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Final Regulation Agency Background Document

Agency name	Board of Counseling, Department of Health Professions
Virginia Administrative Code (VAC) citation(s)	18VAC115-20 18VAC115-50 18VAC115-60
Regulation title(s)	Regulations Governing the Practice of Professional Counseling Regulations Governing the Practice of Marriage and Family Therapy Regulations Governing the Licensure of Substance Abuse Practitioners
Action title	Credentials evaluation service for foreign graduates
Date this document prepared	11/22/19

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

Brief Summary

Please provide a brief summary (preferably no more than 2 or 3 paragraphs) of this regulatory change (i.e., new regulation, amendments to an existing regulation, or repeal of an existing regulation). Alert the reader to all substantive matters. If applicable, generally describe the existing regulation.

The goal of the regulatory action is to provide a pathway for foreign-trained graduates in counseling to obtain licensure as a professional counselor, marriage and family therapist, or a substance abuse treatment practitioner in Virginia. The Board adopted language similar to psychology, which provides that graduates of programs that are not within the United States or Canada can qualify for licensure if they can provide documentation from an acceptable credential evaluation service that allows the board to determine if the program meets the requirements set forth in the regulation.

Acronyms and Definitions

Please define all acronyms used in the Agency Background Document. Also, please define any technical terms that are used in the document that are not also defined in the “Definition” section of the regulations.

N/A

Statement of Final Agency Action

Please provide a statement of the final action taken by the agency including: 1) the date the action was taken; 2) the name of the agency taking the action; and 3) the title of the regulation.

On November 22, 2019, the Board of Counseling amended 18VAC115-20-10 et seq., Regulations Governing the Practice of Professional Counseling; 18VAC115-50-10 et seq., Regulations Governing the Practice of Marriage and Family Therapy; and 18VAC115-60-10 et seq., Regulations Governing the Licensure of Substance Abuse Practitioners.

Mandate and Impetus

Please list all changes to the information reported on the Agency Background Document submitted for the previous stage regarding the mandate for this regulatory change, and any other impetus that specifically prompted its initiation. If there are no changes to previously-reported information, include a specific statement to that effect.

This regulatory action was initiated and recommended by the Regulatory Committee of the Board after staff identified the issue. It is consistent with Governor Northam’s Executive Order 14 (2018), which states that: “All regulatory activity should be undertaken with the least possible intrusion into the lives of the citizens of the Commonwealth and be necessary to protect the public health, safety, and welfare.”

Legal Basis

Please identify (1) the agency or other promulgating entity, and (2) the state and/or federal legal authority for the regulatory change, including the most relevant citations to the Code of Virginia or Acts of Assembly chapter number(s), if applicable. Your citation must include a specific provision, if any, authorizing the promulgating entity to regulate this specific subject or program, as well as a reference to the agency or promulgating entity’s overall regulatory authority.

Regulations are promulgated under the general authority of Chapter 24 of Title 54.1 of the Code of Virginia. Section 54.1-2400, which provides the Board of Counseling the authority to promulgate regulations to administer the regulatory system:

§ 54.1-2400 -General powers and duties of health regulatory boards
The general powers and duties of health regulatory boards shall be:

1. To establish the qualifications for registration, certification or licensure in accordance with the applicable law which are necessary to ensure competence and integrity to engage in the regulated professions.

2. To examine or cause to be examined applicants for certification or licensure. Unless otherwise required by law, examinations shall be administered in writing or shall be a demonstration of manual skills.

3. To register, certify or license qualified applicants as practitioners of the particular profession or professions regulated by such board.

...
6. To promulgate regulations in accordance with the Administrative Process Act (§ 9-6.14:1 et seq.) which are reasonable and necessary to administer effectively the regulatory system. Such regulations shall not conflict with the purposes and intent of this chapter or of Chapter 1 (§ 54.1-100 et seq.) and Chapter 25 (§ 54.1-2500 et seq.) of this title. ...

Specific authority for regulation of the profession of counseling is found in Chapter 35 of Title 54.1:

§ 54.1-3503. Board of Counseling.

The Board of Counseling shall regulate the practice of counseling, substance abuse treatment, and marriage and family therapy.

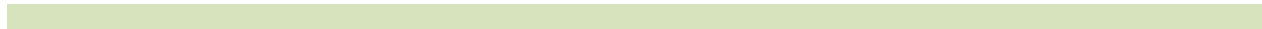
§ 54.1-3506. License required.

In order to engage in the practice of counseling or marriage and family therapy or in the independent practice of substance abuse treatment, as defined in this chapter, it shall be necessary to hold a license.

Purpose

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

The proposed regulatory action will allow persons who graduated from foreign educational programs in counseling to qualify for licensure by providing documentation from a credentialing service of the equivalency of the foreign education and experience to that required of U.S. trained applicants. To the extent some applicants may be able to qualify for licensure, the public may benefit from an increased supply of mental health providers. Such credentialing services already evaluate the qualifications of other health and mental health providers, so there is assurance of minimal competency to practice counseling safely for the health and welfare of clients.



Substance

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

Section 49 of Chapter 115-20 sets out the degree program requirements for licensure as a professional counseling, with which graduates of foreign programs cannot comply. Section 51 also sets out the coursework requirements that must be met. Foreign-trained graduates find it very difficult to meet those requirements because board staff does not have adequate information to review credentials from a foreign country. Consequently, the amendment would add language similar to psychology, which provides that graduates of programs that are not within the United States or Canada can qualify for licensure if they can provide documentation from an acceptable credential evaluation service that allows the board to determine if the program meets the requirements set forth in the regulation.

There are similar provisions in section 50 of Chapter 115-50 for marriage and family therapists and in section 60 of Chapter 115-60 for substance abuse treatment practitioners.

Issues

Please identify the issues associated with the regulatory change, including: 1) the primary advantages and disadvantages to the public, such as individual private citizens or businesses, of implementing the new or amended provisions; 2) the primary advantages and disadvantages to the agency or the Commonwealth; and 3) other pertinent matters of interest to the regulated community, government officials, and the public. If there are no disadvantages to the public or the Commonwealth, include a specific statement to that effect.

- 1) There are no advantages or disadvantages to the public; the amendments will benefit a small number of applicants who are now unable to be initially licensed in Virginia.
- 2) There are no advantages or disadvantages to the agency or the Commonwealth, other than the amendment may facilitate licensure for a small number of counselors who can provide mental health services in the Commonwealth.
- 3) The Director of the Department of Health Professions has reviewed the proposal and performed a competitive impact analysis. The Board is authorized under § 54.1-2400 to “*To promulgate regulations in accordance with the Administrative Process Act (§ 2.2-4000 et seq.) which are reasonable and necessary to administer effectively the regulatory system. Such regulations shall not conflict with the purposes and intent of this chapter or of Chapter 1 (§ 54.1-100 et seq.) and Chapter 25 (§ 54.1-2500 et seq.) of this title.*” There is no restraint on competition as a result of promulgating this regulation, which is less restrictive for applicants.

Requirements More Restrictive than Federal

Please list all changes to the information reported on the Agency Background Document submitted for the previous stage regarding any requirement of the regulatory change which is more restrictive than applicable federal requirements. If there are no changes to previously-reported information, include a specific statement to that effect.

There is no applicable federal requirement.

Agencies, Localities, and Other Entities Particularly Affected

Please list all changes to the information reported on the Agency Background Document submitted for the previous stage regarding any other state agencies, localities, or other entities that are particularly affected by the regulatory change. If there are no changes to previously-reported information, include a specific statement to that effect.

Other State Agencies Particularly Affected - None

Localities Particularly Affected - None

Other Entities Particularly Affected - None

Public Comment

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

There was a public comment period from 7/22/19 to 9/20/19; a public hearing was conducted on 8/16/19. No comment was received.

Detail of Changes Made Since the Previous Stage

*Please list all changes made to the text since the previous stage was published in the Virginia Register of Regulations and the rationale for the changes. Explain the new requirements and what they mean rather than merely quoting the text of the regulation. *Please put an asterisk next to any substantive changes.*

There have been no changes since the proposed stage.

Detail of All Changes Proposed in this Regulatory Action

*Please list all changes proposed in this action and the rationale for the changes. Explain the new requirements and what they mean rather than merely quoting the text of the regulation. *Please put an asterisk next to any substantive changes.*

Current section number	Current requirement	Change, intent, rationale, and likely impact of new requirements
Chapter 20	Sets out the degree requirements for a program preparing individuals to practice counseling	Subsection C is added to specify that graduates of programs that are not within the United States or Canada must provide documentation from an

<p>Section 49</p>		<p>acceptable credential evaluation service which provides information that allows the board to determine if the program meets the requirements set forth in this chapter.</p> <p><i>Currently, regulations require a graduate degree from a program that prepares individuals to practice counseling offered by a "college or university accredited by a regional accrediting agency." There are additional criteria for an approved degree. Section 10 defines a "regional accrediting agency" as one of the regional accreditation agencies recognized by the U.S. Secretary of Education responsible for accrediting senior postsecondary institutions.</i></p> <p><i>Since degree programs in foreign countries are not regionally accredited, graduates of such programs find it impossible to be initially licensed in Virginia. If they are licensed in another state and have at least 24 out of the past 60 months of active clinical practice without discipline, they may qualify for licensure by endorsement. However, this regulatory change will result in additional persons qualifying for initial licensure in Virginia.</i></p>
<p>Chapter 50, Section 50</p>	<p>Sets out the degree requirements for a program preparing individuals to practice marriage and family therapy</p>	<p>Same as above for marriage and family therapist licensure.</p>
<p>Chapter 60, Section 60</p>	<p>Sets out the degree requirements for a program preparing individuals to practice substance abuse treatment</p>	<p>Same as above for substance abuse treatment practitioner licensure.</p>