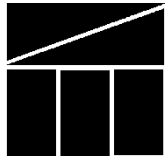


Adverse impact notification sent to Joint Commission on Administrative Rules, House Committee on Appropriations, and Senate Committee on Finance (COV § 2.2-4007.04.C): Yes<sup>1</sup>  Not Needed

If/when this economic impact analysis (EIA) is published in the *Virginia Register of Regulations*, notification will be sent to each member of the General Assembly (COV § 2.2-4007.04.B).



## Virginia Department of Planning and Budget Economic Impact Analysis

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**18 VAC 115-20 Regulations Governing the Practice of Professional Counseling**  
**Department of Health Professions**  
**Town Hall Action/Stage: 4259/8521**  
April 15, 2019

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### **Summary of the Proposed Amendments to Regulation**

The Board of Counseling (Board) proposes to change the requirements that applicants must satisfy to become a licensed professional counselor (LPC). Seven years after the effective date of the proposed regulation, only those counseling programs that are approved by the Council for Accreditation of Counseling and Related Educational Programs (CACREP) or the Council on Rehabilitation Education (CORE) would satisfy graduate degree requirements. As an alternative, the Board also proposes to allow applicants to qualify for licensure by obtaining the Certified Clinical Mental Health Counselor credential.

### **Result of Analysis**

There are insufficient data to accurately compare the magnitude of the benefits versus the costs. Detailed analysis of the benefits and costs can be found in the next section.

### **Estimated Economic Impact**

The Board of Counseling regulates the practice of counseling, substance abuse treatment, and marriage and family therapy. The Board's powers and duties include inspections,

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<sup>1</sup> Adverse impact is indicated if there is any increase in net cost for any entity, even if the benefits exceed the costs for all entities combined.

designation of specialties, and the promulgation of regulations regarding qualifications, education, and experience.

The Board proposed in 2014 to amend the degree program requirements that must be satisfied by applicants seeking to be an LPC. Specifically, the Board stipulated that only those counseling programs which are approved by CACREP or CORE will satisfy the pre-existing requirement than an applicant graduate from an accredited counseling program.<sup>2</sup> (Pursuant to a 2000 regulatory action, the Board recognized that counseling programs approved by CACREP or CORE qualified as accredited programs, but did not limit recognition to just those two accrediting bodies.)

The Board reports that CACREP-accreditation is widespread, and all 50 states have CACREP-accredited counselor education programs. In Virginia, 15 institutions presently have CACREP-accredited programs, and two more (Longwood University and Liberty University Online) are working towards accreditation. The Board also notes that five other states require CACREP accreditation either through statute or regulation (North Carolina, Kentucky, Iowa, Ohio, and New Hampshire).

Counseling programs are located in different departments or colleges, depending upon the institution, including education, and health professions. Full CACREP accreditation lasts for eight years, at which time reaccreditation is required. CACREP accreditation of the program is in addition to regional accreditation of the institution, such as by the Southern Association of Colleges and Schools.

In this revised proposed stage, the Board now proposes to allow two additional pathways for an applicant that were not in the proposed stage. First, in addition to CACREP and CORE the Board would also recognize “any other accrediting body acceptable to the board.” Second, applicants who did not graduate from an accredited counseling program can submit documentation that they obtained the Certified Clinical Mental Health Counselor credential from the National Board of Certified Counselors, or another credential or certification recognized by the Board.

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<sup>2</sup> <https://townhall.virginia.gov/l/ViewStage.cfm?stageid=7071>

*Entities Affected by the Proposed Regulation*

Several factors limit the number and types of entities directly or indirectly affected by the proposed regulation, along with any concomitant benefits and costs. Although the proposed changes would directly affect all applicants and the Board, the impact of these effects would be minimized or delayed because the Board proposes to delay the accreditation changes until seven years after the effective date of the regulation. The proposed regulation does not appear to directly affect counselors who have already been licensed by the Board, regardless of whether their program was CACREP-accredited; however, some indirect effects may occur. Lastly, the proposed amendments would likely indirectly affect consumers of counseling services, other professions that provide similar services but are not LPCs, as well as counseling education programs.

*Benefits of the Proposed Regulatory Change*

The Board has identified several benefits that it anticipates would result from the proposed amendments: facilitation of portability (licensure across states) for graduates of Virginia programs; elimination of uncertainty for students and applicants by establishing a clearer standard; greater consistency in approval of residencies by the Board; increased acceptance of practice by federal agencies; greater assurance to clients who seek counseling services owing to greater consistency in counseling programs, and greater efficiency in reviewing applications for licensure.

The Board would directly benefit from the proposed changes. As noted by the Board, “The primary advantage to the Commonwealth would be greater efficiency in reviewing applications for licensure, as it would eliminate the need to look at the current qualifications for an educational program and rely on accreditation by CACREP or CORE.” The Board adds that it “has neither the resources nor the expertise to examine counseling programs across the country to determine their rigor or assess the quality of the education in those programs.” This change is in keeping with practices at other health regulatory boards, according to Board staff, which also rely on accrediting bodies that set national standards; currently, the only board that assesses the quality of professional education is Nursing, but it anticipates requiring national accreditation for certain nursing programs.

The degree to which the Board would benefit depends upon several factors, including its workload and the percentage of applicants from non-CACREP accredited programs (including in other states). Typically, the board receives between 300-400 applications for licensure per quarter for all regulated professions. Of this amount, about 133 applications are received for licensed professional counselors per quarter (on average). Board staff report that they do not have any data on the number of applicants from non-accredited programs, including in other states, but state that the vast majority are from accredited programs. Because these data on applicants do not exist, the efficiency gains cannot be determined, but the benefit would likely be limited since most applicants are from CACREP-accredited programs. Moreover, the Board could potentially address this concern by hiring additional staff rather than pursuing regulatory action, but the Board reports it is infeasible to retain sufficient staff to approve educational programs located outside of Virginia. The potential cost of such an approach is not known.

All applicants would also directly benefit from any efficiency gains experienced by the Board, which would “facilitate approval of applicants to begin supervision and to be ultimately licensed with less delay in the process.” The proposed change may lower the opportunity costs for unqualified applicants, to the degree it discourages them from applying. The Board reports that it receives applications for licensure from students whose educational programs are not clearly “counseling” in their identity. According to the Board, the “lack of clarity in its regulations has been frustrating for the Board and very problematic for some applicants who have obtained a post-graduate degree that may or may not qualify them for a residency and ultimately licensure.” Accordingly, reliance on a national accreditation standard will limit the number of unqualified applicants. However, the benefits that would be received by unqualified applicants largely result from improved clarity about requirements, which the Board could potentially achieve through improved information disclosure instead of regulatory action.

Currently, George Mason University (GMU) is the only Virginia institution with a counseling program that is neither CACREP-accredited nor pursuing accreditation. This proposed change could therefore directly benefit its future graduates. However, since the Board lacks the statutory authority to directly regulate educational providers, this would only occur if GMU’s program chooses to seek and is granted CACREP-accreditation. And because GMU is the only program that is neither CACREP-accredited nor pursuing accreditation, then some of the benefits the Board anticipates would only accrue to future GMU graduates. These benefits

include increased portability outside of Virginia, and increased opportunity to practice by those federal agencies that require CACREP accreditation. However, these benefits are unlikely to accrue to graduates of other programs in Virginia, as a result of the proposed change, because their programs either have or are working toward CACREP accreditation in the absence of regulation. However, a benefit could accrue to future graduates of other institutions should this new requirement dissuade their program from letting CACREP accreditation lapse.

The public may indirectly benefit, to the degree that awareness of the benefits of CACREP-accreditation leads to greater assurance. The Board notes that the primary advantage to the public is greater consistency in the educational programs of persons licensed as professional counselors in Virginia. The Board adds that this change would provide increased “consistency and quality in educational preparation for professional counselors” thus providing “greater assurance to clients seeking their services that they have been adequately prepared and appropriately licensed to protect public health and safety.” As such, this proposed change is part of the Board’s effort in recent years to work “towards greater professional identity for counseling to help the public understand the clinical services a licensed professional counselor is qualified to provide.” Therefore, if an educational campaign or other means of communication enhances public confidence in LPCs and awareness of CACREP as a result of this action, then a benefit would accrue. However, given that all but one counseling program in Virginia is already CACREP-accredited, this benefit is limited by the representation of GMU graduates in the pool of LPCs. In addition, the Board could implement such an educational campaign without pursuing regulatory action.

Existing LPCs who graduated from a CACREP-accredited program may benefit from an increase in employability to the degree that this proposed change increases public confidence in LPCs, or additional employers require CACREP accreditation. However, any such benefits would also be indirect because they would directly depend upon an increase in demand for CACREP-accredited LPCs by the public or employers.

#### *Costs of the Proposed Regulatory Change*

The proposed changes would result in direct costs for those applicants who seek to practice as an LPC in Virginia but who did not graduate from a CACREP-accredited program. No data exist to estimate these costs because the Board reports it does not have any data on the

number of applicants from non-accredited programs. The Board has sought to minimize these costs in several ways, primarily by delaying the effect of the requirement for CACREP-accreditation for seven years. In this revised proposed stage, the Board has also added additional pathways to licensure, as noted above.

However, several factors limit the utility of these pathways as means of reducing costs. In addition to CACREP and CORE the Board would also recognize “any other accrediting body acceptable to the Board.” However, the Board notes that no such body presently exists. Moreover, the recent merger of CACREP and CORE effectively means there is just one accrediting body acceptable to the Board. Second, although applicants who did not graduate from a CACREP-accredited counseling program can obtain the Certified Clinical Mental Health Counselor (CCMHC) credential, beginning in January 2022 any student graduating from a program not accredited by CACREP will not be eligible to apply for the National Certified Counselor credential, which is a prerequisite for the CCMHC. Board staff indicate that they are unaware of another national credential or certification, which could be used instead of the CCMHC.

The general public, and businesses who hire counselors, may be indirectly affected to the degree these proposed changes reduce the supply of counselors. This could occur if fewer applicants qualify for the LPC, as could occur if a graduate of an unaccredited program is unable to obtain the CCMHC credential. Sufficient information is not available to assess whether, or to what extent, this could occur.

At the industry level, the proposed change may result in indirect costs for related professions, to the degree demand for their services decreases. Many other practitioners may engage in counseling practice (such as social workers, marriage and family therapists, and psychologists), in the same way that counselors may describe some of their work as therapy or psychotherapy practice. Therefore, to the degree that public assurance regarding LPCs may indirectly increase because of this regulatory change, there may be a corresponding decrease in assurance about, and thus demand for, the services of other types of practitioners.

Several indirect costs may also be incurred by George Mason University, which reports that CACREP accreditation would constrain future hiring decisions for faculty who provide instruction in counseling, but whose degrees and backgrounds are in psychology, psychiatry or

social work. This is particularly concerning to GMU because they have several adjunct faculty members that would not meet the grandfathering requirements in the 2016 CACREP standards, even though they have been working at GMU for many years, because they have not worked full time.

GMU also reports several specific monetary costs. These include the cost to obtain initial CACREP approval, which GMU estimates to be slightly less than \$70,000. This includes approximately \$50,000 in staff costs, plus the fees charged by CACREP. The university also reports that they would incur ongoing compliance costs of approximately \$250,000 annually, including one full time tenure-line instructional faculty member (\$114,000), one part-time term instructional faculty member (\$72,000), and adjunct faculty costs to meet the additional course loads under CACREP's faculty/student ratio requirements (\$26,000). GMU also estimates that they would need to upgrade a part time administrative wage position to full time (\$34,000). Other annual costs for George Mason would include annual maintenance fees of \$3,514 (for two counseling degree programs) and about \$1,500 for approximately 30 CACREP student graduation certificates per year. The Board acknowledges that GMU would incur certain accreditation costs charged by CACREP, but appears to disagree about whether additional expenditures are required. However, Board staff report they have not discussed these expenditures with GMU.

### **Businesses and Entities Affected**

The Board's proposed amendments may affect related professions such as psychologists, psychiatrists, and social workers by decreasing demand for their services. The proposed amendments would also affect all applicants for counseling licensure, as well as any counseling programs that currently do not have accreditation from the specified credentialing bodies.

### **Localities Particularly Affected**

The proposed regulation would not affect any particular locality more than others.

### **Projected Impact on Employment**

The proposed changes have a delayed effective date of seven years. Counseling programs may obtain or lose their accreditation status by that time. It is too speculative to estimate future impact on employment.

## **Effects on the Use and Value of Private Property**

No significant effect on the use and value of private property is expected upon promulgation of these amendments.

## **Real Estate Development Costs**

No impact on real estate development costs is expected.

## **Small Businesses:**

### **Definition**

Pursuant to § 2.2-4007.04 of the Code of Virginia, small business is defined as “a business entity, including its affiliates, that (i) is independently owned and operated and (ii) employs fewer than 500 full-time employees or has gross annual sales of less than \$6 million.”

### **Costs and Other Effects**

For reasons noted above, the proposed amendments may reduce the number of small business at which licensed professional counselors practice compared to the number that would qualify to practice under the current regulation.

### **Alternative Method that Minimizes Adverse Impact**

The Board could employ sufficient staff to review counseling programs in lieu of relying upon a third-party organization, but Board staff report it is infeasible to retain sufficient staff to approve educational programs located outside of Virginia. The potential cost of such an approach is not known. The Board could also consider informational campaigns aimed at persons seeking to be educated as a counselor, as well as the public and employers, to explain the relative benefits of counselors and CACREP accreditation compared to other professions and educational approaches.

## **Adverse Impacts:**

### **Businesses:**

For reasons noted above, the proposed amendments may reduce the number of businesses at which licensed professional counselors practice compared to the number that would qualify to practice under the current regulation.



**Localities:**

The proposed regulation would not adversely affect localities.

**Other Entities:**

The proposed amendments may indirectly lead to increased expenditures by George Mason University to obtain accreditation for their counseling program in order to ensure their counseling students remain eligible for licensure. Applicants for an LPC may also be affected to the extent that they graduate from an unaccredited program and are not eligible for the CCMHC.

**Legal Mandates**

**General:** The Department of Planning and Budget has analyzed the economic impact of this proposed regulation in accordance with § 2.2-4007.04 of the Code of Virginia (Code) and Executive Order 14 (as amended, July 16, 2018). Code § 2.2-4007.04 requires that such economic impact analyses determine the public benefits and costs of the proposed amendments. Further the report should include but not be limited to: (1) the projected number of businesses or other entities to whom the proposed regulatory action would apply, (2) the identity of any localities and types of businesses or other entities particularly affected, (3) the projected number of persons and employment positions to be affected, (4) the projected costs to affected businesses or entities to implement or comply with the regulation, and (5) the impact on the use and value of private property.

**Adverse impacts:** Pursuant to Code § 2.2-4007.04(C): In the event this economic impact analysis reveals that the proposed regulation would have an adverse economic impact on businesses or would impose a significant adverse economic impact on a locality, business, or entity particularly affected, the Department of Planning and Budget shall advise the Joint Commission on Administrative Rules, the House Committee on Appropriations, and the Senate Committee on Finance within the 45-day period.

If the proposed regulatory action may have an adverse effect on small businesses, Code § 2.2-4007.04 requires that such economic impact analyses include: (1) an identification and estimate of the number of small businesses subject to the proposed regulation, (2) the projected reporting, recordkeeping, and other administrative costs required for small businesses to comply with the proposed regulation, including the type of professional skills necessary for preparing required reports and other documents, (3) a statement of the probable effect of the proposed regulation on affected small businesses, and (4) a description of any less intrusive or less costly alternative methods of achieving the purpose of the proposed regulation. Additionally, pursuant to Code § 2.2-4007.1, if there is a finding that a proposed regulation may have an adverse impact on small business, the Joint Commission on Administrative Rules shall be notified.