



townhall.virginia.gov

Fast-Track Regulation Agency Background Document

| | |
|---|--|
| Agency name | Board of Social Work, Department of Health Professions |
| Virginia Administrative Code (VAC) citation(s) | 18VAC140-20 |
| Regulation title(s) | Regulations Governing the Practice of Social Work |
| Action title | Less restrictive rule on supervision |
| Date this document prepared | 12/11/18 |

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

Brief Summary

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

The Board proposes amendments to clarify that the definition of “face-to-face” includes the contact a supervisee and a client must have; to reduce the number of hours of continuing education required to become an approved supervisor; and to eliminate the requirement that those hours must be repeated every five years to remain an approved supervisor.

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.

N/A

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 December 7, 2018, the Board of Social Work amended 18VAC140-20-10 et seq., Regulations Governing the Practice of Social Work.

Mandate and Impetus

Please identify the mandate for this regulatory change, and any other impetus that specifically prompted its initiation (e.g., new or modified mandate, petition for rulemaking, periodic review, board decision, etc.). For purposes of executive branch review, "mandate" has the same meaning as defined in Executive Order 14 (as amended, July 16, 2018), "a directive from the General Assembly, the federal government, or a court that requires that a regulation be promulgated, amended, or repealed in whole or part."

As required by Virginia Code § 2.2-4012.1, please also explain why this rulemaking is expected to be noncontroversial and therefore appropriate for the fast-track process.

The impetus for this action was question about the necessity of continuing education hours in supervision every five years, as some board members felt the subject matter was repetitive and not necessary. Additionally, the action will facilitate Board publication of a list of approved supervisors, which is something applicants seeking supervision have been requesting.

Legal Basis

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

Regulations are promulgated under the general authority of Chapter 24 of Title 54.1 of the Code of Virginia. Section 54.1-2400, which provides the Board of 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:

1. To establish the qualifications for registration, certification, licensure or the issuance of a multistate licensure privilege 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, license or issue a multistate licensure privilege to qualified applicants as practitioners of the particular profession or professions regulated by such board.
4. To establish schedules for renewals of registration, certification, licensure, and the issuance of a multistate licensure privilege.
5. To levy and collect fees for application processing, examination, registration, certification or licensure or the issuance of a multistate licensure privilege 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 (§ 2.2-4000 et seq.) that are reasonable and necessary to administer effectively the regulatory system, which shall include provisions for the satisfaction of board-required continuing education for individuals registered, certified, licensed, or issued a multistate licensure privilege by a health regulatory board through delivery of health care services, without compensation, to low-income individuals receiving health services through a local health department or a free clinic organized in whole or primarily for the delivery of those health services. 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.).

Purpose

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

The purpose of the regulatory change is greater access to supervisors for persons seeking licensure by making the qualification for supervisors less burdensome and by facilitating the publication of a listing of persons who have been approved as supervisors. The reduction in hours and the elimination of CE in supervision every five years is not expected to decrease the quality of supervision. The additional hours of ethics currently proposed for all licensees in a separate regulatory action (from two to six hours every two years) will ensure that those providing supervision are adequately educated in issues relating to ethical practice and able to train supervisees in such practice to protect public health, safety and welfare.

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.

In section 10, the definition of “face-to-face” is amended to include interactions between a client and a supervisee in the context of the requirement in section 50 that a supervised experience must include “a minimum of 1,380 hours of supervised experience in face-to-face client contact in the delivery of clinical social work services.” By amending the definition to be inclusive of client contact, the Board has clarified that the requirement may be met by the physical presence of the individuals or by the use of technology that provides real-time, visual contact among the individuals involved.

In section 50B, the requirements for supervisors are amended to reduce the hours of continuing education required to qualify for board approval from 14 to 12 and to eliminate the requirement that those hours must be within the five years immediately preceding registration for supervision.

Issues

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

- 1) The primary advantage to the public is the possibility of greater access to licensed clinical social workers by reducing the burden for becoming an approved supervisor to oversee the required clinical experience. There are no disadvantages to the public; supervisors (who are licensees) will have to have at least six hours every two years in ethics and standards of practice affecting their profession.
- 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.” The proposed amendments are less restrictive and may make supervision less costly. 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 regulatory change which is more restrictive than applicable federal requirements. Include a specific citation for each applicable federal requirement, and 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 specific statement to that effect.

There are no applicable federal restrictions.

Agencies, Localities, and Other Entities Particularly Affected

Please identify any other state agencies, localities, or other entities particularly affected by the regulatory change. "Particularly affected" are those that are likely to bear any identified disproportionate material impact which would not be experienced by other agencies, localities, or entities. "Locality" can refer to either local governments or the locations in the Commonwealth where the activities relevant to the regulation or regulatory change are most likely to occur. If no agency, locality, or entity is particularly affected, include a specific statement to that effect.

Other State Agencies Particularly Affected

None

Localities Particularly Affected

None

Other Entities Particularly Affected

None - except to the extent the amendments will facilitate the supervised experience, community services boards and other state entities that utilize licensed clinical social workers may benefit.

Economic Impact

Pursuant to § 2.2-4007.04 of the Code of Virginia, please identify all specific economic impacts (costs and/or benefits), anticipated to result from the regulatory change. When describing a particular economic impact, specify which new requirement or change in requirement creates the anticipated economic impact. Please keep in mind that this is change versus the status quo.

Impact on State Agencies

| | |
|---|---|
| <p><i>For your agency:</i> projected costs, savings, fees or revenues resulting from the regulatory change, including: a) fund source / fund detail; b) delineation of one-time versus on-going expenditures; and c) whether any costs or revenue loss can be absorbed within existing resources</p> | <p>There are no costs or savings to the agency resulting from this change. As a special fund agency, the Board must generate sufficient revenue to cover its expenditures from non-general funds, specifically the renewal and application fees it charges to practitioners or entities for necessary functions of regulation. All notifications will be done electronically. There are no on-going expenditures.</p> |
| <p><i>For other state agencies:</i> projected costs, savings, fees or revenues resulting from the regulatory change, including a delineation of one-time versus on-going expenditures.</p> | <p>None</p> |
| <p><i>For all agencies:</i> Benefits the regulatory change is designed to produce.</p> | <p>None</p> |

Impact on Localities

| | |
|--|------|
| Projected costs, savings, fees or revenues resulting from the regulatory change. | None |
| Benefits the regulatory change is designed to produce. | None |

Impact on Other Entities

| | |
|--|--|
| Description of the individuals, businesses, or other entities likely to be affected by the regulatory change. If no other entities will be affected, include a specific statement to that effect. | Persons who are currently approved to provide supervision for clinical social work practice or those licensees who want to qualify as supervisors. |
| 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. | The Board does not register supervisors; each applicant who registers to begin his/her supervised experience identifies the person who will be his/her supervisor. That person must hold a current, unrestricted and provide evidence of having 14 hours of CE of professional training in providing supervision within the past five years. There are currently 2,039 registered clinical supervisees. Each one has a supervisor, but one supervisor may have more than one supervisee – so that number does not indicate the number of persons currently approved to provide supervision. |
| All projected costs for affected individuals, businesses, or other entities resulting from the regulatory change. Please be specific and include all costs including, but not limited to: a) projected reporting, recordkeeping, and other administrative costs required for compliance by small businesses; b) specify any costs related to the development of real estate for commercial or residential purposes that are a consequence of the regulatory change; c) fees; d) purchases of equipment or services; and e) time required to comply with the requirements. | There are no costs resulting from the regulatory change. |
| Benefits the regulatory change is designed to produce. | The amendments may reduce costs for affected persons by reducing the hours of CE from 14 to 12 and by eliminating the need for hours of supervision within the five-year period immediately preceding registration of supervision. Licensed clinical social workers must still obtain 30 hours of CE for renewal of licensure in even years, but they may be able to direct those hours to coursework that is less costly and more valuable to their individual practices. |

Alternatives

Please describe any viable alternatives to the regulatory change that were considered, and the rationale used by the agency to select the least burdensome or intrusive alternative that meets the essential

purpose of the regulatory change. 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 regulatory change.

In order to make a regulation less intrusive and less costly, the Board must adopt amendments to regulation; there is no alternative to a regulatory action.

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) establishing less stringent compliance or reporting requirements; 2) establishing less stringent schedules or deadlines for compliance or reporting requirements; 3) consolidation or simplification of compliance or reporting requirements; 4) establishing 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 regulatory change.

This action makes the regulation of supervisors in clinical social work less costly and less burdensome.

Public Participation

If an objection to the use of the fast-track process is received within the 30-day public comment period from 10 or more persons, any member of the applicable standing committee of either house of the General Assembly or of the Joint Commission on Administrative Rules, the agency shall: 1) file notice of the objections with the Registrar of Regulations for publication in the Virginia Register; and 2) proceed with the normal promulgation process with the initial publication of the fast-track regulation serving as the Notice of Intended Regulatory Action.

Detail of Changes

| Current section number | Current requirement | Change, intent, rationale, and likely impact of new requirements |
|------------------------|--|---|
| 10 | Sets a definition for “face-to-face supervision” | The amendment will simply define “face-to-face” and make the definition applicable to the supervisory relationship and also to the client contact requirement between a supervisee and his/her client. It will clarify the definition to include interactions between a client and a supervisee in the context of the requirement in section 50 that a supervised experience must include “a minimum of 1,380 hours of supervised experience in face-to-face client contact in the delivery of clinical social work services.” By amending the definition to be inclusive of client |

| | | |
|-----------|--|---|
| | | <p>contact, the Board has clarified that the requirement may be met by the physical presence of the individuals or by the use of technology that provides real-time, visual contact among the individuals involved.</p> |
| <p>50</p> | <p>Sets requirements for the supervised experience required for licensure as a clinical social worker.</p> | <p>Subsection B sets out the requirements for supervisors of the supervisee experience, including a current requirement for 14 hours of CE offered by an approved provider in supervisor training. In order to be registered as a supervisor with each supervisee, the licensed clinical social worker must provide evidence that the graduate course or CE hours have been obtained within the five years immediately preceding registration.</p> <p>The Board proposes to reduce the hourly requirement from 14 to 12 to make it easier to obtain the requisite hours within a two-day conference or course.</p> <p>It also proposes to eliminate the requirement that the hours must be within a five-year period immediately preceding registration. That will make it possible for a listing of Board-approved supervisors to be posted online and facilitate the task applicants have in finding a supervisor for their clinical experience. It will also eliminate the repetitive nature of the CE in supervision.</p> |