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## Final Regulation Agency Background Document

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| <b>Agency name</b>                                    | Board of Counseling, Department of Health Professions         |
| <b>Virginia Administrative Code (VAC) citation(s)</b> | 18VAC115-20   |
| <b>Regulation title(s)</b>                            | Regulations Governing the Practice of Professional Counseling |
| <b>Action title</b>                                   | Acceptance of practicum hours in a doctoral program           |
| <b>Date this document prepared</b>                    | 11/6/18   |

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), Executive Order 14 (as amended, July 16, 2018), the Regulations for Filing and Publishing Agency Regulations (1 VAC7-10), and the *Virginia Register Form, Style, and Procedure Manual for Publication of Virginia Regulations*.

### Brief Summary

*Please provide a brief summary (preferably no more than 2 or 3 paragraphs) of this regulatory change (i.e., new regulation, amendments to an existing regulation, or repeal of an existing regulation). Alert the reader to all substantive matters. If applicable, generally describe the existing regulation.*

The Board has adopted a final regulatory action response to a petition filed by Dominique Adkins requesting acceptance of supervised practicum and internship hours in a doctoral program accredited by the Council for Accreditation of Counseling and Related Educational Programs (CACREP). The intent is to recognize hours acquired in an accredited doctoral programs as meeting a portion of the hours of supervised practice required for licensure.

### Acronyms and Definitions

*Please define all acronyms used in the Agency Background Document. Also, please define any technical terms that are used in the document that are not also defined in the "Definition" section of the regulations.*

CACREP = Council for Accreditation of Counseling and Related Educational Programs

### Statement of Final Agency Action

*Please provide a statement of the final action taken by the agency including: 1) the date the action was taken; 2) the name of the agency taking the action; and 3) the title of the regulation.*

On November 2, 2018, the Board adopted amendments to 18VAC115-20-10 et seq., Regulations Governing the Practice of Professional Counseling.

### Mandate and Impetus

*Please list all changes to the information reported on the Agency Background Document submitted for the previous stage regarding the mandate for this regulatory change, and any other impetus that specifically prompted its initiation. If there are no changes to previously-reported information, include a specific statement to that effect.*

This regulatory action was initiated from a petition for rulemaking. It is consistent with Governor Northam’s Executive Order 14 (2018), which states that: “All regulatory activity should be undertaken with the least possible intrusion into the lives of the citizens of the Commonwealth and be necessary to protect the public health, safety, and welfare.”

### Legal Basis

*Please identify (1) the agency or other promulgating entity, and (2) the state and/or federal legal authority for the regulatory change, including the most relevant citations to the Code of Virginia or Acts of Assembly chapter number(s), if applicable. Your citation must include a specific provision, if any, authorizing the promulgating entity to regulate this specific subject or program, as well as a reference to the agency or promulgating entity’s overall regulatory authority.*

Regulations are promulgated under the general authority of Chapter 24 of Title 54.1 of the Code of Virginia. Section 54.1-2400, which provides the Board of Counseling the authority to promulgate regulations to administer the regulatory system:

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

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

- 1. To establish the qualifications for registration, certification or licensure in accordance with the applicable law which are necessary to ensure competence and integrity to engage in the regulated professions.*
- 2. To examine or cause to be examined applicants for certification or licensure. Unless otherwise required by law, examinations shall be administered in writing or shall be a demonstration of manual skills.*

3. To register, certify or license qualified applicants as practitioners of the particular profession or professions regulated by such board.

...

6. To promulgate regulations in accordance with the Administrative Process Act (§ 9-6.14:1 et seq.) which are reasonable and necessary to administer effectively the regulatory system. Such regulations shall not conflict with the purposes and intent of this chapter or of Chapter 1 (§ 54.1-100 et seq.) and Chapter 25 (§ 54.1-2500 et seq.) of this title. ...

Specific authority for regulation of the profession of counseling is found in Chapter 35 of Title 54.1:

**§ 54.1-3503. Board of Counseling.**

*The Board of Counseling shall regulate the practice of counseling, substance abuse treatment, and marriage and family therapy.*

**§ 54.1-3506. License required.**

*In order to engage in the practice of counseling or marriage and family therapy or in the independent practice of substance abuse treatment, as defined in this chapter, it shall be necessary to hold a license.*

**Purpose**

*Please explain the need for the regulatory change, including a description of: (1) the rationale or justification, (2) the specific reasons the regulatory change is essential to protect the health, safety or welfare of citizens, and (3) the goals of the regulatory change and the problems it's intended to solve.*

The proposed regulatory action will allow persons who have obtained a doctoral degree in counseling to become licensed with a smaller number of post-graduate hours in a supervised residency. It will accelerate the licensure process for those candidates and will allow them to provide counseling services in independent practice more quickly. Since the practicum/internship hours are within a CACREP program and under the supervision of credentialed faculty, the Board is assured of appropriate oversight to protect the health, safety, and welfare of the public.

**Substance**

*Please briefly identify and explain the new substantive provisions, the substantive changes to existing sections, or both. A more detailed discussion is provided in the "Detail of Changes" section below.*

The petitioner requested acceptance towards a supervised residency of up to 900 direct/indirect hours and up to 100 supervision hours, if:

- The hours are obtained in a CACREP accredited doctoral program (the petitioner provided the CACREP standards for doctoral practicum and internship hours);
- The professor or supervisor has an active professional counselor license;
- The applicant can provide logs and verification of their supervisor’s license when applying for licensure.

**Issues**

*Please identify the issues associated with the regulatory change, including: 1) the primary advantages and disadvantages to the public, such as individual private citizens or businesses, of implementing the new or amended provisions; 2) the primary advantages and disadvantages to the agency or the Commonwealth; and 3) other pertinent matters of interest to the regulated community, government officials, and the public. If there are no disadvantages to the public or the Commonwealth, include a specific statement to that effect.*

- 1) The primary advantage of the amendment is the ability of a supervisee with a doctoral degree to qualify for licensure with fewer hours in a residency. There are no disadvantages.
- 2) There are no advantages or disadvantages to the Commonwealth.
- 3) The Director of the Department of Health Professions has reviewed the proposal and performed a competitive impact analysis. The Board is authorized under § 54.1-2400 to “promulgate regulations in accordance with the Administrative Process Act which are reasonable and necessary to administer effectively the regulatory system.”  
The proposal is less restrictive and less costly for a small number of applicants for licensure, but it continues to provide assurance of supervised practice for persons obtaining hours of experience with counseling clients.

**Requirements More Restrictive than Federal**

*Please list all changes to the information reported on the Agency Background Document submitted for the previous stage regarding any requirement of the regulatory change which is more restrictive than applicable federal requirements. If there are no changes to previously-reported information, include a specific statement to that effect.*

There is no applicable federal requirement.

**Agencies, Localities, and Other Entities Particularly Affected**

*Please list all changes to the information reported on the Agency Background Document submitted for the previous stage regarding any other state agencies, localities, or other entities that are particularly affected by the regulatory change. If there are no changes to previously-reported information, include a specific statement to that effect.*

Other State Agencies Particularly Affected - None

Localities Particularly Affected - None

Other Entities Particularly Affected - None

**Public Comment**

*Please summarize all comments received during the public comment period following the publication of the previous stage, and provide the agency response. Ensure to include all comments submitted: including those received on Town Hall, in a public hearing, or submitted directly to the agency or board. If no comment was received, enter a specific statement to that effect.*

| <b>Commenter</b>  | <b>Comment</b>  | <b>Agency response</b>             |
|-------------------|---|------------------------------------|
| Gerard Lawson     | Supports the regulatory action; will allow well-trained counselors in doctoral programs to more easily acquire residency supervision hours through a CACREP accredited program that meets high standards. | The Board appreciates the support. |
| Eric Glenn        | Support change to streamline the process for licensure.   | The Board appreciates the support. |
| Heather Tiffany   | Supports; will make transition to obtaining hours easier and faster.  | The Board appreciates the support. |
| Matthew Fullen    | Supports; will allow counselors who are in doctoral programs to more easily acquire the residency supervision hours that they need. Beneficial for these individuals and the clients they serve.          | The Board appreciates the support. |
| Ariann Robino     | Supports; beneficial to students and clients  | The Board appreciates the support. |
| Jenna Haynes      | Supports; supervision provided in a CACREP program must meet high standards.  | The Board appreciates the support. |
| Courtney Zongrone | Supports; positive choice for the Board to help candidates in the licensure process.  | The Board appreciates the support. |

**Detail of Changes Made Since the Previous Stage**

*Please list all changes made to the text since the previous stage was published in the Virginia Register of Regulations and the rationale for the changes. Explain the new requirements and what they mean rather than merely quoting the text of the regulation. \* Please put an asterisk next to any substantive changes.*

There were no changes from the previous stage.

**Detail of All Changes Proposed in this Regulatory Action**

Please list all changes proposed in this action and the rationale for the changes. Explain the new requirements and what they mean rather than merely quoting the text of the regulation. \* Please put an asterisk next to any substantive changes.

| Current section number | Current requirement  | Proposed change, intent, rationale, and likely impact of proposed requirements   |
|------------------------|--|--|
| 52                     | Section 52 establishes the requirements for a residency in counseling to include hours of providing services under supervision and supervisor qualifications and responsibilities. | <p>Subsection B is amended to allow supervised practicum and internship hours in a CACREP-accredited doctoral counseling program to be accepted for up to 900 hours of the residency requirement and up to 100 of the required hours of supervision provided the supervisor holds a current, unrestricted license as a professional counselor.</p> <p><i>Currently, the master's-level internship hours in excess of 600 hours may be counted towards the residency for up to an additional 300 hours. However, there is no allowance for counting practicum and internship hours in a doctoral program towards the residency. The Board agreed with a petitioner that those hours are well-supervised and provide valuable experience that should be applied to the residency hours required for licensure.</i></p> |