

**AGENDA**  
**BOARD OF COUNSELING**  
**REGULATORY COMMITTEE**  
**Thursday, May 19, 2016 at 1:00 p.m.**  
**Board Room 1**

**1:00 p.m.      Call to Order – Charles Gressard, Committee Chairperson**

**Ordering of Agenda**

**Approval of Minutes**

**Public Comment**

**Consideration of CSAC Exam Vendor**

- Report from David Whittinghill, Ph.D, LMHC, NCC, MAC  
Assessment Director  
Center for Credentialing and Education
  
- Report from Cynthia Moreno Tuohy, NCACII, CDCIII, SAP  
Executive Director  
NAADAC, the Association for Addiction Professionals

**Review of Guidance Document**

- 115-1.5: Sanction Reference Points

**New Business:**

- Billing Practices of Residents/Supervisors
- CE Provider Addition
- NCMHCE Passage Prior to Board Approval
- CSAC Regulations
- VA LPC's applying for LMFT by Endorsement

**4:00 p.m.      Adjourn**

# **Draft Committee Minutes**

**Committee Meeting held on October 29, 2015**

**VIRGINIA BOARD OF COUNSELING  
REGULATORY COMMITTEE MEETING  
DRAFT MINUTES  
Thursday, October 29, 2015**

The Regulatory Committee of the Virginia Board of Counseling ("Board") convened at 2:09 p.m. on Thursday, October 29, 2015 at the Department of Health Professions, 9960 Mayland Drive, Richmond, Virginia. Dr. Charles Gressard called the meeting to order.

**COMMITTEE CHAIRPERSON:** Charles Gressard, Ph.D., LPC, LMFT, LSATP, Chairperson

**COMMITTEE MEMBERS PRESENT:** Johnston Brendel, Ed.D., LPC, LMFT  
Kevin Doyle, Ed.D., LPC, LSATP  
Joan Normandy-Dolberg, LPC  
Vivian Sanchez-Jones, Citizen Member

**COMMITTEE MEMBERS ABSENT:** Cinda Caiella, LMFT  
Joseph Scislowicz, LPC, LMFT

**STAFF PRESENT:** Tracey Arrington-Edmonds, Administrative Assistant  
Jaime Hoyle, Esq., Executive Director  
Marcie Hyman, Licensing Manager  
Jennifer Lang, Deputy Executive Director  
Elaine Yeatts, Senior Policy Analyst

**PUBLIC COMMENT:**

The Committee welcomed members of the public (representatives from Virginia Art Therapy Association (VATA), American Art Therapy Association (AATA), Virginia Treatment Center for Children, Harbor Point BHC, Shenandoah Art Therapy, LLC and current Board approved residents). Because the comment period had closed, no further comment was accepted on the petition for rulemaking.

Public comment was made by Gretchen Graves on behalf of Virginia Art Therapy Association (VATA) and Cynthia Woodruff and Dean Sagar on behalf of the American Art Therapy Association (AATA) on the matter of why the Board should support credentialing art therapy as a distinct mental health profession. Both organizations provided information to support the need for an independent credential, primarily as a public safety concern to address providers currently functioning as art therapists without the proper education and training. Additional information was provided to support the need for art therapists to obtain a credential separate from professional counseling, specifically the identifiable difference in the scope of practice, ethical guidelines, code of professional practice, the credentialing and certification process, and the pending independent accreditation status.

Without the art therapy credential in Virginia, many art therapists have been forced to seek licensure as professional counselors. There is an increase in national support of art therapy, with approximately 26 states with approved licenses or progression towards approval.

Committee members and Mrs. Yeatts advised that any action on the creation of a new license will require a statutory change through the General Assembly. However, the committee members are interested in further discussion of this matter.

### DISCUSSION:

II. **Review of Guidance Documents** (documents that require review periodically to comply with current laws and regulations) conducted by Elaine Yeatts, Senior Policy Analyst.

- A. **115-1.1 – Continuing Education Non-Compliance:** The review was completed and a motion was made by Dr. Doyle to recommend that the board accept continued use of the current document. The motion was seconded by Dr. Brendel and passed unanimously.
- B. **115-1.4 – Guidance on Technology-Assisted Counseling/Supervision:** Following review of the document, changes were made to reflect the discussion. A motion was made by Dr. Brendel to recommend that the board accept the revised guidance document. The motion was seconded by Dr. Doyle and passed unanimously.
- C. **115-2 – Impact of Criminal Convictions, etc. on Licensure or Certification:** The committee reviewed and discussed the document and determined that changes are not required at this time.
- D. **115-2.2 – Guidance on Planned Intervention Process:** The committee reviewed and discussed the document and determined that changes are not required at this time.
- E. **115-7 – Supervised Experience Requirements:** Following review and discussion, changes were made to coincide with language in Title 54.1, Chapter 35 of the *Code of Virginia*. A motion was made to recommend these changes to the board as a revised document. The motion was seconded by Ms. Normandy-Dolberg and passed unanimously.
- F. **Discussion of guidance regarding supervision:** The committee discussed the possibility of presenting a guidance document for supervisors, specifically regarding reporting issues that present with board-approved Residents. It was decided that the planned Supervisor Summit in 2016 will help to resolve some questions.

III. **Discussion of need for graduate level/resident license:** Board staff has discussed this matter with board counsel and the data processing department at DHP, in an effort to build on the current registration process, which would likely resolve the need for a graduate level license. Staff continues to gather information to present to the board at a later date.

IV. **Discussion of need for additional licenses/certificates:**

- A. **Art Therapy license:** Any proposed legislation would depend on the Governor's Office or the General Assembly to introduce a bill to make it a state recognized credential. If the bill is introduced into the General Assembly, the board will review the matter further.
- B. **Mental Health Provider certification:** Staff has been working the Department of Medical Assistance Services (DMAS) to discuss the types of services provided by unlicensed individuals under the DMAS guidelines. Committee members are interested in learning more about the comparison between DMAS requirements and state requirements for licensure, and encourage staff

to continue the discussions. Staff will report additional information to the board and committee members as it becomes available.

- V. **Discussion of Portability/Endorsement:** As a result of the reciprocity agreement between Kentucky and Tennessee the committee members discussed the advantages, as well as the concerns, with reciprocity. The committee decided to revisit this issue at a later date.
- VI. **Discussion of issues/concerns for future Committee consideration:** No specific topics were suggested.

**NEXT MEETING:**

With no immediate concerns for the committee's consideration, members agreed to cancel the previously scheduled meeting for November 12, 2015.

**ADJOURNMENT:**

The meeting was adjourned at 4:50 p.m.

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Charles Gressard, Chairperson

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Jaime Hoyle, Executive Director

DRAFT

# **Guidance Document 115-1.5**

## **Sanction Reference Points**

**Adopted June 5, 2009**

# SANCTIONING REFERENCE POINTS

## INSTRUCTION MANUAL

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Behavioral Sciences Boards

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Virginia Department  
of Health Professions

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Board of Counseling  
Guidance Document 115-1.5

Board of Psychology  
Guidance Document 125-5.2

Board of Social Work  
Guidance Document 140-8



# SANCTIONING REFERENCE POINTS

## INSTRUCTION MANUAL

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### Behavioral Sciences Boards

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Prepared for  
Virginia Department of Health Professions  
Perimeter Center  
9960 Mayland Drive, Suite 300  
Richmond, Virginia 23233  
804-367-4400 tel

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Prepared by  
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December 2008



## COMMONWEALTH OF VIRGINIA

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December 2008

Dear Interested Parties:

In the spring of 2001, the Virginia Department of Health Professions approved a workplan to study sanctioning in disciplinary cases for Virginia's 13 health regulatory boards. The purpose of the study was to "...provide an empirical, systematic analysis of board sanctions for offenses and, based on this analysis, to derive reference points for board members..." The purposes and goals of this study are consistent with state statutes which specify that the Board of Health Professions periodically review the investigatory and disciplinary processes to ensure the protection of the public and the fair and equitable treatment of health professionals.

Although each health regulatory board hears different types of cases, the Behavioral Sciences Boards (consisting of Counseling, Psychology and Social Work) hear cases that are similar in nature. For example, each deals with similar kinds of patient care cases, issues involving patient/practitioner boundaries or business practices. In addition, the sanctions these Boards hand down are also comparable. As well as sharing the same Executive Director and support staff, each of these boards are smaller in terms of their annual caseload volume. Because of the similar nature of their cases, and in order to have enough cases to conduct meaningful analysis, the three Behavioral Sciences Boards were analyzed together. This saved both time and resources when developing the Sanction Reference Points (SRPs) worksheet and manual. To oversee the interests of all three boards, an ad hoc committee was assembled that comprised the Chairman from each Board. This group reviewed draft results and met periodically to help guide the entire research development and data analysis process.

Analysts interviewed members and staff from all three boards and collected over 100 factors on all Behavioral Sciences sanctioned cases in Virginia over approximately a 5-year period. These factors measured case seriousness, respondent characteristics, and prior disciplinary history. After identifying the factors that were consistently associated with sanctioning, it was decided that the results provided a solid foundation for the creation of SRPs. Using both the data and collective input from Board members and staff, analysts spent several months developing a usable sanctioning worksheet as a way to implement the reference system.

One of the most important features of this system is its voluntary nature; that is, the Boards are encouraged to depart from the reference point recommendation when aggravating or mitigating circumstances exist. The Sanctioning Reference Points system attempts to model the typical Behavioral Sciences Boards' cases. Some respondents will be handed down sanctions either above or below the SRP recommended sanction. This flexibility accommodates cases that are particularly egregious or less serious in nature. Equally important to recommending a sanction, the system allows each respondent to be evaluated against a common set of factors—making sanctioning more predictable, providing an educational tool for new Board members, and neutralizing the possible influence of "inappropriate" factors (e.g., race, sex, attorney presence, identity of Board members). As a result, the following reference instrument should greatly benefit Board members, health professionals and the general public.

Sincerely yours,

Handwritten signature of Sandra Whitley Ryals in black ink.

Sandra Whitley Ryals  
Director  
Virginia Board of Health Professions

Cordially,

Handwritten signature of Elizabeth A. Carter in black ink.

Elizabeth A. Carter, Ph.D.  
Executive Director

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### Overview

The Virginia Board of Health Professions has spent the last 7 years studying sanctioning in disciplinary cases. The study is examining all 13 health regulatory boards, with the greatest focus most recently on the Boards of Counseling, Psychology and Social Work (Behavioral Sciences Boards). The Behavioral Sciences Boards are now in a position to implement the results of the research by using a set of voluntary *Sanctioning Reference Points*. This manual contains some background on the project, the goals and purposes of the system, and the offense-based sanction worksheet that will be used to help Board members determine how a similarly situated respondent has been treated in the past. This sanctioning system is based on a specific sample of cases, and thus only applies to those persons sanctioned by the Behavioral Sciences Boards. Moreover, the worksheet has not been tested or validated on any other groups of persons. Therefore, it should not be used to sanction respondents coming before other health regulatory boards, other states, or other disciplinary bodies.

The Sanctioning Reference system is comprised of a single worksheet which scores a variety of factors; case type, boundary issue, patient harm and offense and prior record factors. Each of the factors being scored was identified using data analysis. These factors have been isolated and tested in order to determine their influence on sanctioning outcomes. Sanctioning thresholds found on the worksheet recommend a range of sanctions from which the Boards may select in a particular case.

In addition to this instruction booklet, a coversheet and worksheet are available to record the respondent's score, recommended sanction, actual sanction, and any reasons for departure (if applicable). The completed coversheets and worksheets will be evaluated as part of an on-going effort to monitor and refine the SRPs. These instructions and the use of the SRP system fall within current Department of Health Professions and Behavioral Sciences Boards' policies and procedures. Furthermore, all sanctioning recommendations are those currently available to and used by the Boards and are specified within existing Virginia statutes.

**Background** In April of 2001, the Virginia Board of Health Professions (BHP) approved a work plan to conduct an analysis of health regulatory board sanctioning and to consider the appropriateness of developing historically-based SRPs for health regulatory boards, including the Behavioral Sciences Boards. The Board of Health Professions and project staff recognize the complexity and difficulty in sanction decision-making and have indicated that for any sanction reference system to be successful, it must be *“developed with complete Board oversight, be value-neutral, be grounded in sound data analysis, and be totally voluntary”*—that is, the system is viewed strictly as a Board decision tool.

**Goals** The Board of Health Professions and the Behavioral Sciences Boards cite the following purposes and goals for establishing Sanctioning Reference Points:

- Making sanctioning decisions more predictable
- Providing an education tool for new Board members
- Adding an empirical element to a process/system that is inherently subjective
- Providing a resource for the Boards and those involved in proceedings.
- “Neutralizing” sanctioning inconsistencies
- Validating Board member or staff recall of past cases
- Constraining the influence of undesirable factors—e.g., Board member ID, overall Board makeup, race or ethnic origin, etc.
- Helping predict future caseloads and need for probation services

### **Combining the Three Boards for Study**

Unlike other health regulatory Boards that were analyzed as part of the SRP project, this study examined three Boards simultaneously. This approach offered several advantages. First, combining the three Boards allowed enough cases to be collected and analyzed. Any one of these Boards alone does not process enough disciplinary cases to allow for a valid data analysis. Second, the combined approach allowed Boards that handle very similar cases to be grouped together, allowing for more efficient data collection and analysis resulting in resource savings. Lastly, this process allowed the Board’s members to understand and learn from cultural similarities and differences with regard to sanctioning across boards, something that rarely occurs.

Oversight of the interests of all three boards was assigned to an ad hoc committee comprised of the Chairman of each Board, the Executive Director, Deputy Director, and Executive Director of the Board of Health Professions. This group reviewed draft results, aided in the interpretation of initial findings, and met periodically to help guide the entire research development and data analysis process.

## Methodology

The fundamental question when developing a sanctioning reference system is deciding whether the supporting analysis should be grounded in historical data (a *descriptive approach*) or whether it should be developed normatively (a *prescriptive approach*). A normative approach reflects what policymakers feel sanction recommendations *should be*, as opposed to what they *have been*. SRPs can also be developed using historical data analysis with normative adjustments to follow. This approach combines information from past practice with policy adjustments, in order to achieve some desired outcome. The Behavioral Sciences Boards chose a descriptive approach with normative adjustments.

### ■ Qualitative Analysis

Researchers conducted in-depth personal interviews of Board members that hear disciplinary cases, Board staff, and representatives from the Attorney General's office. The interview results were used to build consensus regarding the purpose and utility of SRPs and to further frame the analysis. Additionally, interviews helped ensure the factors considered when sanctioning were included during the quantitative phase of the study. A literature review of sanctioning practice across the United States was also conducted.

### ■ Quantitative Analysis

Researchers analyzed detailed information on Behavioral Science disciplinary cases ending in a violation between January 2004 and March 2008; approximately 57 sanctioning "events." Over 100 different factors were collected on each case in order to describe the case attributes Board members identified as potentially impacting sanctioning decisions. Researchers used data available through the DHP's case management system combined with primary data collected from hard copy files. The hard copy files contained investigative reports, Board notices, Board orders, and all other documentation that is made available to Board members when deciding a case sanction.

A comprehensive database was created to analyze the factors that were identified as potentially influencing sanctioning decisions. Using data analysis, respondent and prior history factors were identified and tested to determine how well they modeled sanctioning practice. These factors and their point values have been listed on a sanctioning worksheet so a sanction can be derived after scoring the factors in a specific case. A sanction is determined depending on which point threshold is crossed.

Offense factors such as financial or material gain and case severity (priority level) were examined, as well as prior history factors such as past substance abuse, and previous Board orders. Some factors were deemed inappropriate for use in a structured sanctioning reference system. Although many factors, both "legal" and "extra-legal," can help explain sanction variation, only those "legal" factors the Boards felt should *consistently* play a role in a sanction decision were included on the final worksheet. By using this method, the hope is to achieve more neutrality in sanctioning by making sure the same set of "legal" factors are considered in every case.

### **Wide Sanctioning Ranges**

The SRPs consider and weigh the circumstances of an offense and the relevant characteristics of the respondent, providing the Boards with a sanctioning range that will encompass the vast majority of cases with similar circumstances. The wide sanctioning ranges reflect the notion that the Boards must maintain flexibility in fashioning a sanction in a particular case. However, depending on the specific circumstances of the case, sanctions handed down by the Boards may also be higher or lower than what the reference points indicate, acknowledging that aggravating and mitigating factors will continue to play a role in sanctioning.

Any sanction recommendation the Boards derive from the SRP worksheets must fall within Virginia law and regulations. If a Sanctioning Reference Point worksheet recommendation is more or less severe than a Virginia statute or DHP regulation, the existing laws or policies supercede any worksheet recommendation.

### **Offense and Prior History Factors Scored**

The Boards indicated early in the study that sanctioning is influenced by a variety of circumstances. The analysis supported the notion that not only case type, but certain offense and prior record factors impacted sanction outcomes. To this end, the Behavioral Sciences SRP system scores a variety of factors in order to arrive at a sanctioning recommendation. The first factor to be determined when completing a worksheet relates to the case type. Other factors to be determined by the Boards include type of boundary issue (if applicable), level of patient harm (if applicable), respondent impairment, and multiple patient involvement. The SRPs also take into account a respondent's past history. Prior Board orders, similarity of prior orders and past problems with drugs/alcohol or boundaries are factors that impact a sanction.

### **Sanctioning Thresholds**

The SRP worksheet uses four thresholds for recommending a sanction. After all factors are scored, the corresponding points are then added for a total respondent score. The total is used to locate the sanctioning threshold found at the bottom of the worksheet. The threshold corresponds to a set of sanctioning ranges. For instance, a respondent having a total score of 50 would be recommended for some type of Corrective Action.

### **Voluntary Nature**

The SRP system is a reference tool to be utilized by the Behavioral Sciences Boards; following the SRP threshold recommendations is completely voluntary. The Boards may choose to sanction outside the recommendation, and the Boards maintain complete discretion in determining the sanction handed down. However, a structured sanctioning system is of little value if the Boards are not provided with the coversheet and worksheet in every case eligible for scoring. A coversheet and worksheet should be completed in cases resolved by Informal Conferences and Consent Orders that come before Informal Conference committees. The SRPs can also be referenced and used by agency subordinates where the Boards deem appropriate. The coversheet and worksheet will be referenced by Board members during Closed Session.

### Worksheets Not Used in Certain Cases

The SRPs will not be applied in any of the following circumstances:

- Formal Hearings — SRPs will not be used in cases that reach a Formal Hearing level.
- Mandatory suspensions – Virginia law requires that under certain circumstances (conviction of a felony, declaration of legal incompetence or incapacitation, license revocation in another jurisdiction) the licensee must be suspended. The sanction is defined by law and is therefore excluded from the SRPs system.
- Compliance/reinstatements – The SRPs should be applied to new cases only.
- Action by another Board – When a case which has already been adjudicated by a Board from another state appears before the Virginia Behavioral Sciences Boards, the Boards often attempt to mirror the sanction handed down by the other Board. The Behavioral Sciences Boards usually require that all conditions set by the other Board are completed or complied with in Virginia. The SRPs do not apply as the case has already been heard and adjudicated by another Board.
- Instances of Continuing Education (CE) deficiencies – The Sanctioning Reference Points system does not apply to certain cases that have already been assigned pre-determined actions as set by the health regulatory board. Each Behavioral Science Board has its own Guidance Document pertaining to sanctioning at various levels of CE deficiency. The degree of deficiency and their respective actions are listed by Board below:

### Continuing Education Violations and Board Policies on Actions

Board	Violation	Policy/Action
Psychology	Short due to unacceptable hours Short 1 - 7 hours Short 8 - 14 hours Did not respond to audit request False attestation of continuing education completion	Confidential Consent Agreement; 30 day make up Confidential Consent Agreement; 30 day make up Consent Order; \$300 penalty; 30 day make up Informal Fact-Finding Conference Informal Fact-Finding Conference
Counseling	Short due to unacceptable hours Short 1 - 10 hours Short 11 - 15 hours Short 16 - 20 hours Did not respond to audit request	Confidential Consent Agreement; 30 day make up Confidential Consent Agreement; 30 day make up Consent Order; Monetary penalty of \$300; 30 day make up Consent Order; Monetary penalty of \$500; 30 day make up Informal Fact-Finding Conference
Social Work	Short due to unacceptable hours Short 1-9 hours Short 10-14 hours Short 15 or more hours Did not respond to audit request	Confidential Consent Agreement: 30 day make up Confidential Consent Agreement: 30 day make up Consent Order: \$500, 30 day make up Informal Conference Informal Conference

NOTE: In all cases the licensee will be audited during the following renewal cycle.

### Case Selection When Multiple Cases Exist

When multiple cases have been combined into one “event” (one order) for disposition by the Board, only one coversheet and worksheet should be completed and it should encompass the entire event. If a case (or set of cases) has more than one offense type, one case type is selected for scoring according to the offense group which appears highest on the following table and receives the highest point value. For example, a respondent found in violation for a confidentiality breach and an inappropriate relationship would receive twenty points, since Inappropriate Relationship is above Standard of Care on the list and receives more points. If an offense type is not listed, find the most analogous offense type and use the assigned amount point value.

### Sanctioning Reference Points Case Type Table

Case Type Group	Included Case Categories	Applicable Points
Inability to Safely Practice	Inability Safely Practice-Incapacitated Inability Safely Practice-Impairment Criminal Activity/Conviction	40
Inappropriate Relationship	Inappropriate Relationship	20
Standard of Care	Standard of Care-Treatment Related Standard of Care-Diagnosis Related Standard of Care-Consent Related Standard of Care-Other Abandonment Abuse Confidentiality-Breach Required Report Not Filed	10
Business Practice Issues	Fraud Unlicensed Activity Records/Inspections/Audits	5

### Completing the Coversheet and Worksheet

Ultimately, it is the responsibility of the individual Boards to complete the SRP coversheet and worksheet in all applicable cases. The information relied upon to complete a coversheet and worksheet is derived from the case packet provided to the Boards and the respondent. It is also possible that information discovered at the time of the informal conference may impact worksheet scoring. The SRP coversheet and worksheet, once completed, are confidential under the Code of Virginia. However, copies of the SRP Manual, including blank coversheets and worksheets, can be found on the Department of Health Professions web site: [www.dhp.virginia.gov](http://www.dhp.virginia.gov) (paper copy also available on request).

**Scoring Factor Instructions**

To ensure accurate scoring, instructions are provided for scoring each factor on the SRP worksheet. When scoring a worksheet, the numeric values assigned to a factor on the worksheet **cannot be adjusted**. The scores can only be applied as ‘yes or no’- with all or none of the points applied. In instances where a scoring factor is difficult to interpret, the Board members have final say in how a case is scored.

**Coversheet**

The coversheet is completed to ensure a uniform record of each case and to facilitate recordation of other pertinent information critical for system monitoring and evaluation. If the Boards feel the sanctioning threshold does not recommend an appropriate sanction, the Boards are encouraged to depart either high or low when handing down a sanction. If the Boards disagree with the sanction recommendation and impose a sanction greater or less than the recommended sanction, a short explanation should be recorded on the coversheet to explain the factors or reasons for departure. This process will ensure worksheets are revised appropriately to reflect current practice. If a particular reason is continually cited, the Boards can examine the issue more closely to determine if the worksheet should be modified to better reflect the Boards’ practice.

Aggravating and mitigating circumstances that may influence a Board’s decisions can include, but should not be limited to, such things as:

- Prior record
- Dishonesty/Obstruction
- Motivation
- Remorse
- Restitution/Self-corrective action
- Multiple offenses/Isolated incident

A space is provided on the coversheet to record the reason(s) for departure. Due to the uniqueness of each case, the reason(s) for departure may be wide-ranging.

Sample scenarios are provided below:

**Departure Example #1**

Sanction Threshold Recommendation: Recommend Formal or Accept Surrender  
Imposed Sanction: Corrective Action  
*Reason(s) for Departure: Respondent was particularly remorseful and had already begun corrective action.*

**Departure Example #2**

Sanction Threshold Recommendation: No Sanction/ Reprimand  
Imposed Sanction: Corrective Action  
*Reason(s) for Departure: Respondent displayed no insight or remorse for his actions.*

### Determining a Specific Sanction

The Behavioral Sciences worksheet has four thresholds with increasing point values and respectively increasing sanction severities. The table here shows the historically used sanctions for each threshold. The column to the left, Worksheet Score, contains the threshold scores located at the bottom of the worksheet. The column to the right, Available Sanctions, shows the specific sanction types that each threshold level covers. After considering the sanction recommendation, the Boards should fashion a more detailed sanction(s) based on the individual case circumstances.

**Sanctioning Reference Points Threshold Table**

Worksheet Score	Available Sanctions
0-34	No sanction Reprimand
35-69	Stayed suspension Probation Terms: Additional CE to obtain Board approved practice supervisor Participation in therapy Shall not supervise Quarterly self reports Psychological evaluation Graduate level research paper(s)
70-104	Stayed suspension Probation Terms: Additional CE to obtain Board approved practice supervisor Participation in therapy Shall not supervise Quarterly self reports Psychological evaluation Graduate level research paper(s) Recommend Formal Hearing Accept surrender
105 or more	Recommend Formal Hearing Accept surrender

# Sanctioning Reference Points - Coversheet

- Choose a *Case Type*.
- Select the appropriate *Boundary Issue* and *Patient Harm* scores.
- Complete the *Offense* and *Prior History* section.
- Determine the *Recommended Sanction Range* using the *Total Worksheet Score*.
- Complete this coversheet.

**Case Number(s)**

**Respondent Name** \_\_\_\_\_  
First Last

**License Number** \_\_\_\_\_

**Board**

- Counseling
- Psychology
- Social Work

**Case Category**

- Inability to Safely Practice
- Inappropriate Relationship
- Standard of Care
- Business Practice Issues

**Sanction Threshold Result**

- 0-34 . . . . . No Sanction/Reprimand
- 35-69 . . . . . Corrective Action
- 70-104 . . . . . Corrective Action to Recommend Formal or Accept Surrender
- 105 or more . . . . . Recommend Formal or Accept Surrender

**Imposed Sanction**

- No Sanction
- Reprimand
- CE \_\_\_\_\_ hours
- Monetary Penalty - \$ \_\_\_\_\_
- Stayed Monetary Penalty - \$ \_\_\_\_\_
- Probation
- Stayed Suspension
- C.O. for Revocation, Suspension, or Surrender
- Recommend Formal
- Terms: \_\_\_\_\_  
 \_\_\_\_\_

**Reasons for Departure from Sanction Threshold Result:** \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

**Worksheet Preparer (name):** \_\_\_\_\_ **Date Completed:** \_\_\_\_\_

Confidential pursuant to §54.1-2400.2 of the Code of Virginia.

## Behavioral Sciences Boards - SRP Worksheet Instructions

### Case Type

#### Step 1:

(score only one)

##### Inability to Safely Practice

Incapacitated – mental or physical  
Impairment – drugs or alcohol  
Criminal Activity/ Conviction

##### Inappropriate Relationship

##### Standard of Care

Treatment Related  
Diagnosis Related  
Consent Related  
Standard of Care-other  
Abandonment  
Abuse  
Confidentiality Breach  
Required Report Not Filed

##### Business Practice Issues

Unlicensed Activity  
Records/Inspections/Audits  
Fraud

### Boundary Issues

#### Step 2:

(if yes, score only one)

If a boundary violation occurred in this case, regardless of case type scoring, indicate that nature of the violation.

Enter “40” if the respondent has engaged in a sexual or dating relationship with a client.

Enter “20” if the respondent participated in inappropriate communications with a client. Examples of inappropriate communications include, but are not limited to: telephone calls, answering machine messages, emails, written letters and text messages.

Enter “10” if the respondent engaged in a business or social relationship with a client. Examples of a business relationship include, but are not limited to hiring a client for: child care, home or car repair, investment services, etc. Examples of social relationships include, but are not limited to: participating in social engagements or parties with clients.

### Patient Harm

#### Step 3:

(if yes, score only one)

Enter “20” if there was harm to the client which resulted in impaired functioning. Impaired functioning is indicated when the client or client’s subsequent provider reports symptoms of PTSD, suicidal feelings, or difficulty functioning due to the incident.

Enter “10” if there was harm to the client which did not result in impaired functioning. In cases involving Inappropriate Relationships, harm is always present therefore a minimum of “without impaired functioning” must be checked.

### Offense Factors Score

#### Step 4:

(score all that apply)

Enter “70” if the respondent was impaired at the time of the offense due to substance abuse (alcohol or drugs) or mental incapacitation.

Enter “30” if there was financial or material gain by the respondent.

Enter “30” if the respondent has previously been sanctioned by any *other* state or entity or if the respondent previously lost their license in any state (including VA). Sanctioning by an employer is *not* scored here.

Enter “30” if the case involves more than one patient.

Enter “20” if the respondent has any prior violations handed down by the Virginia Board of Counseling, Psychology or Social Work.

Enter “20” if the respondent has any prior similar Virginia Board violations. Similar violations would be those listed under the same Case Type heading in Step 1.

Enter “20” if the current event finds the respondent in violation for more than one action. For example, when a respondent has participated in both unlicensed activity and has inadequate records.

Enter “20” if the respondent has had any past difficulties in the following areas: drugs, alcohol, mental capacity, or boundaries issues. Scored here would be: prior convictions for DUI/DWI, inpatient/outpatient treatment, and bona fide mental health care for a condition affecting his/her abilities to function safely or properly.

Enter “10” if there was a concurrent action against the respondent related to this case. Concurrent actions include civil and criminal actions as well as any action taken by an employer such as termination or probation.

#### Step 5: Total Worksheet Score

Add the subtotals for a total worksheet score.

#### Step 6: Determining the Sanctioning Recommendations

Locate the Total Worksheet Score in the correct threshold range on the left side of the Sanctioning Recommendation Points table; to the right of the point thresholds are the recommended sanctions.

*Example: A total score of 35 would fall into the “35-69” points range; the SRP recommendation is for “Corrective Action”.*

#### Step 7: Completing the Coversheet

Complete the coversheet including the SRP sanction result, the imposed sanction, and the reasons for departure if applicable.

# Behavioral Sciences Boards - Sanctioning Reference Points Worksheet

Case Type (score only one)	Points	Score
Inability to Safely Practice . . . . .	40	_____
Inappropriate Relationship . . . . .	20	_____
Standard of Care . . . . .	10	_____
Business Practice Issues . . . . .	5	_____
<b>Subtotal</b>		<input style="width: 80px; height: 20px;" type="text"/>

score only one

**Boundary Issues (if yes, score only one)**

Intimate Relations/Dating . . . . .	40	_____
Inappropriate Communications . . . . .	20	_____
Social/Business . . . . .	10	_____
<b>Subtotal</b>		<input style="width: 80px; height: 20px;" type="text"/>

score only one, if applicable

**Patient Harm (if yes, score only one)**

Patient harmed with impaired functioning . . . . .	20	_____
Patient harmed without impaired functioning . . . . .	10	_____
<b>Subtotal</b>		<input style="width: 80px; height: 20px;" type="text"/>

score only one, if applicable

**Offense and Prior History Factors (score all that apply)**

Respondent impaired during incident . . . . .	70	_____
Financial or material gain by the respondent . . . . .	30	_____
Been sanctioned by another state/entity or previously lost license . . . . .	30	_____
Multiple patients involved . . . . .	30	_____
One or more prior violations . . . . .	20	_____
Previous violations similar to the instant offense . . . . .	20	_____
Current event involves two or more violations . . . . .	20	_____
Any past problems: drugs, alcohol, mental health or boundaries . . . . .	20	_____
Concurrent action against respondent . . . . .	10	_____
<b>Subtotal</b>		<input style="width: 80px; height: 20px;" type="text"/>

score all that apply

**Total Worksheet Score** (add all subtotals) \_\_\_\_\_

SCORE	Sanctioning Recommendations
0-34	No Sanction/Reprimand
35-69	Corrective Action
70-104	Corrective Action to Recommend Formal or Accept Surrender
105 or more	Recommend Formal or Accept Surrender

Respondent Name: \_\_\_\_\_

Date: \_\_\_\_\_

# **Proposed Changes to Guidance Document 115-1.5**

# **Sanctioning Reference Points Instruction Manual**

## **Behavioral Sciences Boards**

Adopted December 2008  
Revised January 2016

Board of Counseling  
Guidance Document 115-1.5  
Board of Psychology  
Guidance Document 125-5.2  
Board of Social Work  
Guidance Document 140-8

Prepared for  
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# COMMONWEALTH of VIRGINIA

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January 2016

Dear Interested Parties:

In the spring of 2001, the Virginia Department of Health Professions approved a workplan to study sanctioning in disciplinary cases for Virginia's 13 health regulatory boards. The purpose of the study was to "...provide an empirical, systematic analysis of board sanctions for offenses and, based on this analysis, to derive reference points for board members..." The purposes and goals of the study were consistent with state statutes which specify that the Board of Health Professions (BHP) periodically review the investigatory and disciplinary processes to ensure the protection of the public and the fair and equitable treatment of health professionals.

After interviewing Board of Counseling, Psychology and Social Work members and staff, a committee of board members, staff, and research consultants assembled a research agenda involving the most exhaustive statistical study of sanctioned Behavioral Health professionals ever conducted in the United States. The analysis included collecting over 100 factors on all Behavioral Sciences' sanctioned cases in Virginia over a four year period. These factors measured case seriousness, respondent characteristics, and prior disciplinary history. After identifying the factors that were consistently associated with sanctioning, it was decided that the results provided a solid foundation for the creation of sanctioning reference points. Using both the data and collective input from the three boards, analysts developed a usable set of sanction worksheets as a way to implement the reference system.

More recently, BHP recommended that the SRPs be evaluated to determine if the program had met the objectives set forth in 2001. The outcomes related to the Boards of Counseling, Psychology and Social Work resulted in several changes to the Sanctioning Reference Points worksheet. This manual is the product of those adopted changes.

Sincerely yours,

David E. Brown, D.C.  
Director  
Virginia Department of Health Professions

Cordially,

Elizabeth A. Carter, Ph.D.  
Executive Director  
Virginia Board of Health Professions

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# GENERAL INFORMATION

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## Overview

The Virginia Board of Health Professions has spent the last 10 years studying sanctioning in disciplinary cases. The study has examined all of the Department of Health Professions' (DHP) 13 health regulatory Boards. Focusing on the Boards of Counseling, Psychology and Social Work (Behavioral Sciences Boards), this manual contains background on the project, the goals and purposes of the Sanctioning Reference Points (SRP) system, a revised offense-based worksheet and sanctioning recommendations used to help Board members determine how similarly situated respondents have been treated in the past.

This SRP system is based on a specific sample of cases, and thus only applies to those persons sanctioned by the Behavioral Sciences Boards. Moreover, the worksheets and sanctioning recommendations have not been tested or validated on any other groups of persons. Therefore, they should not be used to sanction respondents coming before other health regulatory boards, other states, or other disciplinary bodies.

The SRP system is comprised of a single worksheet which scores a variety of offense and respondent factors identified using statistical analysis and built upon the Department's effort to maintain standards of practice over time. The factors were isolated and tested in order to determine their influence on sanctioning outcomes. Sanctioning thresholds found on the worksheet recommend a range of sanctions from which the boards may select in a particular case.

In addition to this instruction booklet, a coversheet and worksheet are available to record the case category, recommended sanction, imposed sanction, and any reasons for departure (if applicable). The completed coversheets and worksheets will be evaluated as part of an on-going effort to monitor and refine the SRPs. These instructions and the use of the SRP system fall within current Department of Health Professions and Behavioral Sciences Boards' policies and procedures.

Furthermore, all sanctioning recommendations are those currently available to and used by the Boards and are specified within existing Virginia statutes. If an SRP worksheet recommendation is more or less severe than a Virginia statute or DHP regulation, the existing laws or policy supersedes the worksheet recommendation.

## Background

In 2010, the Board of Health Professions (BHP) recommended that the SRPs be evaluated to determine if the program had met the objectives set forth in 2001. The purpose of this study was to evaluate the SRP system against its own unique set of objectives. The SRPs were designed to aid board members, staff and the public in a variety of ways. This Effectiveness Study sought to examine whether or not the SRPs were successful, and if not, which areas required improvement. The study resulted in changes to the manual for the Behavioral Sciences Boards. This manual is the result of those adopted changes.

## Goals

The Board of Health Professions and the Behavioral Sciences Boards cited the following purposes and goals for establishing SRPs:

- Making sanctioning decisions more predictable
- Providing an education tool for new Board members
- Adding an empirical element to a process/system that is inherently subjective
- Providing a resource for the boards and those involved in proceedings
- Neutralizing sanctioning inconsistencies
- Validating Board member or staff recall of past cases
- Reducing the influence of undesirable factors—e.g., Board member ID, overall Board makeup, race or ethnic origin, etc.
- Helping predict future caseloads and need for probation services and terms

## Combining the Three Boards for Study

Unlike other health regulatory boards that were analyzed as part of the SRP project, this study examined three Boards simultaneously. This approach offered several advantages. First, combining the three Boards allowed enough cases to be collected and analyzed. Any one of these Boards alone does not process enough disciplinary cases to allow for a valid data analysis. Second, the combined approach allowed Boards that handle similar cases to be grouped together, allowing for more efficient data collection and analysis resulting in resource savings. Lastly, this process allowed the board's members to understand and learn from cultural similarities and differences with regard to sanctioning across boards, something that rarely occurs.

## Methodology

The fundamental question when developing a sanctioning reference system is deciding whether the supporting analysis should be grounded in historical data (a descriptive approach) or whether it should be developed normatively (a prescriptive approach). A normative approach reflects what policymakers feel sanction recommendations should be, as opposed to what they have been. SRPs can also be developed using historical data analysis with normative adjustments. This approach combines information from past practice with policy adjustments, in order to achieve a more balanced outcome.

The SRP manual adopted in 2008 was based on a descriptive approach with a limited number of normative adjustments. The Effectiveness Study was conducted in a similar manner, drawing from historical data to inform worksheet modification.

## Qualitative Analysis

Researchers conducted in-depth personal interviews with members of each of the three boards as well as Board staff. Researchers also had informal conversations with representatives from the Attorney General's office and the Executive Director of the Board of Health Professions. The interview results were used to build consensus regarding the purpose and utility of SRPs and to further guide the Effectiveness Study's analysis. Additionally, interviews helped ensure the factors considered when sanctioning continued to be included during the quantitative phase of the study. Previous scoring factors were examined for their continued relevance and sanctioning influence.

## Quantitative Analysis

In 2008, researchers collected detailed information on all BON disciplinary cases ending in a violation between January 2004 and March 2008; approximately 57 sanctioning "events." Over 100 different factors were collected on each case to describe the case attributes Board members identified as potentially impacting sanction decisions. Researchers used data available through the DHP case management system combined with primary data collected from hard copy files. The hard copy files contained investigative reports, Board notices, Board orders, and all other documentation made available to Board members when deciding a case sanction.

A comprehensive database was created to analyze the factors that were identified as potentially influencing sanctioning decisions. Using statistical analysis to construct a "historical portrait" of past sanctioning decisions, the significant factors along with their relative weights were derived. Those factors and weights were formulated into a sanctioning worksheet, which became the SRPs. The current worksheet represents a revised analysis using similar analytical methods to update the worksheet factors and scores to represent the most current practice.

Offense factors such as financial or material gain and case severity (priority level) were examined, as well as prior history factors such as past substance abuse, and previous Board orders. Some factors were deemed inappropriate for use in a structured sanctioning reference system. Although many factors, both "legal" and "extra-legal," can help explain sanction variation, only those "legal" factors the Boards felt should consistently play a role in a sanction decision were included on the final worksheet. By using this method, the hope is to achieve more neutrality in sanctioning by making sure the same set of "legal" factors are considered in every case.

## Wide Sanctioning Ranges

The SRPs consider and weigh the circumstances of an offense and the relevant characteristics of the respondent, providing the Boards with a sanctioning model that encompasses roughly 80% of historical practice. This means that approximately 20% of past cases receive sanctions either higher or lower than what the reference points indicate, recognizing that aggravating and mitigating factors play a legitimate role in sanctioning. The wide sanctioning ranges allow the Board to customize on a particular sanction within the broader SRP recommended range.

## Voluntary Nature

The SRP system should be viewed as a decision-aid to be used by the Boards of Counseling, Psychology and Social Work. Sanctioning within the SRP ranges is "totally voluntary," meaning that the system is viewed strictly as a tool and the Boards may choose any sanction outside the recommendation. The Boards maintains complete discretion in determining the sanction handed down. However, a structured sanctioning system is of little value if the Boards are not provided with the appropriate coversheet and worksheet in every case eligible for scoring. A coversheet and worksheet should be completed in cases resolved by Informal Conference or Pre-Hearing Consent Order. This includes cases resolved at an informal conference by conference committees or by prehearing consent order offers delegated to and authorized by board staff. The coversheet and worksheets will be used only after a violation has been determined.

## Worksheets Not Used in Certain Cases

The SRPs will not be applied in any of the following circumstances:

- Formal Hearings — SRPs will not be used in cases that reach a Formal Hearing level.
- Mandatory suspensions – Virginia law requires that under certain circumstances (conviction of a felony, declaration of legal incompetence or incapacitation, license revocation in another jurisdiction) the licensee must be suspended. The sanction is defined by law and is therefore excluded from the SRPs system.

- Compliance/Reinstatements – The SRPs should be applied to new cases only.
- Action by Another Board – When a case which has already been adjudicated by a Board from another state appears before the Virginia Behavioral Sciences Boards, the Boards often attempt to mirror the sanction handed down by the other Board. The Behavioral Sciences Boards usually require that all conditions set by the other Board are completed or complied with in Virginia. The SRPs do not apply as the case has already been heard and adjudicated by another Board.
- Certain Instances of Continuing Education (CE) Deficiency – The Sanctioning Reference Points system does not apply to certain cases that have already been assigned pre-determined actions as set by the health regulatory board. Each Behavioral Science Board has its own Guidance Document pertaining to sanctioning at various levels of CE deficiency. The degree of deficiency and their respective actions are listed below:

## Continuing Education Violations and Board Policies on Actions

Psychology	Short due to unacceptable hours Short 1 - 7 hours Short 8 - 14 hours Did not respond to audit request False attestation of CE completion	Confidential Consent Agreement; 30 day make up Confidential Consent Agreement; 30 day make up Consent Order; \$300 penalty; 30 day make up Informal Fact-Finding Conference Informal Fact-Finding Conference
Counseling	Short due to unacceptable hours Short 1 - 10 hours Short 11 - 15 hours Short 16 - 20 hours Did not respond to audit request	Confidential Consent Agreement; 30 day make up Confidential Consent Agreement; 30 day make up Consent Order; Monetary penalty of \$300; 30 day make up Consent Order; Monetary penalty of \$500; 30 day make up Informal Fact-Finding Conference
Social Work	Short due to unacceptable hours Short 1-9 hours Short 10-14 hours Short 15 or more hours Did not respond to audit request	Confidential Consent Agreement: 30 day make up Confidential Consent Agreement: 30 day make up Consent Order: \$500, 30 day make up Informal Conference Informal Conference

NOTE: In all cases the licensee will be audited during the following renewal cycle.

## Case Selection When Multiple Cases Exist

When multiple cases have been combined into one “event” (one order) for disposition by the Board, only one coversheet and worksheet should be completed and it should encompass the entire event. If a case (or set of cases) has more than one offense type, one case type is selected for scoring according to the offense group which appears highest on the following table and receives the highest point value. For example, a respondent found in violation for a confidentiality breach and an inappropriate relationship would receive twenty points, since Inappropriate Relationship is above Standard of Care on the list and receives more points. If an offense type is not listed, find the most analogous offense type and use the assigned amount point value.

## Sanctioning Reference Points Case Type Table

Case Type Group	Included Case Categories	Applicable Points
Inability to Safely Practice	<ul style="list-style-type: none"> <li>• Impairment/Incapacitation: Impairment due to use of alcohol, illegal substances, or prescription drugs or incapacitation due to mental, physical or medical conditions</li> <li>• Criminal Activity: Felony or misdemeanor arrest, charges pending, or conviction</li> </ul>	30
Inappropriate Relationship	<ul style="list-style-type: none"> <li>• Dual, sexual or other boundary issue. Includes inappropriate touching and written or oral communications</li> </ul>	20
Continuing Education	<ul style="list-style-type: none"> <li>• Failure to obtain or document CE requirements</li> </ul>	20
Standard of Care	<ul style="list-style-type: none"> <li>• Standard of Care – Diagnosis/Treatment: Instances in which the diagnosis/treatment was improper, delayed, or unsatisfactory. Also includes failure to diagnose/treat &amp; other diagnosis/treatment issues.</li> <li>• Standard of Care – Consent Related</li> <li>• Abuse/Abandonment/Neglect: Any sexual assault, mistreatment of a patient, inappropriate termination of provider/patient relationship, leaving a patient unattended in a health-care environment, failure to do what a reasonable person would do in a similar situation</li> <li>• Confidentiality Breach: disclosing unauthorized client information without permission or necessity</li> </ul>	10
Business Practice Issues	<ul style="list-style-type: none"> <li>• Unlicensed Activity: Practicing a profession or occupation without holding a valid license as required by statute or regulation to include: practicing on a revoked, suspended, lapsed, non-existent or expired license, as well as aiding and abetting the practice of unlicensed activity</li> <li>• Business Practice Issues: Advertising, default on guaranteed student loan, solicitation, records, inspections, audits, self-referral of patients, required report not filed, or disclosure</li> <li>• Fraud: Performing unwarranted/unjust services or the falsification/alteration of patient records, improper patient billing, fee splitting, and falsification of licensing/renewal documents</li> </ul>	5

## Completing the Coversheet and Worksheet

Ultimately, it is the responsibility of the individual Boards to complete the SRP coversheet and worksheet in all applicable cases. The information relied upon to complete a coversheet and worksheet is derived from the case packet provided to the boards and the respondent. It is also possible that information discovered at the time of the informal conference may impact worksheet scoring. The SRP coversheet and worksheet, once completed, are confidential under the Code of Virginia. Additionally, manual, including blank coversheets and worksheets, can be found on the Department of Health Professions web site: [www.dhp.virginia.gov](http://www.dhp.virginia.gov) (paper copy also available on request).

## Scoring Factor Instructions

To ensure accurate scoring, instructions are provided for scoring each factor on the SRP worksheet. When scoring a worksheet, the numeric values assigned to a factor on the worksheet cannot be adjusted. The scores can only be applied as 'yes or no' with

all or none of the points applied. In instances where a scoring factor is difficult to interpret, the Board members have final say in how a case is scored.

## Using Sanctioning Thresholds to Determine a Specific Sanction

The Behavioral Sciences worksheet has four thresholds with increasing point values and respectively increasing sanction severities. The table here shows the historically used sanctions for each threshold. The column to the left, Worksheet Score, contains the threshold scores located at the bottom of the worksheet. The column to the right, Available Sanctions, shows the specific sanction types that each threshold level covers. After considering the sanction recommendation, the Boards should fashion a more detailed sanction(s) based on the individual case circumstances.

## Sanctioning Reference Points Threshold Table

Worksheet Score	Available Sanction
0-19	No Sanction Reprimand
20-69	Corrective Action: Monetary Penalty Stayed suspension Probation Additional CE to obtain Board approved practice supervisor Participation in therapy Shall not supervise Quarterly self-reports Psychological evaluation Graduate level research paper(s)
70-104	Corrective Action: Monetary Penalty Stayed suspension Probation Additional CE to obtain Board approved practice supervisor Participation in therapy Shall not supervise Quarterly self-reports Psychological evaluation Graduate level research paper(s) Recommend Formal Hearing Suspension Revocation Accept surrender
105 or more	Recommend Formal Hearing Suspension Revocation Accept surrender

**Sanctioning Reference Points  
Coversheet, Worksheet  
and Instructions**



# SRP Coversheet for the Behavioral Sciences Boards

- Choose a Case Type.
- Select the appropriate Boundary Issue and Patient Harm scores.
- Complete the Offense and Prior History section.
- Determine the Recommended Sanction Range using the Total Worksheet Score.
- Complete this coversheet.

Case Number(s): 

--	--	--	--	--	--	--	--

--	--	--	--	--	--	--	--

--	--	--	--	--	--	--	--

Respondent Name: \_\_\_\_\_

License Number: \_\_\_\_\_

Board:   
 Counseling   
 Psychology   
 Social Work

Case Type:   
 Inability to Safely Practice   
 Inappropriate Relationship   
 Continuing Education   
 Standard of Care   
 Business Practice Issues

Sanctioning Recommendation:   
 No Sanction/Reprimand   
 Corrective Action   
 Corrective Action to Recommend Formal or Accept Surrender   
 Recommend Formal or Accept Surrender

Imposed Sanction(s):   
 No Sanction   
 Reprimand   
 Monetary Penalty: \$\_\_\_\_\_ enter amount   
 Probation: \_\_\_\_\_ duration in months   
 Stayed Suspension: \_\_\_\_\_ duration in months   
 Recommend Formal   
 Accept Surrender   
 Revocation   
 Suspension   
 Other sanction: \_\_\_\_\_   
 Terms: \_\_\_\_\_

Was imposed sanction a departure from the recommendation?  No  Yes, give reason below

Reasons for Departure from Sanction Grid Result (if applicable): \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

Worksheet Preparer's Name: \_\_\_\_\_ Date Worksheet Completed: \_\_\_\_\_

# SRP Worksheet for the Behavioral Sciences Boards

<b>Case Type</b> (score only one)	<b>Points</b>	<b>Score</b>	
Inability to Safely Practice	30	_____	} Score Only One
Inappropriate Relationship	20	_____	
Continuing Education	20	_____	
Standard of Care	10	_____	
Business Practice Issues	5	_____	
 <b>Boundary Issue Part of Case</b> (if yes, score only one)			
Intimate Relations/Dating	40	_____	} Score Only One, if Applicable
Inappropriate Communications	20	_____	
Social/Business	10	_____	
 <b>Patient Harm</b> (if yes, score only one)			
Patient harmed with impaired functioning	20	_____	} Score Only One, if Applicable
Patient harmed without impaired functioning	10	_____	
 <b>Offense and Prior Record Factors</b> (score all that apply)			
Respondent impaired during incident	40	_____	} Score All That
Financial or material gain by the respondent	30	_____	
Multiple patients involved	30	_____	
One or more prior violations	20	_____	
Any past problems	20	_____	
Concurrent action against respondent	10	_____	

**Total Worksheet Score** (add all scores)

SCORE	Sanctioning Recommendations
0-19	No Sanction/Reprimand
20-69	Corrective Action
70-104	Corrective Action to Recommend Formal or Accept Surrender
105 or more	Recommend Formal or Accept Surrender

Respondent Name: \_\_\_\_\_

Date: \_\_\_\_\_

Confidential pursuant to § 54.1-2400.2 of the Code of Virginia



# SRP Worksheet Instructions for the Behavioral Sciences Boards

## Case Type

Step 1: (score only one)

Enter the point value that corresponds to the case type. If a case has multiple aspects, enter the point value for the one most serious case type that is highest on the list. (See page 7 for an expanded list.)

Inability to Safely Practice	30
Inappropriate Relationship	20
Continuing Education	20
Standard of Care	10
Business Practice Issues	5

## Boundary Issues

Step 2: (if yes, score only one)

If a boundary violation occurred in this case, regardless of case type scoring, indicate that nature of the violation.

Enter “40” if the respondent has engaged in a sexual or dating relationship with a client.

Enter “20” if the respondent participated in inappropriate communications with a client. Examples of inappropriate communications include, but are not limited to: telephone calls, answering machine messages, emails, letters and text messages.

Enter “10” if the respondent engaged in a business or social relationship with a client. Examples of a business relationship include, but are not limited to hiring a client for: child care, home or car repair, investment services, etc. Examples of social relationships include, but are not limited to: participating in social engagements or parties with clients.

## Patient Harm

Step 3: (if yes, score only one)

Enter “20” if there was harm to the client which resulted in impaired functioning. Impaired functioning is indicated when the client or client’s subsequent provider reports symptoms of PTSD, suicidal feelings, or difficulty functioning due to the incident.

Enter “10” if there was harm to the client which did not result in impaired functioning. In cases involving Inappropriate Relationships, harm is always present therefore a minimum of “without impaired functioning” must be checked.

## Offense Factors Score

Step 4: (score all that apply)

Enter “40” if the respondent was impaired at the time of the offense due to substance abuse (alcohol or drugs) or mental incapacitation.

Enter “30” if there was financial or material gain by the respondent.

Enter “30” if the case involves more than one patient.

Enter “20” if the respondent has any prior violations handed down by the Virginia Board of Counseling, Psychology or Social Work.

Enter “20” if the respondent has had any past difficulties in the following areas: drugs, alcohol, mental capacity, or boundaries issues. Scored here would be: prior convictions for DUI/DWI, inpatient/outpatient treatment, and bona fide mental health care for a condition affecting his/her abilities to function safely or properly.

Enter “10” if there was a concurrent action against the respondent related to this case. Concurrent actions include civil and criminal actions as well as any action taken by an employer such as termination or probation.

Step 5: Total Worksheet Score

Add all individual scores for a total worksheet score.

Step 6: Determining the Sanctioning Recommendations

Locate the Total Worksheet Score in the correct threshold range on the left side of the Sanctioning Recommendation Points table; to the right of the point thresholds are the recommended sanctions.

Step 7: Completing the Coversheet

Complete the coversheet including the SRP sanction result, the imposed sanction, and the reasons for departure if applicable.

# **REGULATIONS LPC**

**Revised Date: July 3, 2014**

*Commonwealth of Virginia*



**REGULATIONS**

**GOVERNING THE PRACTICE OF**

**PROFESSIONAL COUNSELING**

**VIRGINIA BOARD OF COUNSELING**

**Title of Regulations: 18 VAC 115-20-10 et seq.**

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

**Revised Date: July 3, 2014**

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

### **18VAC115-20-10. Definitions.**

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

"Appraisal activities"

"Board"

"Counseling"

"Counseling treatment intervention"

"Professional counselor"

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

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

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

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

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

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

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

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

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

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

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

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

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

"Residency" means a post-graduate, supervised, clinical experience registered with the board.

"Resident" means an individual who has submitted a supervisory contract and has received board approval to provide clinical services in professional counseling under supervision.

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

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

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

Active annual license renewal	\$105
Inactive annual license renewal	\$55
Initial licensure by examination: Application processing and initial licensure	\$140
Initial licensure by endorsement: Application processing and initial licensure	\$140
Registration of supervision	\$50
Add or change supervisor	\$25
Duplicate license	\$5
Verification of licensure to another jurisdiction	\$25
Late renewal	\$35
Reinstatement of a lapsed license	\$165
Replacement of or additional wall certificate	\$15

Returned check	\$35
Reinstatement following revocation or suspension	\$500

B. All fees are nonrefundable.

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

**18VAC115-20-30. (Repealed.)**

**18VAC115-20-35. Sex offender treatment provider certification.**

Anyone licensed by the board who is seeking certification as a sex offender treatment provider shall adhere to the Regulations Governing the Certification of Sex Offender Treatment Providers, 18VAC125-30-10 et seq.

**Part II. Requirements for Licensure.**

**18VAC115-20-40. Prerequisites for licensure by examination.**

Every applicant for licensure by examination by the board shall:

1. Meet the degree program requirements prescribed in 18VAC115-20-49, the course work requirements prescribed in 18VAC115-20-51, and the experience requirements prescribed in 18VAC115-20-52; and

2. Submit the following to the board:

a. A completed application;

b. Official transcripts documenting the applicant's completion of the degree program and coursework requirements prescribed in 18VAC115-20-49 and 18VAC115-20-51. Transcripts previously submitted for registration of supervision do not have to be resubmitted unless additional coursework was subsequently obtained;

c. Verification of Supervision forms documenting fulfillment of the residency requirements of 18VAC115-20-52 and copies of all required evaluation forms, including verification of current licensure of the supervisor if any portion of the residency occurred in another jurisdiction;

d. Verification of any other mental health or health professional license or certificate ever held in another jurisdiction; and

e. The application processing and initial licensure fee as prescribed in 18VAC115-20-20.

3. Have no unresolved disciplinary action against a mental health or health professional license or certificate held in Virginia or in another jurisdiction. The board will consider history of disciplinary action on a case-by-case basis.

**18VAC115-20-45. Prerequisites for licensure by endorsement.**

A. Every applicant for licensure by endorsement shall hold or have held a professional counselor license in another U. S. jurisdiction and shall submit the following:

1. A completed application;
2. The application processing fee and initial licensure fee as prescribed in 18VAC115-20-20;
3. Verification of all mental health or health professional licenses or certificates ever held in any other jurisdiction. In order to qualify for endorsement the applicant shall have no unresolved action against a license or certificate. The board will consider history of disciplinary action on a case-by-case basis;
4. Documentation of having completed education and experience requirements as specified in subsection B of this section;
5. Verification of a passing score on an examination required for counseling licensure in the jurisdiction in which licensure was obtained; and
6. An affidavit of having read and understood the regulations and laws governing the practice of professional counseling in Virginia.

B. Every applicant for licensure by endorsement shall meet one of the following:

1. Educational requirements consistent with those specified in [18VAC115-20-49](#) and [18VAC115-20-51](#) and experience requirements consistent with those specified in [18VAC115-20-52](#); or
2. If an applicant does not have educational and experience credentials consistent with those required by this chapter, he shall provide:
  - a. Documentation of education and supervised experience that met the requirements of the jurisdiction in which he was initially licensed as verified by an official transcript and a certified copy of the original application materials; and
  - b. Evidence of post-licensure clinical practice in counseling, as defined in § 54.1-3500 of the Code of Virginia, for 24 of the last 60 months immediately preceding his licensure

application in Virginia. Clinical practice shall mean the rendering of direct clinical counseling services or clinical supervision of counseling services.

3. In lieu of transcripts verifying education and documentation verifying supervised experience, the board may accept verification from the credentials registry of the American Association of State Counseling Boards or any other board-recognized entity.

**18VAC115-20-49. Degree program requirements.**

A. The applicant shall have completed a graduate degree from a program that prepares individuals to practice counseling and counseling treatment intervention, as defined in §54.1-3500 of the Code of Virginia, which is offered by a college or university accredited by a regional accrediting agency and which meets the following criteria:

1. There must be a sequence of academic study with the expressed intent to prepare counselors as documented by the institution;
2. There must be an identifiable counselor training faculty and an identifiable body of students who complete that sequence of academic study; and
3. The academic unit must have clear authority and primary responsibility for the core and specialty areas.

**18VAC115-20-50. (Expired.)**

**18VAC115-20-51. Coursework requirements.**

A. The applicant shall have successfully completed 60 semester hours or 90 quarter hours of graduate study in the following core coursework with a minimum of three semester hours or 4.0 quarter hours in each of subdivisions 1 through 12 of this subsection:

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;

12. Marriage and family systems theory; and

13. Supervised internship of at least 600 hours to include 240 hours of face-to-face client contact.

B. If 60 graduate hours in counseling were completed prior to April 12, 2000, the board may accept those hours if they meet the regulations in effect at the time the 60 hours were completed.

**18VAC115-20-52. Residency.**

A. Registration. Applicants who render counseling services shall:

1. With their supervisor, register their supervisory contract on the appropriate forms for board approval before starting to practice under supervision;

2. Have submitted an official transcript documenting a graduate degree as specified in 18VAC115-20-49 to include completion of the coursework and internship requirement specified in 18VAC115-20-51; and

3. Pay the registration fee.

B. Residency requirements.

1. The applicant for licensure shall 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 the following areas:

a. Assessment and diagnosis using psychotherapy techniques;

b. Appraisal, evaluation and diagnostic procedures;

c. Treatment planning and implementation;

d. Case management and recordkeeping;

e. Professional counselor identity and function; and

f. Professional ethics and standards of practice.

2. The residency shall include a minimum of 200 hours of face-to-face supervision between supervisor and resident in the consultation and review of clinical counseling services provided by the resident. Supervision shall occur at a minimum of one hour and a maximum of four hours per 40 hours of work experience during the period of the residency. For the purpose of meeting the 200-hour supervision requirement, face-to-face may include the use of secured technology that

maintains client confidentiality and provides real-time, visual contact between the supervisor and the resident.

3. No more than half of the 200 hours may be satisfied with group supervision. One hour of group supervision will be deemed equivalent to one hour of individual supervision.

4. Supervision that is not concurrent with a residency will not be accepted, nor will residency hours be accrued in the absence of approved supervision.

5. The residency shall include at least 2,000 hours of face-to-face client contact in providing clinical counseling services. The remaining hours may be spent in the performance of ancillary counseling services.

6. A graduate-level internship in excess of 600 hours, which was completed in a program that meets the requirements set forth in 18VAC115-20-49 may count for up to an additional 300 hours towards the requirements of a residency.

7. The board may consider special requests in the event that the regulations create an undue burden in regard to geography or disability that limits the resident's access to qualified supervision.

8. Residents may not call themselves professional counselors, directly bill for services rendered, or in any way represent themselves as independent, autonomous practitioners or professional counselors. During the residency, residents shall use their names and the initials of their degree, and the title "Resident in Counseling" in all written communications. Clients shall be informed in writing of the resident's status and the supervisor's name, professional address, and phone number.

9. Residents shall not engage in practice under supervision in any areas for which they have not had appropriate education.

C. Supervisory qualifications. A person who provides supervision for a resident in professional counseling shall:

1. Document two years of post-licensure clinical experience;

2. Have received professional training in supervision, consisting of three credit hours or 4.0 quarter hours in graduate-level coursework in supervision or at least 20 hours of continuing education in supervision offered by a provider approved under 18VAC115-20-106; and

3. Shall hold an active, unrestricted license as a professional counselor, marriage and family therapist, substance abuse treatment practitioner, school psychologist, clinical psychologist, clinical social worker, or psychiatrist in the jurisdiction where the supervision is being provided. At least 100 hours of the supervision shall be rendered by a licensed professional counselor.

D. Supervisory responsibilities.

1. Supervision by any individual whose relationship to the resident compromises the objectivity of the supervisor is prohibited.
2. The supervisor of a resident shall assume full responsibility for the clinical activities of that resident specified within the supervisory contract for the duration of the residency.
3. The supervisor shall complete evaluation forms to be given to the resident at the end of each three-month period.
4. The supervisor shall report the total hours of residency and shall evaluate the applicant's competency in the six areas stated in subdivision B 1 of this section.
5. The supervisor shall provide supervision as defined in 18VAC115-20-10.

**18VAC115-20-60. (Repealed.)**

### **Part III. Examinations.**

**18VAC115-20-70. General examination requirements; schedules; time limits.**

A. Every applicant for initial licensure by examination by the board as a professional counselor shall pass a written examination as prescribed by the board.

B. Every applicant for licensure by endorsement shall have passed a licensure examination in the jurisdiction in which licensure was obtained.

C. A candidate approved to sit for the examination shall take the examination within two years from the date of such initial approval. If the candidate has not taken the examination by the end of the two-year period here prescribed:

1. The initial approval to sit for the examination shall then become invalid; and
2. In order to be considered for the examination later, the applicant shall file a new application with the board.

D. The board shall establish a passing score on the written examination.

E. A candidate for examination or an applicant shall not provide clinical counseling services unless he is under supervision approved by the board.

**18VAC115-20-80. (Repealed.)**

**18VAC115-20-90. (Repealed.)**

## **Part IV. Licensure Renewal; Reinstatement.**

### **18VAC115-20-100. Annual renewal of licensure.**

- A. All licensees shall renew licenses on or before June 30 of each year.
- B. Every license holder who intends to continue an active practice shall submit to the board on or before June 30 of each year:
  - 1. A completed form for renewal of the license on which the licensee attests to compliance with the continuing competency requirements prescribed in this chapter; and
  - 2. The renewal fee prescribed in 18VAC115-20-20.
- C. A licensee who wishes to place his license in an inactive status may do so upon payment of the inactive renewal fee as established in 18VAC115-20-20. No person shall practice counseling in Virginia unless he holds a current active license. A licensee who has placed himself in inactive status may become active by fulfilling the reactivation requirements set forth in 18VAC115-20-110.C.
- D. Licensees shall notify the board of a change in the address of record or the public address, if different from the address of record within 60 days. Failure to receive a renewal notice from the board shall not relieve the license holder from the renewal requirement.
- E. Practice with an expired license is prohibited and may constitute grounds for disciplinary action.

### **18VAC115-20-105. Continued competency requirements for renewal of a license.**

- A. After July 1, 2004, licensed professional counselors shall be required to have completed a minimum of 20 hours of continuing competency for each annual licensure renewal. A minimum of two of these hours shall be in courses that emphasize the ethics, standards of practice or laws governing behavioral science professions in Virginia.
- B. The board may grant an extension for good cause of up to one year for the completion of continuing competency requirements upon written request from the licensee prior to the renewal date. Such extension shall not relieve the licensee of the continuing competency requirement.
- C. The board may grant an exemption for all or part of the continuing competency requirements due to circumstances beyond the control of the licensee such as temporary disability, mandatory military service, or officially declared disasters.
- D. Those individuals dually licensed by this board will not be required to obtain continuing competency for each license. Dually licensed individuals will only be required to provide the hours set out in subsection A of this section or subsection A of 18 VAC 115-50-95 in the Regulations Governing the Practice of Marriage and Family Therapy, or subsection A of 18 VAC 115-60-115 in the Regulations Governing the Practice of Licensed Substance Abuse Treatment Providers.

### **18VAC115-20-106. Continuing competency activity criteria.**

A. Continuing competency activities must focus on increasing knowledge or skills in one or more of the following areas:

1. Ethics, standards of practice or laws governing behavioral science professions;
2. Counseling theory;
3. Human growth and development;
4. Social and cultural foundations;
5. The helping relationship;
6. Group dynamics, processing and counseling;
7. Lifestyle and career development;
8. Appraisal of individuals;
9. Research and evaluation;
10. Professional orientation;
11. Clinical supervision;
12. Marriage and family therapy; or
13. Addictions.

B. Approved hours of continuing competency activity shall be one of the following types:

1. Formally organized learning activities or home study. Activities may be counted at their full hour value. Hours shall be obtained from one or a combination of the following board-approved mental health related activities:

a. Regionally accredited university or college level academic courses in a behavioral health discipline.

b. Continuing education programs offered by universities or colleges.

c. Workshops, seminars, conferences, or courses in the behavioral health field offered by federal, state or local governmental agencies or licensed health facilities and licensed hospitals.

d. Workshops, seminars conferences or courses in the behavioral health field offered by an individual or organization that has been certified or approved by one of the following:

- (1) The International Association of Marriage and Family Counselors and its state affiliates.
- (2) The American Association for Marriage and Family Therapy and its state affiliates.
- (3) The American Association of State Counseling Boards.
- (4) The American Counseling Association and its state and local affiliates.
- (5) The American Psychological Association and its state affiliates.
- (6) The Commission on Rehabilitation Counselor Certification.
- (7) NAADAC, The Association for Addiction Professionals and its state and local affiliates.
- (8) National Association of Social Workers.
- (9) National Board for Certified Counselors.
- (10) A national behavioral health organization or certification body.
- (11) Individuals or organizations that have been approved as continuing competency sponsors by the American Association of State Counseling Boards or a counseling board in another state.
- (12) The American Association of Pastoral Counselors.

2. Individual professional activities.

a. Publication/presentation/new program development

(1) Publication of articles. Activity will count for a maximum of eight hours. Publication activities are limited to articles in refereed journals or a chapter in an edited book.

(2) Publication of books. Activity will count for a maximum of 18 hours.

(3) Presentations. Activity will count for a maximum of eight hours. The same presentations may be used only once in a two-year period. Only actual presentation time may be counted.

(4) New program development. Activity will count for a maximum of eight hours.)New program development includes a new course, seminar, or workshop. New courses shall be graduate or undergraduate level college or university courses.

b. Dissertation. Activity will count for a maximum of 18 hours. Dissertation credit may only be counted once.

c. Clinical supervision/consultation. Activity will count for a maximum of 10 hours. Continuing competency can only be granted for clinical supervision/consultation received on a regular basis with a set agenda. Continuing competency cannot be granted for supervision provided to others.

d. Leadership. Activity will count for a maximum of eight hours. The following leadership positions are acceptable for continuing competency credit: officer of state or national counseling organization; editor and/or reviewer of professional counseling journals; member of state counseling licensure/certification board; member of a national counselor certification board; member of a national ethics disciplinary review committee rendering licenses; active member of a counseling committee producing a substantial written product; chair of a major counseling conference or convention; or other leadership positions with justifiable professional learning experiences. The leadership positions must take place for a minimum of one year after the date of first licensure.

e. Practice related programs. Activity will count up to a maximum of eight hours. The board may allow up to eight contact hours of continuing competency as long as the regulant submits proof of attendance plus a written justification of how the activity assists him in his direct service of his clients. Examples include: language courses, software training, and medical topics, etc.

**18 VAC 115-20-107. Documenting compliance with continuing competency requirements.**

A. All licensees are required to maintain original documentation for a period of two years following renewal.

B. After the end of each renewal period, the board may conduct a random audit of licensees to verify compliance with the requirement for that renewal period.

C. Upon request, a licensee shall provide documentation as follows:

1. To document completion of formal organized learning activities the licensee shall provide:

- a. Official transcripts showing credit hours earned; or
  - b. Certificates of participation.
2. Documentation of home study shall be made by identification of the source material studied, summary of content, and a signed affidavit attesting to completion of the home study.
3. Documentation of individual professional activities shall be by one of the following:
- a. Certificates of participation;
  - b. Proof of presentations made;
  - c. Reprints of publications;
  - d. Letters from educational institutions or agencies approving continuing education programs;
  - e. Official notification from the association that sponsored the item writing workshop or continuing education program; or
  - f. Documentation of attendance at formal staffing by a signed affidavit on a form provided by the board.
- D. Continuing competency hours required by a disciplinary order shall not be used to satisfy renewal requirements.

**18VAC115-20-110. Late renewal; reinstatement.**

A. A person whose license has expired may renew it within one year after its expiration date by paying the late fee prescribed in 18VAC115-20-20 as well as the license renewal fee prescribed for the year the license was not renewed and providing evidence of having met all applicable continuing competency requirements.

B. A person who fails to renew a license after one year or more and wishes to resume practice shall apply for reinstatement, pay the reinstatement fee for a lapsed license, submit verification of any mental health license he holds or has held in another jurisdiction, if applicable, and provide evidence of having met all applicable continuing competency requirements not to exceed a maximum of 80 hours. The board may require the applicant for reinstatement to submit evidence regarding the continued ability to perform the functions within the scope of practice of the license.

C. A person wishing to reactivate an inactive license shall submit (i) the renewal fee for active licensure minus any fee already paid for inactive licensure renewal; (ii) documentation of continued competency hours equal to the number of years the license has been inactive not to exceed a maximum of 80 hours; and (iii) verification of any mental health license he holds or has held in another jurisdiction, if applicable. The board may require the applicant for reactivation to submit evidence regarding the continued ability to perform the functions within the scope of practice of the license.

## **Part V. Standards of Practice; Unprofessional Conduct; Disciplinary Actions; Reinstatement.**

### **18VAC115-20-130. Standards of practice.**

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

B. Persons licensed by the board shall:

1. Practice in a manner that is in the best interest of the public and does not endanger the public health, safety, or welfare;
2. Practice only within the boundaries of their competence, based on their education, training, supervised experience and appropriate professional experience and represent their education training and experience accurately to clients;
3. Stay abreast of new counseling information, concepts, applications and practices which are necessary to providing appropriate, effective professional services;
4. Be able to justify all services rendered to clients as necessary and appropriate for diagnostic or therapeutic purposes;
5. Document the need for and steps taken to terminate a counseling relationship when it becomes clear that the client is not benefiting from the relationship. Document the assistance provided in making appropriate arrangements for the continuation of treatment for clients, when necessary, following termination of a counseling relationship;
6. Make appropriate arrangements for continuation of services, when necessary, during interruptions such as vacations, unavailability, relocation, illness, and disability;
7. Disclose to clients all experimental methods of treatment and inform clients of the risks and benefits of any such treatment. Ensure that the welfare of the clients is in no way compromised in any experimentation or research involving those clients;
8. Neither accept nor give commissions, rebates, or other forms of remuneration for referral of clients for professional services;
9. Inform clients of the purposes, goals, techniques, procedures, limitations, potential risks, and benefits of services to be performed, the limitations of confidentiality, and other pertinent information when counseling is initiated, and throughout the counseling process as necessary. Provide clients with accurate information regarding the implications of diagnosis, the intended use of tests and reports, fees, and billing arrangements;
10. Select tests for use with clients that are valid, reliable and appropriate and carefully interpret the performance of individuals not represented in standardized norms;

11. Determine whether a client is receiving services from another mental health service provider, and if so, refrain from providing services to the client without having an informed consent discussion with the client and having been granted communication privileges with the other professional;

12. Use only in connection with one's practice as a mental health professional those educational and professional degrees or titles that have been earned at a college or university accredited by an accrediting agency recognized by the United States Department of Education, or credentials granted by a national certifying agency, and that are counseling in nature; and

13. Advertise professional services fairly and accurately in a manner which is not false, misleading or deceptive.

C. In regard to patient records, persons licensed by the board shall:

1. Maintain written or electronic clinical records for each client to include treatment dates and identifying information to substantiate diagnosis and treatment plan, client progress, and termination;

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

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

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

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

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

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

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

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

1. Avoid dual relationships with clients that could impair professional judgment or increase the risk of harm to clients. (Examples of such relationships include, but are not limited to, familial, social, financial, business, bartering, or close personal relationships with clients.) Counselors shall take appropriate professional precautions when a dual relationship cannot be avoided, such as informed

consent, consultation, supervision, and documentation to ensure that judgment is not impaired and no exploitation occurs;

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

3. Not engage in any romantic relationship or sexual intimacy or establish a counseling or psychotherapeutic relationship with a supervisee or student. Counselors shall avoid any nonsexual dual relationship with a supervisee or student in which there is a risk of exploitation or potential harm to the supervisee or student or the potential for interference with the supervisor's professional judgment; and

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

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

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

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

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

1. Conviction of a felony, or of a misdemeanor involving moral turpitude, or violation of or aid to another in violating any provision of Chapter 35 (§[54.1-3500](#) et seq.) of Title 54.1 of the Code of Virginia, any other statute applicable to the practice of professional counseling, or any provision of this chapter;

2. Procurement of a license, including submission of an application or supervisory forms, by fraud or misrepresentation;

3. Conducting one's practice in such a manner as to make it a danger to the health and welfare of one's clients or to the public, or if one is unable to practice counseling with reasonable skill and safety to clients by reason of illness, abusive use of alcohol, drugs, narcotics, chemicals, or other type of material or result of any mental or physical condition;
4. Intentional or negligent conduct that causes or is likely to cause injury to a client or clients;
5. Performance of functions outside the demonstrable areas of competency;
6. Failure to comply with continued competency requirements set forth in this chapter; or
7. Violating or abetting another person in the violation of any provision of any statute applicable to the practice of counseling, or any part or portion of this chapter; or
8. Performance of an act likely to deceive, defraud, or harm the public.

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

**18 VAC115-20-150. Reinstatement following disciplinary action.**

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

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

# **REGULATIONS CSAC AND CSAC-A**

**Revised Date: January 15, 2016**

*Commonwealth of Virginia*



# REGULATIONS

## GOVERNING THE CERTIFICATION OF SUBSTANCE ABUSE COUNSELORS AND SUBSTANCE ABUSE COUNSELING ASSISTANTS

### VIRGINIA BOARD OF COUNSELING

**Title of Regulations: 18 VAC 115-30-10 et seq.**

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

**Revised Date: January 15, 2016**

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

### **18VAC115-30-10. Definitions.**

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

"Board"

"Certified substance abuse counselor"

"Certified substance abuse counseling assistant"

"Practice of substance abuse treatment"

"Substance abuse" and "substance dependence"

"Substance abuse treatment"

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

"Applicant" means an individual who has submitted a completed application with documentation and the appropriate fees to be examined for certification as a substance abuse counselor or substance abuse counseling assistant.

"Candidate" means a person who has been approved to take the examinations for certification as a substance abuse counselor or substance abuse counseling assistant.

"Clinical supervision" means the ongoing process performed by a clinical supervisor who monitors the performance of the person supervised and provides regular, documented face-to-face consultation, guidance and education with respect to the clinical skills and competencies of the person supervised.

"Clinical supervisor" means one who provides case-related supervision, consultation, education and guidance for the applicant. The supervisor must be credentialed as defined in 18VAC115-30-60 C.

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

"Didactic" means teaching-learning methods which impart facts and information, usually in the form of one-way communication (includes directed readings and lectures).

"Endorsement" means the waiver of the examination requirement for certification as a substance abuse counselor for persons currently certified or licensed in another jurisdiction.

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

“NAADAC” means the National Association of Alcoholism & Drug Abuse Counselors.

"Substance abuse counseling" means applying a counseling process, treatment strategies and rehabilitative services to help an individual to:

1. Understand his substance use, abuse or dependency; and
2. Change his drug-taking behavior so that it does not interfere with effective physical, psychological, social or vocational functioning.

**18VAC115-30-20. (Repealed.)**

**18VAC115-30-30. Fees required by the board.**

A. The board has established the following fees applicable to the certification of substance abuse counselors and substance abuse counseling assistants:

Substance abuse counselor annual certification renewal	\$55
Substance abuse counseling assistant annual certification renewal	\$40
Substance abuse counselor initial certification by examination: Application processing and initial certification	\$90
Substance abuse counseling assistant initial certification by examination: Application processing and initial certification	\$90
Initial certification by endorsement of substance abuse counselors: Application processing and initial certification	\$90
Registration of supervision	\$50
Add or change supervisor	\$25
Duplicate certificate	\$5
Late renewal	\$20
Reinstatement of a lapsed certificate	\$100
Replacement of or additional wall certificate	\$15
Returned check	\$35
Reinstatement following revocation or suspension	\$500

B. All fees are nonrefundable.

## **Part II. Requirements for Certification.**

### **18VAC115-30-40. Prerequisites for certification by examination for substance abuse counselors.**

A. A candidate for certification as a substance abuse counselor shall meet all the requirements of this section and shall pass the examination prescribed in 18VAC115-30-90.

B. Every applicant for examination for certification by the board shall:

1. Meet the educational and experience requirements prescribed in 18VAC115-30-50 and 18VAC115-30-60;

2. Submit the following to the board:

a. A completed application form;

b. Official transcript documenting attainment of a bachelor's degree;

c. Official transcripts or certificates verifying completion of the didactic training requirement set forth in subsection B of 18VAC115-30-50;

d. Verification of supervisor's education and experience as required under 18VAC115-30-60;

e. Verification of supervision forms documenting fulfillment of the experience requirements of 18VAC115-30-60;

f. Documentation of any other health or mental health license or certificate ever held in another jurisdiction;

g. A current report from the U.S. Department of Health and Human Services National Practitioner Data Bank (NPDB); and

h. The application processing and initial certification fee.

### **18VAC115-30-45. Prerequisites for certification by endorsement for substance abuse counselors.**

Every applicant for certification by endorsement shall submit:

1. A completed application;

2. The application processing fee;

3. Verification of all health or mental health licenses or certificates ever held in any other jurisdiction. In order to qualify for endorsement, the applicant shall have no unresolved action

against a license or certificate. The board will consider history of disciplinary action on a case-by-case basis. The board will also determine whether any or all other professional licenses or certificates held in another jurisdiction are substantially equivalent to those sought in Virginia;

4. A current report from the U.S. Department of Health and Human Services National Practitioner Data Bank (NPDB);

5. Affidavit of having read and understood the regulations and laws governing the practice of substance abuse counseling in Virginia; and

6. Further documentation of one of the following:

a. Licensure or certification as a substance abuse counselor in another jurisdiction in good standing obtained by standards substantially equivalent to the education and experience requirements set forth in this chapter as verified by a certified copy of the original application submitted directly from the out-of-state licensing agency, or a copy of the regulations in effect at the time of initial licensure or certification and verification of a passing score on a licensure examination in the jurisdiction in which licensure or certification was obtained, and that is deemed substantially equivalent by the board; or

b. Verification of a current certification in good standing issued by NAADAC or other board-recognized national certification in substance abuse counseling obtained by educational and experience standards substantially equivalent to those set forth in this chapter.

#### **18VAC115-30-50. Educational requirements for substance abuse counselors.**

A. An applicant for examination for certification as a substance abuse counselor shall:

1. Have a bachelor's degree; and

2. Have completed 400 clock hours of substance abuse education from one of the following programs:

a. An accredited university or college; or

b. Seminars and workshops that meet the requirements of subsection B of this section and are offered or approved by one of the following:

- (1) The American Association of Marriage and Family Counselors and its state affiliates.
- (2) The American Association of Marriage and Family Therapists and its state affiliates.
- (3) The American Association of State Counseling Boards.
- (4) The American Counseling Association and its state and local affiliates.
- (5) The American Psychological Association and its state affiliates.
- (6) The Commission on Rehabilitation Counselor Certification.
- (7) NAADAC, The Association for Addiction Professionals and its state and local affiliates.
- (8) National Association of Social Workers.
- (9) National Board for Certified Counselors.
- (10) A national behavioral health organization or certification body.

(11) Individuals or organizations that have been approved as continuing competency sponsors by the American Association of State Counseling Boards or a counseling board in another state.

B. Substance abuse education.

1. The education will include 220 hours spent in receiving didactic training in substance abuse counseling. Each applicant shall have received a minimum of 10 clock hours in each of the following eight areas:

- a. Understanding the dynamics of human behavior;
- b. Signs and symptoms of substance abuse;
- c. Treatment approaches;
- d. Continuum of care and case management skills;
- e. Recovery process and relapse prevention methods;
- f. Ethics;
- g. Professional identity in the provision of substance abuse services; and
- h. Crisis intervention.

In addition, each applicant shall have at least 20 hours in each of the following two areas:

- (i) Substance abuse counseling treatment planning and substance abuse research; and
- (ii) Group counseling.

2. The education shall also consist of 180 hours of experience performing the following tasks with substance abuse clients:

- a. Screening clients to determine eligibility and appropriateness for admission to a particular program;
- b. Intake of clients by performing the administrative and initial assessment tasks necessary for admission to a program;
- c. Orientation of new clients to program's rules, goals, procedures, services, costs and the rights of the client;
- d. Assessment of client's strengths, weaknesses, problems, and needs for the development of a treatment plan;
- e. Treatment planning with the client to identify and rank problems to be addressed, establish goals, and agree on treatment processes;

- f. Counseling the client utilizing specialized skills in both individual and group approaches to achieve treatment goals and objectives;
- g. Case management activities which bring services, agencies, people and resources together in a planned framework of action to achieve established goals;
- h. Crisis intervention responses to clients' needs during acute mental, emotional or physical distress;
- i. Education of clients by providing information about drug abuse and available services and resources;
- j. Referral of clients in order to meet identified needs unable to be met by the counselor and assisting the client in effectively utilizing those resources;
- k. Reporting and charting information about client's assessment, treatment plan, progress, discharge summaries and other client-related data; and
- l. Consultation with other professionals to assure comprehensive quality care for the client.

Each of these tasks shall be performed for at least eight hours under supervision and shall be verified as a part of the application by the supervisor.

C. Groups and classes attended as a part of a therapy or treatment program will not be accepted as any part of the educational experience.

**18VAC115-30-60. Experience requirements for substance abuse counselors.**

A. Registration. Supervision obtained without prior board approval will not be accepted if it does not meet the requirements set forth in subsections B and C of this section. To register supervision for board approval prior to obtaining the supervised experience, an applicant shall submit in one package:

- 1. A supervisory contract;
- 2. Verification of the supervisor's education and experience as required under subsection C of this section; and
- 3. The registration fee.

B. Experience requirements.

- 1. An applicant for certification as a substance abuse counselor shall have had 2,000 hours of supervised experience in the delivery of clinical substance abuse counseling services.
- 2. The supervised experience shall include a minimum of one hour and a maximum of four hours per week of supervision between the supervisor and the applicant to total 100 hours within the required experience. No more than half of these hours may be satisfied with group supervision. One hour of group supervision will be deemed equivalent to one hour of individual supervision.

3. Applicants must document successful completion of their supervised experience on the Verification of Supervision Form at the time of application.

C. Supervisor qualifications. A board-approved clinical supervisor shall be:

1. A licensed substance abuse treatment practitioner;

2. A licensed professional counselor, licensed clinical psychologist, licensed clinical social worker, licensed marriage and family therapist, medical doctor, or registered nurse, and possess either a board-recognized national certification in substance abuse counseling obtained by standards substantially equivalent to those set forth in this chapter, or a minimum of one year experience in substance abuse counseling and at least 100 hours of didactic training covering the areas outlined in 18VAC115-30-50 B 1 a through h; or

3. A substance abuse counselor certified by the Virginia Board of Counseling who has:

a. Board-recognized national certification in substance abuse counseling obtained by standards substantially equivalent to those set forth in this chapter; or

b. Two years experience as a Virginia board-certified substance abuse counselor.

D. Supervisory responsibilities.

1. Supervisors shall assume responsibility for the professional activities of the prospective applicants under their supervision.

2. Supervisors shall not provide supervision for activities for which prospective applicants have not had appropriate education.

3. Supervisors shall provide supervision only for those substance abuse counseling services which they are qualified to render.

4. At the time of formal application for certification, the board-approved supervisor shall document the applicant's total hours of supervision, length of work experience, competence in substance abuse counseling and any needs for additional supervision or training.

5. Supervision by any individual whose relationship to the supervisee compromises the objectivity of the supervisor is prohibited.

**18VAC115-30-61. Prerequisites for certification by examination for substance abuse counseling assistant.**

A. A candidate for certification as a substance abuse counseling assistant shall meet all the requirements of this section, including passing the examination prescribed in 18VAC115-30-90.

B. Every applicant for examination for certification by the board shall:

1. Meet the educational requirements prescribed in 18VAC115-30-62; and

2. Submit the following to the board within the time frame established by the board:

- a. A completed application form;
- b. Official transcript documenting attainment of a high school diploma or general education development (GED) certificate; and
- c. The application processing and initial certification fee.

**18VAC115-30-62. Educational requirements for substance abuse counseling assistants.**

A. An applicant for certification as a substance abuse counseling assistant shall:

1. Have an official high school diploma or general educational development (GED) certificate; and

2. Have completed 300 clock hours of substance abuse education from one of the following programs:

- a. An accredited university or college; or
- b. Seminars and workshops approved by the board at the time of application, that meet the educational requirements specified in subsection B of this section and are offered or approved by one of the following:
  - (1) The American Association of Marriage and Family Counselors and its state affiliates.
  - (2) The American Association of Marriage and Family Therapists and its state affiliates.
  - (3) The American Association of State Counseling Boards.
  - (4) The American Counseling Association and its state and local affiliates.
  - (5) The American Psychological Association and its state affiliates.
  - (6) The Commission on Rehabilitation Counselor Certification.
  - (7) NAADAC, The Association for Addiction Professionals and its state and local affiliates.
  - (8) National Association of Social Workers.
  - (9) National Board for Certified Counselors.
  - (10) A national behavioral health organization or certification body.
  - (11) Individuals or organizations that have been approved as continuing competency sponsors by the American Association of State Counseling Boards or a counseling board in another state.

B. Substance abuse education.

1. The education will include 120 hours spent in receiving didactic training in substance abuse counseling. Each applicant shall have received a minimum of 10 clock hours in each of the following eight areas:

- a. Understanding the dynamics of human behavior;

- b. Signs and symptoms of substance abuse;
- c. Treatment approaches;
- d. Case management skills and continuum of care;
- e. Recovery process and relapse prevention methods;
- f. Ethics;
- g. Professional identity in the provision of substance abuse services; and
- h. Crisis intervention.

2. The education shall include 180 hours of experience performing the following tasks with substance abuse clients while under supervision:

- a. Screening clients and gathering information used in making the determination for the need for additional professional assistance;
- b. Intake of clients by performing the administrative tasks necessary for admission to a program;
- c. Orientation of new clients to program's rules, goals, procedures, services, costs and the rights of the client;
- d. Assisting the client in identifying and ranking problems to be addressed, establish goals, and agree on treatment processes;
- e. Implementation of a substance abuse treatment plan as directed by the supervisor;
- f. Implementation of case management activities that bring services, agencies, people and resources together in a planned framework of action to achieve established goals;
- g. Assistance in identifying appropriate crisis intervention responses to clients' needs during acute mental, emotional or physical distress;
- h. Education of clients by providing information about drug abuse and available services and resources;
- i. Facilitating the client's utilization of available support systems and community resources to meet needs identified in clinical valuation or treatment planning;
- j. Reporting and charting information about client's treatment, progress, and other client-related data; and
- k. Consultation with other professionals to assure comprehensive quality care for the client.

Each of these tasks shall be performed for at least eight hours under supervision and shall be verified as a part of the application by the supervisor.

C. Groups and classes attended as a part of a therapy or treatment program shall not be accepted as any part of the educational experience.

**18VAC115-30-70. and 18VAC115-30-80. (Repealed.)**

### **Part III. Examinations.**

**18VAC115-30-90. General examination requirements for substance abuse counselors and substance abuse counseling assistants.**

A. Every applicant for certification as a substance abuse counselor or substance abuse counseling assistant by examination shall pass a written examination approved by the board. The board shall determine the passing score on the examination.

B. Every applicant for certification by endorsement shall have passed an examination deemed by the board to be substantially equivalent to the Virginia examination.

**18VAC115-30-100. (Repealed.)**

### **Part IV. Renewal and Reinstatement.**

**18VAC115-30-110. Annual renewal of certificate.**

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

B. Along with the renewal form, the certified substance abuse counselor or certified substance abuse counseling assistant shall submit the renewal fee prescribed in 18VAC115-30-30.

C. Certified individuals shall notify the board of change of address within 60 days. Failure to receive a renewal notice and application forms shall not excuse the certified substance abuse counselor from the renewal requirement.

**18VAC115-30-120. Reinstatement.**

A. A person whose certificate has expired may renew it within one year after its expiration date by paying the late renewal fee prescribed in 18VAC115-30-30 and the certification fee prescribed for the year the certificate was not renewed.

B. A person who fails to renew a certificate after one year or more shall apply for reinstatement, pay the reinstatement fee for a lapsed certificate and submit evidence of a minimum of 20 hours of substance abuse education that is consistent with course content specified in subsection B of 18VAC115-30-50 for substance abuse counselors and in 18VAC115-30-62 for substance abuse counseling assistants to demonstrate the continued ability to perform the functions within the scope of practice of the certificate.

**18VAC115-30-130. (Repealed.)**

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

**18VAC115-30-140. Standards of practice.**

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

B. Persons certified by the board shall:

1. Practice in a manner that is in the best interest of the public and does not endanger the public health, safety, or welfare.
2. Be able to justify all services rendered to clients as necessary for diagnostic or therapeutic purposes.
3. Practice only within the competency area for which they are qualified by training or experience.
4. Report to the board known or suspected violations of the laws and regulations governing the practice of certified substance abuse counselors or certified substance abuse counseling assistants.
5. Neither accept nor give commissions, rebates, or other forms of remuneration for referral of clients for professional services.
6. Disclose counseling records to others only in accordance with the requirements of state and federal statutes and regulations, including, but not limited to §§32.1-127.1:03 (Patient Health Records Privacy Act), 2.2-3704 (Virginia Freedom of Information Act), and 54.1-2400.1 (Mental Health Service Providers; Duty to Protect Third Parties; Immunity) of the Code of Virginia; 42 USC §290dd-2 (Confidentiality of Drug and Alcohol Treatment Records); and 42 CFR Part 2 (Alcohol and Drug Abuse Patient Records and Regulations).
7. Not engage in dual relationships with clients, former clients, supervisees and supervisors that are harmful to the client's or supervisee's well being, or which would impair the substance abuse counselor's, substance abuse counseling assistant's or supervisor's objectivity and professional judgment, or increase the risk of client or supervisee exploitation. This prohibition includes, but is not limited to, such activities as counseling close friends, former sexual partners, employees or relatives; or engaging in business relationships with clients.

Engaging in sexual intimacies with current clients or supervisees is strictly prohibited. For at least five years after cessation or termination of professional services, certified substance abuse counselors and certified substance abuse counseling assistants shall not engage in sexual intimacies with a client or those included in collateral therapeutic services. Since sexual or romantic relationships are potentially exploitative, certified substance abuse counselors and certified substance abuse counseling assistants shall bear the burden of demonstrating that there has been no exploitation. A client's consent to, initiation of or participation in sexual behavior or involvement

with a certified substance abuse counselor or certified substance abuse counseling assistants does not change the nature of the conduct nor lift the regulatory prohibition.

8. Recognize conflicts of interest and inform all parties of obligations, responsibilities and loyalties to third parties.

**18VAC115-30-150. Grounds for revocation, suspension, restriction or denial of certificate; petition for rehearing.**

In accordance with §54.1-2400(7) of the Code of Virginia, the board may revoke, suspend, restrict or decline to issue or renew a certificate based upon the following conduct:

1. Conviction of a felony or of a misdemeanor involving moral turpitude, or violation of or aid to another in violating any provision of Chapter 35 (§54.1-3500 et seq.) of Title 54.1 of the Code of Virginia, any other statute applicable to the practice of substance abuse counseling, or any provision of this chapter;
2. Procuring a certificate by fraud or misrepresentation;
3. Conducting one's practice in such a manner so as to make it a danger to the health and welfare of one's clients or to the public; or if one is unable to practice substance abuse counseling with reasonable skill and safety to clients by reason of illness, abusive use of alcohol, drugs, narcotics, chemicals, or any other type of material or as a result of any mental or physical condition;
4. Negligence in professional conduct or nonconformance with the standards of practice outlined in 18VAC115-30-140; or
5. Performance of functions outside the board-certified area of competency.

**18VAC115-30-160. Reinstatement following disciplinary action.**

A. Any person whose certificate has been suspended or denied renewal by the board under the provisions of 18VAC115-30-150 may, two years subsequent to such board action, submit a new application for reinstatement of certification. Any person whose certificate has been revoked by the board under the provisions of 18VAC115-30-150 may, three years subsequent to such board action, submit a new application to the board for certification to the board.

B. The board in its discretion may, after a hearing, grant the reinstatement sought in subsection A of this section.

C. The applicant for reinstatement, if approved, shall be certified upon payment of the appropriate fee applicable at the time of reinstatement.

# **REGULATIONS LMFT**

**Revised Date: April 14, 2010**

*Commonwealth of Virginia*



**REGULATIONS**  
**GOVERNING THE PRACTICE OF**  
**MARRIAGE AND FAMILY THERAPY**

**VIRGINIA BOARD OF COUNSELING**

**Title of Regulations: 18 VAC 115-50-10 et seq.**

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

**Revised Date: April 14, 2010**

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**18VAC115-50-10. Definitions.**

A. The following words and terms when used in this chapter shall have the meaning ascribed to them in §54.1-3500 of the Code of Virginia: (i) "board," (ii) "marriage and family therapy," (iii) "marriage and family therapist," and (iv) "practice of marriage and family therapy."

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

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

"COAMFTE" means the Commission on Accreditation for Marriage and Family Therapy Education.

"Internship" means a supervised, planned, practical, advanced experience obtained in the clinical setting observing and applying the principles, methods and techniques learned in training or educational settings.

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

"Residency" means a post-internship, supervised clinical experience registered with the board.

"Resident" means an individual who has submitted a supervisory contract to the board and has received board approval to provide clinical services in marriage and family therapy under supervision.

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

**18VAC115-50-20. Fees.**

A. The board has established fees for the following:

Registration of supervision	\$50
Add or change supervisor	\$25
Initial licensure by examination: Processing and initial licensure	\$140
Initial licensure by endorsement: Processing and initial licensure	\$140

Active annual license renewal	\$105
Inactive annual license renewal	\$55
Penalty for late renewal	\$35
Reinstatement of a lapsed license	\$165
Verification of license to another jurisdiction	\$25
Additional or replacement licenses	\$5
Additional or replacement wall certificates	\$15
Returned check	\$35
Reinstatement following revocation or suspension	\$500
One-time fee reduction for renewal of an active license due on June 30, 2010	\$52
One-time fee reduction for renewal of an inactive license due on June 30, 2010	\$27

B. Fees shall be paid to the board or its contractor or both in appropriate amounts as specified in the application instructions. All fees are nonrefundable.

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

**18VAC115-50-25. Sex offender treatment provider certification.**

Anyone licensed by the board as a marriage and family therapist who is seeking certification as a sex offender treatment provider shall obtain certification from the Virginia Board of Psychology and adhere to the Regulations Governing the Certification of Sex Offender Treatment Providers, 18VAC125-30-10 et seq.

**18VAC115-50-30. Application for licensure by examination.**

Every applicant for examination for licensure by the board shall:

1. Meet the education and experience requirements prescribed in 18VAC115-50-50, 18VAC115-50-55 and 18VAC115-50-60.
2. Submit to the board office the following items:
  - a. A completed application;
  - b. The application processing and initial licensure fee prescribed in 18VAC115-50-20;

c. Documentation, on the appropriate forms, of the successful completion of the residency requirements of 18VAC115-50-60 along with documentation of the supervisor's out-of-state license where applicable;

d. Official transcript or transcripts in the original sealed envelope with the registrar's signature across the sealed envelope flap submitted from the appropriate institutions of higher education directly to the applicant, verifying satisfactory completion of the education requirements set forth in 18VAC115-50-50 and 18VAC115-50-55. Previously submitted transcripts for registration of supervision do not have to be resubmitted; and

e. Verification on a board-approved form that any out-of-state license, certification or registration is in good standing.

**18VAC115-50-40. Application for licensure by endorsement.**

A. Every applicant for licensure by endorsement shall submit:

1. A completed application;

2. The application processing and initial licensure fee prescribed in 18VAC115-50-20; and

3. Documentation of licensure as follows:

a. Verification of all professional licenses or certificates ever held in any other jurisdiction. In order to qualify for endorsement the applicant shall have no unresolved action against a license or certificate. The board will consider history of disciplinary action on a case-by-case basis; and

b. Documentation of a marriage and family therapy license obtained by standards specified in subsection B.

B. Every applicant for licensure by endorsement shall meet one of the following:

1. Educational requirements consistent with those specified in 18VAC115-50-50 and 18VAC115-50-55 and experience requirements consistent with those specified in 18VAC115-50-60; or

2. If an applicant does not have educational and experience credentials consistent with those required by this chapter, he shall provide:

a. Documentation of education and supervised experience that met the requirements of the jurisdiction in which he was initially licensed as verified by an official transcript and a certified copy of the original application materials; and

b. Evidence of post-licensure clinical practice for five of the last six years immediately preceding his licensure application in Virginia.

3. In lieu of transcripts verifying education and documentation verifying supervised experience, the board may accept verification from the credentials registry of the American Association of State Counseling Boards or any other board-recognized entity.

### **18VAC115-50-50. Degree program requirements.**

A. The applicant shall have completed a graduate degree from a program that prepares individuals to practice marriage and family therapy or a discipline related to the practice of marriage and family therapy as defined in §54.1-3500 of the Code of Virginia from a college or university which is accredited by a regional accrediting agency and which meets the following criteria:

1. There must be a sequence of academic study with the expressed intent to prepare students to practice marriage and family therapy as documented by the institution;
2. There must be an identifiable marriage and family therapy training faculty and an identifiable body of students who complete that sequence of academic study; and
3. The academic unit must have clear authority and primary responsibility for the core and specialty areas.

B. Programs that are approved by CACREP as programs in marriage and family counseling/therapy or by COAMFTE are recognized as meeting the definition of a graduate degree program that prepares individuals to practice marriage and family therapy or a discipline related to the practice of marriage and family therapy as defined in §54.1-3500 of the Code of Virginia.

### **18VAC115-50-55. Course work requirements.**

A. The applicant shall have completed 60 semester hours or 90 quarter hours of graduate study in the following core areas with a minimum of six semester hours or nine quarter hours completed in each of core areas identified in subdivisions 1 and 2 of this subsection, and three semester hours or 4.0 quarter hours in each of the core areas identified in subdivisions 3 through 6 of this subsection (suggested courses are listed in parentheses after each core area):

1. Marriage and family studies (marital and family development; family systems theory);
2. Marriage and family therapy (systemic therapeutic interventions and application of major theoretical approaches);
3. Human development (theories of counseling; psychotherapy techniques with individuals; human growth and lifespan development; personality theory; psychopathology; human sexuality; multicultural issues);
4. Professional studies (professional identity and function; ethical and legal issues);
5. Research (research methods; quantitative methods; statistics);
6. Assessment and treatment (appraisal, assessment and diagnostic procedures); and
7. Supervised internship of 600 hours to include 240 hours of direct client contact. Three hundred of the internship hours and 120 of the direct client contact hours shall be with couples and families.

B. If the graduate hours in marriage and family therapy were begun prior to January 19, 2000, the board may accept those hours if they meet the requirements which were in effect on July 9, 1997.

**18VAC115-50-60. Residency.**

A. Registration.

1. Applicants who render counseling services shall:

a. With their supervisor, register their supervisory contract on the appropriate forms for board approval before starting to practice under supervision;

b. Have submitted an official transcript documenting a graduate degree as specified in 18VAC115-50-50 to include completion of the internship requirement specified in 18VAC115-50-55; and

c. Pay the registration fee.

2. After September 3, 2008, applicants who are beginning their residencies in exempt settings shall register supervision with the board to assure acceptability at the time of application.

B. Residency requirements.

1. The applicant shall have completed at least two years of supervised post-graduate degree experience, representing no fewer than 4,000 hours of supervised work experience, to include 200 hours of supervision with the supervisor in the practice of marriage and family therapy. Residents shall receive a minimum of one hour and a maximum of four hours of supervision for every 40 hours of supervised work experience. No more than 100 hours of the supervision may be acquired through group supervision, with the group consisting of no more than six residents. One hour of group supervision will be deemed equivalent to one hour of individual supervision.

2. Of the 4,000 hours stipulated, at least 2,000 hours must be acquired in direct client contact of which 1,000 hours shall be with couples or families or both.

3. The residency shall consist of practice in the core areas set forth in 18VAC115-50-55.

4. The residency shall begin after the completion of a master's degree in marriage and family therapy or a related discipline as set forth in 18VAC115-50-50.

5. A graduate-level internship completed in a program that meets the requirements set forth in 18VAC115-50-50 may count for no more than 600 of the required 4,000 hours of experience. The internship shall include 20 hours of individual on-site supervision, and 20 hours of individual off-site supervision. Internship hours shall not begin until completion of 30 semester hours toward the graduate degree.

6. A graduate-level degree internship completed in a COAMFTE-approved program or a CACREP-approved program in marriage and family counseling/therapy may count for no more than 900 of the required 4,000 hours of experience.

7. In order for a graduate level internship to be counted toward a residency, either the clinical or faculty supervisor shall be licensed as set forth in subsection C of this section.

8. Residents shall not call themselves marriage and family therapists, solicit clients, bill for services rendered or in any way represent themselves as marriage and family therapists. During the residency, they may use their names, the initials of their degree and the title "Resident in Marriage and Family Therapy." Clients shall be informed in writing of the resident's status, along with the name, address and telephone number of the resident's supervisor.

9. Residents shall not engage in practice under supervision in any areas for which they do not have appropriate education.

10. Residents who do not become candidates for licensure after five years of supervised training shall submit an explanation to the board stating reasons the residency should be allowed to continue.

C. Supervisory qualifications. A person who provides supervision for a resident in marriage and family therapy shall:

1. Hold an active, unrestricted license as a marriage and family therapist, professional counselor, clinical psychologist, clinical social worker or psychiatrist in the jurisdiction where the supervision is being provided;

2. Document two years post-licensure marriage and family therapy experience;

3. Have received professional training in supervision, consisting of three credit hours or 4.0 quarter hours in graduate-level coursework in supervision or at least 20 hours of continuing education in supervision offered by a provider approved under 18VAC115-50-96. Persons who have provided supervision for a residency prior to September 3, 2008 shall complete such coursework or continuing education by September 3, 2010. At least one-half of the 200 hours of supervision shall be rendered by a licensed marriage and family therapist.

D. Supervisory responsibilities.

1. The supervisor shall complete evaluation forms to be given to the resident at the end of each three-month period. The supervisor shall report the total hours of residency and evaluate the applicant's competency to the board.

2. Supervision by an individual whose relationship to the resident is deemed by the board to compromise the objectivity of the supervisor is prohibited.

3. The supervisor shall assume full responsibility for the clinical activities of residents as specified within the supervisory contract, for the duration of the residency.

#### **18VAC115-50-70. General examination requirements.**

A. All applicants for initial licensure shall pass an examination, with a passing score as determined by the board.

B. The examination shall concentrate on the core areas of marriage and family therapy set forth in subsection A of 18VAC115-50-55.

C. Approved applicants shall sit for the examination within two years from the initial notification date of approval. Failure to do so will result in the revocation of approval and obligate the applicant to file a new application for examination.

D. Applicants who fail the examination twice in succession shall document completion of 45 clock hours of additional education or training acceptable to the board addressing the areas of deficiency as reported in the examination results prior to obtaining board approval for reexamination.

**18VAC115-50-80. (Repealed.)**

**18VAC115-50-90. Annual renewal of license.**

A. All licensees shall renew licenses on or before June 30 of each year.

B. All licensees who intend to continue an active practice shall submit to the board on or before June 30 of each year:

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

2. The renewal fee prescribed in 18VAC115-50-20.

C. A licensee who wishes to place his license in an inactive status may do so upon payment of the inactive renewal fee as established in 18VAC115-50-20. No person shall practice marriage and family therapy in Virginia unless he holds a current active license. A licensee who has placed himself in inactive status may become active by fulfilling the reactivation requirements set forth in 18VAC115-50-100 C.

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

**18VAC115-50-95. Continued competency requirements for renewal of a license.**

A. After July 1, 2004, marriage and family therapists shall be required to have completed a minimum of 20 hours of continuing competency for each annual licensure renewal. A minimum of two of these hours shall be in courses that emphasize the ethics, standards of practice or laws governing behavioral science professions in Virginia.

B. The board may grant an extension for good cause of up to one year for the completion of continuing competency requirements upon written request from the licensee prior to the renewal date. Such extension shall not relieve the licensee of the continuing competency requirement.

C. The board may grant an exemption for all or part of the continuing competency requirements due to circumstances beyond the control of the licensee such as temporary disability, mandatory military service, or officially declared disasters.

D. Those individuals dually licensed by this board will not be required to obtain continuing competency for each license. Dually licensed individual will only be required to provide the hours set out in subsection A of this section or subsection A of 18VAC115-20-105 in the Regulations Governing the Practice of Professional Counseling, or subsection A of 18VAC115-60-115 in the Regulations Governing the Practice of Licensed Substance Abuse Treatment Practitioners.

**18VAC115-50-96. Continuing competency activity criteria.**

A. Continuing competency activities must focus on increasing knowledge or skills in one or more of the following areas:

1. Ethics, standards of practice or laws governing behavioral science professions;
2. Counseling theory;
3. Human growth and development;
4. Social and cultural foundations;
5. The helping relationship;
6. Group dynamics, processing and counseling;
7. Lifestyle and career development;
8. Appraisal of individuals;
9. Research and evaluation;
10. Professional orientation;
11. Clinical supervision;
12. Marriage and family therapy; or
13. Addictions.

B. Approved hours of continuing competency activity shall be one of the following types:

1. Formally organized learning activities or home study. Activities may be counted at their full hour value. Hours shall be obtained from one or a combination of the following board-approved, mental health-related activities:

a. Regionally accredited university or college level academic courses in a behavioral health discipline.

b. Continuing education programs offered by universities or colleges.

c. Workshops, seminars, conferences, or courses in the behavioral health field offered by federal, state or local licensed health facilities and licensed hospitals.

d. Workshops, seminars, conferences or courses in the behavioral health field offered by an individual or organization that has been certified or approved by one of the following:

(1) The American Association of Marriage and Family Counselors and its state affiliates.

(2) The American Association of Marriage and Family Therapists and its state affiliates.

(3) The American Association of State Counseling Boards.

(4) The American Counseling Association and its state and local affiliates.

(5) The American Psychological Association and its state affiliates.

(6) Commission on Rehabilitation Education.

(7) NAADAC, The Association for Addiction Professionals. and its state and local affiliates.

(8) National Association of Social Workers.

(9) National Board for Certified Counselors.

(10) A national behavioral health organization or certification body.

(11) Individuals or organizations that have been approved as continuing competency sponsors by the American Association of State Counseling Boards or a counseling board in another state.

(12) The American Association of Pastoral Counselors.

2. Individual professional activities.

a. Publication/presentation/new program development.

(1) Publication of articles. Activity will count for a maximum of eight hours. Publication activities are limited to articles in refereed journals or a chapter in an edited book.

(2) Publication of books. Activity will count for a maximum of 18 hours.

(3) Presentations. Activity will count for a maximum of eight hours. The same presentations may be used only once in a two-year period. Only actual presentation time may be counted.

(4) New program development activity will count for a maximum of eight hours. New program development includes a new course, seminar, or workshop. New courses shall be graduate or undergraduate level college or university courses.

b. Dissertation. Activity will count for a maximum of 18 hours. Dissertation credit may only be counted once.

c. Clinical supervision/consultation. Activity will count for a maximum of ten hours. Continuing competency can only be granted for clinical supervision/consultation received on a regular basis with a set agenda. Continuing competency cannot be granted for supervision that you provide to others.

d. Leadership. Activity will count for a maximum of eight hours. The following leadership positions are acceptable for continuing competency credit: officers of state or national counseling organization; editor and/or reviewer of professional counseling journals; member of state counseling licensure/certification board; member of a national counselor certification board; member of a national ethics disciplinary review committee rendering licenses; active member of a counseling committee producing a substantial written product; chair of a major counseling conference or convention; other leadership positions with justifiable professional learning experiences. The leadership positions must take place for a minimum of one year after the date of first licensure.

e. Practice related programs. Activity will count up to a maximum of eight hours. The board may allow up to eight contact hours of continuing competency as long as the regulant submits proof of attendance plus a written justification of how the activity assists him in his direct service of his clients. Examples include language courses, software training, medical topics, etc.

**18VAC115-50-97. Documenting compliance with continuing competency requirements.**

A. All licensees are required to maintain original documentation for a period of two years following renewal.

B. After the end of each renewal period, the board may conduct a random audit of licensees to verify compliance with the requirement for that renewal period.

C. Upon request, a licensee shall provide documentation as follows:

1. To document completion of formal organized learning activities, licensee shall provide:

a. Official transcripts showing credit hours earned; or

b. Certificates of participation.

2. Documentation of home study shall be made by identification of the source material studied, summary of content, and a signed affidavit attesting to completion of the home study.

3. Documentation of individual professional activities shall be by one of the following:

- a. Certificates of participation;
  - b. Proof of presentations made;
  - c. Reprints of publications;
  - d. Letters from educational institutions or agencies approving continuing education programs;
  - e. Official notification from the association that sponsored the item writing workshop or continuing education program; or
  - f. Documentation of attendance at formal staffing shall be by signed affidavit on a form provided by the board.
- D. Continuing competency hours required by a disciplinary order shall not be used to satisfy renewal requirements.

**18VAC115-50-100. Late renewal, reinstatement.**

- A. A person whose license has expired may renew it within one year after its expiration date by paying the penalty fee prescribed in 18VAC115-50-20 as well as the license fee prescribed for the period the license was not renewed and providing evidence of having met all applicable continuing competency requirements.
- B. A person seeking reinstatement of a license one year or more after its expiration date must apply for reinstatement, pay the reinstatement fee, submit evidence regarding the continued ability to perform the functions within the scope of practice of the license, and provide evidence of having met all applicable continuing competency requirements not to exceed a maximum of 80 hours.
- C. A person wishing to reactivate an inactive license shall submit (i) the renewal fee for active licensure minus any fee already paid for inactive licensure renewal and (ii) documentation of continued competency hours equal to the number of years the license has been inactive, not to exceed a maximum of 80 hours.

**18VAC115-50-110. Standards of Practice.**

- A. The protection of the public's health, safety and welfare and the best interest of the public shall be the primary guide in determining the appropriate professional conduct of all all persons whose activities are regulated by the board. Regardless of the delivery method, whether in person, by phone or electronically, these standards shall apply to the practice of marriage and family therapy.
- B. Persons licensed by the board shall:
  - 1. Practice in a manner that is in the best interest of the public and does not endanger the public health, safety, or welfare;

2. Practice only within the boundaries of their competence, based on their education, training, supervised experience and appropriate professional experience and represent their education, training and experience accurately to clients;
3. Stay abreast of new marriage and family therapy information, concepts, applications and practices which are necessary to providing appropriate, effective professional services;
4. Be able to justify all services rendered to clients as necessary and appropriate for diagnostic or therapeutic purposes;
5. Document the need for and steps taken to terminate a counseling relationship when it becomes clear that the client is not benefiting from the relationship. Document the assistance provided in making appropriate arrangements for the continuation of treatment for clients, when necessary, following termination of a counseling relationship;
6. Make appropriate arrangements for continuation of services, when necessary, during interruptions such as vacations, unavailability, relocation, illness, and disability;
7. Disclose to clients all experimental methods of treatment and inform client of the risks and benefits of any such treatment. Ensure that the welfare of the client is not compromised in any experimentation or research involving those clients;
8. Neither accept nor give commissions, rebates or other forms of remuneration for referral of clients for professional services;
9. Inform clients of the purposes, goals, techniques, procedures, limitations, potential risks, and benefits of services to be performed, the limitations of confidentiality, and other pertinent information when counseling is initiated, and throughout the counseling process as necessary. Provide clients with accurate information regarding the implications of diagnosis, the intended use of tests and reports, fees, and billing arrangements;
10. Select tests for use with clients that are valid, reliable and appropriate and carefully interpret the performance of individuals not represented in standardized norms;
11. Determine whether a client is receiving services from another mental health service provider, and if so, refrain from providing services to the client without having an informed consent discussion with the client and having been granted communication privileges with the other professional;
12. Use only in connection with one's practice as a mental health professional those educational and professional degrees or titles that have been earned at a college or university accredited by an accrediting agency recognized by the United States Department of Education, or credentials granted by a national certifying agency, and that are counseling in nature; and
13. Advertise professional services fairly and accurately in a manner which is not false, misleading or deceptive.

C. In regard to patient records, persons licensed by the board shall:

1. Maintain written or electronic clinical records for each client to include treatment dates and identifying information to substantiate diagnosis and treatment plan, client progress, and termination;

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

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

4. Ensure confidentiality in the usage of client records and clinical materials by obtaining informed consent from clients or their legally authorized representative before (a) videotaping, (b) audio recording, (c) permitting third party observation, or (d) using identifiable client records and clinical materials in teaching, writing, or public presentations; and

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

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

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

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

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

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

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

3. Not engage in any sexual relationship or establish a counseling or psychotherapeutic relationship with a supervisee. Marriage and family therapists shall avoid any non-sexual dual relationship with a supervisee in which there is a risk of exploitation or potential harm to the supervisee or the potential for interference with the supervisor's professional judgment; and

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

E. Persons licensed by this board shall report to the board known or suspected violations of the laws and regulations governing the practice of marriage and family therapy.

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

**18VAC115-50-120. Disciplinary action.**

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

1. Conviction of a felony, or of a misdemeanor involving moral turpitude or violation of or aid to another in violating any provision of Chapter 35 (§54.1-3500 et seq.) of Title 54.1 of the Code of Virginia, any other statute applicable to the practice of marriage and family therapy, or any provision of this chapter;

2. Procurement of a license by fraud or misrepresentation;

3. Conducting one's practice in such a manner as to make it a danger to the health and welfare of one's clients or the general public or if one is unable to practice marriage and family therapy with reasonable skill and safety to clients by reason of illness, abusive use of alcohol drugs, narcotics, chemicals, or other type of material or result of any mental or physical condition;

4. Intentional or negligent conduct that causes or is likely to cause injury to a client or clients;

5. Performance of functions outside the demonstrable areas of competency;

6. Violating or abetting another person in the violation of any provision of any statute applicable to the practice of marriage and family therapy, or any part or portion of this chapter; or

7. Failure to comply with continued competency requirements set forth in this chapter.

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

**18VAC115-50-130. Reinstatement following disciplinary action.**

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

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

# **REGULATIONS LSATP**

**Revised Date: April 14, 2010**

*Commonwealth of Virginia*



**REGULATIONS**  
**GOVERNING THE PRACTICE OF LICENSED**  
**SUBSTANCE ABUSE TREATMENT**  
**PRACTITIONERS**

**VIRGINIA BOARD OF COUNSELING**

**Title of Regulations: 18 VAC 115-60-10 et seq.**

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

**Revised Date: April 14, 2010**

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

### **18VAC115-60-10. Definitions.**

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

"Board"

"Licensed substance abuse treatment practitioner"

"Substance abuse"

"Substance abuse treatment"

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

"Applicant" means any individual who has submitted an official application and paid the application fee for licensure as a substance abuse treatment practitioner.

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

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

"COAMFTE" means the Commission on Accreditation for Marriage and Family Therapy Education.

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

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

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

"Internship" means supervised, planned, practical, advanced experience obtained in the clinical setting, observing and applying the principles, methods and techniques learned in training or educational settings.

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

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

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

"Residency" means a post-internship, supervised, clinical experience registered with the board.

"Resident" means an individual who has submitted a supervisory contract and has received board approval to provide clinical services in substance abuse treatment under supervision.

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

**18VAC115-60-20. Fees required by the board.**

A. The board has established the following fees applicable to licensure as a substance abuse treatment practitioner:

Registration of supervision (initial)	\$50
Add/change supervisor	\$25
Initial licensure by examination: Processing and initial licensure	\$140
Initial licensure by endorsement: Processing and initial licensure	\$140
Active annual license renewal	\$105
Inactive annual license renewal	\$55
Duplicate license	\$5
Verification of license to another jurisdiction	\$25
Late renewal	\$35
Reinstatement of a lapsed license	\$165
Replacement of or additional wall certificate	\$15
Returned check	\$35
Reinstatement following revocation or suspension	\$500

One-time fee reduction for renewal of an active license due on June 30, 2010	\$52
One-time fee reduction for renewal of an inactive license due on June 30, 2010	\$27

B. Fees shall be paid directly to the board or its contractor, or both, in appropriate amounts as specified in the application instructions. All fees are nonrefundable.

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

**18VAC115-60-30. Sex offender treatment provider certification.**

Anyone licensed by the board who is seeking certification as a sex offender treatment provider shall adhere to the Regulations Governing the Certification of Sex Offender Treatment Providers, 18VAC125-30-10 et seq.

**Part II. Requirements for Licensure.**

**18VAC115-60-40. Application for licensure by examination.**

Every applicant for examination for licensure by the board shall:

1. Meet the degree program, course work and experience requirements prescribed in 18VAC115-60-60, 18VAC115-60-70 and 18VAC115-60-80; and
2. Submit the following items to the board:
  - a. A completed application;
  - b. Official transcripts documenting the applicant's completion of the degree program and course work requirements prescribed in 18VAC115-60-60 and 18VAC115-60-70;
  - c. Verification of supervision forms documenting fulfillment of the experience requirements of 18VAC115-60-80 and copies of all required evaluation forms;
  - d. Documentation of any other professional license or certificate ever held in another jurisdiction; and
  - e. The application processing and initial licensure fee.

**18VAC115-60-50. Prerequisites for licensure by endorsement.**

Every applicant for licensure by endorsement shall submit:

1. A completed application;
2. The application processing and initial licensure fee;

3. Verification of all professional licenses or certificates ever held in any other jurisdiction. In order to qualify for endorsement, the applicant shall have no unresolved disciplinary action against a license or certificate. The board will consider history of disciplinary action on a case-by-case basis;

4. Further documentation of one of the following:

a. A current substance abuse treatment license in good standing in another jurisdiction obtained by meeting requirements substantially equivalent to those set forth in this chapter; or

b. A mental health license in good standing in a category acceptable to the board which required completion of a master's degree in mental health to include 60 graduate semester hours in mental health; and

(1) Board-recognized national certification in substance abuse treatment;

(2) If the master's degree was in substance abuse treatment, two years of post-licensure experience in providing substance abuse treatment;

(3) If the master's degree was not in substance abuse treatment, five years of post-licensure experience in substance abuse treatment plus 12 credit hours of didactic training in the substance abuse treatment competencies set forth in 18VAC115-60-70 C; or

(4) Current substance abuse counselor certification in Virginia in good standing or a Virginia substance abuse treatment specialty licensure designation with two years of post-licensure or certification substance abuse treatment experience;

c. Documentation of education and supervised experience that met the requirements of the jurisdiction in which he was initially licensed as verified by an official transcript and a certified copy of the original application materials and evidence of post-licensure clinical practice for five of the last six years immediately preceding his licensure application in Virginia.

5. Verification of a passing score on a licensure examination as established by the jurisdiction in which licensure was obtained;

6. Official transcripts documenting the applicant's completion of the education requirements prescribed in 18VAC115-60-60 and 18VAC115-60-70; and

7. An affidavit of having read and understood the regulations and laws governing the practice of substance abuse treatment in Virginia.

B. In lieu of transcripts verifying education and documentation verifying supervised experience, the board may accept verification from the credentials registry of the American Association of State Counseling Boards or any other board-recognized entity.

**18VAC115-60-55. Time-limited waiver of certain licensure requirements.**

Until February 26, 2004, individuals who do not meet the licensure requirements set forth in 18VAC115-60-50 and 18VAC115-60-60 through 18VAC115-60-90 may be eligible for licensure if

they submit a completed application and processing fee and provide evidence that they meet the following criteria:

1. A passing score on a board-approved examination;
2. A minimum of three comprehensive reports from:
  - a. At least two licensed mental health professionals, one of whom must be licensed in Virginia, that affirm competence in all areas outlined in 18VAC115-60-80 C 1 and attest to the applicant's ability to practice autonomously; and
  - b. One or more clinical supervisors who have provided supervision, as defined in 18VAC115-60-10, of the applicant for a total of one year within the applicant's most recent five years of practice. If supervision was provided in an exempt setting, the report may be submitted by an unlicensed mental health professional; and
3. One of the following:
  - a. Five years full-time experience in substance abuse treatment plus a master's degree in a mental health field from a regionally accredited institution of higher learning with a total of 36 graduate hours covering mental health content to include three graduate semester hours or 4.5 graduate quarter hours in each area of the following:
    - (1) Counseling and psychotherapy techniques;
    - (2) Appraisal, evaluation and diagnostic procedures;
    - (3) Abnormal behavior and psychopathology;
    - (4) Group counseling and psychotherapy, theories and techniques; and
    - (5) Research.

The remaining graduate semester hours shall include content in the following areas:

- (1) Assessment, appraisal, evaluation and diagnosis specific to substance abuse;
- (2) Treatment planning models, client case management, interventions and treatments to include relapse prevention, referral process, step models and documentation process;
- (3) Understanding addictions: The biochemical, socio-cultural and psychological factors of substance use and abuse;
- (4) Addictions and special populations, including, but not limited to, adolescents, women, ethnic groups and the elderly; and
- (5) Client and community education; or

b. Ten years full-time experience in substance abuse treatment plus a bachelor's degree from a regionally accredited institution of higher learning, plus 30 graduate hours covering mental health content to include three graduate semester hours or 4.5 graduate quarter hours in each area of the following:

- (1) Counseling and psychotherapy techniques;
- (2) Appraisal, evaluation and diagnostic procedures;
- (3) Abnormal behavior and psychopathology;
- (4) Group counseling and psychotherapy, theories and techniques; and
- (5) Research.

The remaining graduate hours shall include content in the following areas:

- (1) Assessment, appraisal, evaluation and diagnosis specific to substance abuse;
- (2) Treatment planning models, client case management, interventions and treatments to include relapse prevention, referral process, step models and documentation process;
- (3) Understanding addictions: the biochemical, socio-cultural and psychological factors of substance use and abuse;
- (4) Addictions and special populations, including, but not limited to, adolescents, women, ethnic groups and the elderly; and
- (5) Client and community education.

**18VAC115-60-60. Degree program requirements.**

A. The applicant shall have completed a graduate degree from a program that prepares individuals to practice substance abuse treatment or a related counseling discipline as defined in §54.1-3500 of the Code of Virginia from a college or university accredited by a regional accrediting agency that meets the following criteria:

1. There must be a sequence of academic study with the expressed intent to prepare counselors as documented by the institution;
2. There must be an identifiable counselor training faculty and an identifiable body of students who complete that sequence of academic study; and
3. The academic unit must have clear authority and primary responsibility for the core and specialty areas.

B. Education that does not come from a degree program meeting the requirements set forth in this section shall not be acceptable for licensure.

**18VAC115-60-70. Course work requirements.**

A. The applicant shall have completed 60 semester hours or 90 quarter hours of graduate study.

B. The applicant shall have completed a general core curriculum containing a minimum of three semester hours or 4.0 quarter hours in each of the areas identified in this section:

1. Professional identity, function and ethics;
2. Theories of counseling and psychotherapy;
3. Counseling and psychotherapy techniques;
4. Group counseling and psychotherapy, theories and techniques;
5. Appraisal, evaluation and diagnostic procedures;
6. Abnormal behavior and psychopathology;
7. Multicultural counseling, theories and techniques;
8. Research; and
9. Marriage and family systems theory.

C. The applicant shall also have completed 12 graduate semester credit hours or 18 graduate quarter hours in the following substance abuse treatment competencies.

1. Assessment, appraisal, evaluation and diagnosis specific to substance abuse;
2. Treatment planning models, client case management, interventions and treatments to include relapse prevention, referral process, step models and documentation process;
3. Understanding addictions: The biochemical, sociocultural and psychological factors of substance use and abuse;
4. Addictions and special populations including, but not limited to, adolescents, women, ethnic groups and the elderly; and
5. Client and community education.

D. The applicant shall have completed a supervised internship of 600 hours to include 240 hours of direct client contact. At least 450 of the internship hours and 200 of the direct client contact hours shall be in treating substance abuse-specific treatment problems.

E. One course may satisfy study in more than one content area set forth in subsections B and C of this section.

**18VAC115-60-80. Residency.**

A. Registration. Applicants who render substance abuse treatment services shall:

1. With their supervisor, register their supervisory contract on the appropriate forms for board approval before starting to practice under supervision;
2. Have submitted an official transcript documenting a graduate degree as specified in 18VAC115-60-60 to include completion of the internship requirement specified in 18VAC115-60-70; and
3. Pay the registration fee.

B. After September 3, 2008, applicants who are beginning their residencies in exempt settings shall register supervision with the board to assure acceptability at the time of application.

C. Residency requirements.

1. The applicant for licensure shall have completed a 4,000 hour supervised residency in substance abuse treatment with various populations, clinical problems and theoretical approaches in the following areas:

- a. Clinical evaluation;
- b. Treatment planning, documentation and implementation;
- c. Referral and service coordination;
- d. Individual and group counseling and case management;
- e. Client family and community education; and
- f. Professional and ethical responsibility.

2. The residency shall include a minimum of 200 hours of supervision between supervisor and resident occurring at minimum of one hour and a maximum of four hours per 40 hours of work experience during the period of the residency. No more than half of these hours may be satisfied with group supervision. One hour of group supervision will be deemed equivalent to one hour of individual supervision. Supervision that is not concurrent with a residency will not be accepted, nor will residency hours accrued in the absence of approved supervision.

3. The residency shall include at least 2,000 hours of face-to-face client contact with individuals, families or groups of individuals suffering from the effects of substance abuse or dependence.

4. A graduate level degree internship completed in a program that meets the requirements set forth in 18VAC115-60-70 may count for no more than 600 hours of the required 4,000 hours of experience. The internship shall include 20 hours of individual on-site supervision, and 20 hours of individual or group off-site supervision. Internship hours shall not begin until completion of 30 semester hours toward the graduate degree.

5. A graduate-level degree internship completed in a COAMFTE- or CACREP-approved program may count for no more than 900 of the required 4,000 hours of experience.

6. In order for a graduate level internship to be counted toward a residency, either the clinical or faculty supervisor shall be licensed as set forth in subsection D of this section.

7. The board may consider special requests in the event that the regulations create an undue burden in regard to geography or disability which limits the resident's access to qualified supervision.

8. Residents may not call themselves substance abuse treatment practitioners, directly bill for services rendered, or in any way represent themselves as independent, autonomous practitioners or substance abuse treatment practitioners. During the residency, residents shall use their names and the initials of their degree, and the title "Resident in Substance Abuse Treatment" in all written communications. Clients shall be informed in writing of the resident's status, the supervisor's name, professional address, and telephone number.

9. Residents shall not engage in practice under supervision in any areas for which they have not had appropriate education.

#### D. Supervisory qualifications.

1. A person who provides supervision for a resident in substance abuse treatment shall hold an active, unrestricted license as a professional counselor, marriage and family therapist, substance abuse treatment practitioner, school psychologist, clinical psychologist, clinical social worker, clinical nurse specialist or psychiatrist in the jurisdiction where the supervision is being provided.

2. All supervisors shall document two years post-licensure substance abuse treatment experience, 100 hours of didactic instruction in substance abuse treatment, and training or experience in supervision. Within three years of January 19, 2000, supervisors must document a three-credit-hour course in supervision, a 4.0-quarter-hour course in supervision, or at least 20 hours of continuing education in supervision offered by a provider approved under 18VAC115-60-116.

#### E. Supervisory responsibilities.

1. Supervision by any individual whose relationship to the resident compromises the objectivity of the supervisor is prohibited.

2. The supervisor of a resident shall assume full responsibility for the clinical activities of that resident specified within the supervisory contract for the duration of the residency.

3. The supervisor shall complete evaluation forms to be given to the resident at the end of each three-month period.

4. The supervisor shall report the total hours of residency and shall evaluate the applicant's competency in the six areas stated in subdivision C 1 of this section.

F. Documentation of supervision. Applicants shall document successful completion of their residency on the Verification of Supervision form at the time of application. Applicants must

receive a satisfactory competency evaluation on each item on the evaluation sheet. Supervised experience obtained prior to January 19, 2000, may be accepted towards licensure if this supervised experience met the board's requirements which were in effect at the time the supervision was rendered.

### **Part III. Examinations.**

#### **18VAC115-60-90. General examination requirements; schedules; time limits.**

A. Every applicant for initial licensure as a substance abuse treatment practitioner by examination shall pass a written examination as prescribed by the board.

B. Every applicant for licensure as a substance abuse treatment practitioner by endorsement shall have passed an examination deemed by the board to be substantially equivalent to the Virginia examination.

C. A candidate approved by the board to sit for the examination shall take the examination within two years from the date of such initial board approval. If the candidate has not taken the examination by the end of the two-year period prescribed in this subsection:

1. The initial board approval to sit for the examination shall then become invalid; and
2. In order to be considered for the examination later, the applicant shall file a complete new application with the board.

D. Applicants who fail the examination twice in succession shall document completion of 45 clock hours of additional education or training acceptable to the board, addressing the areas of deficiency as reported in the examination results prior to obtaining board approval for reexamination.

E. The board shall establish a passing score on the written examination.

#### **18VAC115-60-100. (Repealed.)**

### **Part IV. Licensure Renewal; Reinstatement.**

#### **18VAC115-60-110. Renewal of licensure.**

A. All licensees shall renew licenses on or before June 30 of each year.

B. Every license holder who intends to continue an active practice shall submit to the board on or before June 30 of each year:

1. A completed form for renewal of the license on which the licensee attests to compliance with the continuing competency requirements prescribed in this chapter; and
2. The renewal fee prescribed in 18VAC115-60-20.

C. A licensee who wishes to place his license in an inactive status may do so upon payment of the inactive renewal fee as established in 18VAC115-60-20. No person shall practice substance abuse treatment in Virginia unless he holds a current active license. A licensee who has placed himself in inactive status may become active by fulfilling the reactivation requirements set forth in 18VAC115-60-120.C.

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

**18VAC115-60-115. Continued competency requirements for renewal of a license.**

A. After July 1, 2004, licensed substance abuse treatment practitioners shall be required to have completed a minimum of 20 hours of continuing competency for each annual licensure renewal. A minimum of two of these hours shall be in courses that emphasize the ethics, standards of practice or laws governing behavioral science professions in Virginia.

B. The board may grant an extension for good cause of up to one year for the completion of continuing competency requirements upon written request from the licensee prior to the renewal date. Such extension shall not relieve the licensee of the continuing competency requirement.

C. The board may grant an exemption for all or part of the continuing competency requirements due to circumstances beyond the control of the licensee such as temporary disability, mandatory military service, or officially declared disasters.

D. Those individuals dually licensed by this board will not be required to obtain continuing competency for each license. Dually licensed individuals will only be required to provide the hours set out in subsection A of this section or subsection A of 18 VAC 115-50-95 in the Regulations Governing the Practice of Marriage and Family Therapy, or subsection A of 18 VAC 115-20-105 in the Regulations Governing the Practice of Professional Counseling.

**18 VAC 115-60-116. Continuing competency activity criteria.**

A. Continuing competency activities must focus on increasing knowledge or skills in one or more of the following areas:

1. Ethics, standards of practice or laws governing behavioral science professions;
2. Counseling theory;
3. Human growth and development;
4. Social and cultural foundations;
5. The helping relationship;
6. Group dynamics, processing and counseling;
7. Lifestyle and career development;
8. Appraisal of individuals;
9. Research and evaluation;
10. Professional orientation;
11. Clinical supervision;
12. Marriage and family therapy; or

### 13. Addictions.

#### B. Approved hours of continuing competency activity shall be one of the following types:

1. Formally organized learning activities or home study. Activities may be counted at their full hour value. Hours shall be obtained from one or a combination of the following board-approved mental health related activities:

a. Regionally accredited university or college level academic courses in a behavioral health discipline.

b. Continuing education programs offered by universities or colleges.

c. Workshops, seminars, conferences, or courses in the behavioral health field offered by federal, state or licensed health facilities and licensed hospitals.

d. Workshops, seminars conferences or courses in the behavioral health field offered by an individual or organization that has been certified or approved by one of the following:

- (1) The American Association of Marriage and Family Counselors and its state affiliates.
- (2) The American Association of Marriage and Family Therapists and its state affiliates.
- (3) The American Association of State Counseling Boards.
- (4) The American Counseling Association and its state and local affiliates.
- (5) The American Psychological Association and its state affiliates.
- (6) The Commission on Rehabilitation Counselor Certification
- (7) NAADAC, The Association for Addiction Professionals and its state and local affiliates.
- (8) National Association of Social Workers.
- (9) National Board for Certified Counselors.
- (10) A national behavioral health organization or certification body.
- (11) Individuals or organizations that have been approved as continuing competency sponsors by the American Association of State Counseling Boards or a counseling board in another state.

#### 2. Individual professional activities.

##### a. Publication/presentation/new program development

(1) Publication of articles. Activity will count for a maximum of eight hours. Publication activities are limited to articles in refereed journals or a chapter in an edited book.

(2) Publication of books. Activity will count for a maximum of 18 hours.

(3) Presentations. Activity will count for a maximum of eight hours. The same presentations may be used only once in a two-year period. Only actual presentation time may be counted.

(4) New program development. Activity will count for a maximum of eight hours. New program development includes a new course, seminar, or workshop. New courses shall be graduate or undergraduate level college or university courses.

b. Dissertation. Activity will count for a maximum of 18 hours. Dissertation credit may only be

counted once.

c. Clinical supervision/consultation. Activity will count for a maximum of ten hours. Continuing competency can only be granted for clinical supervision/consultation received on a regular basis with a set agenda. Continuing competency cannot be granted for supervision that you provide to others.

d. Leadership. Activity will count for a maximum of eight hours. The following leadership positions are acceptable for continuing competency credit: Officers of state or national counseling organization; editor and/or reviewer of professional counseling journals; member of state counseling licensure/certification board; member of a national counselor certification board; member of a national ethics disciplinary review committee rendering licenses; active member of a counseling committee producing a substantial written product; chair of a major counseling conference or convention; other leadership positions with justifiable professional learning experiences. The leadership positions must take place for a minimum of one year after the date of first licensure.

e. Practice related programs. Activity will count up to a maximum of eight hours. The board may allow up to eight contact hours of continuing competency as long as the regulant submits proof of attendance plus a written justification of how the activity assists him in his direct service of his clients. Examples include: language courses, software training, medical topics, etc.

**18VAC115-60-117. Documenting compliance with continuing competency requirements.**

A. All licensees are required to maintain original documentation for a period of two years following renewal.

B. After the end of each renewal period, the board may conduct a random audit of licensees to verify compliance with the requirement for that renewal period.

C. Upon request, a licensee shall provide documentation as follows:

1. To document completion of formal organized learning activities the licensee shall provide:

a. Official transcripts showing credit hours earned; or

b. Certificates of participation.

2. Documentation of home study shall be made by identification of the source material studied, summary of content, and a signed affidavit attesting to completion of the home study.

3. Documentation of individual professional activities shall be by one of the following:

a. Certificates of participation;

b. Proof of presentations made;

c. Reprints of publications;

- d. Letters from educational institutions or agencies approving continuing education programs;
  - e. Official notification from the association that sponsored the item writing workshop or continuing education program; or
  - f. Documentation of attendance at formal staffing by a signed affidavit on a form provided by the board.
- D. Continuing competency hours required by a disciplinary order shall not be used to satisfy renewal requirements.

**18VAC115-60-120. Late renewal; reinstatement.**

- A. A person whose license has expired may renew it within one year after its expiration date by paying the late renewal fee prescribed in 18VAC115-60-20, as well as the license fee prescribed for the year the license was not renewed, and providing evidence of having met all applicable continuing competency requirements.
- B. A person who fails to renew a license after one year or more and wishes to resume practice shall apply for reinstatement, pay the reinstatement fee for a lapsed license, submit evidence regarding the continued ability to perform the functions within the scope of practice of the license, and provide evidence of having met all applicable continuing competency requirements not to exceed a maximum of 80 hours.
- C. A person wishing to reactivate an inactive license shall submit the renewal fee for active licensure minus any fee already paid for inactive licensure renewal, and documentation of continued competency hours equal to the number of years the license has been inactive not to exceed a maximum of 80 hours.

**Part V. Standards of Practice; Unprofessional Conduct; Disciplinary Actions; Reinstatement.**

**18VAC115-60-130. Standards of practice.**

- A. The protection of the public health, safety, and welfare and the best interest of the public shall be the primary guide in determining the appropriate professional conduct of all persons whose activities are regulated by the board. Regardless of the delivery method, whether in person, by phone or electronically, these standards shall apply to the practice of substance abuse treatment.
- B. Persons licensed by the board shall:
  - 1. Practice in a manner that is in the best interest of the public and does not endanger the public health, safety, or welfare;
  - 2. Practice only within the boundaries of their competence, based on their education, training, supervised experience and appropriate professional experience and represent their education, training and experience accurately to clients;

3. Stay abreast of new substance abuse treatment information, concepts, application and practices which are necessary to providing appropriate, effective professional services;

4. Be able to justify all services rendered to clients as necessary and appropriate for diagnostic or therapeutic purposes;

5. Document the need for and steps taken to terminate a counseling relationship when it becomes clear that the client is not benefiting from the relationship. Document the assistance provided in making appropriate arrangements for the continuation of treatment for clients, when necessary, following termination of a counseling relationship;

6. Make appropriate arrangements for continuation of services, when necessary, during interruptions such as vacations, unavailability, relocation, illness, and disability;

7. Disclose to clients all experimental methods of treatment and inform clients of the risks and benefits of any such treatment. Ensure that the welfare of the clients is in no way compromised in any experimentation or research involving those clients;

8. Neither accept nor give commissions, rebates, or other forms of remuneration for referral of clients for professional services;

9. Inform clients of the purposes, goals, techniques, procedures, limitations, potential risks, and benefits of services to be performed, the limitations of confidentiality, and other pertinent information when counseling is initiated, and throughout the counseling process as necessary. Provide clients with accurate information regarding the implications of diagnosis, the intended use of tests and reports, fees, and billing arrangements;

10. Select tests for use with clients that are valid, reliable and appropriate and carefully interpret the performance of individuals not represented in standardized norms;

11. Determine whether a client is receiving services from another mental health service provider, and if so, refrain from providing services to the client without having an informed consent discussion with the client and having been granted communication privileges with the other professional;

12. Use only in connection with one's practice as a mental health professional those educational and professional degrees or titles that have been earned at a college or university accredited by an accrediting agency recognized by the United States Department of Education, or credentials granted by a national certifying agency, and that are counseling in nature; and

13. Advertise professional services fairly and accurately in a manner which is not false, misleading or deceptive.

C. In regard to patient records, persons licensed by the board shall:

1. Maintain written or electronic clinical records for each client to include treatment dates and identifying information to substantiate diagnosis and treatment plan, client progress, and termination;

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

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

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

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

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

or

c. Records that have transferred to another mental health service provider or given to the client; and

5. Ensure confidentiality in the usage of client records and clinical materials by obtaining informed consent from clients or their legally authorized representative before (a) videotaping, (b) audio recording, (c) permitting third party observation, or (d) using identifiable client records and clinical materials in teaching, writing or public presentations.

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

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

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

3. Not engage in any sexual relationship or establish a counseling or psychotherapeutic relationship with a supervisee. Licensed substance abuse treatment practitioners shall avoid any non-sexual dual relationship with a supervisee in which there is a risk of exploitation or potential harm to the supervisee or the potential for interference with the supervisor's professional judgment; and

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

E. Persons licensed by this board shall report to the board known or suspected violations of the laws and regulations governing the practice of substance abuse treatment.

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

**18VAC115-60-140. Grounds for revocation, suspension, probation, reprimand, censure, or denial of renewal of license.**

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

1. Conviction of a felony, or of a misdemeanor involving moral turpitude, or violation of or aid to another in violating any provision of Chapter 35 (§ 54.1-3500 et seq.) of Title 54.1 of the Code of Virginia, any other statute applicable to the practice of substance abuse treatment, or any provision of this chapter;

2. Procurement of a license by fraud or misrepresentation;

3. Conducting one's practice in such a manner as to make it a danger to the health and welfare of one's clients or to the public, or if one is unable to practice substance abuse treatment with reasonable skill and safety to clients by reason of illness, abusive use of alcohol, drugs, narcotics, chemicals, or other type of material or result of any mental or physical condition;

4. Intentional or negligent conduct that causes or is likely to cause injury to a client;

5. Performance of functions outside the demonstrable areas of competency;

6. Failure to comply with the continued competency requirements set forth in this chapter; or

7. Violating or abetting another person in the violation of any provision of any statute applicable to the practice of licensed substance abuse therapy, or any part or portion of this chapter.

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

**18VAC115-60-150. Reinstatement following disciplinary action.**

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

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

# **REGULATIONS CRP**

**Revised Date: January 15, 2016**

*Commonwealth of Virginia*



**REGULATIONS**  
**GOVERNING THE CERTIFICATION OF**  
**REHABILITATION PROVIDERS**  
**VIRGINIA BOARD OF COUNSELING**

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

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

**Revised Date: January 15, 2016**

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## Part I. General Provisions.

### 18VAC115-40-10. Definitions.

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

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

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

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

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

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

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

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

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

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

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

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

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

Initial certification by examination: Processing and initial certification	\$90
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Initial certification by endorsement: Processing and initial certification	\$90
Certification renewal	\$55
Duplicate certificate	\$5
Late renewal	\$20
Reinstatement of a lapsed certificate	\$100
Replacement of or additional wall certificate	\$15
Returned check	\$35
Reinstatement following revocation or suspension	\$500

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

## **Part II. Requirements for Certification.**

### **18VAC115-40-22. Criteria for eligibility.**

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

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

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

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

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

### **18VAC115-40-25. Application process.**

The applicant shall submit to the board:

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

**18VAC115-40-26. Supervised experience requirement.**

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

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

**18VAC115-40-27. Supervisor requirements.**

A. A supervisor shall:

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

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

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

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

### **Part III. Examinations.**

#### **18VAC115-40-28. General examination requirements.**

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

#### **18VAC115-40-29. (Reserved.)**

### **Part IV. Renewal and Reinstatement.**

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

Every certificate issued by the board shall expire on January 31 of each year.

1. To renew certification, the certified rehabilitation provider shall submit a renewal form and fee as prescribed in 18VAC115-40-20.

2. Failure to receive a renewal notice and form shall not excuse the certified rehabilitation provider from the renewal requirement.

#### **18VAC115-40-35. Reinstatement.**

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

B. A person who fails to renew a certificate for one year or more shall apply for reinstatement, pay the reinstatement fee and submit evidence regarding the continued ability to perform the functions within the scope of practice of the certification.

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

#### **18VAC115-40-38. Change of address.**

A certified rehabilitation provider whose address of record or public address, if different from the address of record, has changed shall submit the new address in writing to the board within 30 days of such change.

#### **18VAC115-40-39. (Reserved.)**

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

#### **18VAC115-40-40. Standards of practice.**

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

B. Each person certified by the board shall:

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

2. Provide services only within the competency areas for which one is qualified by training or experience.

3. Not provide services under a false or assumed name, or impersonate another practitioner of a like, similar or different name.

4. Be aware of the areas of competence of related professions and make full use of professional, technical and administrative resources to secure for rehabilitation clients the most appropriate services.

5. Not commit any act which is a felony under the laws of this Commonwealth, other states, the District of Columbia or the United States, or any act which is a misdemeanor under such laws and involves moral turpitude.

6. Stay abreast of new developments, concepts and practices which are important to providing appropriate services.

7. State a rationale in the form of an identified objective or purpose for the provision of services to be rendered to the rehabilitation client.

8. Not engage in offering services to a rehabilitation client who is receiving services from another rehabilitation provider without attempting to inform such other providers in order to avoid confusion and conflict for the rehabilitation client.

9. Represent accurately one's competence, education, training and experience.

10. Refrain from undertaking any activity in which one's personal problems are likely to lead to inadequate or harmful services.

11. Not engage in improper direct solicitation of rehabilitation clients and shall announce services fairly and accurately in a manner which will aid the public in forming their own informed judgments, opinions and choices and which avoids fraud and misrepresentation through sensationalism, exaggeration or superficiality.

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

13. Report to the board known or suspected violations of the laws and regulations governing the practice of rehabilitation providers.

14. Report to the board any unethical or incompetent practices by other rehabilitation providers that jeopardize public safety or cause a risk of harm to rehabilitation clients.

15. Provide rehabilitation clients with accurate information of what to expect in the way of tests, evaluations, billing, rehabilitation plans and schedules before rendering services.

16. Provide services and submission of reports in a timely fashion and ensure that services and reports respond to the purpose of the referral and include recommendations, if appropriate. All reports shall reflect an objective, independent opinion based on factual determinations within the provider's area of expertise and discipline. The reports of services and findings shall be distributed to appropriate parties and shall comply with all applicable legal regulations.

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

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

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

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

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

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

1. Procuring a license, certificate or registration by fraud or misrepresentation.
2. Violation of, or aid to another in violating, any regulation or statute applicable to the provision of rehabilitation services.
3. The denial, revocation, suspension or restriction of a registration, license or certificate to practice in another state, or a United States possession or territory or the surrender of any such registration, license or certificate while an active administrative investigation is pending.
4. Conviction of any felony, or of a misdemeanor involving moral turpitude.
5. Providing rehabilitation services without reasonable skill and safety to clients by virtue of physical or emotional illness or substance abuse.

**18VAC115-40-60. [Repealed]**

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

A. Any person whose certificate has been revoked, suspended or denied renewal by the board under the provisions of 18VAC115-40-50 must submit a new application for reinstatement of certification.

B. The board in its discretion may, after a hearing, grant the reinstatement sought in subsection A of this section.

C. The applicant for such reinstatement, if approved, shall be certified upon payment of the appropriate fee applicable at the time of reinstatement.

# **CODE OF VIRGINIA**

## **CHAPTER 35**

# Chapter 35 of Title 54.1 of the Code of Virginia

## Professional Counseling

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## **§ 54.1-3500. Definitions.**

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

"Appraisal activities" means the exercise of professional judgment based on observations and objective assessments of a client's behavior to evaluate current functioning, diagnose, and select appropriate treatment required to remediate identified problems or to make appropriate referrals.

"Board" means the Board of Counseling.

"Certified substance abuse counseling assistant" means a person certified by the Board to practice in accordance with the provisions of § [54.1-3507.2](#).

"Certified substance abuse counselor" means a person certified by the Board to practice in accordance with the provisions of § [54.1-3507.1](#).

"Counseling" means the application of principles, standards, and methods of the counseling profession in (i) conducting assessments and diagnoses for the purpose of establishing treatment goals and objectives and (ii) planning, implementing, and evaluating treatment plans using treatment interventions to facilitate human development and to identify and remediate mental, emotional, or behavioral disorders and associated distresses that interfere with mental health.

"Licensed substance abuse treatment practitioner" means a person who: (i) is trained in and engages in the practice of substance abuse treatment with individuals or groups of individuals suffering from the effects of substance abuse or dependence, and in the prevention of substance abuse or dependence; and (ii) is licensed to provide advanced substance abuse treatment and independent, direct, and unsupervised treatment to such individuals or groups of individuals, and to plan, evaluate, supervise, and direct substance abuse treatment provided by others.

"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 counseling" means rendering or offering to render to individuals, groups, organizations, or the general public any service involving the application of principles, standards, and methods of the counseling profession, which shall include appraisal, counseling, and referral activities.

"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.

"Practice of substance abuse treatment" means rendering or offering to render substance abuse treatment to individuals, groups, organizations, or the general public.

"Professional counselor" means a person trained in the application of principles, standards, and methods of the counseling profession, including counseling interventions designed to facilitate an individual's achievement of human development goals and remediating mental, emotional, or behavioral disorders and associated distresses that interfere with mental health and development.

"Referral activities" means the evaluation of data to identify problems and to determine advisability of referral to other specialists.

"Residency" means a post-internship supervised clinical experience registered with the Board.

"Resident" means an individual who has submitted a supervisory contract to the Board and has received Board approval to provide clinical services in professional counseling under supervision.

"Substance abuse" and "substance dependence" mean a maladaptive pattern of substance use leading to clinically significant impairment or distress.

"Substance abuse treatment" means (i) the application of specific knowledge, skills, substance abuse treatment theory, and substance abuse treatment techniques to define goals and develop a treatment plan of action regarding substance abuse or dependence prevention, education, or treatment in the substance abuse or dependence recovery process and (ii) referrals to medical, social services, psychological, psychiatric, or legal resources when such referrals are indicated.

"Supervision" means the ongoing process, performed by a supervisor, of monitoring the performance of the person supervised and providing regular, documented individual or group consultation, guidance, and instruction with respect to the clinical skills and competencies of the person supervised.

(1976, c. 608, §§ 54-924, 54-932; 1983, c. 115; 1986, cc. 64, 464; 1988, c. 765; 1993, c. 342; 1995, c. [820](#); 1997, c. [901](#); 2000, c. [473](#); 2001, c. [460](#); 2013, c. [264](#).)

#### **§ 54.1-3501. Exemption from requirements of licensure.**

The requirements for licensure in this chapter shall not be applicable to:

1. Persons who render services that are like or similar to those falling within the scope of the classifications or categories in this chapter, including persons acting as members of substance abuse self-help groups, so long as the recipients or beneficiaries of such services are not subject

to any charge or fee, or any financial requirement, actual or implied, and the person rendering such service is not held out, by himself or otherwise, as a person licensed under this chapter.

2. The activities or services of a student pursuing a course of study in counseling, substance abuse treatment or marriage and family therapy in an institution accredited by an accrediting agency recognized by the Board or under the supervision of a person licensed or certified under this chapter, if such activities or services constitute a part of the student's course of study and are adequately supervised.

3. The activities, including marriage and family therapy, counseling, or substance abuse treatment, of rabbis, priests, ministers or clergymen of any religious denomination or sect when such activities are within the scope of the performance of their regular or specialized ministerial duties, and no separate charge is made or when such activities are performed, whether with or without charge, for or under auspices or sponsorship, individually or in conjunction with others, of an established and legally cognizable church, denomination or sect, and the person rendering service remains accountable to its established authority.

4. Persons employed as salaried employees or volunteers of the federal government, the Commonwealth, a locality, or of any agency established or funded, in whole or part, by any such governmental entity or of a private, nonprofit organization or agency sponsored or funded, in whole or part, by a community-based citizen group or organization. Any person who renders psychological services, as defined in Chapter 36 (§ 54.1-3600 et seq.) of this title, shall be subject to the requirements of that chapter. Any person who, in addition to the above enumerated employment, engages in an independent private practice shall not be exempt from the requirements for licensure.

5. Persons regularly employed by private business firms as personnel managers, deputies or assistants so long as their counseling activities relate only to employees of their employer and in respect to their employment.

6. Persons regulated by this Board as professional counselors or persons regulated by another board within the Department of Health Professions who provide, within the scope of their practice, marriage and family therapy, counseling or substance abuse treatment to individuals or groups.

(1976, c. 608, § 54-944; 1986, c. 581; 1988, c. 765; 1995, c. 820; 1997, c. 901.)

**§ 54.1-3502. Administration or prescription of drugs not permitted.**

This chapter shall not be construed as permitting the administration or prescribing of drugs or in any way infringing upon the practice of medicine as defined in Chapter 29 (§ 54.1-2900 et seq.) of this title.

(1976, c. 608, § 54-945; 1988, c. 765.)

**§ 54.1-3503. Board of Counseling.**

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

The Board shall consist of 14 members to be appointed by the Governor, subject to confirmation by the General Assembly. 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 12 professional members, six shall be professional counselors, three shall be clinical fellows of the American Association for Marriage and Family Therapy, and three shall be licensed substance abuse treatment practitioners. At least two members representing each specialty shall have been in active practice for at least four years.

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

(1976, c. 608; § 54-933; 1981, c. 447; 1983, c. 150; 1986, cc. 185, 464; 1988, c. 765; 1995, c. [820](#); 1997, c. [901](#); 2000, c. [473](#); 2013, cc. [201](#), [590](#).)

#### **§ 54.1-3504. Nominations.**

Nominations for professional members may be made from a list of at least three names for each vacancy submitted to the Governor by the Virginia Counselors Association, the Virginia Association of Clinical Counselors, the Virginia Association of Alcoholism and Drug Abuse Counselors, and the Virginia Association for Marriage and Family Therapy. The Governor may notify such organizations of any professional vacancy other than by expiration. In no case shall the Governor be bound to make any appointment from among the nominees.

(1986, c. 464, § 54-933.2; 1988, c. 765; 1995, c. 820; 1997, c. 901.)

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

In addition to the powers granted in § [54.1-2400](#), the Board shall have the following specific powers and duties:

1. To cooperate with and maintain a close liaison with other professional boards and the community to ensure that regulatory systems stay abreast of community and professional needs.
2. To conduct inspections to ensure that licensees conduct their practices in a competent manner and in conformance with the relevant regulations.
3. To designate specialties within the profession.
4. To administer the certification of rehabilitation providers pursuant to Article 2 (§ [54.1-3510](#) et seq.) of this chapter, including prescribing fees for application processing, examinations, certification and certification renewal.
5. [Expired.]

6. To promulgate regulations for the qualifications, education, and experience for licensure of marriage and family therapists. The requirements for clinical membership in the American Association for Marriage and Family Therapy (AAMFT), and the professional examination service's national marriage and family therapy examination may be considered by the Board in the promulgation of these regulations. The educational credit hour, clinical experience hour, and clinical supervision hour requirements for marriage and family therapists shall not be less than the educational credit hour, clinical experience hour, and clinical supervision hour requirements for professional counselors.

7. To promulgate, subject to the requirements of Article 1.1 (§ [54.1-3507](#) et seq.) of this chapter, regulations for the qualifications, education, and experience for licensure of licensed substance abuse treatment practitioners and certification of certified substance abuse counselors and certified substance abuse counseling assistants. The requirements for membership in NAADAC: the Association for Addiction Professionals and its national examination may be considered by the Board in the promulgation of these regulations. The Board also may provide for the consideration and use of the accreditation and examination services offered by the Substance Abuse Certification Alliance of Virginia. The educational credit hour, clinical experience hour, and clinical supervision hour requirements for licensed substance abuse treatment practitioners shall not be less than the educational credit hour, clinical experience hour, and clinical supervision hour requirements for licensed professional counselors. Such regulations also shall establish standards and protocols for the clinical supervision of certified substance abuse counselors and the supervision or direction of certified substance abuse counseling assistants, and reasonable access to the persons providing that supervision or direction in settings other than a licensed facility.

8. To maintain a registry of persons who meet the requirements for supervision of residents. The Board shall make the registry of approved supervisors available to persons seeking residence status.

(1976, c. 608, §§ 54-929, 54-931; 1983, c. 115; 1986, cc. 64, 100, 464; 1988, c. 765; 1994, cc. [558](#), [778](#); 1995, c. [820](#); 1997, c. [901](#); 2001, c. [460](#); 2013, c. [264](#).)

#### **§ 54.1-3505.1. Continued competency requirements.**

The Board shall promulgate regulations establishing requirements for evidence of continued competency as a condition of renewal of a license under the provisions of this chapter. The Board may approve persons who provide or accredit continuing education programs in order to accomplish the purposes of this section. The Board shall have the authority to grant exemptions or waivers or to reduce the number of continuing education hours required in cases of certified illness or undue hardship.

(2002, c. 430.)

#### **§ 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 issued by the Board.

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 Behavioral Health and Developmental Services.

(1979, c. 408, § 54-935.1; 1988, c. 765; 1995, c. [820](#); 1997, c. [901](#); 2009, cc. [813](#), [840](#); 2013, c. [264](#).)

#### **§ 54.1-3506.1. Client notification.**

Any person licensed by the Board and operating in a nonhospital setting shall post a copy of his license in a conspicuous place. The posting shall also provide clients with (i) the number of the toll-free complaint line at the Department of Health Professions, (ii) the website address of the Department for the purposes of accessing the licensee's record, and (iii) notice of the client's right to report to the Department if he believes the licensee may have engaged in unethical, fraudulent, or unprofessional conduct.

2015, c. [530](#).

#### **§ 54.1-3507. Scope of practice of and qualifications for licensed substance abuse treatment practitioners.**

A. A licensed substance abuse treatment practitioner shall be qualified to (i) perform on an independent basis the substance abuse treatment functions of screening, intake, orientation, assessment, treatment planning, treatment, case management, substance abuse or dependence crisis intervention, client education, referral activities, recordkeeping, and consultation with other professionals; (ii) exercise independent professional judgment, based on observations and objective assessments of a client's behavior, to evaluate current functioning, to diagnose and select appropriate remedial treatment for identified problems, and to make appropriate referrals; and (iii) supervise, direct and instruct others who provide substance abuse treatment.

B. Pursuant to regulations adopted by the Board, an applicant for a license as a licensed substance abuse treatment practitioner shall submit evidence satisfactory to the Board that the applicant has (i) completed a specified number of hours of graduate studies, including a specified number of didactic substance abuse education courses at, and has received a master's degree in substance abuse or a substantially equivalent master's degree from, a college or university accredited by an accrediting agency recognized by the Board; and (ii) completed a specified number of hours of experience involving the practice of substance abuse treatment supervised by a licensed substance abuse treatment practitioner, or by any other mental health professional licensed by the Department, such number of hours being greater than the number of hours required of a certified substance abuse counseling assistant. The applicant shall also pass an examination, as required by the Board.

(1997, c. 901; 2001, c. 460.)

**§ 54.1-3507.1. Scope of practice, supervision, and qualifications of certified substance abuse counselors.**

A. A certified substance abuse counselor shall be (i) qualified to perform, under appropriate supervision or direction, the substance abuse treatment functions of screening, intake, orientation, the administration of substance abuse assessment instruments, recovery and relapse prevention planning, substance abuse treatment, case management, substance abuse or dependence crisis intervention, client education, referral activities, record keeping, and consultation with other professionals; (ii) qualified to be responsible for client care of persons with a primary diagnosis of substance abuse or dependence; and (iii) qualified to supervise, direct and instruct certified substance abuse counseling assistants. Certified substance abuse counselors shall not engage in independent or autonomous practice.

B. Such counselor shall also be clinically supervised or directed by a licensed substance abuse treatment practitioner, or any other mental health professional licensed by the Department, or, in an exempt setting as described in § 54.1-3501, another person with substantially equivalent education, training, and experience, or such counselor shall be in compliance with the supervision requirements of a licensed facility.

C. Pursuant to regulations adopted by the Board, an applicant for certification as a substance abuse counselor shall submit evidence satisfactory to the Board that the applicant has (i) completed a specified number of hours of didactic substance abuse education courses in a program or programs recognized or approved by the Board and received a bachelor's degree from a college or university accredited by an accrediting agency recognized by the Board; and (ii) accumulated a specified number of hours of experience involving the practice of substance abuse treatment while supervised by a licensed substance abuse treatment practitioner, or by any other mental health professional licensed by the Department, or by a certified substance abuse counselor who shall submit evidence satisfactory to the Board of clinical supervision qualifications pursuant to regulations adopted by the Board, such number of hours being greater than the number of hours required of a certified substance abuse counseling assistant. The applicant shall also pass an examination as required by the Board.

(2001, c. 460.)

**§ 54.1-3507.2. Scope of practice, supervision, and qualifications of certified substance abuse counseling assistants.**

A. A certified substance abuse counseling assistant shall be qualified to perform, under appropriate supervision or direction, the substance abuse treatment functions of orientation, implementation of substance abuse treatment plans, case management, substance abuse or dependence crisis intervention, record keeping, and consultation with other professionals. Certified substance abuse counseling assistants may participate in recovery group discussions, but shall not engage in counseling with either individuals or groups or engage in independent or autonomous practice.

B. Such certified substance abuse counseling assistant shall be supervised or directed either by a licensed substance abuse treatment practitioner, or by any other mental health professional licensed by the Department, or by a certified substance abuse counselor, or, in an exempt setting as described in § 54.1-3501, another person with substantially equivalent education, training, and experience, or such counseling assistant shall be in compliance with the supervision requirements of a licensed facility.

C. Pursuant to regulations adopted by the Board, an applicant for certification as a certified substance abuse counseling assistant shall submit evidence satisfactory to the Board that the applicant has (i) received a high school diploma or its equivalent, (ii) completed a specified number of hours of didactic substance abuse education in a program or programs recognized or approved by the Board, and (iii) accumulated a specified number of hours of experience and completed a practicum or an internship involving substance abuse treatment, supervised either by a licensed substance abuse treatment practitioner, or by any other mental health professional licensed by the Department, or by a certified substance abuse counselor. The applicant shall also pass an examination, as required by the Board.

(2001, c. 460.)

**§ 54.1-3507.3. Use of titles.**

No person shall claim to be, or use the title of, a substance abuse treatment practitioner, a substance abuse counselor, or a substance abuse counseling assistant unless he has been licensed or certified as such pursuant to §§ 54.1-3507, 54.1-3507.1 or § 54.1-3507.2.

(2001, c. 460.)

**§ 54.1-3508. Licensure of certain persons possessing substantially equivalent qualifications, education or experience.**

Notwithstanding the provisions of § 54.1-3507, (i) the Board may issue a license as a licensed substance abuse treatment practitioner to a person who, after the effective date of the regulations promulgated pursuant to subdivision 7 of § 54.1-3505, has applied for such a license and who, in

the judgment of the Board, possesses qualifications, education or experience substantially equivalent to the requirements of § 54.1-3507; however, any such applicant shall have completed at least one year of supervised clinical experience in substance abuse treatment, and (ii) for a period of time to be determined by the Board but not less than one year after the effective date of the regulations, the Board shall issue such a license to any such person who, in the judgment of the Board, possesses qualifications, education or experience acceptable to the Board and has completed at least one year of supervised clinical experience in substance abuse treatment.

(1997, c. 901; 1999, c. 863.)

**§ 54.1-3509. Continued certification of certain certified substance abuse counselors.**

On and after July 1, 2001, unless such certification is suspended or revoked by the Board, the Board shall continue to certify as a certified substance abuse counselor any person (i) who was certified by the Board as a certified substance abuse counselor prior to July 1, 2001, or (ii) who registered his supervisory contract with the Board or filed an application with the Board prior to July 1, 2001, for certification as a certified substance abuse counselor and was certified by the Board after July 1, 2001. The person's scope of practice shall be limited to that set forth in subsection A of § 54.1-3507.1.

(2001, c. 460.)

**§ 54.1-3510. Definitions.**

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

"Certified rehabilitation provider" means a person who is certified by the Board as possessing the training, the skills and the experience as a rehabilitation provider to form an opinion by discerning and evaluating, thereby allowing for a sound and reasonable determination or recommendation as to the appropriate employment for a rehabilitation client and who may provide vocational rehabilitation services under subdivision A 3 of § 65.2-603 that involve the exercise of professional judgment.

"Professional judgment" includes consideration of the client's level of disability, functional limitations and capabilities; consideration of client aptitudes, career and technical skills and abilities; education and pre-injury employment; and identification of return-to-work options and service needs which culminate in the determination or recommendation of appropriate employment for the rehabilitation client.

(1994, c. 558; 1995, c. 343; 1997, c. 839; 2001, c. 483; 2004, c. 10.)

**§§ 54.1-3511. , 54.1-3512.**

Repealed by Acts 2004, c. 10.

**§ 54.1-3513. Restriction of practice; use of titles.**

A. No person, other than a person licensed by the Boards of Counseling; Medicine; Nursing; Optometry; Psychology; or Social Work, shall hold himself out as a provider of rehabilitation services or use the title "rehabilitation provider" or a similar title or any abbreviation thereof unless he holds a valid certificate under this article.

B. Subsection A shall not apply to employees or independent contractors of the Commonwealth's agencies and sheltered workshops providing vocational rehabilitation services, under the following circumstances: (i) such employees or independent contractors are not providing vocational rehabilitation services under § 65.2-603 or (ii) such employees are providing vocational rehabilitation services under § 65.2-603 as well as other programs and are certified by the Commission on Rehabilitation Counselor Certification (CRCC) as certified rehabilitation counselors (CRC) or by the Commission on Certification of Work Adjustment and Vocational Evaluation Specialists (CCWAVES) as Certified Vocational Evaluation Specialists (CVE).

(1994, c. 558; 2000, c. 473; 2004, c. 271.)

**§ 54.1-3514. Certification of existing providers.**

The Board of Counseling upon receipt of a completed application and payment of the prescribed fee on or before June 30, 1995, shall issue a certificate to any person who was actively engaged in providing rehabilitation services on January 1, 1994.

(1994, c. 558; 2000, c. 473.)

**§ 54.1-3515. Certification renewal of individuals who became certified under the provisions of § 54.1-3514.**

After July 1, 2001, the Board of Counseling shall not renew a certificate to any person who became certified under the provisions of § 54.1-3514 without documentation that such person meets the current requirements for certification established by the Board, unless such person provided rehabilitation services for at least two years immediately preceding July 1, 1997, and has done so continuously since that date without interruption and received a passing score on a Board approved examination. The Board of Counseling, pursuant to its authority in this section and in § 54.1-3505, shall adopt regulations to implement the 1997 revisions of the law relating to certified rehabilitation providers in 280 days or less of the date of the enactment of such revisions.

(1997, c. 839; 1999, c. 609; 2000, c. 473.)