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Proposed Regulation Agency Background Document

Agency name	Board of Counseling, Department of Health Professions
Virginia Administrative Code (VAC) citation(s)	18VAC115-80-10 et seq.
Regulation title(s)	Regulations Governing the Registration of Qualified Mental Health Professionals
Action title	New chapter
Date this document prepared	5/21/18

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), Executive Orders 17 (2014) and 58 (1999), and the *Virginia Register Form, Style, and Procedure Manual*.

Brief summary

Please provide a brief summary (preferably no more than 2 or 3 paragraphs) of the proposed new regulation, proposed amendments to the existing regulation, or the regulation proposed to be repealed. Alert the reader to all substantive matters or changes. If applicable, generally describe the existing regulation.

Regulations for registration of qualified mental health professionals are being promulgated pursuant to a mandate of Chapters 418 and 426 of the 2017 Acts of the Assembly. Regulations establish the fees required for registration and renewal of registration and specify the education and experience necessary to qualify for registration. In order to maintain registration, there is a requirement of eight hours of continuing education with a minimum of one hour in ethics. Standards of practice for qualified mental health professionals include practicing within one's competency area, practicing in a manner that does not endanger public health and safety, maintaining confidentiality, and avoiding dual relationships that would impair objectivity and

increase risk of client exploitation. A violation of standards of practice or of applicable law or regulation provides grounds for disciplinary action by the Board.

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.

DBHDS = Virginia Department of Behavioral Health and Developmental Services

DMAS = Department of Medical Assistance Services

QMHP = qualified mental health professional

Legal basis

Please identify the state and/or federal legal authority to promulgate this proposed regulation, including: 1) the most relevant citations to the Code of Virginia or General Assembly chapter number(s), if applicable; and 2) promulgating entity, i.e., agency, board, or person. Your citation should include a specific provision authorizing the promulgating entity to regulate this specific subject or program, as well as a reference to the agency/board/person's overall regulatory authority.

Regulations of the Board of Counseling are promulgated under the general authority of Title 54.1, Chapter 24 of the Code of Virginia.

Chapter 24 establishes the general powers and duties of health regulatory boards including the responsibility to promulgate regulations in accordance with the Administrative Process Act which are reasonable and necessary.

§ 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. ...

The definition of a qualified mental health professional is found in:

§ [54.1-3500](#). Definitions.

As used in this chapter, unless the context requires a different meaning: ...

Qualified mental health professional" means a person who by education and experience is professionally qualified and registered by the Board to provide collaborative mental health services for adults or children. A qualified mental health professional shall provide such services as an employee or independent contractor of the Department of Behavioral Health and Developmental Services or a provider licensed by the Department of Behavioral Health and Developmental Services.

In addition, the Board has specific statutory authority to promulgate regulations for registration of qualified mental health professionals in:

§ [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: ...

10. To promulgate regulations for the registration of peer recovery specialists who meet the qualifications, education, and experience requirements established by regulations of the Board of Behavioral Health and Developmental Services pursuant to § [37.2-203](#).

Purpose

Please explain the need for the new or amended regulation. Describe the rationale or justification of the proposed regulatory action. Describe the specific reasons the regulation is essential to protect the health, safety or welfare of citizens. Discuss the goals of the proposal and the problems the proposal is intended to solve.

This regulation is the result of collaborative efforts by DHP, DBHDS, DMAS, private providers, and other licensing boards to address concerns about the use of unlicensed and unregistered persons in the provision of services to clients and the lack of accountability for those services. DBHDS has been working with DHP to make titles and definitions for mental health professionals more consistent with licensure and certification under health regulatory boards, but there remains a large group of "qualified" mental health professionals who have no such oversight. The intent of the regulation is to establish a registry of QMHPs, so there is some accountability for their practice and a listing of qualified persons for the purpose of reimbursement by DMAS.

The purpose of the registration is to address concerns jointly expressed by DHP, DBHDS, and DMAS about the lack of oversight and accountability for persons who are providing mental health, but who are not responsible to a health regulatory board with authority to take disciplinary action. By requiring a person who works as a QMHP in a program approved by DBHDS, to be registered by the Board of Counseling, persons who have been disciplined and removed from the registry would no longer be able to be employed in that capacity. The purpose is greater protection for the public and a reduction in the incidents of abuse and fraud in Medicaid-funded programs.

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.

Proposed regulations replace emergency regulations which became effective on December 18, 2017. Regulations establish definitions used in the chapter, fees charged to applicants and regulants, requirements for initial registration and renewal of registration, to include eight hours of continuing education with one hour devoted to ethics in practice. There are standards of practice similar to all counseling-related professions and grounds for disciplinary action or denial of registration.

Issues

Please identify the issues associated with the proposed regulatory action, 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, please indicate.

- 1) The primary advantage of the amendment is more assurance of competency and accountability for persons providing mental health services. 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 increased accountability are the foreseeable result of the statute requiring the Board to protect the health and safety of patients in the Commonwealth.

Requirements more restrictive than federal

Please identify and describe any requirement of the proposal which is more restrictive than applicable federal requirements. Include a rationale for the need for the more restrictive requirements. If there are

no applicable federal requirements or no requirements that exceed applicable federal requirements, include a statement to that effect.

There are no applicable federal requirements.

Localities particularly affected

Please identify any locality particularly affected by the proposed regulation. Locality particularly affected means any locality which bears any identified disproportionate material impact which would not be experienced by other localities.

There are no localities particularly affected.

Public participation

Please include a statement that in addition to any other comments on the proposal, the agency is seeking comments on the costs and benefits of the proposal and the impacts of the regulated community.

In addition to any other comments, the Board of Counseling is seeking comments on the costs and benefits of the proposal and the potential impacts of this regulatory proposal. Also, the agency/board is seeking information on impacts on small businesses as defined in § 2.2-4007.1 of the Code of Virginia. Information may include 1) projected reporting, recordkeeping and other administrative costs, 2) probable effect of the regulation on affected small businesses, and 3) description of less intrusive or costly alternative methods of achieving the purpose of the regulation.

Anyone wishing to submit written comments may do so via the Regulatory Townhall website, www.townhall.virginia.gov, or by mail to Elaine Yeatts at Department of Health Professions, 9960 Mayland Drive, Suite 300, Richmond, VA 23233 or elaine.yeatts@dhp.virginia.gov or by fax to (804) 527-4434. Comments may also be submitted through the Public Forum feature of the Virginia Regulatory Town Hall web site at: <http://www.townhall.virginia.gov>. Written comments must include the name and address of the commenter. In order to be considered, comments must be received by 11:59 pm on the last day of the public comment period.

A public hearing will be held following the publication of this stage and notice of the hearing will be posted on the Virginia Regulatory Town Hall website (<http://www.townhall.virginia.gov>) and on the Commonwealth Calendar website (<https://www.virginia.gov/connect/commonwealth-calendar>). Both oral and written comments may be submitted at that time.

Economic impact

Please identify the anticipated economic impact of the proposed new regulations or amendments to the existing regulation. When describing a particular economic impact, please specify which new requirement or change in requirement creates the anticipated economic impact.

<p>Projected cost to the state to implement and enforce the proposed regulation, including: a) fund source / fund detail; and b) a delineation of one-time versus on-going expenditures</p>	<p>There are no costs for implementation or enforcement; the proposal may actually reduce some of the costs incurred in hiring outside reviewers to go over transcripts and educational qualifications.</p>
<p>Projected cost of the new regulations or changes to existing regulations on localities.</p>	<p>There are no costs to localities.</p>
<p>Description of the individuals, businesses, or other entities likely to be affected by the new regulations or changes to existing regulations.</p>	<p>Persons who want to work as qualified mental health professionals.</p>
<p>Agency’s best estimate of the number of such entities that will be affected. Please include an estimate of the number of small businesses affected. Small business means a business entity, including its affiliates, that: a) is independently owned and operated and; b) employs fewer than 500 full-time employees or has gross annual sales of less than \$6 million.</p>	<p>There are 1,634 persons currently registered as qualified mental health professionals-adult; 1,461 registered as qualified mental health professionals-child and 124 registered as trainees. There is no estimate of the number that would be small businesses, but all must be employed by DBHDS, Corrections, or an agency licensed by DBHDS.</p>
<p>All projected costs of the new regulations or changes to existing regulations for affected individuals, businesses, or other entities. Please be specific and include all costs including: a) the projected reporting, recordkeeping, and other administrative costs required for compliance by small businesses; and b) specify any costs related to the development of real estate for commercial or residential purposes that are a consequence of the proposed regulatory changes or new regulations.</p>	<p>The qualifications for a QMHP are the same as those currently set by DBHDS, so there should be no additional costs relating to these regulations. There is a \$50 fee for registration and a \$30 fee for renewal of registration. In order to renew registration, eight hours of continuing education is required. There is a wide range of offerings by a very inclusive list of providers approved for continuing education, so costs should be minimal. There is no requirement for live, in-person attendance at a CE course.</p>
<p>Beneficial impact the regulation is designed to produce.</p>	<p>Increased accountability and competency for QMHPs for persons providing mental health services within DBHDS, the Department of Corrections or an agency licensed by DBHDS.</p>

Alternatives

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

Legislation establishing a definition of a qualified mental health professional and authorizing the registration of this new profession mandates the Board of Counseling: *To promulgate regulations for the registration of qualified mental health professionals, including qualifications, education, and experience necessary for such registration.* Therefore, there are no alternatives that can be considered to achieve the essential purpose of the action.

Fees established in this chapter are minimal for a registered profession and are consistent with fees charged to applicants and registrants by other health regulatory boards at DHP. It is unknown whether the fees will generate sufficient revenue to offset the expenses of registration, renewal, and potential investigations and disciplinary proceedings for this profession.

In the development of regulations, the Department of Health Professions worked collaboratively for several months with staff from the Secretary’s office, DMAS, and DBHDS. Then on June 26, 2017, the Board of Counseling convened a Regulatory Advisory Panel (RAP) with 18 members representing the three health regulatory boards at DHP, staff from the other agencies, community services boards, private providers of mental health services, and professional associations. Regulations were recommended by the RAP to the Regulatory Committee, which met on July 21, 2017. Following the Comment Period on the NOIRA to replace the emergency regulations, the RAP was reconvened on April 9, 2018 to consider comment on the emergency regulations and recommend proposed regulations. Public comment has been received at each of these meetings.

Regulatory flexibility analysis

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

There are no alternative regulatory methods.

Public comment

Please summarize all comments received during the public comment period following the publication of the NOIRA, and provide the agency response.

The comment period on the NOIRA was from 1/8/18 to 2/17/18.

Commenter	Comment	Agency response
Alice Dantzler	<ul style="list-style-type: none"> • Sociology should be an approved degree • Concern about “narrow” list of providers for CE; should include providers who do in-house training • Concern about supervision of day-to-day activities of QMHP by a licensed mental health provider. 	<ul style="list-style-type: none"> • Degrees acceptable as “related” to mental health are not set in regulation but in a guidance document adopted by the Board; the Board has amended to add Sociology for a time-limited period. • Board added agencies licensed by DBHDS so all employers of QMHPs are included. • Regulation only requires on-site supervision until the supervisor is satisfied

		that the QMHP is competent to perform tasks
Andrew Peddy	Concerned about population group who could be served by a QMHP-C; recommended through age 21 or still enrolled in school	Amended regulations to specify QMHP-C may work with adolescents to age 22.
Jenny Brummitt	<ul style="list-style-type: none"> Concern about time for applicants for employment to be registered. Recommended Sociology as an approved mental health degree. Endorsed efforts to ensure fraudulent activity may be disciplined. 	<p>Those seeking employment should submit applications for registration as soon as they meet the qualifications; the Board has been registering such persons within a matter of days.</p> <p>Sociology has been added to the Guidance Document.</p> <p>No response required.</p>
Melissa Peddy	<ul style="list-style-type: none"> Recommended lower fee for persons registering as both a QMHP-A and QMHP-C. Same comment about age for services by QMHP-C 	The Board did not create a lower fee because credentials have to be reviewed for both registrations. An amendment does allow a person holding both to use the 8 hours of CE to satisfy both renewal requirements.
Scott Philbrook	<ul style="list-style-type: none"> Concern about hindrance to providing services if registration process is too lengthy. Concern about what is required for supervision by licensed individuals 	<ul style="list-style-type: none"> See response to same comment above. The Board has specified that the level of supervision consist of face-to-face training until the supervisor determines competency in the provision of such services, after which supervision may be indirect in which the supervisor is either on-site or immediately available for consultation with the person being trained. The RAP did not recommend an amendment; the supervisor has the responsibility of determining when supervision can be off-site.
Jordan Hyde	<ul style="list-style-type: none"> Same comment as noted above. Requests that there be no distinction so staff can provide services to both. Same comment about Sociology degree 	<ul style="list-style-type: none"> The QMHP-A and QMHP-C distinction is the model that has been in place for some time with DBHDS. Training and experience is population-specific, so there was no recommendation for one credential to service all persons.
Bob Horne	<ul style="list-style-type: none"> Same comment about Sociology Extend age range of QMHP-C to individuals up to 21 years Comment about supervision and signing authorizations Comment about inclusion of licensed CE providers 	See responses above. Requirements for signing authorizations not within the purview of the Board
Julia Campbell	Asks for a single QMHP registration or a QMHP-C registration with an adult endorsement	The RAP did not recommend a single registration, either before the promulgation of emergency regulations or after receipt of comment
Kathy Nelson	Same comments as previous commenters. Also had a variety of questions about implementation of regulations	

Denise Malone	<ul style="list-style-type: none"> • Every mental health professional who meets the education, experience & training should be eligible to register and keep title of QMHP • Commented about service plans and QMHP services and roles within an organization 	<p>All such persons are grandfathered and may register as QMHPs until Dec. 31, 2018.</p> <p>Any requirement for a service plan is not addressed by Counseling regulations.</p>
Joanna Bryant	Same comments as noted above	
Genhi Whitmer	<p>Same comments as noted above</p> <p>Concern about requirement that licensed persons supervise day-to-day activities of QMHP</p> <p>Concern that grandfathered staff will leave an employer form another agency.</p>	<p>The Board’s regulation on supervision is quoted above – supervision can be off-site and not day-to-day once competency has been determined.</p> <p>Persons who are grandfathered based on verification of an employer that they were qualified do not lose their registration if they leave employment.</p>
Jennifer Switzer	Same comments as noted above	
Amit Shah	Same comments as noted above	
Lisa Snider	<p>Same comments as noted above</p> <p>Requiring nurses with psychiatric experience to register as QMHPs is unnecessary</p>	<p>Licensure as a nurse does not necessarily qualify a person to provide mental health services. The proposed qualification requires fewer hours of experience than the previous requirement of DBHDS</p>
Christina Laws	Comment on the Sociology degree	
Jennifer Fidura Va. Network of Private Providers	<p>QMHP-C should be able to work with individual to age 22</p> <p>CE requirements for dual registration should not exceed 8 hours</p> <p>Should have second registration at a reduced rate</p>	<p>Board amended regulations based on comments except the reduced rate for 2nd registration. There are many professionals at DHP and within the Board who hold multiple licenses; there is no reduction for those individuals and the Board did not feel it was appropriate in this situation.</p>
Kim Harrison	<p>Same comments as noted above and questions about interpretations and implementation</p> <p>Requested forms be available for download</p>	<p>The registration form is now an electronic form and is available on the website</p>
Kathy Nelson	Expressed concern about applicants not being able to get verification from employers or from a school where they did a practicum	The Board has not noted this problem
Cumberland Mountain CSB	Same comment as noted above	
Fabrina Goodell	Same comment above Sociology degree	
Cheryl Williams	Same comments as noted above	
Holly Albrite	Requested pre-approval of degree prior to supervised experience	The Board has provided a listing of related degrees and has interpreted the list broadly.
Mike Carlin Va. Assoc. of Community Based Providers	<p>Had similar comments and questions to those noted above.</p> <p>Same comment on Sociology and also Criminal Justice</p>	<p>Board added Sociology but declined to add Criminal Justice to its guidance document</p>

Lisa Snider	Comments on the implementation of attestation of qualification by an employer prior to December 31, 2017.	Board has implemented an on-line process
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Family impact

Please assess the impact of this regulatory action on the institution of the family and family stability including to what extent the regulatory action will: 1) strengthen or erode the authority and rights of parents in the education, nurturing, and supervision of their children; 2) encourage or discourage economic self-sufficiency, self-pride, and the assumption of responsibility for oneself, one’s spouse, and one’s children and/or elderly parents; 3) strengthen or erode the marital commitment; and 4) increase or decrease disposable family income.

To the extent a QMHP is available and effective for persons and families experiencing mental illness, these regulations could have a positive impact on the institution and stability of the family.

Detail of changes

Please list all changes that are being proposed and the consequences of the proposed changes; explain the new requirements and what they mean rather than merely quoting the proposed text of the regulation. If the proposed regulation is a new chapter, describe the intent of the language and the expected impact. Please describe the difference between existing regulation(s) and/or agency practice(s) and what is being proposed in this regulatory action. If the proposed regulation is intended to replace an emergency regulation, please follow the instructions in the text following the three chart templates below.

Section number	Proposed requirements	Other regulations and law that apply	Intent and likely impact of proposed requirements
10	Establishes definitions for words and terms used in the Chapter including collaborative mental health services, face-to-face, mental health professional, qualified mental health professional, QMHP-A, and QMHP-C	§§ 54.1-2400 & 54.1-3500	Words and terms are defined in conformity to definitions found in the Code and to offer the Board’s interpretation of meaning as used in the context of the regulation.
20	Establishes fees to be charged to applicants and registrants, including a registration fee of \$50 and a renewal fee of \$30	§§ 54.1-2400 and 54.1-113	Fees are consistent with other registered professions and are minimally intended to offset costs associated with registration. Review of an application and credentials for a QMHP will be considerably more time-consuming and potentially contentious than for a peer recovery

			specialist, so the initial registration fee is higher; it is identical to the fee for registered medication aides.
30	Sets a requirement for a registrant to maintain a current name and address	§ 54.1-2400	All current information required for notifications to registrants must be maintained with the Board.
40	<p>Sets forth the requirements for registration of a QMHP-A, including submission of an application and fee and evidence of meeting the one of the educational qualifications in subsection B and the experience requirements in subsection C.</p> <p>In subsection B, the following educational background may qualify a person as a QMHP-A:</p> <ol style="list-style-type: none"> 1. A master’s degree in psychology, social work, counseling, substance abuse, or marriage and family therapy from an accredited college or university with an internship or practicum of at least 500 hours of experience with persons who have mental illness; 2. A master’s or bachelor’s degree in human services or a related field from an accredited college with no less than 1,500 hours of supervised experience to be obtained within a five-year period immediately preceding application for registration and as specified in subsection C of this section; 3. A bachelor’s degree from an accredited college in an unrelated field that includes at least 15 semester credits or 22 quarter hours in a human services field and with no less than 3,000 hours of supervised experience to be obtained within a five-year period immediately preceding application for registration and as specified in subsection C of this section; 4. A registered nurse licensed in Virginia with no less than 1,500 hours of supervised experience to be obtained within a five-year period immediately preceding application for registration and as specified in subsection C of this section; or 5. A licensed occupational therapist 	§§ 54.1-2400 & 54.1-3505	<p>The qualifications for registration are less burdensome than the current definitions of a QMHP-A as stated by DBHDS.</p> <p>DBHDS includes in its definitions persons licensed as physicians or mental health providers. Those persons do not need registration as a QMHP since they can provide services limited to a licensed persons and can bill under their license. To avoid confusion, those categories were omitted. DBHDS includes a person with a master’s degree in psychology with at least one year of clinical experience. In this chapter, a person with a mental health degree and at least 500 hours in an internship or practicum can qualify as a QMHP without further experience. The DBHDS definitions specify one to three years of experience for person who do not have a mental health license. This chapter specifies 1,500 to 3,000 hours to be obtained within a five-year period to give persons working part-time an ample period for completion. The experience must be within five years immediately</p>

	<p>with no less than 1,500 hours of supervised experience to be obtained within a five-year period immediately preceding application for registration and as specified in subsection C of this section.</p> <p>The experience requirements required for registration are specified in subsection C as follows:</p> <ol style="list-style-type: none"> 1. In order to be registered as a QMHP-A, an applicant who does not have a master’s degree as set forth in subsection B 1 of this section shall provide documentation of experience in providing direct services to individuals as part of a population of adults with mental illness in a setting where mental health treatment, practice, observation or diagnosis occurs. The services provided shall be appropriate to the practice of a QMHP-A and under the supervision of a licensed mental health professional or a person under supervision approved by a board as a pre-requisite for licensure under the Boards of Counseling, Psychology, or Social Work. 2. Supervision shall consist of face-to-face training in the services of a QMHP-A until the supervisor determines competency in the provision of such services, after which supervision may be indirect in which the supervisor is either on-site or immediately available for consultation with the person being trained. 3. Hours obtained in a bachelor’s or master’s level internship or practicum in a human services field may be counted towards completion of the required hours of experience. 4. A person receiving supervised training in order to qualify as a QMHP-A may register with the board. 		<p>preceding application to avoid the scenario in which a person remains a trainee indefinitely or the experience occurred many years ago.</p> <p>Subsection C sets out the specific requirements for supervision of a person gaining experience to become a QMHP. Supervision must be provided by a licensed mental health professional or a person under supervision as a pre-requisite for licensure. The supervision must be face-to-face until the supervisor determines competency, after which it may be indirect supervision. A person in training, working under supervision, may register with the Board. While such registration of one’s supervised experience is not mandated, it will be required by DMAS for reimbursement and will be required of persons working for a DBHDS licensed provider.</p>
50	Sets forth the requirements for registration of a QMHP-C, including submission of an application and fee and evidence of meeting the one of the educational qualifications in subsection B and the experience requirements in	§§ 54.1-2400 & 54.1-3505	The requirements are similar to those for a QMHP-A.

	<p>subsection C. Qualifications are similar as those for a QMHP-A, except someone with a bachelor’s degree in an unrelated field cannot qualify as a QMHP-C. Experience requirements are stated in subsection C and are virtually identical to those for a QMHP-A except the experience must be in providing services to a population of children or adolescents with mental illness.</p>		
60	<p>Provides a “grandfathering” for persons who have been working as QMHPs prior to December 31, 2017. Those persons have one year to apply for registration and provide an attestation from an employer that they were qualified during the time of employment.</p>	<p>§§ 54.1-2400 & 54.1-3505</p>	<p>In order to give persons currently providing QMHP services an opportunity to be registered, the Board will grandfather them based only on submission of a fee and an attestation from an employer that they were qualified. Currently, the definition from DBHDS lists the qualifications of a QMHP-A or QMHP-C, but only the employer determines whether they, in fact, hold such qualifications. While the Board acknowledges that registration based on such an attestation may allow some who are not truly qualified to become registered, it is a practical necessity to grandfather current QMHPs who may number in the 1,000s and to prevent a sudden reduction in the number of registered QMHPs currently providing services in the mental health field.</p>
70	<p>States that renewal of registration is annual on or before June 30 of each year.</p>	<p>§§ 54.1-2400</p>	<p>The renewal cycle is consistent with all certified and licensed professions under the Board.</p>
80	<p>Sets forth the continued education requirements for renewal to include eight contact hours with a minimum of one hour in ethics. Subsection B specifies that CE must related to services provided by a</p>	<p>§§ 54.1-2400 & 54.1-103</p>	<p>Continuing education is a requirement specified consistent with registered peer recovery specialists. Allowances for the first renewal, extensions or</p>

	<p>QMHP. Subsection C lists governmental entities that are approved to provide continuing education and includes any approved for CE by a health regulatory board at DHP. Subsection D exempts newly registered peers from CE for the first renewal. Subsection E allows the Board to grant an extension for up to one year for good cause shown. Subsection F allows the Board to grant an exemption for circumstances beyond the control of the peer. Subsection G requires maintenance of documentation for three years. Subsection H authorizes an audit of registrants and specifies the documentation required. Subsection I specifies that CE hours required by a disciplinary order may not be counted towards the annual requirement.</p>		<p>exemptions are consistent with those of other professions.</p>
90	<p>Sets out the standards of practice for a registered QMHP, including practicing within one’s competency area, practicing in a manner that does not endanger public health and safety, maintaining confidentiality, and avoiding dual relationships that would impair objectivity and increase risk of client exploitation.</p>	<p>§§ 54.1-2400 & 54.1-3505 12VAC35-250</p>	<p>The standards of conduct are the same set for other mental health professions and emphasize the need for professionalism, confidentiality, and safety in practice.</p>
100	<p>Establishes grounds for disciplinary action or denial of registration including conviction of a felony, violation of law or regulation, fraud or misrepresentation, practicing in a manner to be a danger to the health and welfare of a client, and functioning outside one’s competency or scope of practice</p>	<p>§§ 54.1-2400 & 54.1-111</p>	<p>Likewise, the grounds for disciplinary action or denial of registration are the same as those for other professions under the Board.</p>
110	<p>Establishes the requirements for reinstatement after a disciplinary action.</p>	<p>§§ 54.1-2400</p>	<p>Requirements for reinstatement are necessary to ensure that the registrant is qualified and competent to return to practice.</p>

Changes to the Emergency regulations

10 – Definitions	The definition of “accredited” is amended to add a provision for education obtained outside	In reviewing applications, staff has noted that there is no provision for
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	the U. S.	approving someone who did not graduate from a school accredited by the U.S. Department of Education. Accordingly, an amendment was recommended to allow an applicant to provide a report from a credentialing service verifying the degree and coursework equivalency.
10 – Definitions	Definitions for “qualified mental health professional are amended to include employment by the Department of Corrections.	The amendment is necessary for consistency with 2018 legislation (hb1375), which added Corrections to the definition of a QMHP in the Code.
10 - Definitions	The definition of “QMHP-C” is amended to specify mental health services for children or adolescents up to age 22.	The amendment was recommended by the RAP because there were varying interpretations of when adolescent ends. The age of 22 is consistent with foster care system and with the age many adolescents complete their education.
40 – Requirements for registration as a QMHP-A	There is an additional requirement in subsection A for submission of a current report from NPDB, the national practitioner data bank.	In reviewing applicants for QMHPs, it has been noted that a small number of persons held a license in Virginia or another state, and some of those have had their license suspended. If that license is current, registration as a QMHP is unnecessary. However, if that license has been disciplined or suspended, there may be grounds to deny registration as a QMHP. In order to have the information necessary to determine whether such grounds exist, it is necessary to have a NPDB report. The applicant will be charged \$4 by the data bank for requesting a report be sent to the Board.
40 – Requirements for registration as a QMHP-A	Subsection C (1) is amended to allow for supervised experience obtained in another U.S. jurisdiction to be supervised by a person licensed in that jurisdiction.	The amendment is necessary to allow the Board to accept supervised experience that was gained in another state as a qualification for registration.
40 – Requirements for registration as a QMHP-A	Subsection C (4) is amended to establish a finite amount of time (5 years) someone can practice with a trainee registration.	The hours of supervised experience required for registration must be obtained within the five-year period immediately preceding application

		as a QMHP. Therefore, registration as a trainee only needs to be effect for that five-year period.
50 - Requirements for registration as a QMHP-C	Amendments to section 50 are identical to those for section 40.	See rationale above
80 - Continued competency requirements for renewal of registration	In subsection A, an amendment states that persons who are registered as a QMHP-A and a QMHP-C are only required to complete the eight-hour requirement for renewal, rather than double that amount. In subsection C, an amendment included an agency licensed by DBHDS as an approved provider of continuing education.	The amendments were recommended by the RAP to: 1) clarify the hours of CE required; and 2) allow agencies licensed by DBHDS who employ QMHPs to do in-service training that could be credited towards the Board’s CE requirement.
100 – Grounds for disciplinary action or denial of registration	Number 2 was amended to add “attempting to procure” a registration by fraud or misrepresentation and deletion of including submission of an application or applicable board forms	The amendment was recommended by staff because it is more inclusive of any information that may be submitted by fraud or misrepresentation in an attempt to obtain registration.