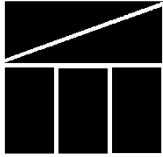


Adverse impact notification sent to Joint Commission on Administrative Rules, House Committee on Appropriations, and Senate Committee on Finance (COV § 2.2-4007.04.C): Yes  Not Needed

If/when this economic impact analysis (EIA) is published in the *Virginia Register of Regulations*, notification will be sent to each member of the General Assembly (COV § 2.2-4007.04.B).



## Virginia Department of Planning and Budget Economic Impact Analysis

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**18 VAC 115-20 Regulations Governing the Practice of Professional Counseling**  
**Department of Health Professions**  
**Town Hall Action/Stage: 4259/7390**  
March 27, 2016 (Revised to reflect additional information on June 22, 2016)

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### Summary of the Proposed Amendments to Regulation

Pursuant to a petition for rulemaking, the Board of Counseling (Board) proposes to add a requirement for all counseling programs leading to licensure as a professional counselor to be approved by the Council for Accreditation of Counseling and Related Educational Programs (CACREP)<sup>1</sup> or its affiliate, the Council on Rehabilitation Education (CORE).<sup>2</sup> This requirement would not be enforced until seven years after the effective date of the proposed regulation. Individuals licensed before that date will be able to obtain licensure under current standards. In most cases, individuals seeking licensure in Virginia after that point will have to meet educational requirements in programs that are approved by CACREP or CORE.

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<sup>1</sup> CACREP was established in 1981 and has been recognized by the Council for Higher Education Accreditation (CHEA). CHEA is an association of 3,000 degree-granting colleges and universities and recognizes 60 institutional and programmatic accrediting organizations. One of the goals of CACREP is to establish a uniform set of educational requirements across the United States.

<sup>2</sup> The Council on Rehabilitation Education (CORE) is a specialized accreditation organization that is recognized by the Council for Higher Education Accreditation (CHEA) and a member of the Association of Specialized and Professional Accreditors (ASPA). CORE accredits graduate programs which provide academic preparation for a variety of professional rehabilitation counseling positions. CORE also accredits undergraduate programs in Rehabilitation and Disability Studies.

## Result of Analysis

Costs will likely outweigh benefits for this proposed change.

## Estimated Economic Impact

### Current Licensure Requirements:

Professional counselors may currently be licensed by examination or by endorsement.<sup>3</sup> Currently, 18 VAC 115-20-49<sup>4</sup> requires individuals seeking licensure by examination as a professional counselor to complete education, as specified in 18 VAC 115-20-51,<sup>5</sup> in a degree program that “is offered by a college or university accredited by a regional accrediting agency” and that: 1) has an academic study sequence designed to prepare counselors for practice, 2) has an identifiable counselor training faculty and student body and 3) the academic unit responsible for the counseling program have clear authority and primary responsibility for the core and specialty areas of counseling study. Current regulation also requires these individuals to complete the residency requirements in 18 VAC 115-20-52<sup>6</sup> and to pass a written examination as prescribed by the Board.

Current regulation requires individuals who are seeking licensure by endorsement to: 1) hold or have held a professional counselor license in another jurisdiction of the United States, 2) submit an application processing fee and initial licensure fee, 3) have no unresolved action against a currently or previously held license or certificate, 4) have a passing score on an

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<sup>3</sup>Individuals who are initially licensed in another political jurisdiction and subsequently move to Virginia are eligible to obtain licensure here without redoing their education so long as they meet certain criteria.

<sup>4</sup> To view each section of the current regulation, see <http://law.lis.virginia.gov/admincode/title18/agency115/chapter20/>.

<sup>5</sup> Counseling program coursework must include 60 semester hours or 90 quarter hours of graduate study in 12 core areas. The 12 core areas are: 1) professional counseling identity, function, and ethics, 2) theories of counseling and psychotherapy, 3) counseling and psychotherapy techniques, 4) human growth and development, 5) group counseling and psychotherapy theories and techniques, 6) career counseling and development theories and techniques, 7) appraisal, evaluation, and diagnostic procedures, 8) abnormal behavior and psychopathology, 9) multicultural counseling theories and techniques, 10) research, 11) diagnosis and treatment of addictive disorders, and 12) marriage and family systems theory. Programs that qualify graduates for licensure by examination must also require a supervised internship of at least 600 hours with 240 of those hours being face-to-face client contact.

<sup>6</sup> Applicants for licensure by examination must have completed a 3,400-hour supervised residency in the role of a professional counselor working with various populations, clinical problems, and theoretical approaches in six specified areas. The 6 specified areas are: 1) assessment and diagnosis using psychotherapy techniques, 2) appraisal, evaluation, and diagnostic procedures, 3) treatment planning and implementation, 4) case management and recordkeeping, 5) professional counselor identity and function, and 6) professional ethics and standards of practice.

examination required for counseling licensure in the jurisdiction in which licensure was obtained, 5) submit an affidavit of having read and understood the regulations and laws governing the practice of professional counseling in Virginia. Applicants for licensure by endorsement must also either have met the educational and experience requirements in 18 VAC 115-20-49, as well as 18 VAC 115-20-51 and 18 VAC 115-20-52, or be able to 1) provide documentation of education and supervised experience that met the criteria for licensure in the jurisdiction where he was initially licensed and 2) provide evidence of post licensure clinical practice in counseling for 24 of the 60 months immediately preceding application for licensure in Virginia.

**Proposed Amendment in this Action:**

In 2014, the Board received a petition for rulemaking<sup>7</sup> asking that individuals seeking licensure as professional counselors be required to complete education approved by CACREP or an approved affiliate of CACREP that includes a minimum of 60 semester hour credits (90 quarter hour credits) of curricular experiences and a practicum of at least 100 hours and an internship of at least 600 hours. The petition also asked that this regulatory change be subject to a seven year delay. As a result of this petition, the Board proposes to limit educational programs that will qualify individuals for licensure to only those that are approved by CACREP or its affiliate CORE. As requested in the petition, the Board proposes to delay the enforcement of this requirement until seven years after the effective date of this proposed regulation.

Board staff reports that this change will benefit both the public and Commonwealth by providing greater consistency in the educational programs that qualify an individual for licensure and efficiency in reviewing applications for licensure. Board staff notes that other health professions use private credentialing groups to evaluate and approve educational programs.<sup>8</sup> While accrediting groups can serve an important role in ensuring the quality of education needed for licensure, in this case, the Board already ensures that individuals licensed as professional

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<sup>7</sup> The petition for rulemaking and the public comments received in response to this petition may be viewed here: <http://townhall.virginia.gov/L/ViewPetition.cfm?petitionId=210>.

<sup>8</sup> The Board of Medicine, for instance, allows individuals to meet licensure in medicine requirements with educational programs approved the American Medical Association's Liaison Committee on Medical Education, the Committee for the Accreditation of Canadian Medical Schools or by any other group approved by the Board of Medicine.

counselors receive an education adequate to prepare them for future practice by: 1) specifying the coursework that applicants for licensure must have completed at an accredited college or university, 2) requiring a fairly lengthy residency and 3) requiring passage of a licensure exam that measures the counseling knowledge of applicants. These other requirements are not being repealed and will remain in place. In Virginia, requiring CACREP education would not appear to improve the quality of counselors as there is no reported differential in complaints or efficacy of practice between counselors that have CACREP education and those that have non-CACREP education. Additionally, the agency background document notes, in response to opposition to this proposed regulation that, "there is no empirical evidence that students from CACREP programs are better prepared" than students from non-CACREP programs.

Board staff also reports that the CACREP accredited education in either mental health counseling or clinical mental health counseling will be required by the Department of Defense (DoD) for TRICARE certification which will allow these counselors to practice independently. Before rules for TRICARE were changed, all counselors had to treat clients with a referral from, and under the supervision of, a physician. Under the rules finally adopted by the DoD for TRICARE, two classes of counselors, mental health counselors and clinical mental health counselors, are eligible for a separate TRICARE certification (TCMHC) that allows them to practice independently as TRICARE providers so long as they meet certain requirements.

Individuals applying for TCMHC status before January 1, 2017, may receive that certification so long as they: 1) have a master's (or higher) degree from a CACREP approved program and 2) have passed the National Counselor Examination OR 1) possess a masters (or higher) degree from a program accredited by CACREP or a regional accrediting institution and 2) have passed the National Clinical Mental Health Counselor Examination (NCMHC).<sup>9</sup> Individuals seeking TCMHC certification before 2017 will additionally have to show that they are licensed in the jurisdiction where they will practice and have a minimum of two years of post-education supervised practice that includes at least 3,000 hours of supervised clinical practice and 100 hours of face to face supervision.<sup>10</sup>

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<sup>9</sup> The Board of Counseling already requires that applicants for licensure pass the more stringent NCMHC.

<sup>10</sup> Virginia's supervised residency requirements require at least this.

Individuals applying for TCMHC status after January 1, 2017 may receive that certification so long as they: 1) have passed the NCMHC, 2) are licensed in the jurisdiction where they practice 3) have a master's (or higher) degree from a CACREP approved program and 4) have a minimum of two years of post-education supervised practice that includes at least 3,000 hours of supervised clinical practice with at least 100 hours of face to face supervision. All licensed counselors who do not meet the TCMHC requirements, either because they did not graduate from a CACREP program or because their counseling degrees are not from one of the two qualifying program types, will be able to continue practicing as they do now (with a referral and under the supervision of a physician).

These TRICARE rules were further modified in the Defense Authorization Act for fiscal year 2016<sup>11</sup> which stated that:

“During the period preceding January 1, 2021, for purposes of determining whether a mental health care professional is eligible for reimbursement under the TRICARE program as a TRICARE certified mental health counselor, an individual who holds a master's degree or doctoral degree in counseling from a program that is accredited by a covered institution shall be treated as holding such degree from a mental health counseling program or clinical mental health counseling program that is accredited by [CACREP].”

And further lists the accrediting groups that are included in the definition of “covered institutions”. These accrediting agencies are:

1. The Accrediting Commission for Community and Junior Colleges Western Association of Schools and Colleges (ACCJC-WASC).
2. The Higher Learning Commission (HLC).
3. The Middle States Commission on Higher Education (MSCHE).
4. The New England Association of Schools and Colleges Commission on Institutions of Higher Education (NEASC-CIHE).
5. The Southern Association of Colleges and Schools (SACS) Commission on Colleges.
6. The WASC Senior College and University Commission (WASC-SCUC).

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<sup>11</sup> Public Law 114-92 which was signed into law on November 25, 2015.

7. The Accrediting Bureau of Health Education Schools (ABHES).
8. The Accrediting Commission of Career Schools and Colleges (ACCSC).
9. The Accrediting Council for Independent Colleges and Schools (ACICS).
10. The Distance Education Accreditation Commission (DEAC).

Under current (new) rules for TRICARE, no counselors or members of the Armed Services are worse off since all counselors will be able to practice as they did under old rules. Mental health counselors and clinical mental health counselors who either meet the requirements for being grandfathered in or who have graduated from CACREP approved programs will be better off as they will be able to practice independently within the TRICARE system so long as they meet other requirements. This TRICARE change will likely increase the number of health care providers that are able to provide mental health care within the TRICARE system, and therefore increase access for members of the Armed Services, only if there is currently an issue with getting physicians to refer patients and provide supervision which leaves some individuals unable to obtain needed treatment.

A report to Congress<sup>12</sup> completed by the DoD in June 2006, concluded that requiring referral and supervision by a psychiatrist might limit access to counseling services. As a consequence of this, DoD began allowing other health care providers like primary care physicians and pediatricians to provide referrals and supervision. There appears to be no update to this report that would indicate if any access limitation persisted after the changes implemented to broaden the types of health care providers who could provide referral and supervision. According to a search of accredited programs on the CACREP site, only about 40% of CACREP accredited master's programs in Virginia would qualify individuals for TCMHC designation.<sup>13</sup> According to a Board source, community counseling programs at CACREP accredited schools have been phased out and will be renamed as clinical mental health programs, when these schools seek re-accreditation. Assuming this is the case, two more programs would qualify individuals for

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<sup>12</sup> *Aspects of the Use of Licensed Professional Counselors in the Military Health System*. Report to Congress. June 2006.

<sup>13</sup> A search of the CACREP website indicates that 32 master's programs are currently accredited in Virginia. Of those 32, 13 were either mental health counseling programs or clinical mental health counseling programs.

TRICARE independent practice sometime in the future. This would increase the percentage of relevant programs to 46%.

The Board reports that George Mason University is the only school with a counseling program in the state that does not have CACREP accreditation, or will not soon have CACREP accreditation, and George Mason does not currently have a mental health counseling or clinical mental health counseling programs that qualify graduates for TCMHC designation.<sup>14</sup> Given this, and excepting the clinical mental health programs and mental health programs at Longwood and Hampton Universities (see footnote 14), it appears that the majority of programs that would allow graduates to qualify for TCMHC status are already voluntarily certified. Requiring CACREP accreditation for all programs to facilitate TCMHC eligibility will benefit neither the schools that are currently accredited, as it will decrease their flexibility,<sup>15</sup> nor program graduates in general, as graduates of less than half of programs in the Commonwealth would qualify for the enhanced certification from TRICARE.

George Mason and its students, in particular, will not benefit from changing licensure requirements to facilitate TCMHC designation as neither of the counseling programs at George Mason would qualify graduates for TCMHC status. DPB does not have information to indicate what percentage of counselors graduate from the 40% (or 46%) of programs that would qualify them for TCMHC designation. Whatever that percentage is, most would likely gain the benefit of that designation without this Board action as they already would be graduates of CACREP approved programs without promulgation of this proposed regulation. It is also worth noting that schools that have both mental health counseling programs or clinical mental health counseling programs and CACREP accreditation will have incentive to advertise the advantage that that will afford their students in being able to work with the DoD healthcare system. This would likely have the effect of steering students who may wish to work with service members and their

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<sup>14</sup>Normally, an assumption could be made that programs that have sought private accreditation before passage of a law/regulation that requires it, do so voluntarily. In this case, it is reported that Longwood and Hampton are seeking/sought CACREP accreditation in anticipation of this regulatory action and/or in response to the recommendation of other groups like the American Counseling Association.

<sup>15</sup> For instance, these schools would not be able to drop CACREP accreditation if the DoD changes rules for TRICARE to make them less proscriptive.

families to programs that would lead to the ability to practice independently within the TRICARE system.

### **Costs of the Proposed Amendment:**

Obtaining and maintaining CACREP accreditation appears to involve significant costs. According to CACREP's website, CAPREP charges the following fees: 1) application process fee - \$2,500, 2) site visit fee - \$2,000 per visitor for 2-5 persons, 3) annual maintenance fee (2016) - \$3,299, and 4) student graduate certificate - \$50. George Mason University reports that the direct costs of initially obtaining CACREP approval would be slightly less than \$70,000.<sup>16</sup> These initial costs appear to be in line with the one empirical study DPB could identify that addressed this topic.<sup>17</sup> Another study provided to DPB<sup>18</sup> estimated initial costs for gaining CACREP accreditation of about \$24,000. This study does not, however, account for the economic costs of faculty time spent on gaining CACREP accreditation so it likely underestimates the total economic costs that were accrued by the university that was the subject of the study.

George Mason will also incur initial indirect costs if CACREP accreditation is required due to how their current programs are structured. Currently, George Mason has two master's level counseling programs. Their Community Agency Counseling program requires 52 semester credit hours and their school counseling program requires 45 semester credit hours. Individuals who wish to pursue Board licensure (which requires 60 semester credit hours of master's level education) can pursue a 15 semester credit hour post master's level certificate that allows student to meet current licensure programs. While current licensure only requires 60 semester credit hours to be completed, CACREP accreditation requires that accredited programs consist of 60 semester credit hours. Because of this, under the proposed regulation, George Mason would have

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<sup>16</sup>Initial costs include \$1,000 fee for a representative of the program to complete CACREP's day long self-study workshop plus the cost of that representatives time, \$6,000 to hire a consultant, \$50 to purchase a CACREP accreditation manual, the \$2,500 CACREP initial application fee, an estimated \$10,000 in site visit fees, \$20,000 to buy out the time of a counseling faculty member to oversee the 12 to 18 month approval process and \$30,000 to hire a half-time administrative assistant.

<sup>17</sup> Patro, Fernando F. and Trotman, Frances K. *Investing in One's Future: Are the Costs of Pursuing Accreditation and Meeting Standards Worth it to an Institution of Higher Learning*. Australian Universities Quality Forum 2007.

<sup>18</sup> Behan, Stephanie and Miller, Kristelle. *CACREP Accreditation: A Case Study*. Journal of Humanistic Education and Development. December 1998. Vol 37.



to develop and add several classes to each of their master's programs to bring each up to 60 semester credit hours and would have to modify at least one class to bring it into alignment with CACREP requirements. George Mason would incur costs for developing these classes that are specifically geared to fill in different deficits each program would have in meeting CACREP accreditation standards. Included in these costs are costs for time spent developing curricula and syllabi and the cost of getting them approved.

George Mason also reports, because of their current staffing levels, their full time faculty's contractual teaching loads<sup>19</sup> and CACREP's faculty/student ratio requirements<sup>20</sup> that they will need to hire one full time tenure-line instructional faculty member at a cost of approximately \$114,000 (salary plus fringe benefits), one part-time term instructional faculty member at a cost of approximately \$72,000 (0.75 FTE salary plus fringe benefits) and approximately \$26,000 for adjunct faculty costs to meet the additional course loads under CACREP standards. George Mason is reported to have six full time core-eligible faculty members and one full time non-core eligible faculty member (who will be considered adjunct faculty in this analysis and by CACREP standards that require core faculty to teach 50% of classes/educational hours). This means that George Mason would be able to teach approximately 58 FTE master's level students per year<sup>21</sup> with their current staff if they only had master's level classes to teach. This number is reduced by the doctoral level classes that would also be taught by core faculty at a rate of 1 to 2... that is, in order to maintain the 50% teaching ratio for core faculty, two less master's class (one taught by core faculty and one taught by non-core faculty)

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<sup>19</sup> As an R1(intense research) institute, the full time, core faculty of the Counseling and Development programs are expected to teach 2 classes each semester (2:2 schedule). For comparison's sake, a pure teaching institute would likely have an expectation that their core faculty would teach a 4:4 load.

<sup>20</sup> CACREP's 2016 standards require a ratio of full time equivalent (FTE) students to FTE staff of not greater than 12:1, a student to supervisory faculty ratio of not greater than 6:1 for students completing a supervised practicum or internship and a ratio of not greater than 6:1 for student supervisors to faculty who supervises them.

<sup>21</sup> Leaving aside doctoral classes, six core faculty can teach 72 credit hours (4 classes\*3 credit hours\*6 professors) per year to 12 students which is the ratio required by CACREP (if they teach 100% of the classes) or 36 credit hours to 24 students (again 100% of the classes) or can teach 48 students per year (with 50% core faculty/50% non-core faculty teaching). Applying an adjustment to the number of students in this math to account for the fact that 36 is 20% more than 30 (the number of credit hours that must be taken per year to get through the graduate program in 2 years) it looks like more than six core faculty would be needed if a program has more than approximately 58 FTE students per year ( $48 * 1.20 = 57.6$ ). George Mason has a doctoral program and would have doctoral level teaching expectations for their core faculty which would lower the number of FTE master's level students that would trigger the need for additional faculty.

could be taught for every doctoral class taught by core faculty. George Mason reports that their Counseling programs have a total of 159 students which would equal 90 FTE students. Given these numbers, it appears likely that George Mason's staffing needs will increase under this proposed regulation.

Additionally, George Mason estimates that they will need to upgrade a part time administrative wage position to full time which will cost an additional \$34,000 annually over George Mason's current costs of maintaining this position at a part time hourly wage. . Other annual costs for George Mason would include annual maintenance fees of \$3,514 (for two counseling degree programs) and approximately \$1,500 for approximately 30 CACREP student graduation certificates per year.

Most these costs are particular to George Mason and may not be experienced by other universities with other staffing levels and teaching load ratios. Longwood University, for instance, is not an intense research institution and, therefore, has greater teaching load expectations than would George Mason or other research institutions. All totaled, George Mason estimates that their ongoing annual costs for maintaining CACREP accreditation would be over \$250,000 per year.<sup>22</sup>

George Mason University also reports that being required to seek CACREP approval of its counseling program constrains future hiring decision for faculty who provide instruction in counseling but whose degrees and backgrounds are in psychology, psychiatry or social work. They would be so constrained because CACREP's new standards require "a core faculty for the program that evidences a clear counseling professional identity."<sup>23</sup> This is particularly concerning to George Mason as they have several adjunct faculty members that would not meet the grandfathering requirements in the 2016 CACREP standards even though they have been working with George Mason for many years because they have not worked full time. George Mason reports that, in some cases, they have maintained the part time teaching relationship

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<sup>22</sup> George Mason University reports that these costs would have to be covered by increased student fees. However, as George Mason University is a publicly funded college, this proposed regulatory change also has the potential to increase fiscal costs for the Commonwealth and for the taxpayers who fund the state budget.

<sup>23</sup> This quote is from the frequently asked questions on CACREP's website at <http://www.cacrep.org/for-programs/program-faqs-2/#FAQ13>

between themselves and particular adjunct professors because the professors had other full time jobs in relevant fields that precluded also being full time faculty. George Mason is very concerned that they would be precluded from bringing these individuals, who they would rate as very qualified, on as core faculty.

DHP reports that counseling programs at 12 universities and colleges already have CACREP accreditation, two (at Longwood University and George Mason University) are not currently CACREP approved. The CACREP website additionally lists counseling programs at Liberty University and Virginia Commonwealth University as being “in process” of getting approval. DHP reports that Longwood University has also begun the process of gaining CACREP approval so George Mason University would be the learning institution most immediately affected by this proposed change. That is not to say, however, that counseling programs in other colleges and universities would be unaffected whether they are currently CACREP approved or not.

Currently, all CACREP approved programs in the Commonwealth have the flexibility to choose not to renew their CACREP accreditation should they judge in the future that it is not worth the costs involved. They would lose that flexibility if this proposed action goes forward. CACREP approval lasts eight years in most cases (in some cases, programs are approved for two years); after that schools must reapply for program approval under whatever iteration of CACREP standards are currently in place at the time of re-application. Because of this, if these programs must maintain CACREP accreditation, they will likely incur additional costs that may outweigh any perceived current benefit as they have to be re-approved and as CACREP standards change in the future. For instance, 2009 CACREP standards provide for grandfathering in of counseling program professors whose doctoral degree field is not in counseling even though they are competent to teach counseling skills.<sup>24</sup> 2016 standards will specify, however, that doctoral level professionals will not be permitted to hold core faculty positions in CACREP approved programs unless their training is in counseling (preferably at a CACREP accredited program) or they were “employed as full time faculty members for a minimum of one full academic year before July 1, 2013.”

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<sup>24</sup> Several other professions, including psychologists, psychiatrists and licensed social workers, have overlapping scopes of practice with counseling.

This means that, theoretically, in order to be re-approved at the end of their accreditation period any time after June 30, 2016, programs that have staff whose training is in psychology, psychiatry and social work or clinical social work would have to replace these faculty members if they do not either have a counseling education or meet the requirements for grandfathering. A Board source reports that only programs who received CACREP accreditation prior to 2009 would possibly have staff that would not meet the 2016 requirements and that the one Virginia institution that was accredited prior to 2009 does not have any faculty that would be affected. Schools will also have future hiring decisions constrained by this new rule and any other future iterations of CACREP rules that are adopted by that organization. Also, by increasing required costs to start counseling programs, this proposed change may limit the number of counseling programs that are instituted in the future below the number that might be instituted if current regulations remain in place.

This proposed regulatory change could also adversely affect individuals seeking licensure as professional counselors by endorsement from the Board. As mentioned above, these individuals must currently meet the educational and experience requirements in 18 VAC 115-20-49, as well as 18 VAC 115-20-51 and 18 VAC 115-20-52 or must have met the education and supervised experience for licensure in the jurisdiction where they were initially licensed and provide evidence of post licensure clinical practice in counseling for 24 of the 60 months immediately preceding application for licensure in Virginia. Further, no applicant for licensure by endorsement is required to have graduated from a CAPREP approved program. Under this proposed change, all applicants for licensure by endorsement would have to have a CACREP approved education unless they can show that worked in clinical practice for at least 24 of the 60 months immediately preceding application. Since fewer than 20% of colleges and universities with counseling programs nationwide<sup>25</sup> appear to have CACREP approval, this proposed change

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<sup>25</sup> Information obtained from

<https://www.petersons.com/search/schools?searchtype=26&page=1&result=false&searchterm=counseling>. DPB arrived at this number by taking the first 100 entries on the list, removing any duplicate entries (to account for schools that might have multiple programs listed) and any school whose programs would obviously not qualify for licensure and extrapolating that number to the larger list. When schools with counseling psychology were included, 96 of the first 100 entries would appear to be discrete schools with qualifying programs. Extrapolating using simple ratios yielded

$\frac{100}{1665} = \frac{96}{x}$  or  $x = \frac{96 \cdot 1665}{100} = 1598.4$ . Dividing the number of schools with CACREP programs by the total number of schools nationwide should yield the percentage of schools nationwide that are accredited by CACREP.

has the potential to shrink the pool of professional counselors licensed in other states who would be eligible for licensure in Virginia.

As noted above in the section on current licensure requirements, under existing regulation, there are multiple requirements to ensure the competency of applicants for licensure by examination. The Board currently requires that individuals licensed as professional counselors receive an education adequate to prepare them for future practice by 1) specifying the coursework that they must complete at an accredited college or university, 2) requiring a fairly lengthy residency and 3) requiring passage of a licensure exam that measures the counseling knowledge of applicants. These requirements are located in 18 VAC 115-20, sections 49, 51, 52 and 70, are not proposed for repeal as part of this action, and will remain in force. If a candidate can pass the examination for licensure, has completed the Board required education without having earned a degree from a CACREP/affiliate-accredited program, and successfully complete a 3,400-hour supervised residency, then the candidate has presumably demonstrated significant knowledge and experience. Given this, the additional value of requiring CACREP/affiliate-specific accreditation appears to be limited. Further, there is no known evidence in Virginia that individuals who pass the examination, successfully complete the residency, and graduate from a program that meets all of the specifications already detailed in this regulation, but do not graduate from a CACREP/affiliate accredited program, are any less effective as professional counselors than graduates of CACREP/affiliate accredited programs.

A Board source provided an empirical study<sup>26</sup> that was originally completed as a thesis and later published in a journal which found approximately 82% of 453 ethics violations over an unspecified period of time in 31 states were committed by graduates of non-CACREP accredited

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$276/1598.4 = 17.2\%$  of schools that have both counseling programs and CACREP accreditation. When counseling psychology programs were removed, 86 or the first 100 entries would appear to be discrete schools with qualifying counseling programs. Extrapolating using simple ratios yielded  $\frac{100}{1665} = \frac{86}{x}$  or  $x = \frac{86 \cdot 1665}{100} = 1431$ . Excluding counseling psychology schools leaves 276/1431 or 19.3 percent of schools that had both programs that appear to qualify individuals for licensure and CACREP accreditation. Using another sampling method by taking the last two entries on each page and again removing all duplicates and obviously irrelevant programs, DPB estimated that 18.67% of universities nationwide have CACREP accreditation. The Peterson site, although it has its issues (including ease of use and commercialism) is the best information that DPB can find to estimate the total number of schools with counseling programs in the US.

<sup>26</sup> Even, Trigg and Robinson, Chester. *The Impact of CACREP: A Multiway Frequency Analysis of Ethics Violations and Sanctions*. Journal of Counseling and Development. January 2013. Vol 91.

schools. Given that the median time in practice of those committing ethics violations was about 7.5 years and the time frame of data is not known, DPB cannot ascertain the percent of the population of counselors as a whole that had CACREP education over the duration of the study data. As a consequence, DPB has no basis to draw conclusions about whether the 82% of ethics violations reported in this study is high, low or on par when measured against the population of counselors as a whole. In any case, the Board mandates that education in ethics and Board staff has not reported that licensees in Virginia who graduated from non-CACREP accredited programs have a higher rate of ethics violations than those who graduated from CACREP accredited programs.

Another study<sup>27</sup> completed in 2005 and provided by the same Board source to DPB examined National Counseling Exam (NCE) scores from a five year period and concluded that gaining an education at a CACREP accredited program was correlated with higher scores on this exam. This may indicate that CACREP education provided a benefit to NCE test takers during the time period of the study (likely 1999 to 2004). Given the rapid development in counseling licensure since that time period, this benefit may not be the same or exist at all in Virginia today. Virginia has developed an academic study sequence that prepares applicants for the more rigorous<sup>28</sup> NCMHCE and DPB has no recent or Virginia specific data to indicate that non-CACREP educated applicants and CACREP educated applicants have differential pass rates or scores on nationalized tests.

Given the significant costs associated with requiring CACREP accreditation, the uneven and uncertain benefits of doing so and the lack of empirical evidence that this proposal is necessary to protect the health and safety of Virginians, the costs of this proposed change appear to outweigh its benefits.

### **Businesses and Entities Affected**

The proposed amendment will affect all applicants for counseling licensure as well as any colleges or universities inside or outside of Virginia that currently do not have CACREP

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<sup>27</sup> Adams, Susan. *Does CACREP Accreditation Make a Difference? A Look at NCE Results and Answers*. Journal of Professional Counseling: Practice, Theory and Research. Vol. 33. Num. 2. 2005.

<sup>28</sup> The Institutes of Medicine concluded that the NCMHCE was more rigorous in the study completed for the Department of Defense that lead to changes in TRICARE regulations.

approval and who graduate students who may choose to seek initial or subsequent counseling licensure in Virginia.<sup>29</sup> The proposed amendment will also affect programs that already have CACREP approval as it will constrain their choice to drop CACREP approval in the future as costs increase.

### **Localities Particularly Affected**

The proposed amendment will likely not particularly affect any locality.

### **Projected Impact on Employment**

Seven years after its effective date, the proposed amendment will likely limit the number of individuals qualified to seek licensure by examination as professional counselors in Virginia to some unknown extent because it will likely make it more expensive to get the required education. Additionally, there will likely be fewer individuals who would be qualified to seek licensure by endorsement as they would need to have CACREP approved education or meet active practice requirements. This proposed change will also adversely affect the employment opportunities of doctoral level teaching professionals who have counseling activities within their scope of practice but who are not trained or licensed as professional counselors. This group would include psychologists, psychiatrists, and social workers.

### **Effects on the Use and Value of Private Property**

The proposed amendment is unlikely to significantly affect the use and value of private property.

### **Real Estate Development Costs**

The proposed amendment does not affect real estate development costs.

### **Small Businesses:**

#### **Definition**

Pursuant to § 2.2-4007.04 of the Code of Virginia, small business is defined as “a business entity, including its affiliates, that (i) is independently owned and operated and (ii) employs fewer than 500 full-time employees or has gross annual sales of less than \$6 million.”

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<sup>29</sup> As the CACREP requirement would not be enforced until 7 years after the effected date of the regulation, the adverse impacts of this regulation will be delayed.

**Costs and Other Effects**

The proposed amendment would likely reduce the number of small business licensed professional counselors practicing in Virginia in the future below the number that would qualify to practice under current regulation.

**Alternative Method that Minimizes Adverse Impact**

Given that there are no health or safety problems identified by the Board that might be addressed by requiring CACREP approved education, one alternative that would minimize adverse impact would be maintain the status quo and continue to evaluate educational programs as it is done now.

Additionally, pursuing reciprocity agreements based on similar residency and testing requirements with counseling boards in other political jurisdictions might address any issues of portability without requiring universities, and thus applicants for licensure, to undergo the expense of CACREP accreditation.

**Adverse Impacts:****Businesses:**

The proposed amendment would likely reduce the number of licensed professional counselors practicing independently in Virginia in the future below the number that would qualify to practice under current regulation.

**Localities:**

The proposed amendment will not adversely affect localities.

**Other Entities:**

The proposed amendment would require George Mason University to obtain CACREP approval for their counseling program within seven years if their counseling students are to remain eligible for licensure. It appears that George Mason will incur significant initial cost and ongoing costs to obtain this accreditation. The proposed amendment will likely also increase future costs at CACREP approved programs and will constrain those programs from dropping CACREP approval if they judge the costs of having that approval are no longer outweighed by the perceived benefits.

**Legal Mandates**



**General:** The Department of Planning and Budget has analyzed the economic impact of this proposed regulation in accordance with § 2.2-4007.04 of the Code of Virginia (Code) and Executive Order Number 17 (2014). Code § 2.2-4007.04 requires that such economic impact analyses determine the public benefits and costs of the proposed amendments. Further the report should include but not be limited to: (1) the projected number of businesses or other entities to whom the proposed regulatory action would apply, (2) the identity of any localities and types of businesses or other entities particularly affected, (3) the projected number of persons and employment positions to be affected, (4) the projected costs to affected businesses or entities to implement or comply with the regulation, and (5) the impact on the use and value of private property.

**Adverse impacts:** Pursuant to Code § 2.2-4007.04(C): In the event this economic impact analysis reveals that the proposed regulation would have an adverse economic impact on businesses or would impose a significant adverse economic impact on a locality, business, or entity particularly affected, the Department of Planning and Budget shall advise the Joint Commission on Administrative Rules, the House Committee on Appropriations, and the Senate Committee on Finance within the 45-day period.

If the proposed regulatory action may have an adverse effect on small businesses, Code § 2.2-4007.04 requires that such economic impact analyses include: (1) an identification and estimate of the number of small businesses subject to the proposed regulation, (2) the projected reporting, recordkeeping, and other administrative costs required for small businesses to comply with the proposed regulation, including the type of professional skills necessary for preparing required reports and other documents, (3) a statement of the probable effect of the proposed regulation on affected small businesses, and (4) a description of any less intrusive or less costly alternative methods of achieving the purpose of the proposed regulation. Additionally, pursuant to Code § 2.2-4007.1, if there is a finding that a proposed regulation may have an adverse impact on small business, the Joint Commission on Administrative Rules shall be notified.

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