

July 31, 2020
VIRTUAL
10:00 a.m.

Call to Order – Holly Tracy, LPC, LMFT, Committee Chairperson

- Welcome and Introductions
- Mission of the Board

Approval of Minutes

- Regulatory Committee Meeting – January 24, 2020*

Public Comment

The Committee will not receive comment on any pending regulation process for which a public comment period has closed or any pending or closed complaint or disciplinary matter.

Unfinished Business

- Regulatory Actions – Elaine Yeatts, Department of Health Professions (DHP) Sr. Policy Analyst

New Business

- Response to Petition for Rulemaking* -- Elaine Yeatts
- Review of Guidance Documents* -- Elaine Yeatts
 - 115-1.4: Guidance on Technology-Assisted Counseling and Technology-Assisted Supervision
 - 115-1.8: Examinations approved by the Board for Certification as a Rehabilitation Counselor
 - 115-7: Supervised Experience Requirements for the Delivery of Clinical Services for Professional Counselor Licensure
- Discussion of need for additional waivers or changes to the Regulations in anticipation of future Emergency Orders.
 - Using Telephonic services to count towards client contact hours in supervision
 - Extension of Internship Waiver
- NAADAC passing score changes – Charlotte Lenart, Deputy Director of Licensing, Boards of Counseling, Psychology, and Social Work
- Update on Workgroup/Committee with Board of Medicine on Study of Mental Health Services for Minors -- Jaime Hoyle, JD, Executive Director, Boards of Counseling, Psychology, and Social Work

Next Meeting – October 9, 2020

Meeting Adjournment

*Requires a Committee Vote

This information is in **DRAFT** form and is subject to change. The official agenda and packet will be approved by the public body at the meeting and will be available to the public pursuant to Virginia Code Section 2.2-3707(F).



Virginia Department of
Health Professions
Board of Counseling

MISSION STATEMENT

Our mission is to ensure safe and competent patient care by licensing health professionals, enforcing standards of practice, and providing information to health care practitioners and the public.

**VIRGINIA BOARD OF COUNSELING
REGULATORY COMMITTEE MEETING
DRAFT MINUTES
Friday, January 24, 2020**

TIME AND PLACE: The meeting was called to order at 11:00 a.m. on Friday, January 24, 2020, in Board Room 3 at the Department of Health Professions (DHP), 9960 Mayland Drive, Henrico, Virginia.

PRESIDING: Holly Tracy, LPC, LMFT, Chairperson

COMMITTEE MEMBERS PRESENT: Johnston Brendel, Ed.D, LPC, LMFT
Kevin Doyle, Ed.D, LPC, LSATP
Terry Tinsley, PhD, LPC, LMFT, CSOTP

COMMITTEE MEMBERS ABSENT: Vivian Sanchez-Jones, Citizen Member

STAFF PRESENT: Sandie Cotman, Licensing Specialist
Jaime Hoyle, JD, Executive Director
Jennifer Lang, Deputy Executive Director
Charlotte Lenart, Licensing Manager
Brenda Maida, Licensing Specialist

OTHERS PRESENT: Elaine Yeatts, DHP Senior Policy Analyst

APPROVAL OF MINUTES: Dr. Brendel, moved to approve the minutes of the October 31, 2019 meeting. Dr. Doyle, seconded the motion, and it passed unanimously.

PUBLIC COMMENT: There were no public comments.

DISCUSSIONS:

I. Unfinished Business:

Consideration of guidance document for emotional support animals:

- The Board reviewed the draft guidance document on emotional support animals. Dr. Tinsley moved, which was seconded by Dr. Brendel, to recommend the guidance document on emotional support animals with amendments to the full Board for approval for adoption. The motion passed unanimously.

II. New Business:

- **Status of Regulations:** Ms. Yeatts discussed the current regulatory actions that were presented in the agenda packet.
- **Petition for Rulemaking to amend regulations to accept 1500 direct/indirect service hours, 50 hours of supervision and one year experience from a master's level internship.*** Dr. Brendel moved, which was seconded by Dr. Doyle, to deny the petitioners request.

- **Consideration of public comment on the Notice of Intended Regulations Actions (NOIRA) related to the issuance of a temporary license for a resident in counseling, marriage and family therapy and substance abuse treatment.*** The Committee discussed public comment related to section B.10 of 18VAC115-20-52. Dr. Doyle moved, which was seconded by Dr. Tinsley, to strike the language that requires the resident number in all written communication. The motion passed unanimously.

Dr. Brendel moved, which was seconded by Dr. Tinsley, to retain the language which informs clients that the resident does not have authority to practice independently and is under supervision. The motion passed unanimously.

- **Notice of Intended Regulatory Action (NOIRA) and proposed regulations related to periodic review for Regulations Governing the Certification of Rehabilitation Providers.*:** Dr. Brendel moved, which was seconded Dr. Doyle, to recommend to the full Board to approved the proposed regulations as written.
- **Report on 2020 General Assembly:** Elaine Yeatts provided an update on the legislation in the 2020 General Assembly.
- **Discuss the need for a 2020 Supervisor Summit Training:** The Committee discussed and agreed that a 2020 supervisor summit should be recommended to the full Board.
- **Discussion on the new continuing education requirements for CSAC and CSAC-As:** Final Regulations Governing the Certification of Substance Abuse Counselors and Substance Abuse Counseling Assistants are effective February 19, 2020 which include the requirement for continuing education. Dr. Doyle moved, which was seconded by Dr. Tinsley, to recommend to the full Board to delay the requirements for continuing education so that certificate holders have a full year to obtain their hours.

NEXT SCHEDULED MEETING: The next Committee meeting is scheduled for May 1, 2020 at 10:00 a.m.

ADJOURNMENT: The meeting adjourned at 12:43 p.m.

Holly Tracy, LPC, LMFT
Chairperson

Date

Jaime Hoyle, JD
Executive Director

Date

Agenda Item: Regulatory Actions - Chart of Regulatory Actions

Staff Note: Attached is a chart with the status of regulations for the Board as of July 15, 2020

Chapter		Action / Stage Information
[18 VAC 115 - 20]	Regulations Governing the Practice of Professional Counseling	<u>Unprofessional conduct - conversion therapy</u> [Action 5225] Proposed - At Governor's Office for 46 days
[18 VAC 115 - 20]	Regulations Governing the Practice of Professional Counseling	<u>Periodic review</u> [Action 5230] Proposed - At Secretary's Office for 89 days
[18 VAC 115 - 20]	Regulations Governing the Practice of Professional Counseling	<u>Resident license</u> [Action 5371] Proposed - At Governor's Office for 46 days
[18 VAC 115 - 20]	Regulations Governing the Practice of Professional Counseling	<u>Handling fee - returned check</u> [Action 5436] Fast-Track - At Governor's Office for 46 days
[18 VAC 115 - 40]	Regulations Governing the Certification of Rehabilitation Providers	<u>Periodic review</u> [Action 5305] Proposed - At Governor's Office for 44 days
[18 VAC 115 - 80]	Regulations Governing the Registration of Qualified Mental Health Professionals	<u>Registration of QMHP-trainees</u> [Action 5444] Fast-Track - At Governor's Office for 44 days

Agenda Item: Response to Petitions for Rulemaking

Included in your agenda package are:

A copy of the petition received from **James Christmas**

Copy of comments on petition

Section of regulation

Committee action on petition:

To recommend initiation of rulemaking by adoption of a Notice of Intended Regulatory Action or a fast-track action; or

To reject the petitioner's request (*The Board will need to discuss or state its reasons for denial*).



COMMONWEALTH OF VIRGINIA

Board of Counseling

9960 Mayland Drive, Suite 300
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(804) 367-4610 (Tel)
(804) 527-4435 (Fax)

Petition for Rule-making

The Code of Virginia (§ 2.2-4007) and the Public Participation Guidelines of this board require a person who wishes to petition the board to develop a new regulation or amend an existing regulation to provide certain information. Within 14 days of receiving a valid petition, the board will notify the petitioner and send a notice to the Register of Regulations identifying the petitioner, the nature of the request and the plan for responding to the petition. Following publication of the petition in the Register, a 21-day comment period will begin to allow written comment on the petition. Within 90 days after the comment period, the board will issue a written decision on the petition.

Please provide the information requested below. (Print or Type)

Petitioner's full name (Last, First, Middle Initial, Suffix,) **Christmas, James G. III**

Street Address: **2609 The Terrace**

Area Code and Telephone Number
804-683-6590

City: **Richmond**

State: **Virginia**

Zip Code: **23222**

Email Address (optional): **jchristmas@rivercityccs.com**

Fax (optional)

Respond to the following questions:

1. What regulation are you petitioning the board to amend? Please state the title of the regulation and the section/sections you want the board to consider amending.

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

(5) Verification of a passing score on a substance abuse licensure examination as established by the jurisdiction in which licensure was obtained. The examination is waived for an applicant who holds a current and unrestricted license as a professional counselor within the Commonwealth of Virginia;

2. Please summarize the substance of the change you are requesting and state the rationale or purpose for the new or amended rule. The Board states that if the applicant "holds a current and unrestricted license as a professional counselor within the Commonwealth of Virginia" the exam will be waived. I am requesting that this statement include Social Workers, as up until just a few years ago, Social Workers provided clinical supervision to those seeking LPC and LSATP.

3. State the legal authority of the board to take the action requested. In general, the legal authority for the adoption of regulations by the board is found in § 54.1-2400 of the Code of Virginia. If there is other legal authority for promulgation of a regulation, please provide that Code reference. The Board governs the licensing of LSATPs, so it has the authority to do so.

Signature: **Jimmy Christmas, LCSW, CSAC, CCTP, MYT**

Date: **April 20, 2020**

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Secretariat Health and Human Resources

Agency Department of Health Professions

Board Board of Counseling

[Edit Petition](#)

Petition 321

Petition Information	
Petition Title	Waiver of examination for licensure as a substance abuse treatment practitioner for LCSWs
Date Filed	4/20/2020 Transmittal Sheet
Petitioner	James Christmas
Petitioner's Request	To amend section 50 to allow persons who are licensed as clinical social workers to be licensed as substance abuse treatment practitioners without examination.
Agency's Plan	The petition will be published in the Register of Regulations with a comment period from May 11, 2020 to June 10, 2020. All comments will be considered by the Board at it next meeting, scheduled for August 21, 2020.
Comment Period	Ended 6/10/2020 24 comments
Agency Decision	Pending
Contact Information	
Name / Title:	Jaime Hoyle / Executive Director
Address:	9960 Mayland Drive Suite 300 Richmond, 23233
Email Address:	jaime.hoyle@dhp.virginia.gov
Telephone:	(804)367-4406 FAX: (804)527-4435 TDD: (-)

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Agency Department of Health Professions

Board Board of Counseling

Chapter

Regulations Governing the Practice of Licensed Substance Abuse Treatment Practitioners
[18 VAC 115 - 60]

24 comments

All good comments for this forum [Show Only Flagged](#)

[Back to List of Comments](#)

Commenter: Shenay Wharton Eastern Shore CSB

5/20/20 2:01 pm

grandfathering of LCSWs

I would be reluctant to see this petition move forward unless the clinicians have documented education and training in addictions. Being a licensed provider does not mean that they are also skilled in the treatment of substance use disorders.

CommentID: 80163

Commenter: Candace Roney

5/21/20 7:55 am

Grandfathering LCSW

Addiction treatment is a specialized area of behavior health that requires academic and practical training. I do not support grandfathering unless an adequate level of knowledge can be proven in the area.

CommentID: 80167

Commenter: Rebecca Hogg

5/29/20 6:39 pm

Against waiving exam for LSATP for LCSW

MSW programs do not generally require a substance use course in order to reach graduation and LCSW in VA also does not require this education for initial licensure. Substance use counseling requires specialized training which an LCSW may not have and the SW exam does not cover. The LPC in VA requires a substance use course for licensure. Additionally, the LPC exam in VA is scenario based which is significantly different than the exam for social workers. I am not in favor of waiving the requirement of the MAC exam for LCSW applicants to earn the LSATP.

CommentID: 80173

Commenter: Sharon Watson, LPC, LMFT, LSATP, NCC, ACS

5/31/20 11:00 pm

ABSOLUTELY NOT IN FAVOR

To put it simply:

SATP Residency (200 hours supervision) + education & experience + exam = LSATP

LPC (200 hours supervision) + CSAC (100 hours supervision) + CSAC exam = LSATP

Does not and should not equate to:

LCSW (100 hours supervision) + NOTHING = LSATP

Becoming a Licensed Substance Abuse Treatment Practitioner requires either: 1. Substance abuse specific education, internship, and experience; 3,400 hours of total work and 2000 hours of face-to-face substance abuse treatment with 200 hours of supervision from a Supervisor with 20 hours of Clinical Supervision Training who also has met specific substance abuse education and experience requirements, and passing the examination; or 2. A license as an LPC plus certification as a CSAC; the LPC education requirement already requires a course in substance abuse, the same number of hours of work and supervision noted above and a CSAC which requires specific education, experience, the CSAC exam, and 100 hours of supervision over the course of 2000 hours of total work; therefore this option requires a total of 300 hours of supervision.

It's extremely important to note that in order to become an LCSW there is no requirement for substance abuse education and social work residents are required to only have 100 hours of supervision from a supervisor who is required to only have 14 hours of Clinical Supervision Training over the course of 3000 hours of work and 1,380 hours of face-to-face client contact, not the higher work and client contact hours or the 200 or 300 hours of supervision required for either of the scenarios above.

This petition doesn't request a waiver for the examination for an LCSW with any requirements for substance abuse education, experience, internship, or supervision specifically in substance abuse.

Please do not denigrate licensure as an LSATP by allowing this petition to pass without requiring the same education and experience as those required for LSATP licensure or those required for endorsement that would include a CSAC in addition to licensure as a LCSW.

CommentID: 80175

Commenter: Linda G. Ritchie, Ph.D; LMFT, LPC

6/1/20 3:02 pm

STRONGLY AND ABSOLUTELY NOT IN FAVOR

I find it absurd that it is even being considered to allow a LCSW to become a Licensed Substance Abuse Treatment Practitioner without any documentation of education, training or experience in substance abuse treatment. To simply award the title of LSATP to a person because they are a LCSW is a slap in the face to those clinicians who have invested their time, energy and money in training to gain the knowledge and proficiency required to be competent in the area of substance abuse treatment. I fail to understand any reasoning that would make approving this petition reasonable.

CommentID: 80178

Commenter: Monica Whitlock

6/6/20 5:04 pm

Strongly not in favor

I am strongly not in favor of this, they should not be except from all of the hard work that we had to put in to get our license.

CommentID: 80188

Commenter: LaToya Ray, LPC

6/7/20 4:11 pm

Training Requirements for LCSWs and Substance Abuse

I would suggest that LCSW engage in additional educational training and require additional substance abuse credentials as does the Virginia Board of Counseling.

CommentID: 80189

Commenter: Marjorie Knight, LPC

6/7/20 4:17 pm

Opposed to LCSW approval as LSATP without education and supervision

I am opposed to the approval of LCSWs as LSATPs unless they have met the same stringent educational and supervision requirements met by LPCs.

CommentID: 80190

Commenter: Guy Strawder, LMFT, Revelations Counseling & Consulting

6/7/20 4:28 pm

Strongly Oppose

I strongly oppose the petition for this rule. From a clinical perspective, the hours required for this specialized field of practice are extensive, and they appear to have been scrutinized and established previously by the Board for the purpose of engendering greater competency among licensed professionals in treatment of substance use disorders. If the requirements are watered-down for one credential, then the precedence is set for others—and the result is a lowered level of competency throughout the Commonwealth to meet an essential need. If the purpose of waiving the exam and education to increase the number of licensed practitioners with this specialized training in the Commonwealth to meet the need, I would request the Board would take a more thoughtful approach on the training and number of direct client hours under supervised residency in substance abuse treatment that would be amenable to all licensed practitioners in the state.

I am not currently an LSATP, but I know the the commitment in training, education, residency and examination are quite extensive. I find it very discouraging for our profession that we are picking winners and losers among different credentials that can circumvent these requirements for what appear to be arbitrary factors.

CommentID: 80191

Commenter: Mary Linda Sara, PhD

6/7/20 5:25 pm

opposed to LCSW being grandfathered

I am absolutely opposed to having LCSWs being allowed to practice as substance abuse counselors. It is impossible to know when allowing LCSWs, as a group, who has adequate course work and supervision to practice in this specialty as recognized in Virginia.

I still have my Virginia license.

CommentID: 80192

Commenter: Salma Abugideiri LPC

6/7/20 6:42 pm

Opposed to LCSW's being endorsed as LSATP

It does not make sense to me for any clinician to have a shortcut on the preparation and training for becoming a licensed or certified substance abuse therapist.

CommentID: 80193

Commenter: Ed Andrews

6/7/20 6:55 pm

Opposed to LCSW's being endorsed as LSATP

Strongly opposed to allowing LCSW to become LSATP without any training and exam.

CommentID: 80194

Commenter: Ed Andrews

6/7/20 6:57 pm

Opposed to LCSW's being endorsed as LSATP

Opposed to waiving Exam or grandfathering LCSW to be LSTAP.

CommentID: 80195

Commenter: Kirsten M. Lundeberg, LPC, LMFT

6/7/20 8:58 pm

Opposed to waiving Exam or grandfathering LCSW to be LSTAP.

I am opposed to waiving Exam or grandfathering LCSW to be LSTAP.

CommentID: 80196

Commenter: DENISE COOPER

6/7/20 9:25 pm

Opposed to LCSW endorsement as LSATP; they must test!

I am amazed at the number of professionals who have desired the LSATP for the monetary gain, since the ARTS but were never interested in the credential before. I AM OPPOSED TO LCSW's NOT HAVING TO TEST FOR THE LSATP - for several reasons (1) the LSATP is already given to the LPC's , who have no training in addictions and only recently have been required to complete one (1) graduate level SUD class, (2) I had to test for the LSATP in 2004 after completion of graduate school and LSATP's are not given the opportunity to obtain the LPC or any other graduate level credential without testing, (3) I dont think that the Board of Counseling has any respect for or maintains any integrity for addictions professionals because they are ALWAYS giving the LSATP to some other already credentialed professional and does nothing for us - those with only the LSATP. If this seems hostile , it isa the waythat I feel because it just seems so disrespectful to be in a profession for over 25 years without any recognition, respect or equitable opportunity for obtaining other graduate level credentials from the Board of Counseling - while my credential, the LSATP, is just given away like candy to anyone who asks for it.

CommentID: 80197

Commenter: Michelle Market, LPC, CEDS

6/8/20 6:04 am

Opposed to waiving Exam or grandfathering LCSW to be LSTAP

I am opposed to waiving Exam or grandfathering LCSW to be LSTAP

CommentID: 80198

6/8/20 7:00 am

Commenter: Durriya Augelli

Opposed to waiving Exam or grandfathering LCSW to be LSTAP.

I am opposed to LCSWs being granted LSTAP licensure without the proper training, and without training that is equivalent to that required of other fields like LPC. I believe it sends the wrong message to the professional community about standards and quality of care.

CommentID: 80199

Commenter: Eric McClerren

6/8/20 7:18 am

Strongly oppose

I'm in favor of giving those with an LCSW a path toward addiction certification. We need more competently trained professionals to treat this population. However, I have to oppose the petition the way it currently stands. As Sharon Watson pointed out in her comment, it is possible for an individual to receive an LCSW credential without one single hour of addiction-specific training. To give someone a certification to treat addiction with no actual training in how to treat addiction would put many lives at risk. I would be in favor of any petition amended to include requirements for training in substance abuse treatment in line with what is required for LPC and LSATP.

CommentID: 80200

Commenter: Michelle M. May, LPC

6/8/20 9:59 am

OPPOSED to waiving the exam

I am opposed to waiving the exam for LCSWs for the LSTAP certification . We need to keep a high standard of training and education in order to most effectively help.

CommentID: 80201

Commenter: Colette Brooks

6/8/20 5:19 pm

OPPOSED

Strongly opposed waiving the exam and education requirments for LCSW to be LSTAP

CommentID: 80207

Commenter: Nicole Jordan, LCSW

6/9/20 10:40 pm

IN FAVOR

I am fully in favor of LCSWs being afforded a similar opportunity as LPCs, to waive the examination and be endorsed for LSATP. The Board of Counseling already outlines the path to endorsement to include training, education and experience working in substance abuse treatment. Many LCSWs DO work in the substance abuse field and are recognized by many insurance networks without the credential. LCSWs are still guided by ethical code to practice within our scope of expertise which would still require us to be trained and educated prior to providing services to this population.

CommentID: 80218

Commenter: John-Mike Nelson, PhD, LPC, LASTP, MAC, SAP

6/10/20 1:58 pm

STRONGLY Oppose!!

I am writing to you to state that I strongly oppose the petition that asking for LCSWs to be endorsed into licensure as a LSATP without taking the examination and without having education and experience in substance abuse treatment. As a substance abuse specialist for the past 15 years, I understand the need for more professionals working with this population. At the same time, substance abuse is a vast and complicated area needing many MANY hours of education and training to adequately provide help for those suffering from substance use disorders. I have worked with many consumers that have actually been damaged by working with ill-equipped mental health professionals that have a "basic" understanding (or none at all) of the complications of substance use. They have walked away from those sessions with unprepared clinicians with reinforced guilt, shame, embarrassment, and trauma. I believe this is solely due to lack of training, education, and experience provided by helping professionals.

By waiving the requirements for LCSWs without the same rigorous requirements as any other individual that attempts to acquire the LSATP credential, you will be putting the substance using population in jeopardy. This is exactly what we all attempt to prevent for our consumers. If an LCSW is able to use those credentials, it will falsely be presenting to consumers that they are highly trained substance abuse specialists who have undergone rigorous training and education. This gives a false sense of security giving this vulnerable population! The damage that may be done in those sessions, if the LCSW is unequipped to work with this population, will hinder any success consumers may have a chance of!

Please do not waive the requirements for LCSWs to be endorsed for LSATP credentials without the same training/examination/supervision requirements as all others who hold this credential. It is up to the board of counseling to protect the populations we attempt to help and I strongly believe that by allowing this petition to go through, the Board will be extremely jeopardizing the well-being of substance using populations.

CommentID: 80224

Commenter: Candice Arnold, LPC, LSATP

6/10/20 2:54 pm

Strongly disagree

Working with clients with substance use disorders is a specialty. I do not agree with this petition to allow for getting the LSATP licensure without taking the exam and meeting the additional requirements regarding hours, supervision, etc. I believe it is imperative that therapists who work with clients with substance use disorders have had appropriate education, training and supervision prior to being licensed as an LSATP. It is important that one has experience to be able to properly assess for substance use disorders, make appropriate recommendations for levels of care needed for treatment, know how to implement therapeutic techniques with clients and their and loved ones.

CommentID: 80225

Commenter: Chandell Miller, LPC resident, CSAC, NCAC II, SAP, NDS, ADS

6/10/20 2:58 pm

Totally Opposed

I am totally opposed to LSCW's receiving an LSATP license. Social Work is not counseling nor is it substance abuse. Please stop forcing the practice of social work into counseling now substance

abuse. There are many individuals with an educational background in substance abuse and counseling that would be more appropriately suited for the LSATP license.

The substance abuse counseling community suffers enough from jobs in addiction slotted to social workers. General practitioners (MD) do not perform surgery for a reason, it's not their specialty.

CommentID: 80226

Regulation Proposed as part of Periodic Review

~~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. An applicant is required to pass the prescribed examination no later than six years from the date of initial issuance of a resident license by the board.~~

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

~~C. The examination is waived for an applicant who holds a current and unrestricted license as a professional counselor issued by the board.~~

~~D. A candidate approved by the board to sit for the examination shall pass the examination within two years from the date of such initial board approval. If the candidate has not passed the examination within two years from the date of initial approval:~~

~~1. The initial board approval to sit for the examination shall then become invalid; and~~

~~2. The applicant shall file a complete new application with the board, meet the requirements in effect at that time, and provide evidence of why the board should approve the reapplication for examination. If approved by the board, the applicant shall pass the examination within two years of such approval. If the examination is not passed within the additional two-year period, a new application will not be accepted.~~

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

~~F. D. A candidate for examination or an applicant shall not provide clinical services unless he is under supervision approved by the board. resident shall remain in a residency practicing under supervision until he has passed the licensure examination and been granted a license as a substance abuse treatment practitioner.~~

Virginia Board of Counseling

Guidance on Technology-Assisted Counseling and Technology-Assisted Supervision

The Board's regulations for Standards of Practice (18VAC115-20-130) are prefaced by the following:

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.

Therefore, the standards of practice set forth in section 130 of the regulations and in the Code of Virginia apply regardless of the method of delivery. The Board of Counseling recommends the following when a licensee uses technology-assisted counseling as the delivery method:

1. Counseling is most commonly offered in a *face-to-face relationship*. *Counseling that from the outset is delivered in a technology-assisted manner may be problematic in that the counseling relationship, client identity and other issues may be compromised.*
2. *The counselor must take steps to protect client confidentiality and security.*
3. The counselor *should seek training or otherwise demonstrate* expertise in the use of technology-assisted devices, especially in the matter of protecting confidentiality and security.
4. *When working with a client who is not in Virginia*, counselors are advised to check the regulations of the state board in which the client is located. It is important to be mindful that certain states prohibit counseling by an individual who is unlicensed by that state.
5. Counselors must follow the same code of ethics for technology-assisted counseling as they do in a traditional counseling setting.

Guidance for Technology-assisted Supervision

The Board of Counseling recommends the following when a licensee uses technology-assisted supervision:

1. Supervision is most commonly offered in a *face-to-face relationship*. *Supervision that from the outset is delivered in a technology-assisted manner may be problematic in that the supervisory relationship, client identity and other issues may be compromised.*
2. *The counselor must take steps to protect supervisee confidentiality and security.*

3. The counselor *should seek training or otherwise demonstrate* expertise in the use of technology-assisted devices, especially in the matter of protecting supervisee confidentiality and security.
4. Counselors must follow the same code of ethics for technology assisted supervision as they do in a traditional counseling/supervision setting.
5. The Board of Counseling governs the practice of counseling in Virginia. Counselors who are working with a client *who is not in Virginia* are advised to check the regulations of the state board in which a *supervisee is located*. It is important to be mindful that certain states *may regulate or prohibit supervision* by an individual who is unlicensed by that state.

Virginia Board of Counseling

Examinations approved by the Board for Certification as a Rehabilitation Counselor

In Regulations Governing the Certification of Rehabilitation Providers, Section 18VAC115-40-28 states that: “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.”

For the purpose of meeting the requirement of Section 28, the Board approves the following examinations:

- The examination for CRC certification (Certified Rehabilitation Counselor) given by the Commission on Rehabilitation Counselor Certification
- The examination for CDMS (Certification of Disability Management Specialist) given by the CDMS Commission
- The examination for ADMS (Associate Disability Management Specialist) given by the CDMS Commission

The passing score for each examination shall be the score determined by the Commission for passage.

Board of Counseling

Supervised Experience Requirements for the Delivery of Clinical Services for Professional Counselor Licensure

The Virginia Board of Counseling requires that an individual who proposes to obtain supervised experience in Virginia, in any setting, shall submit a supervisory contract stating the proposed plans for the resident to provide clinical services using recognized counseling and counseling treatment interventions while under the supervision of a qualified licensed practitioner as listed in the *Regulations Governing the Practice of Professional Counseling*. The supervisory contract, submitted on a board approved form, completed by the supervisor and the resident, must receive board approval prior to the beginning of the supervised experience.

The supervisor is currently required to assume full responsibility for the counseling activities of the resident and must verify and document the resident's experience in the delivery of 2000 hours of face to face clinical counseling as defined in the **Code of Virginia**:

"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.

If the Board's designated credentials reviewers are unable to determine, based on the registered supervision contract submitted, that the resident will be providing clinical counseling services while under supervision, the resident and supervisor shall, upon request by the Board, submit additional information to document that the proposed supervised experience meets the requirements of the *Regulations Governing the Practice of Counseling 18VAC115-20-52*.

Until the resident receives Board approval for the supervision contract, no supervised experience will be permitted to count towards licensure.



Commonwealth of Virginia
Office of the Governor

Executive Order

SECOND AMENDED NUMBER FIFTY-SEVEN (2020)

**LICENSING OF HEALTH CARE PROFESSIONALS
IN RESPONSE TO NOVEL CORONAVIRUS (COVID-19)**

EXTENSION OF CERTAIN WAIVERS

Importance of the Issue

It is anticipated that COVID-19 will continue to place increased demands on the Commonwealth's health professional workforce that will require additional personnel. Authorizing out-of-state licensed professionals to continue providing care to the citizens of the Commonwealth via telehealth will assist in meeting that demand. In addition, continuing to permit experienced nurse practitioners and physician assistants to practice without a practice agreement will extend the availability of primary care and hospital providers. Finally, continuing to expand the availability of telehealth will assist in the needed provision of health care services to the citizens of the Commonwealth.

Directive

Therefore, by virtue of the authority vested in me by the Constitution of Virginia and §44-146.17 of the *Code of Virginia*, during the state of emergency declared in Amended Executive Order 51, I hereby order the following:

1. During the state of emergency declared in Amended Executive Order 51, a license issued to a health care practitioner by another state, and in good standing with such state, shall be deemed to be an active license issued by the Commonwealth to provide health care or professional services as a health care practitioner of the same type for which such license is issued in another state, provided such health care practitioner is engaged by a hospital, or an affiliate of such hospital where both share the same corporate parent, licensed nursing facility, or dialysis facility in the Commonwealth for the purpose of assisting that facility with public health and medical disaster response operations. Hospitals, licensed nursing facilities, and dialysis facilities must submit to the applicable licensing authority each out-of-state health care practitioner's name, license type, state of license, and license

identification number within a reasonable time of such healthcare practitioner providing services at the applicable health care facility in the Commonwealth. Health care practitioners with active licenses issued by other states who notified the applicable licensing authority under this Executive Order and were engaged by a physician's office or other health care facility that is not a hospital, nursing facility, or dialysis facility may continue to practice in the Commonwealth for an additional 30 days from the date of this Order and may apply for licensure in the Commonwealth in order to continue providing services to patients located in Virginia.

2. A clinical psychologist, professional counselor, marriage and family therapist, and clinical social worker with an active license issued by another state may be issued a temporary license by endorsement as a health care practitioner of the same type for which such license is issued in another state upon submission of an application and information requested by the applicable licensing board and the board's verification that the applicant's license issued by another state is active in good standing and there are no current reports in the United States Department of Health and Human Services National Practitioner Data Bank. Such temporary license shall expire September 8, 2020. During such time the practitioner may seek a full Virginia license or transition patients to Virginia-licensed practitioners.
3. Nurse practitioners licensed in the Commonwealth of Virginia, except those licensed in the category of Certified Registered Nurse Anesthetists, with two or more years of clinical experience may continue to practice in the practice category in which they are certified and licensed and prescribe without a written or electronic practice agreement until September 8, 2020.
4. Health care practitioners with an active license issued by another state may provide continuity of care to their current patients who are Virginia residents through telehealth services for the duration of Amended Executive Order 51. Establishment of a relationship with a new patient requires a Virginia license unless pursuant to paragraphs 1 or 2 above.
5. Physician assistants licensed in the Commonwealth of Virginia with two or more years of clinical experience may practice in their area of knowledge and expertise and may prescribe without a written or electronic practice agreement until September 8, 2020.
6. A healthcare practitioner may use any non-public facing audio or remote communication product that is available to communicate with patients for the duration of Amended Executive Order 51. This exercise of discretion applies to telehealth provided for any reason regardless of whether the telehealth service is related to the diagnosis and treatment of COVID-19.

Nothing in this order designates the healthcare practitioners above as agents of the Commonwealth.

These actions are in concert with, and further the provisions of Executive Order 51 in marshalling all resources and appropriate preparedness, response, and recovery measures to respond to the emergency.

Effective Date of this Executive Order

This Executive Order shall be effective June 10, 2020 and shall remain in full force and in effect for the duration of the state of emergency as declared in Amended Executive Order 51 unless sooner amended or rescinded by further executive order.

Given under my hand and under the Seal of the Commonwealth of Virginia, this 10th day of June, 2020.



A handwritten signature in cursive script, reading "Ralph S. Northam".

Ralph S. Northam, Governor

Attest:

A handwritten signature in cursive script, reading "Kelly Thomasson".

Kelly Thomasson, Secretary of the Commonwealth



COMMONWEALTH of VIRGINIA

David E. Brown, D.C.
Director

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March 27, 2020

On March 12, 2020, Governor Ralph Northam declared a state of emergency due to novel coronavirus (COVID-19). In the declaration, [Executive Order 51](#), the Governor directed state agencies to render appropriate assistance to prepare for and mitigate the effects of the coronavirus (COVID-19) outbreak. In doing so, he ordered authorization for the heads of executive branch agencies, on behalf of their regulatory boards as appropriate, and with the concurrence of their Cabinet Secretary, to waive any state requirement or regulation.

Pursuant to the authority granted to the agency head by Executive Order 51 (2020), I hereby waive the below **internship hours** governing the **Practice of Professional Counseling**, the **Practice of Marriage and Family Therapy**, and the **Practice of Licensed Substance Abuse Treatment Practitioners** Regulations:

- **[18VAC115-20-52\(A\)\(2\)](#). Residency Requirements.**

For students who have successfully completed their required graduate degree and successfully completed the coursework requirements, including satisfactorily passing the internship requirement to graduate from the program, the specific internship hours specified in 18VAC115-20-51 shall be waived if a minimum of 240 hours were completed and the deficient hours occurred during the effective period of Executive Order No. 51.

- **[18VAC115-50-60\(A\)\(2\)](#) Residency Requirements.**

For students who have successfully completed their required graduate degree and successfully completed the coursework requirements, including satisfactorily passing the internship requirement to graduate from the program, the specific internship hours specified in 18VAC115-50-55 shall be waived if a minimum of 240 hours were completed and the deficient hours occurred during the effective period of Executive Order No. 51.

- **[18VAC115-60-80\(A\)\(2\)](#). Residency Requirements.**

For students who have successfully completed their graduate degree and satisfactorily passed the internship requirement to successfully graduate from the program, the specific internship hours specified in 18VAC115-60-70 shall be waived if a minimum of 240 hours were completed and the deficient hours occurred during the effective period of Executive Order No. 51.

This waiver does not waive statutory requirements or limitations. This waiver shall take effect on March 27, 2020, and shall remain in full force and in effect until June 10, 2020, or unless sooner amended, or rescinded by further executive order.

A handwritten signature in black ink, appearing to read "D. E. Brown".

David E. Brown, D.C.
Director

20100739D

SENATE BILL NO. 431

Offered January 8, 2020

Prefiled January 7, 2020

A BILL to amend and reenact §§ 20-124.6 and 54.1-2915 of the Code of Virginia and to amend the Code of Virginia by adding in Article 1 of Chapter 35 of Title 54.1 a section numbered 54.1-3506.2 and by adding in Chapter 36 of Title 54.1 a section numbered 54.1-3617, relating to provision of mental health services to a minor; access to health records.

Patron—Surovell

Referred to Committee on Education and Health

Be it enacted by the General Assembly of Virginia:

1. That §§ 20-124.6 and 54.1-2915 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding in Article 1 of Chapter 35 of Title 54.1 a section numbered 54.1-3506.2 and by adding in Chapter 36 of Title 54.1 a section numbered 54.1-3617 as follows:

§ 20-124.6. Access to minor's records.

A. Notwithstanding any other provision of law, neither parent, regardless of whether such parent has custody, shall be denied access to the academic or health records of that parent's minor child unless otherwise ordered by the court for good cause shown or pursuant to subsection B.

B. In the case of health records, access may also be denied if the minor's treating physician or the minor's treating clinical psychologist has made a part of the minor's record a written statement that, in the exercise of his professional judgment, the furnishing to or review by the requesting parent of such health records would be reasonably likely to cause substantial harm to the minor or another person. If a health care entity denies a parental request for access to, or copies of, a minor's health record, the health care entity denying the request shall comply with the provisions of subsection F of § 32.1-127.1:03. The minor or his parent, either or both, shall have the right to have the denial reviewed as specified in subsection F of § 32.1-127.1:03 to determine whether to make the minor's health record available to the requesting parent.

C. No health care provider shall refuse to provide mental health services to a minor solely on the basis that a parent of such minor does not consent to having his access to the health records of such minor limited or denied for any reason other than those provided in subsections A and B.

D. For the purposes of this section, the meaning of the term "health record" or the plural thereof and the term "health care entity" shall be as "health care entity," "health care provider," and "health record" mean the same as those terms are defined in subsection B of § 32.1-127.1:03.

§ 54.1-2915. Unprofessional conduct; grounds for refusal or disciplinary action.

A. The Board may refuse to issue a certificate or license to any applicant; reprimand any person; place any person on probation for such time as it may designate; impose a monetary penalty or terms as it may designate on any person; suspend any license for a stated period of time or indefinitely; or revoke any license for any of the following acts of unprofessional conduct:

1. False statements or representations or fraud or deceit in obtaining admission to the practice, or fraud or deceit in the practice of any branch of the healing arts;

2. Substance abuse rendering him unfit for the performance of his professional obligations and duties;

3. Intentional or negligent conduct in the practice of any branch of the healing arts that causes or is likely to cause injury to a patient or patients;

4. Mental or physical incapacity or incompetence to practice his profession with safety to his patients and the public;

5. Restriction of a license to practice a branch of the healing arts in another state, the District of Columbia, a United States possession or territory, or a foreign jurisdiction, or for an entity of the federal government;

6. Undertaking in any manner or by any means whatsoever to procure or perform or aid or abet in procuring or performing a criminal abortion;

7. Engaging in the practice of any of the healing arts under a false or assumed name, or impersonating another practitioner of a like, similar, or different name;

8. Prescribing or dispensing any controlled substance with intent or knowledge that it will be used otherwise than medicinally, or for accepted therapeutic purposes, or with intent to evade any law with respect to the sale, use, or disposition of such drug;

9. Violating provisions of this chapter on division of fees or practicing any branch of the healing arts

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59 in violation of the provisions of this chapter;

60 10. Knowingly and willfully committing an act that is a felony under the laws of the Commonwealth
61 or the United States, or any act that is a misdemeanor under such laws and involves moral turpitude;

62 11. Aiding or abetting, having professional connection with, or lending his name to any person
63 known to him to be practicing illegally any of the healing arts;

64 12. Conducting his practice in a manner contrary to the standards of ethics of his branch of the
65 healing arts;

66 13. Conducting his practice in such a manner as to be a danger to the health and welfare of his
67 patients or to the public;

68 14. Inability to practice with reasonable skill or safety because of illness or substance abuse;

69 15. Publishing in any manner an advertisement relating to his professional practice that contains a
70 claim of superiority or violates Board regulations governing advertising;

71 16. Performing any act likely to deceive, defraud, or harm the public;

72 17. Violating any provision of statute or regulation, state or federal, relating to the manufacture,
73 distribution, dispensing, or administration of drugs;

74 18. Violating or cooperating with others in violating any of the provisions of Chapters 1 (§ 54.1-100
75 et seq.), 24 (§ 54.1-2400 et seq.) and this chapter or regulations of the Board;

76 19. Engaging in sexual contact with a patient concurrent with and by virtue of the practitioner and
77 patient relationship or otherwise engaging at any time during the course of the practitioner and patient
78 relationship in conduct of a sexual nature that a reasonable patient would consider lewd and offensive;

79 20. Conviction in any state, territory, or country of any felony or of any crime involving moral
80 turpitude;

81 21. Adjudication of legal incompetence or incapacity in any state if such adjudication is in effect and
82 the person has not been declared restored to competence or capacity;

83 22. Performing the services of a medical examiner as defined in 49 C.F.R. § 390.5 if, at the time
84 such services are performed, the person performing such services is not listed on the National Registry
85 of Certified Medical Examiners as provided in 49 C.F.R. § 390.109 or fails to meet the requirements for
86 continuing to be listed on the National Registry of Certified Medical Examiners as provided in 49
87 C.F.R. § 390.111; ~~or~~

88 23. Failing or refusing to complete and file electronically using the Electronic Death Registration
89 System any medical certification in accordance with the requirements of subsection C of § 32.1-263.
90 However, failure to complete and file a medical certification electronically using the Electronic Death
91 Registration System in accordance with the requirements of subsection C of § 32.1-263 shall not
92 constitute unprofessional conduct if such failure was the result of a temporary technological or electrical
93 failure or other temporary extenuating circumstance that prevented the electronic completion and filing
94 of the medical certification using the Electronic Death Registration System; *or*

95 24. *Conditioning the delivery of mental health services to a minor on the agreement of the minor's*
96 *parent or guardian to refrain from requesting or subpoenaing medical records or court testimony.*

97 B. The commission or conviction of an offense in another state, territory, or country, which if
98 committed in Virginia would be a felony, shall be treated as a felony conviction or commission under
99 this section regardless of its designation in the other state, territory, or country.

100 C. The Board shall refuse to issue a certificate or license to any applicant if the candidate or
101 applicant has had his certificate or license to practice a branch of the healing arts revoked or suspended,
102 and has not had his certificate or license to so practice reinstated, in another state, the District of
103 Columbia, a United States possession or territory, or a foreign jurisdiction.

104 **§ 54.1-3506.2. Conditioning of mental health treatment for minors prohibited.**

105 *No practitioner licensed pursuant to this chapter shall condition the delivery of mental health*
106 *treatment to a minor on the agreement of the minor's parent or guardian to refrain from requesting or*
107 *subpoenaing medical records or court testimony.*

108 **§ 54.1-3617. Conditioning of mental health treatment for minors prohibited.**

109 *No practitioner licensed pursuant to this chapter shall condition the delivery of mental health*
110 *treatment to a minor on the agreement of the minor's parent or guardian to refrain from requesting or*
111 *subpoenaing medical records or court testimony.*