHP allowed to perform such tasks. QMHPs play a supportive counseling role, remain under supervision (mainly on-site), and work in collaboration with other team members with a LMHP ultimately in charge of specific duties.

Name Change

- Potential Overhaul Solution: **The Board should change the name of the QMHP**
- If the BOC amends the Code to change the definition or to collapse the QMHP-A and QMHP-C into one designation, they should change the name to reflect to QMHPs, supervisors and the public the supportive role of the QMHP more accurately.
- Suggestions have included Behavioral Health Support Technician.

TAKE NO ACTION

Identified Concerns and Possible Solutions

Creation of Advisory Board

Creating an Advisory Board

Problem: **The QMHPs are the largest profession regulated under the BOC and yet they have no voice on the BOC.**

- The workforce and settings are very different for LMHPs and QMHPs.
- Any profession being regulated should have a voice.
 - CSACs, Registered Peer Recovery Specialists (RPRS), and Certified Rehabilitation Providers (CRPs) do not have a voice on the Board.

TAKE NO ACTION

Creating an Advisory Board

- Potential Overhaul Solution: Create a BOC Allied Health Advisory Board
- The Advisory Board could consist of 5 members: two QMHPs, one CSAC, one citizen member, and one other that would prioritize being filled by a RPRS or CRP, but if the numbers are low, it could be filled by a QMHP or CSAC as well.

Summary

- The above Recommendations provide solutions that reflect the responses from the RAP and stakeholders.
- The Overhaul recommendations aim to reduce barriers for a registered profession and provide targeted training, more specificity with respect to scope and supervision, as well as more structured supervision that allows LMHPs to provide the services they need and the QMHPs to remain supportive of the LMHPs.
- All but one of the survey respondents objected to a tiered system, or more levels of QMHPs.

Next Steps

- What needs to happen now to move forward with the Recommended Overhaul solutions?
- Introduce legislation to make the necessary statutory changes that includes an Emergency Enactment Clause. These changes would become effective July 1, 2024.
- Regulatory changes (where discussion could be ongoing through July 1, 2024), with the intent to adopt a NOIRA, in conjunction with DBHDS and DMAS, to implement the required regulatory changes within the emergency timeframe beginning after July 1, 2024.

Next Steps (Cont.)

- Statutory Changes:
 - Change the name and definition of a QMHP and QMHP-Trainee, which could include a scope of practice, training and supervision requirements (emulate the statutory framework for substance use providers).
 - Determine if the QMHP should become a certification with the requirement of passage of a test by a testing company approved by the Board or remain a registration which would not require a test.
 - Determine the training program required (something in conjunction with the Community Colleges – which are already in existence)
 - Create a QMHP-Supervisor Designation
 - We could also at the same time create an LMHP supervisor designation because this seems to be wanted in the community and would be clear to the public.
 - Eliminate the QMHP-A and QMHP-C statuses.
 - Create an Advisory Board.

Next Steps (Cont.)

- Legislative Changes:
 - Establish fees.
 - Change the definitions to match the statutory changes.
 - Outline the specific requirements for submitting an application and include a grandfather provision.
 - Outline more specific CE requirements.

VIRGINIA BOARD OF COUNSELING BYLAWS

ARTICLE I: AUTHORIZATION

A. Statutory Authority

The Virginia Board of Counseling (“Board”) is established and operates pursuant to §§ 54.1-2400 and 54.1-3500, et seq., of the *Code of Virginia*. Regulations promulgated by the Virginia Board of Counseling may be found in 18VAC115-20-10 et seq., Regulations Governing the Practice of Professional Counseling; 18 VAC 115-30-10 et seq., “Regulations Governing the Certification of Substance Abuse Counselors and Substance Abuse Counseling Assistants”; 18VAC115-40-10 et seq., “Regulations Governing the Certification of Rehabilitation Providers”; 18VAC115-50-10 et seq., “Regulations Governing the Practice of Marriage and Family Therapy”; 18VAC115-60-10 et seq., “Regulations Governing the Practice of Substance Abuse Treatment Practitioners”, 18VAC115-80-10 et seq., “Emergency Regulations Governing the Practice of Qualified Mental Health Professionals (QMHP), and 18VAC115-70-10 et seq., “Emergency Regulations Governing the Practice of Registered Peer Recovery Specialists”.

B. Duties

The Virginia Board of Counseling is charged with promulgating and enforcing regulations governing the licensure and practice of professional counselors, marriage and family therapists, and substance abuse treatment practitioners, and the certification and practice of substance abuse counselors and rehabilitation providers in the Commonwealth of Virginia, and the registration of qualified mental health professionals and registered peer recovery specialists. This includes, but is not limited to: setting fees; creating requirements for and issuing licenses, certificates, or registrations; setting standards of practice; and implementing a system of disciplinary action.

C. Mission

To ensure the delivery of safe and competent patient care by licensing health professionals, enforcing standards of practice, and providing information to healthcare practitioners and the public.

ARTICLE II: THE BOARD

A. Membership

1. The Board shall consist of twelve (12) members, appointed by the Governor as follows:
 - a. Ten (10) professionals licensed in Virginia, who shall represent the various specialties recognized in the profession. The licensed professionals shall be
 - i. Six (6) licensed professional counselors
 - ii. Three (3) licensed marriage and family therapists, and

- iii. One (1) licensed substance abuse treatment practitioner
 - b. Two (2) shall be citizen members.
2. The terms of the members of the Board shall be four (4) years.
3. Members of the Board of Counseling holding a voting office in any related professional association or one that takes a policy position on the regulations of the Board shall abstain from voting on issues where there may be a conflict of interest present.

B. Officers

1. The Chairperson or designee shall preserve order and conduct all proceedings according to parliamentary rules, the Virginia Freedom of Information Act, and the Administrative Process Act. Roberts Rules of Order will guide parliamentary procedure for the meetings. Except where specifically provided otherwise by the law or as otherwise ordered by the Board, the Chairperson shall appoint all committees, and shall sign as Chairperson to the certificates authorized to be signed by the Chairperson.
2. The Vice-Chairperson shall act as Chairperson in the absence of the Chairperson and assume the duties of Chairperson in the event of an unexpired term.
3. In the absences of the Chairperson and Vice-Chairperson, the Chairperson shall appoint another board member to preside at the meeting and/or formal administrative hearing.

C. Duties of Members

1. Each member shall participate in all matters before the Board.
2. Members shall attend all regular and special meetings of the Board unless prevented by illness or similar unavoidable cause. In the event of two (2) consecutive unexcused absences at any meeting of the Board or its committees, the Chairperson shall make a recommendation to the Director of the Department of Health Professions for referral to the Secretary of Health and Human Resources and Secretary of the Commonwealth.
3. The Governor may remove any Board member for cause, and the Governor shall be sole judge of the sufficiency of the cause for removal pursuant to § 2.2-108.

D. Election of Officers

1. All officers shall be elected for a term of two (2) years and may serve no more than two (2) consecutive terms.

2. The election of officers shall occur at the first scheduled Board meeting following July 1 of each odd year, and elected officers shall assume their duties at the end of the meeting.
 - a. Officers shall be elected at a meeting of the Board with a quorum present.
 - b. The Chairperson shall ask for nominations from the floor by office.
 - c. Voting shall be by voice unless otherwise decided by a vote of the members present. The results shall be recorded in the minutes.
 - d. A simple majority shall prevail with the current Chairperson casting a vote only to break a tie.
 - e. Special elections to fill an unexpired term shall be held in the event of a vacancy of an officer at the subsequent Board meeting following the occurrence of an office being vacated.
 - f. The election shall occur in the following order: Chairperson, Vice-Chairperson.

E. Meetings

1. The full Board shall meet quarterly, unless a meeting is not required to conduct Board business.
2. Order of Business at Meetings:
 - a. Adoption of Agenda
 - b. Period of Public Comment
 - c. Approval of Minutes of preceding regular Board meeting and any called meeting since the last regular meeting of the Board.
 - d. Reports of Officers and staff
 - e. Reports of Committees
 - f. Election of Officers (as needed)
 - g. Unfinished Business
 - h. New Business
3. The order of business may be changed at any meeting by a majority vote.

ARTICLE III: COMMITTEES

A. Duties and Frequency of Meetings.

1. Members appointed to a committee shall faithfully perform the duties assigned to the committee.
2. All standing committees shall meet as necessary to conduct the business of the Board.

B. Standing Committees

Standing committees of the Board shall consist of the following:

Regulatory/Legislative Committee
Special Conference Committee
Credentials Committee
Any other Standing Committees created by the Board.

1. Regulatory/Legislative Committee

- a. The Chairperson of the Committee shall be appointed by the Chairperson of the Board.
- b. The Regulatory/Legislative Committee shall consist of at least two (2) Board members appointed by the Chairperson of the Committee
- c. The Committee shall consider all questions bearing upon state legislation and regulation governing the professions regulated by the Board.
- d. The Committee shall recommend to the Board changes in law and regulations as it may deem advisable and, at the direction of the Board, shall take such steps as may further the desire of the Board in matters of legislation and regulation.
- e. The Chairperson of the Committee shall submit proposed changes in applicable laws and regulations in writing to the Board prior to any scheduled meeting.

2. Special Conference Committee

- a. The Special Conference Committee shall:
 - i. consist of two (2) Board members.
 - ii. conduct informal conferences pursuant to §§ 2.2-4019, 2.2-4021, and 54.1-2400 of the Code of Virginia as necessary to adjudicate cases in a timely manner in accordance with the agency standards for case resolution.

4. The Board delegates to the Executive Director the authority to grant an accommodation of additional testing time or other requests for accommodation to candidates for Board-required examinations pursuant to the Americans with Disabilities Act, provided the candidate provide documentation that supports such an accommodation.
5. The Board delegates to the Executive Director authority to grant an extension for good cause of up to one (1) year for the completion of continuing education requirements upon written request from the licensee or certificate holder prior to the renewal date.
6. The Board delegates to the Executive Director authority to grant an exemption for all or part of the continuing education requirements due to circumstances beyond the control of the licensee or certificate holder, such as temporary disability, mandatory military service, or officially declared disasters.
7. The Board delegates to the Executive Director the authority to reinstate a license or certificate when the reinstatement is due to the lapse of the license or certificate rather than a disciplinary action and there is no basis upon which the Board could refuse to reinstate.
8. The Board delegates to the Executive Director the authority to sign as entered any Order or Consent Order resulting from the disciplinary process or other administrative proceeding.
9. The Board delegates to the Executive Director the authority to enter a Pre-Hearing Consent Order for Indefinite Suspension or revocation of a license, certificate, or registration.
10. The Board delegates to the Executive Director, who may consult with a Special Conference Committee member, the authority to provide guidance to the agency's Enforcement Division in situations wherein a complaint is of questionable jurisdiction and an investigation may not be necessary.
11. The Board delegates authority to the Executive Director to close non-jurisdictional cases and fee dispute cases without review by a Board member.
12. The Board delegates to the Executive Director the authority to determine if there is probable cause to initiate proceedings or action on behalf of the Board of Counseling, including the authority to close a case if staff determines probable cause does not exist, the conduct does not rise to the level of disciplinary action by the Board, or the Board does not have jurisdiction.
13. The Board delegates to the Executive Director the authority to review alleged violations of law or regulations with a Special Conference Committee member to make a determination as to whether probable cause exists to proceed with possible disciplinary action.

14. The Board delegates to the Executive Director the authority to assign the determination of probable cause for disciplinary action to a board member, or the staff counseling review coordinator in consultation with board staff, who may offer a confidential consent agreement, offer a pre-hearing consent order, cause the scheduling of an informal conference, request additional information, or close the case.
15. In accordance with established Board guidance documents, the Board delegates to the Executive Director the determination of probable cause, for the purpose of offering a confidential consent agreement, a pre-hearing consent order, or for scheduling an informal conference.
16. The Board delegates to the Executive Director the selection of the agency subordinate who is deemed appropriately qualified to conduct a proceeding based on the qualifications of the subordinate and the type of case being convened.
17. The Board delegates to the Executive Director the convening of a quorum of the Board by telephone conference call, for the purpose of considering the summary suspension of a license or for the purpose of considering settlement proposals.
18. The Board delegates to the Chairperson, the authority to represent the Board in instances where Board “consultation” or “review” may be requested where a vote of the Board is not required and a meeting is not feasible.
19. The Board delegates authority to the Executive Director to issue an Advisory Letter to the person who is the subject of a complaint pursuant to Virginia Code § 54.1-2400.2(F), when it is determined that a probable cause review indicates a disciplinary proceeding will not be instituted.
20. The Board delegates authority to the Executive Director to delegate tasks to the Deputy Executive Director, as necessary.

ARTICLE V: AMENDMENTS

Proposed amendments to these bylaws shall be presented in writing to all Board members, the Executive Director of the Board, and the Board’s legal counsel prior to any scheduled Board meeting. Amendments to the bylaws shall become effective with a favorable vote of at least two-thirds of the members present at that regular meeting.

Adopted: June 3, 2005

Revised: November 5, 2013; January 27, 2017; November 3, 2017; May 18, 2018