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## Final Regulation Agency Background Document

<b>Agency name</b>	Board of Social Work, Department of Health Professions
<b>Virginia Administrative Code (VAC) citation(s)</b>	18VAC140-20-10 et seq.
<b>Regulation title(s)</b>	Regulations Governing the Practice of Social Work
<b>Action title</b>	Definition of psychosocial interventions and requirement for supervision in a reinstatement or reactivation
<b>Date this document prepared</b>	10/27/17

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 of the proposed new regulation, proposed amendments to the existing regulation, or the regulation proposed to be repealed.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.*

The Board has amended two sections of regulation by the following: 1) amend the definition of clinical social work services to include psychosocial interventions; 2) require applicants for reinstatement to provide verification of licensure in another state, if applicable, and a report from NPDB; and 3) amend section 110 to specify an amount of supervision that is required for a person who has not actively practiced for 10 or more years and applies to reinstate or reactivate his license.

### 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.

NPDB = U. S. Department of Health and Human Services National Practitioner Data Bank

### 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 October 27, 2017, the Board of Social Work amended 18VAC140-20-10 et seq., Regulations Governing the Practice of Social Work.

### 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 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 Social Work 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:*

...

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. ...*

### 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.

The purpose of adding "psychosocial interventions" is to broaden the definition of clinical social work to be more inclusive of those therapeutic modalities that expand beyond the strict definition of "psychotherapy." The addition of psychosocial interventions is intended to update the current

definition of clinical social work services to more accurately reflect the scope of practice for clinical social workers.

The addition of requirements for documentation of a licensure or certification in another jurisdiction and a report from NPDB will provide the Board with important information about possible disciplinary in another state or malpractice action against an applicant for reinstatement whose license has been lapsed for more than one year.

The purpose of specifying an amount of supervision during the 360 hours of supervised practice is intended to ensure that a person who has not been practicing is now competent to resume active practice with clients. A supervisor would be required to have specific oversight for the person seeking reinstatement or reactivation, so the Board can have some assurance that a client's health, safety and welfare is protected when in the care of a supervisee.

Specifying an amount of supervision for applicants for reinstatement or reactivation who have not been actively practicing is intended to clarify the intent in requiring **supervised** practice for at least 360 hours in the 12 months immediately preceding licensure in Virginia. Currently, regulations provide no definitive guidance on how much supervision is required during the 360 hours. In amended regulations, the Board has specified a minimum of 60 hours of face-to-face direct client contact and nine hours of face-to-face supervision during the 360 hours. Since the amended regulation would only require active practice or supervised hours of practice for those who have been lapsed or inactive for 10 or more years, there is a heightened necessity for more specificity about the supervised practice to ensure safety and competency when a full license is granted.

## Substance

*Please briefly identify and explain the new substantive provisions, the substantive changes to existing sections, or both.*

The Board has amended two sections of regulation by: 1) amending the definition of clinical social work services to include psychosocial interventions; 2) requiring applicants for reinstatement to provide verification of licensure in another state, if applicable, and a report from NPDB; and 3) amending section 110 to specify an amount of supervision that is required for a person who has not actively practiced for 10 or more years and applies to reinstate or reactivate his license.

## 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 to the public is more explicit rule about supervision for applicants whose licenses have been lapsed or inactive. There are no disadvantages to the public;
- 2) There are no advantages and disadvantages to the agency or the Commonwealth; and
- 3) *There are no other pertinent matters of interest to the regulated community, government officials, and the public. 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.” Any restraint on competition that results from this regulation is in accord with the General Assembly’s policy as articulated in § 54.1-100 and is necessary for the preservation of the health, safety, and welfare of the public and will further the public’s need for assurances of quality care.*

**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.

**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.*

There is no impact on the family.

**Changes made since the proposed stage**

*Please list all changes that made to the text of the proposed regulation and the rationale for the changes; explain the new requirements and what they mean rather than merely quoting the proposed text of the regulation. \*Please put an asterisk next to any substantive changes.*

There were no changes made in the text of the proposed regulation.

**Public comment**

*Please summarize all comments received during the public comment period following the publication of the proposed stage, and provide the agency response. If no comment was received, please so indicate. Please distinguish between comments received on Town Hall versus those made in a public hearing or submitted directly to the agency or board.*

There was a comment period from 7/24/17 to 9/22/17, and a public hearing was conducted on 8/11/17.

<b>Commenter</b>	<b>Comment</b>	<b>Agency response</b>
Norma Wood	Agrees with inclusion of psychotherapy in definition; would expect to meet requirements for reactivation if returns to Virginia	The Board appreciates the support for amendments.
Katie DiMuzio	Agrees with update to definition of clinical social work services	The Board appreciates the support for amendments.
Beverly Morgan-Fullilove	Same as above	The Board appreciates the support for amendments.
Gerald Bowman	Supports both changes. Would like for law to allow LCSW to independently do home studies	The addition of the term “psychosocial interventions” in the regulatory definition does affect specific requirements or allowances for home studies.
A.H.	State would need to support requirement for licensure for social workers in nursing homes and hospitals who do psychosocial assessments	This regulatory changes does not affect the statutory definition of the practice of social work.
MJ Wooldridge	Supports change in definition; licensure should be required for social workers in nursing homes and hospitals. Supports required supervision for reactivation or reinstatement if not actively practicing.	The Board appreciates the support for amendments. This regulatory changes does not affect the statutory definition of the practice of social work.
Mark Anderson	Supports both changes.	The Board appreciates the support for amendments.
RK	Concurs	The Board appreciates the support for amendments.
Joseph Lynch Va. Society for	Requests change in terminology from “psychosocial interventions”	The Board considered the recommendation but concluded that the term “psychosocial

Clinical Social Work	to “psychosocial treatment.”	interventions” was appropriate in the definition of “clinical social work services.”
J.E. Bon Secours	Supports flexibility and inclusiveness in these proposals	The Board appreciates the support for amendments.
Cathy Medina	Supports.	The Board appreciates the support for amendments.
Gina Wurfel	Raises questions about whether regulations would override current statutory provisions. Would it require non-profits and hospitals to hire LCSWs.	This regulatory changes does not affect the statutory definition of the practice of social work or exemptions from licensure.
Sarah Chakales	Agrees with revisions. Recommends notification about changes to persons who are inactive considering changing to active status.	The Board appreciates the support for amendments.
DylanTuck	Expansion of definition of clinical social work important. Should have consistency in terminology.	The Board appreciates the support for amendments.
Pauline Hubbert	Stated “I don’t agree”	The Board is unable to respond because there is further information.
Angie Deem	Stated “I vote yes”	The Board appreciates the support.

**All changes made in this regulatory action**

Please list all changes that are being proposed and the consequences of the proposed changes. Describe new provisions and/or all changes to existing sections. Explain the new requirements and what they mean rather than merely quoting the proposed text of the regulation

<b>Current section number</b>	<b>Current requirement</b>	<b>Proposed change, intent, rationale, and likely impact of proposed requirements</b>
10	Sets out definitions of words and terms used in the chapter.	<p><i>The term "Clinical social work services" is amended to include psychosocial interventions.</i></p> <p><i>In the Model Practice Act for the Association of Social Work Boards (ASWB), the practice of clinical social work is described in terms of restoration or enhancement of “social, psychosocial, or biopsychosocial functioning of individuals, couples, families, groups, organizations, and communities...” Psychosocial is defined in a dictionary of modern medicine as: “A nonpharmacologic maneuver intended to alter a patient’s environment or reaction to lessen the impact of a mental disorder.”</i></p> <p><i>The National Alliance on Mental Illness describes psychosocial as: “Psychosocial treatments include different types of psychotherapy and social and vocational training, and aim to provide support, education and guidance to people with mental illness and their families. Psychosocial treatments are an effective way to improve the quality of life for individuals with mental illness and their families. They can lead to fewer</i></p>

		<p><i>hospitalizations and less difficulties at home, at school and at work.”</i></p> <p><i>The definition of clinical social work services is more complete with the inclusion of the term psychosocial interventions because it is descriptive of a large part of clinical social work services.</i></p>
<p>110</p>	<p>Sets out the requirements for reinstatement or reactivation of a license that has been lapsed or inactive for more than one year.</p>	<p><i>Subsection B is amended to require: 1) Documentation of any other health or mental health licensure or certification held in another U. S. jurisdiction, if applicable; and 2) A current report from the U.S. Department of Health and Human Services National Practitioner Data Bank (NPDB).</i></p> <p><i>Both requirements are intended to check on possible disciplinary action or malpractice judgments during the period in which a Virginia license was lapsed. If an applicant has not been practicing in another jurisdiction, the documentation about licensure is not required, but the NPDB report may provide information about malpractice that occurred during or after licensure in Virginia. Both are necessary to determine whether there are grounds to deny reinstatement.</i></p> <p><i>Subsection C is amended to reduce the burden of reinstatement by only requiring evidence of active practice or supervised practice if an applicant has been lapsed for 10 or more years. By only requiring continuing education rather than supervised practice, an applicant will find it far less costly and burdensome to reinstate a lapsed license. Applicants who have not been in active practice in another state or in an exempt setting typically have to volunteer their services and pay a licensee to act as a supervisor to obtain the required 360 hours. With the amended regulation, only those who have been out of practice for an extended period of time will have to have supervised practice before a full license can be granted.</i></p> <p><i>The supervised practice has been clarified to include a minimum of 60 hours of face-to-face direct client contact and nine hours of face-to-face supervision. The hours are proportional to the requirement for supervised practice for initial licensure.</i></p> <p><i>Subsection D is amended for reactivation to be consistent with the requirement for evidence of active practice or supervised practice for an applicant whose license has been inactive for 10 or more years. The amendment to the fee for reactivation is a clarification that only the difference between an active and an inactive fee is owed by an applicant for reactivation.</i></p>