

## **ITEM 2: REGISTRAR'S SUBMISSION PACKAGE**

### **Virginia Board of Licensed Professional Counselors, Marriage and Family Therapists and Substance Abuse Professionals**

#### **Analysis of Proposed Regulations: 18 VAC 115-50-10 et seq.**

##### **1. Basis of the Regulation:**

Title 54.1, Chapter 24 and Chapter 35 of the *Code of Virginia* provide the basis for these regulations.

Chapter 24 establishes the general powers and duties of the health regulatory boards including the power to assess fees, establish qualifications for licensure and the responsibility to promulgate regulations.

Chapter 35 establishes the Board of Licensed Professional Counselors, Marriage and Family Therapists and Substance Abuse Professionals and authorizes that board to administer the licensure of marriage and family therapists.

##### **2. Statement of Purpose:**

Soon after new regulations became effective in July, 1997, the board received a petition for rulemaking from Radford University students expressing concern that the requirement in current regulations provide no avenue for licensure for current students or recent graduates of programs which did not offer the required 18 semester hours in marriage and family therapy-specific coursework. The board is proposing amendments to the education and internship requirements to make the license attainable for individuals whose graduate programs did not offer all hours of the core coursework required in the current regulations.

Additional public comment addressed to the board stated concern that the regulations referenced only one professional association and accrediting body in marriage and family therapy regulations which was perceived as discriminatory. The board proposes striking all references to professional associations, and recognizing programs accredited by either of the two nationally recognized accrediting bodies in marriage and family therapy.

When reviewing issues raised by the petition for rulemaking, the board identified language in the supervisory requirements that would restrict the availability of acceptable

supervisors after July 9, 2000. The board is proposing amendments to the supervisory requirements to ensure the continued availability of supervisors for individuals who wish to obtain post-graduate training for this license.

During the time that these regulations were in review, the board was also working on amendments to its *Regulations Governing the Practice of Professional Counseling*. The board is required in § 54.1-3505 to establish education and experience hour requirements for marriage and family therapist licensure that are consistent with the requirements for professional counselor licensure. In accordance with this requirement, the board proposes accepting group supervision hours as equivalent to individual hours, raising the face-to-face client contact hours during the residency from 1000 to 2000 (no change is proposed for total residency hours), and accepting 600 internship hours toward the residency, which is equivalent to proposed amendments for the regulations governing professional counselor licensure.

### **3. Substance of the Regulations:**

The key amendments for each regulation are summarized as follows:

#### **A. Part I. General Provisions**

The board proposes deleting the definition of “AAMFT,” which is referred to only in 18 VAC 115-50-80, whose terms have expired.

Definitions of the acronyms “CACREP” and COAMFTE” are proposed to identify these two nationally recognized accrediting bodies in marriage and family therapy which are referenced in 18 VAC 115-50-50 and 18 VAC 115-50-60.

Amendments to the definition of “internship” are proposed to conform the definition with changes to the internship requirement proposed in 18 VAC 115-50-55.

A new definition is proposed for the word “residency,” which will replace the term “supervised experience” throughout the regulations.

Amendments to the term “supervision” are proposed to standardize this definition with the board’s other regulations.

#### **B. Part II. Application for Licensure**

The board proposes amending the endorsement application requirements in 18 VAC 115-50-40 to clarify that the verification of having met equivalent requirements in another

state can be documented with a certified copy of the original application materials from the base state. The requirement for an official transcript, required of all licensure applicants, is also stipulated. Reference to 18 VAC-115-50-80 is struck due to the proposed repeal of that section.

The board proposes separating the education requirements in 18 VAC 115-50-50 into two separate sections setting forth degree program and course work requirements. The proposed new language in 18 VAC 115-50-50 describes the degree program requirement in terms of the scope of practice set forth in the *Code of Virginia*, and includes descriptive language of what constitutes a “*program*” in marriage and family therapy. Language proposed for this section recognizes programs accredited by the Council for Accreditation of Counseling and Related Programs (CACREP), as well as the Commission on Accreditation of Marriage and Family Therapy Education (COAMFTE).

To provide an avenue for licensure for individuals whose graduate programs did not offer all required hours in the core content areas, the board proposes striking the phrase “sequential integrated program” from the course work requirements listed in 18 VAC 115-50-55. The board also proposes reducing the semester hours required in the marriage and family studies/therapy core areas from a total of eighteen to a total of twelve semester hours. In accordance with its proposed amendments for the professional counselor licensure requirements, the board proposes specifying a 3 semester hour minimum in each of the core areas of human development, professional studies, research and assessment and treatment. Results of a survey of graduate programs conducted by the Board indicate that the 3 semester hour minimum will not present a burden to the programs or create difficulties for students. To ensure that students who are now enrolled in a graduate program in marriage and family therapy do not have to adjust their curriculum or take additional hours, the Board proposes to accept their graduate hours if they meet the requirements which were in effect at the time their graduate work was begun.

To address public comment that the one year internship is unclear in terms of the school semester structure, the board proposes specifying the requirement in clock hours, in accordance with CACREP requirements and the proposed regulations for professional counselor licensure. The change represents a slight reduction in direct client contact hours, but specifies that half of those hours must be with couples and families.

The residency registration requirement set forth in subsection A of 18 VAC 115-50-60 is not a new requirement, but has been relocated for emphasis. Throughout this section, the term “supervised experience” has been replaced with “residency.” To reduce the burden of the residency requirement and conform the supervision hours to the proposed amendments for professional counselor licensure, the board proposes accepting group supervision hours as equivalent to face-to-face supervision hours (for up to ½ of the total

hours) and allowing 600 hours of pre-degree internship to count toward the residency. To ensure that the residency hours are equivalent to those for professional counselor licensure as required by law, the Board proposes increasing the face-to-face direct client requirement to half of the total residency hours, as proposed for the professional counselor regulations. Correspondingly, the Board proposes increasing the residency hours specific to marriage and family therapy clients from 500 to 1000.

To increase the availability of qualified supervisors, the board proposes rescinding the requirement that all supervisors meet the education and experience requirements for marriage and family therapist licensure. The board also proposes changing the vague requirement for supervisors to document specific training in the supervision of marriage and family therapy to a more concise and easily measured requirement of two years post-licensure experience.

#### C. Part III. Examination For Licensure

A minor editorial change is proposed for subdivision D of 18 VAC 115-50-70.

The board proposes repeal of 18 VAC 115-50-80, as the provisions of this section have expired.

#### D. Part IV. Renewal and Reinstatement of License

A licensure renewal date is being added to 18 VAC 115-50-90.

### **4. Issues of the Regulation.**

#### A. Definitions.

Public comment received by the board stated concern that only one national association in marriage and family therapy was recognized in the “grandfathering” provision set forth in 18 VAC 115-50-80. The board had amended the definition of “AAMFT” prior to adoption of the final regulation by adding the phrase “or an organization deemed substantially equivalent by the board.” With the repeal of the now expired terms set forth in 18 VAC 115-50-80, there is no need to reference any professional association in the regulations. The board proposes striking the acronym “AAMFT” from this section.

The board had also received public comment stating concern that only one accrediting body for graduate programs is recognized in the regulations. The board proposes recognizing both national accrediting bodies in marriage and family therapy, the Council for Accreditation of Counseling and Related Educational Programs (CACREP) and the Commission on Accreditation for Marriage and Family Therapy Education (COAMFTE), and including their acronyms in this section.

While considering the internship and residency requirements in three chapters of its regulations in various stages of review or development, the board resolved to work towards consistency in the use and definitions of terms. Consequently, amendments are proposed for the definitions for “internship” and “supervision” and new definition is proposed for the term “residency,” which replaces the term “supervised experience.”

**Advantages:** Consistency in the use of terms among all categories of licensure governed by the board reduces confusion for applicants and licensees who may apply for licensure or act as supervisors in more than one category.

**Disadvantages:** The proposed changes present no disadvantages to the general public, applicants, licensees, the board or the agency.

#### B. Application Instructions

When the board developed the current provision for licensure by endorsement under 18 VAC 115-50-40, a licensure verification form was developed to ascertain the applicant’s completion of residency hours equivalent to those required in the board’s regulations. Because many states have developed automated verification templates that do not include this information, the form was not an effective means to obtain this information. This resulted in application processing delays for individuals who had to be contacted for certified copies of their original experience documentation after their applications were received. As a solution, the board proposes requiring copies of the original experience documentation at the time of application for licensure by endorsement.

**Advantages:** Requesting this documentation with the application materials should expedite the endorsement process and avoid frustration for applicants.

**Disadvantages:** Other jurisdictions may assess a copying fee for certified copies of application materials. Individuals who have maintained contact with their original supervisor will have the alternative of having the residency documented on a new form by that supervisor.

#### C. Degree Program and Course Work Requirements.

As mentioned under (A) above, one issue raised through public comment included the lack of recognition of one of the national accrediting bodies for marriage and family therapy programs

In response to this comment, the board proposes including automatic acceptance of programs approved by the Council for Accreditation for Counseling and Related Education Programs

(CACREP) as meeting its degree program requirements. For programs that are not accredited by one of the two recognized accrediting bodies, the board proposes a new section which sets forth criteria for what constitutes an acceptable program in marriage and family therapy with reference to the scope of practice set forth in the *Code of Virginia*.

Another issue raised through public comment and petition is that only one counseling program in Virginia offers the full component of required core education areas, which makes licensure unattainable for graduates of other programs. Results of a survey conducted by the Board indicated that the majority of programs do not offer more than one course in each marriage and family therapy-specific content area, and had no plans to develop new courses. To rectify this problem, the board proposes rescinding the requirement that all core coursework be obtained from one “sequential integrated program,” and reducing the number of hours required in marriage and family therapy-specific studies from a total of 18 to a total of 12.

Another issue pertaining to the course work requirements that the Board recently addressed in a review of its regulations for professional counselor licensure is the lack of specificity in the semester hours required in each content area. Under the current regulations, one applicant may cover more than one content area with one course, while another may submit documentation of a specific course to each area, which results in disparate training for individuals obtaining the same license, and makes the determination of competency somewhat subjective. The Board has proposed requiring a minimum of 3 semester hours in each content area for professional counselor licensure, and is proposing the same requirement for the general counseling core areas set forth under 18 VAC 115-50-55 A 3 through 7. Results of a survey of graduate programs conducted by the Board indicate that this coursework is readily available and the requirement will not present a burden to the programs or difficulty for students.

Public comment also revealed confusion over how to translate the one-year internship requirement in terms of the school year structure. To clarify the internship requirement, the board proposes mirroring the internship requirement for CACREP program accreditation, which is 600 clock hours with 240 hours of direct client contact. To ensure that the internship includes the application of marriage and family therapy systems theory, the board proposes requiring half of those hours to involve contact with couples and families.

Advantages: Recognition of both accrediting bodies in marriage and family therapy will simplify the review process and expedite the application process for individuals who graduate from these programs. For graduates of programs not accredited by these two organizations, the proposed degree program requirements outline in clear terms what will be accepted as a graduate program in marriage and family therapy.

Reducing the marriage and family therapy-specific semester hour requirement and allowing some course work to be completed outside the degree program will make the license obtainable for many individuals whose programs did not offer the requisite hours. It will also reduce the costs for programs which are trying to develop more courses to prepare students for this license. Requiring three semester hours in each of the general core areas will ensure adequate education in the core areas of counseling, consistent among all applicants.

Disadvantages: Concerns have been raised in public comment that reducing the marriage and family therapy coursework could affect the mobility of licensees who wish to move to other states which require 18 semester hours in marriage and family studies/therapy. Recent information obtained from 26 states which license family therapists (out of a total of 41 states) revealed that approximately half those states require 18 semester hours. A survey of Virginia's graduate programs indicated that only one program in the state is able to offer 18 hours. The 18 hour requirement would have the effect of creating a monopoly for the only program that is able to offer that number of hours. Public comment received by the Board during its work on the requirements was evenly split between individuals who felt that 18 hours was below national certification standards of the American Association of Marriage and Family Therapists, and those who felt that 18 hours was excessive and would present an unnecessary burden to programs and students. The Board selected 12 hours based on CACREP standards for accreditation of marriage and family therapy graduate programs. As with any license, individuals who wish to become licensed in other states may need to obtain additional coursework or training to meet the other states' requirements.

Proposed changes in the general counseling semester-hour requirements may limit the number of elective courses students can take within the 60 graduate-hour requirement, but do not change the total number of hours required. Individuals who did not complete 3 semester hours in each core area will be required to obtain additional coursework. This will primarily impact individuals who complete their education requirement prior to or soon after the effective date of the regulations. Individuals enrolling in marriage and family therapy programs will be able to plan their curricula to meet the new requirements. Survey results indicate that the courses are readily available in Virginia's counseling programs.

### Residency Requirements

By statute, the board is restricted to establish supervision hours for marriage and family therapist licensure that are equivalent to those established for professional counselor licensure. The board is proposing amendments to its regulations for professional counselor licensure which include accepting group supervision as equivalent to face-to-face supervision, requiring 2000 hours of face-to-face client contact within the 4000 hour residency and accepting degree-level internship hours that meet certain requirements toward the residency hours. To comply with statute, the board is proposing the same amendments for this chapter. The board also proposes replacing the word "supervised experience" with "residency", and reformatting

the section so that instructions for registration of the residency appear at the front of the section in conformance with proposed changes to its regulations governing professional counselor licensure.

An issue raised by applicants and supervisors is the lack of specificity regarding the type and amount of training in the supervision of marriage and family therapy that would be acceptable to the board. Because the board does not have statutory authority to establish training requirements for supervisors, it is proposing instead that supervisors provide documentation of two years experience in providing marriage and family therapy services.

The board also considered the potential impact of the existing rule requiring that all supervisors meet the education and experience requirements in the regulations after July 9, 2000 on the availability of supervisors, the acceptability of residency hours completed prior to the effective date of the rule, and on the amount of documentation required for application. The board proposes rescinding this requirement and plans to continue studying the need for supervisor training.

Advantages: Honoring all group supervision hours and accepting internship hours towards the residency will expedite completion of the residency requirement for all applicants. Maintaining uniformity in the regulations ensures compliance with statute and simplifies the process for individuals who are working toward more than one license in the same residency. Establishing an experience requirement for supervisors to replace the current training requirement, will result in a less subjective and more consistent way of ensuring some level of marriage and family therapy experience and will be easier for supervisors to document. Rescinding the requirement that all supervisors meet the education and experience requirements for licensure as a marriage and family therapist will ensure the continued availability of supervisors, which is a common concern for applicants, particularly those in the less populated regions of the Commonwealth.

Disadvantages: New licensees will be required to wait two years until they are able to act as supervisors. However, it is the board's experience that it is extremely rare for new licensees to act as supervisors. Under the existing rule, most new licenses would not qualify to act as supervisors anyway, as training in supervision is not characteristically offered as part of master's level training.

Residents will be required to document an additional 1000 hours of face-to-face client contact during the residency. This is being proposed to parallel the proposal the Board has submitted for its professional counselor regulations. The time was based on the standard of state community services boards, which require that 50% of a therapist's work to be direct contact with clients.



E. Examination Waiver.

The time period for the examination waiver for licensed marriage and family therapists has expired. The board proposes repeal of this language which is no longer necessary.

**Advantages:** Elimination of obsolete language will prevent confusion for applicants.

**Disadvantages:** There are no disadvantages to the proposed changes.

F. Licensure Renewal

The current regulations do not specify a licensure expiration date. The board proposed specifying the June 30<sup>th</sup> deadline which is consistent with the deadline for professional counselor licensure and has been administered since the board began issuing licenses.

**Advantages:** The licensure expiration date will make applicants aware that the first license, which is issued without a fee, may expire less than 2 years after the initial licensure date.

**Disadvantage:** There is no disadvantages to the proposed change.

**5. Estimated Fiscal Impact**

**A. Projected number of persons affected and their cost of compliance:**

As of December, 1998, approximately 850 individuals were licensed as marriage and family therapists. An estimated 100 individuals will apply for this license each year. With the proposal to allow students to acquire hours outside their graduate program and the reduction of 6 semester hours in the requirement for marriage and family therapy-specific content areas, more individuals will be eligible for licensure and employment in this profession.

For some individuals who complete their graduate programs prior to the effective date of the new regulations, the stipulation that the general counseling content areas listed under subdivisions A 3 through A 7 of 18 VAC 115-50-50 include 3 semester hours in each area may result in additional cost. This is not expected to affect many individuals, since the responses to the survey of graduate programs indicate that all of these content areas are offered as distinct 3 semester courses.

Acceptance of group supervision hours as equivalent to face-to-face, and acceptance of the internship hours toward the residency should expedite licensure by approximately 3-6 months

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for the majority of applicants for licensure by examination. This could represent up to \$10,000 in earning potential, and a savings of up to \$1200 in supervision fees.

Proposed changes to the supervisory requirements will circumvent limitations on the availability of qualified supervisors that would take place after July 9, 2000 under the current regulations. Since the majority of potential supervisors do not meet the specific education and training requirements for marriage and family therapist licensure, many applicants would have difficulty finding supervisors and obtaining the required hours for the residency, protracting the licensure process and delaying employment.

B. Costs to the agency for implementation:

Approximately \$2000 will be incurred for printing and mailing public notices and amended regulations.

All costs to the agency are derived from fees paid by licensees, and no fee increases are necessary.

C. Costs to local governments

The proposed amendments will not fiscally impact local governments.

D. Economic Impact Analysis:

To be prepared by the Department of Planning and Budget.

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**ITEM 3: STATUTORY AUTHORITY FROM THE ATTORNEY  
GENERAL**

(attached)

## ITEM 4: STATUTORY MANDATE FOR REGULATORY ACTION

§ 54.1-2400 provides statutory authority for the board to promulgate regulations that establish qualifications for licensure, collect fees and take disciplinary action against regulated entities.

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

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.*
- 4. To establish schedules for renewals of registration, certification and licensure.*
- 5. To levy and collect fees for application processing, examination, registration, certification or licensure and renewal that are sufficient to cover all expenses for the administration and operation of the Department of Health Professions, the Board of Health Professions and the health regulatory boards.*
- 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.*
- 7. To revoke, suspend, restrict, or refuse to issue or renew a registration, certificate or license which such board has authority to issue for causes enumerated in applicable law and regulations.*
- 8. To appoint designees from their membership or immediate staff to coordinate with the Intervention Program Committee and to implement, as is necessary, the provisions of Chapter 25.1 (§ 54.1-2515 et seq.) of this title. Each health regulatory board shall appoint one such designee.*
- 9. To take appropriate disciplinary action for violations of applicable law and regulations.*
- 10. To appoint a special conference committee, composed of not less than two members of a health regulatory board, to act in accordance with § 9-6.14:11 upon receipt of information that a practitioner of the appropriate board may be subject to disciplinary action. The special conference committee may (i) exonerate the practitioner; (ii) reinstate the practitioner; (iii) place the practitioner on probation with such terms as it may deem appropriate; (iv) reprimand the practitioner; (v) modify a previous order; and (vi) impose a monetary penalty pursuant to § 54.1-2401. The order of the special conference committee shall become final thirty days after service of the order unless a written request to the board for a hearing is received within such time. If service of the decision to a party is accomplished by mail, three days shall be added to the thirty-day period. Upon receiving a timely written request for a hearing, the board or a panel of the board shall then proceed with a hearing as provided in § 9-6.14:12, and the action of the committee shall be vacated. This subdivision shall not be construed to affect the authority or procedures of the Boards of Medicine and Nursing pursuant to §§ 54.1-2919 and 54.1-3010.*
- 11. To convene, at their discretion, a panel consisting of at least five board members or, if a quorum of the board is less than five members, consisting of a quorum of the members to conduct formal proceedings pursuant to § 9-6.14:12, decide the case, and issue a final agency case decision. Any decision rendered by majority vote of such panel shall have the same effect as if made by the full board and shall be subject to*

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*court review in accordance with the Administrative Process Act. No member who participates in an informal proceeding conducted in accordance with § 9-6.14:11 shall serve on a panel conducting formal proceedings pursuant to § 9-6.14:12 to consider the same matter.*

*12. To issue inactive licenses or certificates and promulgate regulations to carry out such purpose. Such regulations shall include, but not be limited to, the qualifications, renewal fees and conditions for reactivation of licenses or certificates.*

§ 54.1-3500 sets forth the scope of practice for marriage and family therapists.

#### **§ 54.1-3500 Definitions**

As used in this chapter, unless the context requires a different meaning:

*"Board" means the Board of Licensed Professional Counselors, Marriage and Family Therapists, and Substance Abuse Professionals.*

*"Marriage and family therapist" means a person trained in the assessment and treatment of cognitive, affective, or behavioral mental and emotional disorders within the context of marriage and family systems through the application of therapeutic and family systems theories and techniques.*

*"Marriage and family therapy" means the assessment and treatment of cognitive, affective, or behavioral mental and emotional disorders within the context of marriage and family systems through the application of therapeutic and family systems theories and techniques and delivery of services to individuals, couples, and families, singularly or in groups, for the purpose of treating such disorders.*

*"Practice of marriage and family therapy" means the assessment and treatment of cognitive, affective, or behavioral mental and emotional disorders within the context of marriage and family systems through the application of therapeutic and family systems theories and techniques, which shall include assessment, treatment, and referral activities.*

§ 54.1-3503 establishes the Board of Licensed Professional Counselors, Marriage and Family Therapists and Substance Abuse Professionals and mandates that the board regulate the profession of marriage and family therapy.

#### **§ 54.1-3503. Board of Licensed Professional Counselors, Marriage and Family Therapists and Substance Abuse Treatment Professionals**

*The Board of Licensed Professional Counselors, Marriage and Family Therapists, and Substance Abuse Treatment Professionals shall regulate the practice of counseling, substance abuse treatment, and marriage and family therapy.*

*The Board shall consist of fourteen members. Twelve shall be professionals licensed in Virginia, who shall represent the various specialties recognized in the profession, and two shall be citizen members. Of the twelve professional members, eight shall be professional counselors, two shall be marriage and family therapists, and two shall be licensed substance abuse treatment practitioners. The professional members of the Board shall include two full-time faculty members engaged in teaching counseling, substance abuse treatment or marriage and family therapy in an accredited college or university in this Commonwealth, and two professional counselors engaged in full-time private practice. However, the marriage and family therapists initially appointed to the Board shall not be required to be licensed, shall not be licensed by another board in the Department of Health Professions, and shall be clinical members of the American Association for Marriage and Family Therapy. The licensed substance abuse treatment practitioners initially appointed to the Board shall not be required to be licensed, shall not be licensed by another board in the Department of Health Professions, shall be active members of the Virginia Association of Alcoholism and*

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*Drug Abuse Counselors and shall have a master's degree in substance abuse or a substantially equivalent master's degree.*

*The terms of the members of the Board shall be four years.*

§54.1-3505 mandates that the board establish requirements for licensure of marriage and family therapists and sets parameters for the education credit hour, experience hour and supervision hour requirements.

**§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 powers and duties:

*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.*

§54.1-3506 establishes the licensure requirement to practice 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; however, no license shall be required for the practice of marriage and family therapy or the independent practice of substance abuse treatment until six months after the effective date of regulations governing marriage and family therapy and substance abuse treatment, respectively, promulgated by the Board under subdivisions 6 and 7 of § 54.1-3505. The Board may issue a license, without examination, for the practice of marriage and family therapy or the independent practice of substance abuse treatment to persons who hold a current and unrestricted license as a professional counselor within the Commonwealth and who meet the clinical and academic requirements for licensure as a marriage and family therapist or licensed substance abuse treatment practitioner, respectively. The applicant for such license shall present satisfactory evidence of qualifications equal to those required of applicants for licensure as marriage and family therapists or licensed substance abuse treatment practitioners, respectively, by examination in the Commonwealth.*

*Any person who renders substance abuse treatment services as defined in this chapter and who is not licensed to do so, other than a person who is exempt pursuant to § 54.1-3501, shall render such services only when he is (i) under the supervision and direction of a person licensed under this chapter who shall be responsible for the services performed by such unlicensed person, or (ii) in compliance with the regulations governing an organization or a facility licensed by the Department of Mental Health, Mental Retardation and Substance Abuse Services.*

## **ITEM 5: REASONS THE PROPOSED AMENDMENTS ARE ESSENTIAL**

Article 2, Part V of the *Virginia Register Form, Style and Procedure Manual* recommends that definitions of important terms used more than once be included in the regulation to provide clarification and control over their meanings. The board is recommending including definitions of new acronyms used in the regulations. During its simultaneous review of these and other regulations, the board determined that consistency in the definitions of terms used in multiple chapters was desirable, and is recommending changes to achieve this consistency.

To address difficulties in obtaining specific information regarding supervision hours for endorsement applicants from other jurisdictions, the board has determined that it is essential to change the endorsement application instructions to require copies of the original supervision documentation. This will avert delays, frustration and increased application costs for applicants.

At the time the current regulations were being developed, the issue of coursework availability had been discussed. Because the proposed regulations received very strong public support, including that of faculty members from Virginia's graduate programs, the board did not anticipate problems for current students. After the regulations became effective, graduate students and recent graduates from Radford University's counseling psychology program petitioned the board after discovering that they would be ineligible for the license, and that the language in the regulations did not provide an avenue for obtaining coursework in the core content areas outside of the graduate program. Further, faculty from various programs expressed concern that the current requirements conferred a monopoly on one program which had the required course work, and that the impact on their students would continue until new courses could be developed for their programs. The board is proposing two solutions to these problems: (i) remove the requirement that all the core areas plus the internship be obtained within the degree program, while adding language to clarify what constitutes an acceptable degree program in marriage and family therapy, and (ii) adjust the number of semester hours and internship hours required in the marriage and family therapy-specific course work in accordance with the requirements established by CACREP for its approved marriage and family therapy programs, which is more attainable in terms of program development for Virginia's graduate programs.

Having recently completed the Executive Order 15 review of its *Regulations Governing the Practice of Professional Counseling* at the time of this review, and having started work on new regulations for substance abuse treatment practitioner licensure, the board had a more encompassing perspective of its licensure rules and realized that there were many areas where greater consistency among chapters could be achieved. One of these areas is specification of the semester hour requirements in the general counseling content

areas (areas 3-5 of 18 VAC 115-50-50). Currently, the board does not specify any number of semester hours in these areas, which results in inconsistent preparation among applicants. Based on its decision to establish consistent requirements for all applicants in accordance with contemporary program requirements, the board proposes specifying a minimum requirement of three semester hours in the general core areas. Survey results indicate that this will not be a hardship on graduate programs or on students.

At the time the board initiated this review, the members were pursuing alternatives to reduce the burden of the residency for professional counselor licensure. The board is guided by statute to establish equivalent residency hour requirements among its licensure regulations. In compliance with this guideline, the board proposes accepting internship hours toward the residency, increasing the face-to-face client contact requirement to 2000 hours, and accepting group supervision as equivalent to face to face which parallel proposed changes for its *Regulations Governing the Practice of Professional Counseling*.

The board examined the need for more specific language for the supervisor training requirement in response to frequent requests from the public as to what type or amount of training is acceptable to the board. Board counsel advised that the board has no statutory authority to establish additional requirements for supervisors. The board also considered the impact on the availability of supervisors that could result from requiring all supervisors meet the requirements for marriage and family therapist licensure after July 9, 2000. In response to these concerns, the board proposes two years post-licensure experience as a clearer and a more consistent requirement that will not impact the availability of supervisors, and resolved to continue studying the need to seek statutory authority to establish specific supervisory training requirements.

## **ITEM 6: ALTERNATIVES CONSIDERED IN THE DEVELOPMENT OF THE REGULATIONS:**

### **PART I. GENERAL PROVISIONS**

Alternatives considered for *Definitions* include:

1. Recognizing the National Association for Certified Family Therapists as equivalent to the American Association for Marriage and Family Therapy (AAMFT) and including a definition for the acronym (NACFT) of this term in the regulations. The board rejected this alternative because it has proposed rescinding the section of the regulation that references AAMFT, and the corresponding definition of that acronym.
2. Replacing specific references to accrediting agencies in 18 VAC 115-50-50 with the



broad phrase “board approved accrediting agency” to provide the board discretion in determining what type of accreditation is acceptable. This alternative was rejected in favor of having more explicit guidelines that are clear to the public and provide the basis for more defensible applicant eligibility determinations. The board proposes referencing the two national organizations which currently accredit marriage and family therapy programs by their commonly used acronyms as a more concise way of handling the long names of these associations, and including these acronyms in the definitions.

3. Changing some terms and their definitions in accordance with changes recently developed for *Regulations Governing the Practice of Professional Counseling* as a step toward achieving better consistency among all the board’s rules. The board accepted this alternative, and resolved to examine more ways to achieve better consistency under a future regulatory review process.

## PART II. REQUIREMENTS FOR LICENSURE

### Education Requirements

In response to public comment concerning the disparity between the educational requirements in the regulations and the current program offerings in Virginia, the board reviewed the accreditation requirements of CACREP and COAMFTE, and the licensure requirements of other states. The board also surveyed Virginia’s graduate programs to obtain information about the program’s ability to meet the coursework requirements in the current regulations. The board considered the following alternatives to expand the availability of the license to graduates of Virginia’s counseling programs:

- 1) Rescinding the requirement that all coursework be obtained from one “*sequentially integrated*” program, and developing a new section to set forth parameters for an acceptable program in marriage and family therapy. The board accepted this alternative and is proposing a new section for degree program requirements which mirrors the proposed requirements for the professional counselor licensure regulations.
- 2) Recognizing CACREP accreditation as meeting the definition of a program in marriage and family therapy. The board accepted this alternative.
- 3) Reducing the coursework requirement in marriage and family therapy-specific course work from 18 to 9 semester hours for individuals who graduated prior to September 1, 1999. This alternative was rejected based on the advice of counsel that two separate standards for licensure would conflict with the board’s obligation to establish minimum qualifications for licensure.

- 4) Reducing the coursework requirement in marriage and family therapy-specific course work from 18 to 12 semester hours for all applicants. This alternative was accepted as being consistent with the accreditation requirements for CACREP, and feasible in terms of curriculum development for Virginia's graduate programs.
- 5) Changing the general core areas in subdivisions 2c-2g of 18 VAC 115-50-50 of the regulations to parallel draft regulations being developed for substance abuse treatment practitioner licensure. This alternative was rejected, because the Notice of Intended Regulatory Action did not address any problem with the current common core areas. The board will request permission to consider this issue under a new Pre-NOIRA.
- 6) Specifying that each core area in subdivisions 2c-2g of 18 VAC 115-50-50 be covered by one 3 semester hour course in accordance with the recent proposal for the professional counselor regulations. The board accepted this alternative, which will help to ensure that all applicants have met the same educational standard for the license, and enable the board's Credentials Committee to make more uniform, defensible judgements about qualifications. Survey results indicate that Virginia's graduate programs are currently offering these content areas as distinct 3 semester hours courses.
- 7) Stating the internship requirement in terms of clock hours in accordance with CACREP requirements, and specifying that 240 contact hours must be with marriage and family therapy clients. The board accepted this alternative, but reduced the number of marriage and family therapy client contact hours to half of the total, due to concerns that few university internships offer marriage and family therapy cases exclusively.

#### Experience Requirements

In its Notice of Intended Regulatory Action, the board stated its intent to adjust the supervision hours if Executive Order 15 amendments to the *Regulations Governing the Practice of Professional Counseling* result in inconsistencies. To maintain the consistency between these regulations, the board proposes the following alternatives for the residency requirement:

- 1) Accepting degree-level internship hours toward the residency requirement. The board accepted this alternative with the provision that adequate course work was completed before the initiation of the internship, and that supervision met the residency supervision requirement. The proposed regulation sets forth acceptable supervision criteria for internship hours submitted toward the residency.
- 2) Accepting group supervision hours as equivalent to face-to-face hours. The board

accepted this alternative, which will significantly reduce the burden for applicants who have difficulty obtaining individual supervision hours.

- 3) Increasing the face-to-face client contact hours to ensure that half of the residency is spent in direct client contact. The board accepted this alternative as being in line with the expectations for therapists in the public sector.
- 4) Changing the word “supervised experience” to “residency” throughout the regulation, and moving the instructions for registering a residency to the front of the section in conformance with changes proposed for professional counselor licensure regulations. The board accepted these alternatives.
- 5) Developing competency areas for the evaluation of the resident by the supervisor. This alternative was rejected because no problem with a lack of competency areas had been identified in the Notice of Intended Regulatory Action. The board will pursue this issue under a future review.

Since the repeal in 1993 of the statutory authority of health regulatory boards to administer oral examinations in Virginia, more responsibility for the evaluation of competence for licensure has been placed on the individuals who function as supervisors. As a result, in 1993 the board included a provision in its *Regulations Governing the Practice of Professional Counseling* that supervisors “have received professional training in supervision,” although no specific guidelines for the type or amount of training are set forth. Similarly, the board included a requirement for documentation of “specific training in the supervision of marriage and family therapy” in its regulations for marriage and family therapist licensure, but did not include explicit guidelines for what this training should entail. This language was confusing for supervisors, since a specific national credential in marriage and family therapy supervision exists, which is held by only 68 individuals in Virginia. The board considered two alternatives to clarify this rule:

- 1) Develop specific clock hours and classifications for acceptable training in supervision, which is now readily available through video or through on-line services offered by professional associations. The board rejected this alternative on the advice of counsel that there is no statutory authority to establish requirements for licensed individuals who function as supervisors.
- 2) Allow experience to substitute for supervisory training. The board accepted this alternative, and propose a two-year post-licensure experience requirement based on the estimate within two years most practitioners have developed self-awareness as professionals, diagnostic skills, a philosophy of practice, a therapeutic style and coping strategies for handling various situations which will assist them in acting as

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mentors to trainees. The board intends to continue studying the need for formal training in supervision.

The board determined that the experience alternative for supervisor training would also provide an acceptable solution for the potential reduction in qualified supervisors after July 9, 2000 when the provision requiring all supervisors to meet the education and experience for licensure takes effect. The board proposes rescinding the requirement that would take effect on July 9, 2000.

## **ITEM 7: SCHEDULE FOR REVIEW AND REEVALUATION OF REGULATIONS**

November 30, 1998	Submission of Preliminary determination package to the Department of Planning and Budget
May, 1999	Publication of Proposed Regulations and Notice of comment
July, 1999	Public comment period ends
September 27, 1999	Board adopts final regulation
November, 1999	Regulation in effect
November, 2001	Initiate biennial review of regulations

## **ITEM 8: FISCAL IMPACT ANALYSIS**

### A. Projected number of persons affected and their cost of compliance:

As of December, 1998, approximately 850 individuals were licensed as marriage and family therapists. An estimated 100 individuals will apply for this license each year. With the proposal to allow students to acquire hours outside their graduate program and the reduction of 6 semester hours in the requirement for marriage and family therapy-specific content areas, more individuals will be eligible for licensure and employment in this profession.

For some individuals who complete their graduate programs prior to the effective date of the new regulations, the stipulation that the general counseling content areas listed under subdivisions A 3 through A 7 of 18 VAC 115-50-50 include 3 semester hours in each area may result in additional cost. This is not expected to affect many individuals, since the responses to the survey of graduate programs indicate that all of these content areas are offered as distinct 3 semester courses.

Acceptance of group supervision hours as equivalent to face-to-face, and acceptance of the internship hours toward the residency should expedite licensure by approximately 3-6 months for the majority of applicants for licensure by examination. This could represent up to \$10,000 in earning potential, and a savings of up to \$1200 in supervision fees.

Proposed changes to the supervisory requirements will circumvent limitations on the availability of qualified supervisors that would take place after July 9, 2000 under the current regulations. Since the majority of potential supervisors do not meet the specific education and training requirements for marriage and family therapist licensure, many applicants would have difficulty finding supervisors and obtaining the required hours for the residency, protracting the licensure process and delaying employment.

### B. Costs to the agency for implementation:

Approximately \$2000 will be incurred for printing and mailing public notices and amended regulations.

All costs to the agency are derived from fees paid by licensees, and no fee increases are necessary.

### C. Costs to local governments

The proposed amendments will not fiscally impact local governments.

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D. Economic Impact Analysis:

To be prepared by the Department of Planning and Budget.