



Virginia
Regulatory
Town Hall

Final Regulation Agency Background Document

Agency Name:	Board of Social Work, Department of Health Professions
VAC Chapter Number:	18 VAC 140-20-10 et seq.
Regulation Title:	Regulations Governing the Practice of Social Work
Action Title:	Requirements for continuing education
Date:	3/7/01

Please refer 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* for more information and other materials required to be submitted in the final regulatory action package.

Summary

Please provide a brief summary of the new regulation, amendments to an existing regulation, or the regulation being repealed. There is no need to state each provision or amendment; instead give a summary of the regulatory action. If applicable, generally describe the existing regulation. Do not restate the regulation or the purpose and intent of the regulation in the summary. Rather, alert the reader to all substantive matters or changes contained in the proposed new regulation, amendments to an existing regulation, or the regulation being repealed. Please briefly and generally summarize any substantive changes made since the proposed action was published.

In compliance with a statutory mandate, the Board has adopted continuing education requirements for the renewal of social work and clinical social work licensure. The Board has set a requirement of 30 contact hours per biennium, with two-thirds of the hours coming from formally organized activities, and the remaining third of the hours coming from independent professional activities. The amendments include a provision for an inactive licensure status to accommodate individuals who are not actively practicing social work, and who may be unable to meet the continuing education requirements.

Changes Made Since the Proposed Stage

Please detail any changes, other than strictly editorial changes, made to the text of the proposed regulation since its publication. Please provide citations of the sections of the proposed regulation that have been altered since the proposed stage and a statement of the purpose of each change.

In the adoption of final regulations, the Board amended 18 VAC 140-20-105 B 1 a. to provide that a maximum of 15 hours in continuing education credit will be accepted for each academic course offered at an accredited college or university. In the opinion of the Board, no more than 15 of the 20 hours required for the biennium should be earned by taking a one-semester course. The current language would have permitted 15 hours for each semester credit hour, which could have resulted in up to 45 hours of CE credit.

Statement of Final Agency Action

Please provide a statement of the final action taken by the agency: including the date the action was taken, the name of the agency taking the action, and the title of the regulation.

On March 2, 2001, the Board of Social Work adopted final amendments to 18 VAC 140-20-10 et seq., Regulations Governing the Practice of Social Work, in order to implement a statutory mandate for continuing education.

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, shall be provided. If the final text differs from that of the proposed, please state that the Office of the Attorney General has certified that the agency has the statutory authority to promulgate the final regulation and that it comports with applicable state and/or federal law

Chapter 24 establishes the general powers and duties of health regulatory boards including the responsibility to promulgate regulations, levy fees, administer a licensure and renewal program, and discipline regulated professionals.

§ 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 and Chapter 25 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 and 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 such licenses or certificates.*

The mandate for the Board to establish requirements for continuing education of licensed social workers is set forth under § 54.1-3708. This section authorizes the Board to approve individuals or programs that provide continuing education.

§ 54.1-3708. Continuing education requirements. *The Board shall establish in regulations requirements for the continuing education of licensed social workers.*

The board may approve persons who provide continuing education or accredit continuing education programs in order to accomplish the purposes of this section.

The Assistant Attorney General who provides counsel to the Board of Social Work has provided a letter of assurance that the amended regulations are consistent with statutory 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 final 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.

Chapter 575 of the 1999 Acts of the Assembly provides a specific mandate in § 54.1-3708 for the board to develop continuing education requirements for licensure renewal. In compliance with this mandate, the Board adopted a regulation setting forth an hour requirement, approved categories of activities, approved providers and instructions for documentation of compliance. The Board has included a provision for an inactive licensure status to allow practitioners who are not actively practicing social work in Virginia to defer the continuing education requirement until they reactivate the license.

In developing the requirements, the board contemplated the financial and time burdens the requirements might have on licensees, and at the same time strove to develop a meaningful standard that would ensure continued competency to protect the public health, safety and welfare. For alternatives, the Board considered the continuing education requirements of 41 other state social work boards, and the requirements of other boards in the Department of Health Professions. The Board also considered public comment regarding the content of the training. The Board considered a range of hours from 20 to 40 per biennium, and selected 30 hours as a reasonable number of hours compared with the requirements in other states.

The Board also considered the alternatives of formal training versus self-directed or independent study. The Board determined that a combination of the two would provide the most flexible alternative, while ensuring the quality of the bulk of the training. Amended regulations will allow two-thirds of the hours to come from formal didactic training in behavioral health topics offered or approved by recognized institutions and organizations. One organization that was recommended in public comment on the NOIRA, the International Association of Continuing Education and Training, was not included in the proposal, because the programs it approves are not specific to behavioral health.

For the remaining one-third of the hours, the Board developed a list of individual activities which could be counted for a limited number of hours toward the requirement. The first alternative the Board considered was to accept two hours for each activity. This alternative was rejected because some social workers are not involved in academic or professional association activities and would not be able to obtain the required ten hours. For this reason, the Board elected to accept up to five hours for staff meetings and independent study. The Board also opted to raise the hours accepted for publications of books and articles and preparation of courses and workshops above two hours due to the extensive amount of work involved in these activities. The Board considered accepting hours for subsequent preparation of a course or workshop due to the work involved in updating materials, but elected not to do this, since some individuals might not do additional work to present a course multiple times.

Amendments will provide requirements for licensees in social work to obtain hours of continuing education in order to renew an active license, reinstate a lapsed license, or reactivate an inactive license. Courses and activities must relate to the behavioral health of the public and must include at least two hours on laws and standards of practice or ethical issues related to the practice of social work. Such requirements are intended to protect the health, welfare and safety of the public by providing opportunity for licensees to receive exposure to current information on practice and ethical issues in the treatment of patients.

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 of the regulatory action's detail.

The Board has adopted new sections outlining continuing education requirements and instructions for documentation of those requirements. The Board also adopted amendments to existing sections covering licensure renewal and late renewal to provide for inactive licensure status and to instruct licensees on compliance with continuing education in the event of late renewal or reinstatement.

Issues

Please provide a statement identifying the issues associated with the final regulatory action. The term "issues" means: 1) the advantages and disadvantages to the public of implementing the new provisions; 2) the 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.

At the Board's initial meeting to begin developing the proposed regulation, public comment raised concerns about possible restrictions on course topics, learning methods, and continuing education providers. Concerns were also raised about the cost to the licensees to meet the requirement, and the cost to the Board administer the programs and to monitor compliance. Other issues the Board addressed included availability of training in remote areas of the state and developing a requirement that would be appropriate to both levels of licensure it regulates.

Advantages to the licensees:

Because the Board is frequently contacted by individuals and organizations who wish to provide continuing education programs, it is likely that the requirement will result in the development of more training opportunities for social workers. The training will benefit licensees by keeping them abreast of changes in their profession, and reinforcing ethical issues which are frequently the basis for disciplinary actions for clinical social workers, which make up the large majority of licensees.

Disadvantages to the licensees:

Although many licensees will be able to count hours for activities they would be involved in regardless of the requirement, additional time and effort will be required to obtain all of the required hours. Likewise, although some of the activities can be accomplished as part of the job without additional charge, most of the activities under Category I will involve some expense which will be borne by licensees unless an employer is to cover the cost. The cost will range from \$10 to \$20 per contact hour, but could be more costly if travel and hotel expenses are incurred. This is more likely to affect individuals in remote areas of the state. The cost to the Board to monitor compliance with the requirement will be borne by licensees in their renewal fees. Additionally, licensees who do not comply with the requirement will be subject to disciplinary action by the Board.

Advantages to the public:

The public will have the advantage of knowing that the practitioners they are receiving services from are staying abreast of advances in the profession. Reinforcement of training in professional ethics may result in less exploitation of clients. Some individuals and organizations will benefit financially by becoming providers of continuing education programs.

Disadvantages to the public:

Employers may incur additional costs if they pay for the licensing expenses of their staff.

Advantages or disadvantages to government agencies:

Government agencies that employ social workers may incur additional costs if they elect to hire private individuals to present workshops or seminars to their staff. The Board will incur additional costs to monitor compliance of licensees, and to hold additional disciplinary hearings for individuals who do not comply with the requirement.

Public Comment

Please summarize all public comment received during the public comment period and provide the agency response. If no public comment was received, please include a statement indicating that fact.

Proposed regulations were published in the Virginia Register of Regulations on November 6, 2000. Public comment was requested for a 60-day period ending January 5, 2001. The only comment received was from the Virginia Chapter of the National Association of Social Workers as follows:

- Supports continuing education as a self-directed process of professional development but has concerns that public school systems, licensed health facilities and licensed hospitals will be allowed to offer courses or programs for continuing education. These organizations are not social work experts, and their programs are not accredited by national and state professional social work organizations.

Board response: Board needs to be as inclusive as possible to provide adequate access to continuing education units.

- Raises a question about the interpretation of a “public school system” and the inclusion of the Child Welfare League among the accrediting bodies.

Board response: A Public School System is any school operated by governmental entity. The inclusion of the Child Welfare League is appropriate as representing a broader range of continuing education options.

- Questions the inclusion of the Association of Black Social Workers and the National Federation of Societies for Clinical Social Work, rather than other “sub-associations” that are not included, such as the Nephrology Social Work Association.

Board response: The inclusion of the other social work groups to offer continuing education may also be acceptable.

- Asks for a distinction between contact hours and CEU’s and clarification about distance learning with no face-to-face contact with an instructor.

Board response: The Virginia Board of Social Work Regulations only refers to contact hours and do not refer to continuing education units.

- Asks whether a Peace Corps assignment would be acceptable as a cause for an extension.

Board response: Requests for extensions of time to complete CE requirements will be decided on a case-by-case basis depending on the circumstances and availability of courses.

A Public Hearing before the Board of Social Work was held on December 15, 2000 at which the Virginia Chapter of the National Association of Social Workers, represented by Debra Riggs, presented comments. In addition to an oral presentation of the written comments summarized above, the following comments were made:

- Expresses concern that credit would be given for formal staffing under Category 2 without specifying that it must be specific to social work issues.

Board response: This is to provide more flexibility to licensee to obtain applicable training through behavioral health programs.

- Expresses concern that the Category 2 continuing education does not have to be approved by an accrediting body.

Board response: Category 2 is intended for personal self-development related to specific practice needs.

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 crosswalk - of changes implemented by the proposed regulatory action. Include citations to the specific sections of an existing regulation being amended and explain the consequences of the changes.

Substance of Regulations:

18 VAC 140-20-100. Biennial renewal of licensure.

- The Board has amended this section by adding an inactive licensure status which would provide an exemption to the continuing education requirement for individuals who for reasons such as illness, family leave or relocation to another state or country are not actively practicing social work in Virginia. A title change to this section is also adopted.

18 VAC 140-20-105. Continued competency requirements for renewal of an active license.

- This new section outlines the types of activities the Board will accept toward meeting the continued competency requirement. The Board has adopted a total of 30 contact hours of continuing education per biennium, of which a minimum of two hours must relate to professional ethics. The final regulation provides for exemption or extension of the requirement for special circumstances.

- The amended regulations states that two-thirds of the contact hours come from formally organized activities such as university coursework or programs offered by public institutions, social work organizations, or individuals approved by those organizations.
- For the remaining third of the contact hours, the Board established a variety of individual professional activities which may include publication of a book or article, preparation of a course, seminar, workshop or program, supervision of graduate field instruction, professional board or association activities, attendance at formal staffings or independent study.

18 VAC 140-20-106. Documenting compliance with continuing education requirements.

This new section outlines the type of documentation that the Board will accept when monitoring compliance of licensees, and sets forth a maintenance requirement for that documentation.

18 VAC 140-20-110. Renewal of expired license.

The Board adopted amendments to this section to establish a requirement for documentation of continued competency hours for individuals who are reinstating either a lapsed or inactive license. A title change is also proposed for this section.

18 VAC 140-20-160. Grounds for disciplinary action or denial of issuance of a license.

The current regulation lists continuing education activities that the Board would consider only in the event that a practitioner's competency is in question. The Board has rescinded this list since it is redundant with 18 VAC 140-20-105 and has added that failure to comply with the continued competency requirements may be as a basis for disciplinary action.

Family Impact Statement

Please provide an analysis of the regulatory action that assesses the 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.

The amendments will have no impact on the authority and rights of parents in the education, nurturing or supervision of their children. They may encourage self-pride for licensees who obtain additional training which they may not have otherwise pursued. The amendments may enhance the marital commitment for clients who may benefit from a practitioner who has chosen training in marriage and family therapy. Disposable income of practitioners who are required to obtain the training will decrease depending on the type of training selected. Hopefully, the additional training can lead to career advancement for many practitioners.