



Virginia  
Regulatory  
Town Hall

## Proposed Regulation Agency Background Document

<b>Agency Name:</b>	Board of Psychology, Department of Health Professions
<b>VAC Chapter Number:</b>	18 VAC 125-20-10 et seq.
<b>Regulation Title:</b>	Regulations Governing the Practice of Psychology
<b>Action Title:</b>	Temporary Licensure
<b>Date:</b>	

This information is required pursuant to the Administrative Process Act (§ 9-6.14:9.1 *et seq.* of the *Code of Virginia*), Executive Order Twenty-Five (98), Executive Order Fifty-Eight (99), and the *Virginia Register Form, Style and Procedure Manual*. Please refer to these sources for more information and other materials required to be submitted in the regulatory review package.

### Summary

*Please provide a brief summary of the proposed new regulation, proposed amendments to an existing regulation, or the regulation proposed to be repealed. There is no need to state each provision or amendment or restate the purpose and intent of the regulation; instead give a summary of the regulatory action and alert the reader to all substantive matters or changes. If applicable, generally describe the existing regulation.*

The Board proposes establishing a temporary license with an 18 month term limit for residents in clinical psychology and residents in school psychology who have achieved a passing score on the Examination for Professional Practice in Psychology. Upon passing the state examinations and successful completion of the residency requirements, the temporary will be replaced with a permanent license.

### Basis

*Please identify the state and/or federal source of legal authority to promulgate the regulation. The discussion of this statutory authority should: 1) describe its scope and the extent to which it is mandatory*

or discretionary; and 2) include a brief statement relating the content of the statutory authority to the specific regulation. In addition, where applicable, please describe the extent to which proposed changes exceed federal minimum requirements. Full citations of legal authority and, if available, web site addresses for locating the text of the cited authority must be provided. Please state that the Office of the Attorney General has certified that the agency has the statutory authority to promulgate the proposed regulation and that it comports with applicable state and/or federal law.

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Section 54.1-2400 establishes duties of health regulatory boards to establish necessary qualifications for registration, certification or licensure, to ensure the competence and integrity of regulated practitioners, to examine applicants, to establish renewal schedules, to administer fees to cover the administrative expenses of the regulatory program, and to take disciplinary action for violations of law and regulations.

**§ 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.*
- 4. To establish schedules for renewals of registration, certification and licensure.*
- 5. To levy and collect fees for application processing, examination, registration, certification or licensure and renewal that are sufficient to cover all expenses for the administration and operation of the Department of Health Professions, the Board of Health Professions and the health regulatory boards.*
- 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.*
- 7. To revoke, suspend, restrict, or refuse to issue or renew a registration, certificate or license which such board has authority to issue for causes enumerated in applicable law and regulations.*
- 8. To appoint designees from their membership or immediate staff to coordinate with the Intervention Program Committee and to implement, as is necessary, the provisions of Chapter 25.1 (§ 54.1-2515 et seq.) of this title. Each health regulatory board shall appoint one such designee.*
- 9. To take appropriate disciplinary action for violations of applicable law and regulations.*
- 10. To appoint a special conference committee, composed of not less than two members of a health regulatory board, to act in accordance with § 9-6.14:11 upon receipt of information that a practitioner of the appropriate board may be subject to disciplinary action. The special conference committee may (i) exonerate the practitioner; (ii) reinstate the practitioner; (iii) place the practitioner on probation with such terms as it may deem appropriate; (iv) reprimand the practitioner; (v) modify a previous order; and (vi) impose a monetary penalty pursuant to § 54.1-2401. The order of the special conference committee shall become final thirty days after service of the order unless a written request to the board for a hearing is received within such time. If service of the decision to a party is accomplished by mail, three days shall be added to the thirty-day period. Upon receiving a timely written request for a hearing, the board or a panel of the board*

*shall then proceed with a hearing as provided in § 9-6.14:12, and the action of the committee shall be vacated. This subdivision shall not be construed to affect the authority or procedures of the Boards of Medicine and Nursing pursuant to §§ 54.1-2919 and 54.1-3010.*

*11. To convene, at their discretion, a panel consisting of at least five board members or, if a quorum of the board is less than five members, consisting of a quorum of the members to conduct formal proceedings pursuant to § 9-6.14:12, decide the case, and issue a final agency case decision. Any decision rendered by majority vote of such panel shall have the same effect as if made by the full board and shall be subject to court review in accordance with the Administrative Process Act. No member who participates in an informal proceeding conducted in accordance with § 9-6.14:11 shall serve on a panel conducting formal proceedings pursuant to § 9-6.14:12 to consider the same matter.*

*12. To issue inactive licenses or certificates and promulgate regulations to carry out such purpose. Such regulations shall include, but not be limited to, the qualifications, renewal fees, and conditions for reactivation of licenses or certificates.*

The Board is authorized under § 54.1-3605 to issue temporary licenses to individuals engaged in a residency.

**§ 54.1-3605. Specific powers and duties of the Board.**--*In addition to the powers granted in other provisions of this title, the Board shall have the following specific powers and duties:*

*1. To cooperate with and maintain a close liaison with other professional boards and the community to ensure that regulatory systems stay abreast of community and professional needs.*

*2. To conduct inspections to ensure that licensees conduct their practices in a competent manner and in conformance with the relevant regulations.*

*3. To designate specialties within the profession.*

***4. To issue a temporary license for such periods as the Board may prescribe to practice psychology to persons who are engaged in a residency or pursuant to subdivision 7 of § 54.1-3601.***

*5. To promulgate regulations for the voluntary certification of licensees as sex offender treatment providers. In promulgating such regulations, the Board shall consider the standards recommended by the Advisory Committee on Certified Practices pursuant to § 54.1-3610.*

*6. To administer the mandatory certification of sex offender treatment providers for those professionals who are otherwise exempt from licensure under subdivision 4 of §§ 54.1-3501, 54.1-3601 or § 54.1-3701 and to promulgate regulations governing such mandatory certification. The regulations shall include provisions for fees for application processing, certification qualifications, certification issuance and renewal and disciplinary action.*

The web address for locating the text of the statutes cited above is <http://leg1.state.va.us>.

The Office of the Attorney General has certified that the Board has the statutory authority to promulgate the proposed regulation and that it comports with applicable state and/or federal law.

## Purpose

*Please provide a statement explaining the need for the new or amended regulation. This statement must include the rationale or justification of the proposed regulatory action and detail the specific reasons it is essential to protect the health, safety or welfare of citizens. A statement of a general nature is not acceptable, particular rationales must be explicitly discussed. Please include a discussion of the goals of the proposal and the problems the proposal is intended to solve.*

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Over the past few years, the Board has been petitioned on several occasions by the Directors of the Division of Medical Psychology and the Residency in Clinical Psychology at the University of Virginia's Department of Psychiatric Medicine to establish a provision in regulations for temporary licensure of residents in clinical psychology. The problem identified in the letters was the threat to the continued existence of the residency program resulting from the refusal of third party payors and Medicaid to reimburse for services provided by clinical psychology residents. The resulting limitation on post-doctoral training opportunities for psychologists has been recognized as a problem at the national level by the Association of State and Provincial Psychology Boards, and the Association of Medical School Psychologists..

The Board considers Virginia's medical school residencies valuable training facilities for clinical psychology residents in Virginia. A difficult part of the licensure process is for applicants to be accepted into a residency position, which are limited and very competitive. The Board recognizes that the loss of the medical school residency programs will eliminate valuable training opportunities. This would increase the burden on applicants to compete for increasingly limited residency opportunities.

The Board would like to respond to these concerns by exercising its statutory authority to establish provisions for temporary licensure for clinical and school psychology residents. This action will benefit the health and welfare of populations served by psychology residents, who otherwise could not afford these services.

## Substance

*Please identify and explain the new substantive provisions, the substantive changes to existing sections, or both where appropriate. Please note that a more detailed discussion is required under the statement providing detail of the regulatory action's changes.*

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The amendment will add a new section to the regulation which will establish the titles "Licensed Resident in Clinical Psychology" and "Licensed Resident in School Psychology" for individuals who have registered a residency with the Board and documented passing scores on the Examination for Professional Practice in Psychology. The temporary license will be replaced with a permanent license after successful completion of the residency, but will not extend beyond 18 months without good cause demonstrated by the resident.

## Issues

*Please provide a statement identifying the issues associated with the proposed regulatory action. The term "issues" means: 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 include a sentence to that effect.*

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#### Advantages and Disadvantages to the Public

If third party payors will reimburse for the services of residents holding the temporary license, more practitioners will be able to serve patients.

If residents are able to obtain reimbursement for their services, the availability of residency opportunities will increase.

#### Advantages and Disadvantages to the Commonwealth

If third party payors will reimburse for the services of residents holding the temporary license, it will alleviate funding difficulties for Virginia's state hospitals and medical schools which provide services to poor and indigent populations.

The cost to the Board to administer the temporary license will be minimal, since no additional review time will be required beyond the initial review of the residency contract and education documentation. The cost of mailing the license is estimated at \$5 per resident.

## Fiscal Impact

*Please identify the anticipated fiscal impacts and at a minimum include: (a) the projected cost to the state to implement and enforce the proposed regulation, including (i) fund source / fund detail, (ii) budget activity with a cross-reference to program and subprogram, and (iii) a delineation of one-time versus on-going expenditures; (b) the projected cost of the regulation on localities; (c) a description of the individuals, businesses or other entities that are likely to be affected by the regulation; (d) the agency's best estimate of the number of such entities that will be affected; and e) the projected cost of the regulation for affected individuals, businesses, or other entities.*

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### **I. Fiscal Impact Prepared by the Agency:**

Approximately 100 individuals register residencies with the Board each year.

#### **Projected cost to the agency:**

The agency will incur some costs (approximately \$1000) for mailings to the Public Participation Guidelines Mailing List, conducting a public hearing, and sending copies of final regulations to regulated entities. Every effort will be made to incorporate those into anticipated mailings and Board meetings already scheduled. The agency will also incur a cost of \$5.00 per resident for mailing the temporary license. This fee will not be charged unless the resident requests a duplicate or replacement certificate, which is the current policy for the permanent license.

#### **Projected costs to the affected entities:**

For most applicants and regulated entities, there will be no additional cost to obtain the temporary license, since no additional Board review is required after the passing examination score is received in the Board office.

**Citizen input in development of regulation:**

The Board is taking this action as a result of citizen request. The Notice of Intended Regulatory Action was published on December 20, 1999 and subsequently sent to approximately 70 persons and organizations on the Public Participation Guidelines Mailing List of the Board. The deadline for comment was January 19, 2000 and there was no comment received.

**Localities affected:**

There are no localities in the Commonwealth affected by these amended regulations.

### Detail of Changes

*Please detail any changes, other than strictly editorial changes, that are being proposed. Please detail new substantive provisions, all substantive changes to existing sections, or both where appropriate. This statement should provide a section-by-section description - or cross-walk - of changes implemented by the proposed regulatory action. Where applicable, include citations to the specific sections of an existing regulation being amended and explain the consequences of the proposed changes.*

18 VAC 125-20-85 is a new section proposed by the Board to establish a Resident's License in Clinical Psychology and the Resident's License in School Psychology. The section provides for licensure for an 18 month term for individuals who have registered a residency with the Board, and who have passed the Examination for Professional Practice in Psychology. The temporary license will be replaced with a permanent license after successful completion of the residency, but will not extend beyond 18 months without good cause demonstrated by the resident.

### Alternatives

*Please describe the specific 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.*

As alternatives, the Board considered the provisions for temporary licensure in the regulations and laws of other states. The Board considered developing a short-term limited permit for individuals licensed in other jurisdictions as established in many other states. The board rejected this alternative, since §54.1-3607 prohibits charging for services with a limited permit, which renders such a temporary license useless to practitioners.

Currently, licensure is granted to psychologist candidates following successful completion of both the post-graduate residency and the examination requirements. The Board considered several options for the examination requirement for the resident's license:



- Requiring passing scores on all examinations
- Requiring passing scores on the national and jurisprudence examinations.
- Requiring a passing score on only the national examination.
- Conferring the license prior to the examination, but rescinding it if a failing score was reported.

The Board rejected the first two alternatives, because the state examinations are administered only twice each year, which would delay issuance of the license by up to 9 months (application deadlines are 90 days prior to the exam administration). Because plans are underway to computerize the national examination, which will result in more frequent administrations, the Board proposes accepting a passing score on this examination as a prerequisite for issuing the temporary license. The Board rejected the alternative of rescinding the license if a failure is reported on the state practice examination, since failed candidates must wait one year before re-testing, during which time the term of the temporary license will have nearly expired.

Initially, the Board considered granting the temporary license for a period of one year, but determined that this would not allow enough time for individuals to complete the residency requirement for full licensure. As an alternative, the board would like to propose 18 months as the standard period for the resident's license.

The Board also considered developing more stringent supervision requirements for individuals holding the resident's license. The Board determined that the current supervision requirement adequately states the responsibility of the supervisor for the clinical activities of the resident, and no additional restrictions would have to be developed.

The Board was asked by the Virginia Psychological Association to have the name of the license indicate "initial licensure." The Board rejected this alternative because the title "Licensed Resident" is more descriptive of the standing of the holder.

### Public Comment

*Please summarize all public comment received during the NOIRA comment period and provide the agency response.*

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No comment was received during the NOIRA comment period

### Clarity of the Regulation

*Please provide a statement indicating that the agency, through examination of the regulation and relevant public comments, has determined that the regulation is clearly written and easily understandable by the individuals and entities affected.*

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No public comment was received during the 30-day NOIRA comment period. The Board discussed the draft language with its constituents at a meeting of the Virginia Psychological Association. As a result of this discussion, the Board added the full title for the temporary

license for clinical and school psychologists to improve the clarity of the regulation. The Board will continue to solicit public comment and will hold a public hearing on the proposed regulation.

### Periodic Review

*Please supply a schedule setting forth when the agency will initiate a review and re-evaluation to determine if the regulation should be continued, amended, or terminated. The specific and measurable regulatory goals should be outlined with this schedule. The review shall take place no later than three years after the proposed regulation is expected to be effective.*

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The proposed amendments to these regulations will be reviewed following publication in the Register and the 60-day public comment period. If there are any oral or written comments received, the Board will consider revisions to the proposal prior to adoption of final regulations.

Public Participation Guidelines of the Board (18 VAC 125-10-10 et seq.) require a thorough review of regulations each biennium. Therefore, the Board will review this regulation in 2002 and will recommend amendments as necessary.

In addition, the Board receives public comment at each of its meetings and will consider any request for amendments. Petitions for rule-making also receive a response from the Board during the mandatory 180 days in accordance with its Public Participation Guidelines.

### Family Impact Statement

*Please provide an analysis of the proposed regulatory action that assesses the potential impact on the institution of the family and family stability including the extent to which 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.*

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The changes will have no effect on the authority or rights of parents in the education, nurturing and supervision of their children. If third party payors reimburse licensed residents, Medicaid recipients may obtain services with less delays which may help them become more self-sufficient. The disposable income of licensed residents will increase if they are able to bill for services.