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Fast-Track Regulation Agency Background Document

Agency name	Board of Social Work, Department of Health Professions
Virginia Administrative Code (VAC) citation(s)	18VAC140-20
Regulation title(s)	Regulations Governing the Practice of Social Work
Action title	Reduction in fee and experience requirement for BSW
Date this document prepared	9/24/19

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 amendments will reduce the fee for initial licensure and for annual renewal of licensure for licensed baccalaureate social workers. The application fee is reduced from \$115 to \$100, and the renewal fee is reduced from \$65 to \$55. The most significant reduction in regulatory burden is the elimination of the current requirement for an applicant with a baccalaureate degree to have 3,000 hours of supervised experience in order to qualify for licensure as a LBSW.

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.

LBSW = licensed baccalaureate social worker

LMSW = licensed master’s social worker

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 September 20, 2019, the Board of Social Work amended 18VAC140-20-10 et seq., Regulations Governing the Practice of Social Work.

Mandate and Impetus

Please identify the mandate for this regulatory change, and any other impetus that specifically prompted its initiation (e.g., new or modified mandate, petition for rulemaking, periodic review, board decision, etc.). For purposes of executive branch review, “mandate” has the same meaning as defined in Executive Order 14 (as amended, July 16, 2018), “a directive from the General Assembly, the federal government, or a court that requires that a regulation be promulgated, amended, or repealed in whole or part.”

As required by Virginia Code § 2.2-4012.1, please also explain why this rulemaking is expected to be noncontroversial and therefore appropriate for the fast-track process.

The impetus was consideration by the Board of changes that could increase the numbers of LBSWs and increase the workforce able to provide social work services. The rulemaking will make licensure as a LBSW considerably less burdensome, is consistent with 35 other states, and is not expected to be controversial.

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 (6), which provides the Board of Social Work the authority to promulgate regulations to administer the regulatory system:

§ 54.1-2400 -General powers and duties of health regulatory boards

The general powers and duties of health regulatory boards shall be: ...

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

2. *To examine or cause to be examined applicants for certification, licensure, or registration. Unless otherwise required by law, examinations shall be administered in writing or shall be a demonstration of manual skills.*
3. *To register, certify, license, or issue a multistate licensure privilege to qualified applicants as practitioners of the particular profession or professions regulated by such board.*
4. *To establish schedules for renewals of registration, certification, licensure, permit, and the issuance of a multistate licensure privilege.*
5. *To levy and collect fees for application processing, examination, registration, certification or licensure or the issuance of a multistate licensure privilege 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 (§ 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. ...*

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 less burdensome and costly pathway to licensed for persons with a bachelor's degree in social work may encourage some to seek licensure. Additional persons in the social work field provided support services and casework may increase access to mental health services and help protect the public health, safety and welfare.

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.

The amendments will reduce the fee for initial licensure and for annual renewal of licensure for licensed baccalaureate social workers. The application fee is reduced from \$115 to \$100, and the renewal fee is reduced from \$65 to \$55. The most significant reduction in regulatory burden is the elimination of the current requirement for an applicant with a baccalaureate degree to have 3,000 hours of supervised experience in order to qualify for licensure as a LBSW.

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 primary advantages or disadvantages to the public. There may be more persons working as LBSWs, providing casework and related services, if the cost reduction and elimination of supervised experience leads to an increase in the number of licensed providers.
- 2) There are no advantages or disadvantages to the agency; with only 13 persons currently licensed as LBSWs, the \$10 reduction in renewal fees will not affect the Board’s budget.
- 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 “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.” There is no restraint on competition resulting from this regulation as it is less burdensome and less restrictive.

Requirements More Restrictive than Federal

Please identify and describe any requirement of the regulatory change which is more restrictive than applicable federal requirements. Include a specific citation for each applicable federal requirement, and a rationale for the need for the more restrictive requirements. If there are no applicable federal requirements, or no requirements that exceed applicable federal requirements, include a specific statement to that effect.

There are no applicable federal regulations.

Agencies, Localities, and Other Entities Particularly Affected

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

Other State Agencies Particularly Affected - None

Localities Particularly Affected - None

Other Entities Particularly Affected - None

Economic Impact

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

Impact on State Agencies

<p><i>For your agency:</i> projected costs, savings, fees or revenues resulting from the regulatory change, including:</p> <ul style="list-style-type: none"> a) fund source / fund detail; b) delineation of one-time versus on-going expenditures; and c) whether any costs or revenue loss can be absorbed within existing resources 	<p>As a special fund agency, the Board must generate sufficient revenue to cover its expenditures from non-general funds, specifically the renewal and application fees it charges to practitioners or entities for necessary functions of regulation. All notifications will be done electronically.</p> <p>There are no on-going expenditures.</p>
<p><i>For other state agencies:</i> projected costs, savings, fees or revenues resulting from the regulatory change, including a delineation of one-time versus on-going expenditures.</p>	<p>None</p>
<p><i>For all agencies:</i> Benefits the regulatory change is designed to produce.</p>	<p>An agency that employs social workers may have greater access to LBSWs if the licensure process is less costly and cumbersome.</p>

Impact on Localities

<p>Projected costs, savings, fees or revenues resulting from the regulatory change.</p>	<p>None</p>
<p>Benefits the regulatory change is designed to produce.</p>	<p>None</p>

Impact on Other Entities

<p>Description of the individuals, businesses, or other entities likely to be affected by the regulatory change. If no other entities will be affected, include a specific statement to that effect.</p>	<p>Licensed baccalaureate social workers</p>
<p>Agency's best estimate of the number of such entities that will be affected. Please include an estimate of the number of small businesses affected. Small business means a business entity, including its affiliates, that:</p> <ul style="list-style-type: none"> a) is independently owned and operated and; b) employs fewer than 500 full-time employees or has gross annual sales of less than \$6 million. 	<p>There are 13 LBSWs who will benefit from the reduced renewal fee. The agency has no estimate of persons who may apply for licensure with the reduced fee and less onerous requirements.</p>
<p>All projected costs for affected individuals, businesses, or other entities resulting from the regulatory change. Please be specific and include all costs including, but not limited to:</p>	<p>There are no costs; there are cost savings.</p>

<p>a) projected reporting, recordkeeping, and other administrative costs required for compliance by small businesses; b) specify any costs related to the development of real estate for commercial or residential purposes that are a consequence of the regulatory change; c) fees; d) purchases of equipment or services; and e) time required to comply with the requirements.</p>	
<p>Benefits the regulatory change is designed to produce.</p>	<p>There will be cost reduction for applicants for a LBSW of \$15 and an annual reduction of \$10. The elimination of 3,000 hours of supervised experience will enable a person with a baccalaureate degree from an accredited school of social work to be licensed 18 months to two years earlier, which will improve employment opportunities and income.</p>

Alternatives

Please describe any viable alternatives to the regulatory change that were considered, and the rationale used by the agency to select the least burdensome or intrusive alternative that meets the essential purpose of the regulatory change. Also, include discussion of less intrusive or less costly alternatives for small businesses, as defined in § 2.2-4007.1 of the Code of Virginia, of achieving the purpose of the regulatory change.

In order to reduce application and renewal fees for a licensure category, regulations must be amended. Elimination of an experience requirement for licensure is a less intrusive and less costly alternative.

Regulatory Flexibility Analysis

Pursuant to § 2.2-4007.1B of the Code of Virginia, please describe the agency’s analysis of alternative regulatory methods, consistent with health, safety, environmental, and economic welfare, that will accomplish the objectives of applicable law while minimizing the adverse impact on small business. Alternative regulatory methods include, at a minimum: 1) establishing less stringent compliance or reporting requirements; 2) establishing less stringent schedules or deadlines for compliance or reporting requirements; 3) consolidation or simplification of compliance or reporting requirements; 4) establishing performance standards for small businesses to replace design or operational standards required in the proposed regulation; and 5) the exemption of small businesses from all or any part of the requirements contained in the regulatory change.

There is no regulatory flexibility; fees and qualifications for licensure are set in regulation.

Public Participation

If an objection to the use of the fast-track process is received within the 30-day public comment period from 10 or more persons, any member of the applicable standing committee of either house of the General Assembly or of the Joint Commission on Administrative Rules, the agency shall: 1) file notice of

the objections with the Registrar of Regulations for publication in the Virginia Register; and 2) proceed with the normal promulgation process with the initial publication of the fast-track regulation serving as the Notice of Intended Regulatory Action.

Detail of Changes

Please list all regulatory changes and the consequences of the changes. Explain the new requirements and what they mean rather than merely quoting the text of the regulation.

Current section number	Current requirement	Proposed change, intent, rationale, and likely impact of proposed requirements
18VAC140-20-30	Establishes fees charged to applicants and licensees	<p>The application fee for a LBSW is reduced from \$115 to \$100, and the renewal fee for a LBSW is reduced from \$65 to \$55.</p> <p><i>The modest reduction is appropriate to distinguish between an LBSW and an LMSW. The LBSW has a less comprehensive scope of practice and is required to work under supervision of an LMSW. Until legislation was passed in 2018, persons with a bachelor’s degree and a master’s degree qualified for the same license – licensed social worker. With the separation into two different licenses, the distinction between the two should be recognized by a distinction in fees.</i></p>
18VAC140-20-60	Sets out the educational and experience required for an LBSW and an LMSW	<p>Subsections C and D are deleted to eliminate all of the requirements related to the 3,000 hours of supervised experience in the current regulations for licensure as an LBSW. Subsection B is also deleted because it states that a master’s prepared applicant is not required to have supervised experience to obtain a license as an LMSW. With the elimination of experience requirements for the LBSW, the distinction with the LMSW is not necessary, so the section is retitled as “Education requirements for an LBSW or LMSW.”</p> <p>In § 54.1-3700 of the Code of Virginia, a baccalaureate social worker means “<i>a person who engages in the practice of social work under the supervision of a master's social worker and provides basic generalist services, including casework management and supportive services and consultation and education.</i>”</p>

		<p>While the provision of basic generalist services, casework, etc. does require training and experience, a baccalaureate degree social worker must learn how to provide services appropriate to the work setting in which he is employed under the supervision of a master's social worker. An LBSW continues to work under supervision, so a 3,000-hours supervised experience is unnecessary for licensure. A survey of requirements in other states found that 35 states do not require supervised experience following the bachelor's degree; twelve states have no comparable license type; and four states (including Virginia) require supervised experience hours for licensure. The Board found no compelling reasons to retain the requirement, which is a substantial burden and a deterrent to licensure as an LBSW.</p>
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