VIRGINIA
Department of Health Professions

Board of Social Work
Regulatory Committee
Thursday, February 2, 2017, 1:00 p.m.
9960 Mayland Drive, Suite 200, Board Room 2
Henrico, VA 23233

Call to Order – Joseph Walsh, L.C.S.W., Committee Chair

Roll Call

Emergency Egress Instructions

Adoption of Agenda

Public Comment on Agenda Items (5 Minutes per Speaker)

Approval of Minutes of April 29, 2016

Unfinished Business

- Discuss NOIRA regarding "clinical social work services"
- Reinstatement/Reactivation
- Scope of Practice

New Business

Next Meeting

Adjournment

PUBLIC COMMENT

Re: Comments Re: Draft Legislation on Multi Level Licensure in Virginia

On behalf of the National Association of Social Workers -Virginia (NASWVA), thank you for the work and development this past year of draft Legislation on Multi Level Licensure for Social Workers in Virginia. As was presented, the draft legislation would indeed achieve NASWVA's primary goal, to allow the Board to issue three levels of licensure and to register persons for supervision. NASWVA is eager to support these efforts going forward, and to ensure that in addition to achieving the primary goal of the legislation, the subsequent regulations adhere closely to the Model Law.

NASWVA believes and supports multi-level licensure, utilizing the model law as the main template to follow. As you know, the Model Law has been written and revised by members of the ASWB association, who are members of regulatory boards, as are you. The model law has definitions of the practice categories of three practice categories—Baccalaureate Social Workers, Master's Social Workers, and Clinical Social Workers—with each category containing its own definition and range of acceptable activities and scope of practice at all levels of practice, including the Bachelors through a Licensed Clinical Social Worker. Each practice category includes provisions for independent practice; while the requirements for independent status vary so do the acceptable range of activities that may be undertaken in each category. Under Article III, Section 306, both the Master's Social Workers and the Baccalaureate Social Workers are authorized to engage in independent practice [as defined in Article I, Section 108(q)], after completing two (2) years of full time supervised practice.

The Model Act is intended to serve as an ideal to which all jurisdictions should aspire. Exempting certain groups of social work practitioners from regulatory oversight may shift the focus from the values, skills and responsibilities that social workers and the social work professionals have in common to differences in categories of practice. In order to adequately ensure public protection, there must be a minimum level of value, skill and responsibility for all who practice social work or who call themselves social workers. The definitions of practice at the Baccalaureate, Master's, and Clinical levels include lists of activities in which social workers engage and achieve this protection.

Accordingly, social workers whose employment or position entails any or all of these activities must maintain a valid social work license authorizing that particular scope of practice. Therefore, based on the definitions of practice, examples of positions that require social workers to maintain a license include, but are not limited to: • Social work services in government • Case Managers • Program Evaluators • Supervisors • Social Service Administrators • Social Work Educators • Community Organizers • Policy Makers • Researchers.

More specifically, NASWVA fully supports the use of the Model Law in regulations within our state, and fully supports the work of this committee in implementing a multi-tiered approach to licensing. This would not only protect the public from harm but also give our workforce the opportunity to be gainfully employed within the commonwealth. As employers and agencies look to providers and workforce to

carry on the much needed work. In having these levels, Virginia will not lose workforce to other jurisdictions, and will enable its citizens to have professionals be accountable for such practice. Our citizens will have access to providers, and can be confident that minimal skills, knowledge and abilities are possessed by our professionals. As you know, workforce within the social service arena and behavioral health in Virginia are much needed, particularly with those practitioners who have skills, knowledge and expertise within areas of substance abuse, etc.

Over the past years, NASW VA, has had the opportunity to work with and address this topic with employers, ASWB, CSWE as well as SAMHSA. In fact, ASWB and SAMHSA have had two meetings with NASW, of which NASWVA were invited guests. The chapter had the opportunity to work with other Virginia leaders, including Jaime Hoyle and those from DBHD, as well as others from neighboring states. More specifically, the ASWB initiative would like to eventually obtain portability within states for the social work license. With that, NASWVA believes it is most prudent that we start this process by "looking like" our surrounding states. This will hopefully result in portability for our workforce within the future. This "Look" includes multi-level licensure, the BSW, MSW and LCSW, of which 46 states already have. In addition, in the near future, ASWB will require a MSW to take the MSW exam. As you know, currently in Virginia, an MSW who wants to become an LSW vs a "LMSW" can only sit for the Bachelors level exam, like a BSW. This will be inadequate for workforce development. Most importantly, our consumers will have better access to a provider who is licensed and will be able to feel confident that the Commonwealth of Virginia has oversight and authority over a professional social worker. Finally, it only makes sense that all levels of a social work degree are licensed, to help ensure protection of the public and to have a standardized level of care dictated by a state authority. In fact, the current 2017 General Assembly is considering legislation under which Peer Recovery Specialists will fall under the Board of Counseling as Registrant's. Peer Recovery Specialist, although another important and pertinent para professional, do not have specific training, knowledge and education; however, the state sees registration as important to the consumer. Similarly in this way is the licensure of social workers.

In closing, NASWVA is supportive of bringing forth draft legislation, provided that subsequent regulations promulgated by the board utilize the Model Law to fully implement this important piece of legislation. On behalf of the NASWVA Board of Directors, I look forward to working with, supporting and moving forward this initiative. Thank you again for the opportunity to comment

Respectfully Submitted,

Debra A Riggs, CAE

Executive Director, NASWVA

Virginia Society for Clinical Social Work
10106-C Palace Way
Henrico, Virginia 23238

January 17, 2017

Virginia Board of Social Work
Chair Dr. Joseph Walsh LCSW
Perimeter Center
9960 Mayland Drive, Suite 300
Henrico Virginia 23233-1463

Re: Response to Regulatory Committee Request

Dear Dr. Walsh:

Please find attached the response to your request to the Virginia Society for Clinical Social Work (VSCSW) and the Greater Washington Society for Clinical Social Work (GWSCSW) for input to the Regulatory Committee for use at your February 2, 2017 meeting. Your January 12, 2017 email asked for input on the following three areas:

1. *Whether there is a need in the community for mid-level licensure,*
2. *How this legislation addresses or fails to address that need and*
3. *Give detail on your specific agreements and disagreements with the recommended legislat*ion.

Our response is a bit lengthy in order to address the detail requested in #3. I wanted to be sure to provide a reference section that included the full copies of material I referred to in the main body of our response and this created more length. I know it is a lot of material for the committee members to review but I wanted to make it convenient for the committee members to find the information.

Sincerely,

Joseph G. Lynch LCSW
Legislative Vice President VSCSW

QMHP/QMRP/QPPMH DEFINITIONS:

"Qualified Mental Health Professional-Adult (QMHP-A)" means a person in the human services field who is trained and experienced in providing psychiatric or mental health services to individuals who have a mental illness; including:

(i) a doctor of medicine or osteopathy licensed in Virginia;

(ii) a doctor of medicine or osteopathy, specializing in psychiatry and licensed in Virginia;

(iii) an individual with a master's degree in psychology from an accredited college or university with at least one year of clinical experience;

(iv) a social worker: an individual with at least a bachelor's degree in human services or related field (social work, psychology, psychiatric rehabilitation, sociology, counseling, vocational rehabilitation, human services counseling or other degree deemed equivalent to those described) from an accredited college and with at least one year of clinical experience providing direct services to individuals with a diagnosis of mental illness;

(v) a person with at least a bachelor's degree from an accredited college in an unrelated field that includes at least 15 semester credits (or equivalent) in a human services field and who has at least three years of clinical experience;

(vi) a Certified Psychiatric Rehabilitation Provider (CPRP) registered with the United States Psychiatric Rehabilitation Association (USPRA); (vii) a registered nurse licensed in Virginia with at least one year of clinical experience; or

(viii) any other licensed mental health professional.

"Qualified Mental Health Professional-Child (QMHP-C)" means a person in the human services field who is trained and experienced in providing psychiatric or mental health services to children who have a mental illness.

To qualify as a QMHP-C, the individual must have the designated clinical experience and must either:

(i) be a doctor of medicine or osteopathy licensed in Virginia;

(ii) have a master's degree in psychology from an accredited college or university with at least one year of clinical experience with children and adolescents;

(iii) have a social work bachelor's or master's degree from an accredited college or university with at least one year of documented clinical experience with children or adolescents;

(iv) be a registered nurse with at least one year of clinical experience with children and adolescents;

(v) have at least a bachelor's degree in a human services field or in special education from an accredited college with at least one year of clinical experience with children and adolescents, or

(vi) be a licensed mental health professional.

"Qualified Mental Health Professional-Eligible (QMHP-E)" means a person who has:

(i) at least a bachelor's degree in a human service field or special education from an accredited college without one year of clinical experience or

(ii) at least a bachelor's degree in a nonrelated field and is enrolled in a master's or doctoral clinical program, taking the equivalent of at least three credit hours per semester and is employed by a provider that has a triennial license issued by the department and has a department and DMAS-approved supervision training program.

"Qualified Mental Retardation Professional (QMRP)" means a person who possesses at least one year of documented experience working directly with individuals who have mental retardation (intellectual disability) or other developmental disabilities and one of the following credentials:

(i) a doctor of medicine or osteopathy licensed in Virginia,

(ii) a registered nurse licensed in Virginia, or

(iii) completion of at least a bachelor's degree in a human services field, including, but not limited to sociology, social work, special education, rehabilitation counseling, or psychology.

"Qualified Paraprofessional in Mental Health (QPPMH)" means a person who must, at a minimum, meet one of the following criteria:

(i) registered with the United States Psychiatric Association (USPRA) as an Associate Psychiatric Rehabilitation Provider (APRP);

(ii) has an associate's degree in a related field (social work, psychology, psychiatric rehabilitation, sociology, counseling, vocational rehabilitation, human services counseling) and at least one year of experience providing direct services to individuals with a diagnosis of mental illness; or

(iii) has a minimum of 90 hours classroom training and 12 weeks of experience under the direct personal supervision of a QMHP-Adult providing services to individuals with mental illness and at least one year of experience (including the 12 weeks of supervised experience).

QMRPs must have at least one year of documented experience providing direct services *(developing, conducting, and approving assessments and individual service plans)* with individuals with a diagnosis of an intellectual disability (mental retardation) or other developmental disabilities.

QMRP Guidance:

The QMRP position provides direction, development and implementation, direct supervision and monitoring (observation and evaluation of staff implementing care, service plans & interacting with clients) to the service provided. This position has responsibility for approving assessments and individual service plans or treatment plans to ensure that appropriate services are provided to meet the needs of the individuals serviced. The QMRP must have documented experience ***developing, conducting, and approving assessments and individual service plans treatment plans.***

12 VAC 35-105-590 states an individual could meet the requirements for a QMRP if he has "equivalent experience."

Equivalent Experience is defined as ***five years of paid experience*** in providing direction, development and implementation, direct supervision and monitoring (observation and evaluation of staff implementing care, service plans & interacting with clients) to the service provided. This position has responsibility for approving assessments and individual service plans or treatment plans to ensure that appropriate services are provided to meet the needs of the individuals serviced. The QMRP ***must have documented experience developing, conducting, and approving assessments and individual service plans or treatment plans***.

The QMRP POSITIONS ARE NOT INTENTED FOR INDIVIDUALS WHOSE EXPERIENCE IS LIMITED TO IMPLEMENTING AND MONITORING PLANS, ATTENDING IEP OR TEAM MEETINGS ONLY.

Virginia Society for Clinical Social Work
10106-C Palace Way
Henrico, Virginia 23238

January 16, 2017
Response to January 12, 2017 request from the
VBSW Regulatory Committee
Submitted by: Joseph G. Lynch LCSW

Dear Chair Dr. Walsh:

The VSCSW and the GWSCSW appreciates the request from the VBSW Regulatory Committee to provide input on:

1. *Whether there is a need in the community for mid-level licensure,*
2. *How this legislation addresses or fails to address that need and*
3. *Give detail on your specific agreements and disagreements with the recommended legislat*ion.

Below I will address each of these areas and provide a notation of materials that are Reference at the end of this document.

1. Whether there is a need in the community for mid-level licensure

According to the draft minutes of the VBSW October 30, 2016 Board meeting DHP Director Dr. Brown noted that *"…the legislation was not a demonstrated public need…"* In order to answer the question of "public need" there are several references to consult.

A. **Code of Virginia: § 54.1-100. Regulations of professions and occupations**.
   1) This part of the Code gives guidance concerning when the Commonwealth may exercise its police powers to abridge the rights of citizens to practice their profession. The *"public need"* arises when regulation is necessary for the preservation of the health, safety and welfare of the public. The Code specifies 4 criteria that ***shall*** be met for

regulation of a profession. Below is a table that lists the 4 criteria on the left and on the right is the opinion of the VSCSW and the GWSCSW as to whether this criterion of a "demonstrated public need" has been met.

Criteria of § 54.1-100. Regulations of professions and occupations	**VSCSW and the GWSCSW opinion of whether the legislation proposed by the VBSW has met this criteria of a "demonstrated public need"**
1. The unregulated practice of the profession or occupation can harm or endanger the health, safety or welfare of the public, and the potential for harm is recognizable and not remote or dependent upon tenuous argument;	The proposed legislation would now regulate two groups of social workers who are unregulated by the VBSW at this time: 1. Baccalaureate social worker means a person who practices under the supervision of a master's social worker within an agency or institution and is engaged in a basic generalist practice to include casework management and supportive services and consultation and education. 2. Master's social worker means a person who is employed by an agency or institution and is engaged in a non-clinical, generalist scope of practice of social work to include staff supervision and management. In order to meet criterion #1 the VBSW must provide evidence that these two groups of social workers employed by an agency or institution have a recognizable potential to harm the public health, safety and welfare. That potential to harm the public may not be remote or dependent upon tenuous argument**.** The VBSW has presented no evidence that the public health, safety or welfare has been harmed by these social workers**.** ***Without such evidence the VSCSW contends that the proposed legislation does not meet criteria #1.***
2. The practice of the profession or occupation has inherent qualities peculiar to it that distinguish it from ordinary work and labor;	***The VSCSW* and the GWSCSW *contends that criterion #2 is met.***
3. The practice of the profession or occupation requires specialized skill or training and the public needs, and will benefit by, assurances of initial and continuing professional and occupational ability; and	***While these groups of social workers that are currently unregulated by the VBSW do require specialized skill or training the VBSW has presented no evidence that the public has been harmed by these social workers. The VSCSW* and the GWSCSW *contends that criterion #3 is not applicable.***

4. The public is not effectively protected by other means	Assuming that the wording "agencies or institutions" applies to government entities then all government "agencies or institutions" have some type of oversite to ensure protection of the public. ***Since the VBSW has presented no evidence that that these government agencies or institutions are not effectively protecting the public then the VSCSW*** **and the GWSCSW** ***contends that criterion #4 is not met.***

B. <u>Other Agencies of the Commonwealth are conducting an "End Run" around DHP Behavioral Science Boards:</u>

In some respects the issue of the public need for mid-level licensure is made moot by the "End Run" being conducted by two agencies of the Commonwealth. The Department of Behavioral Health and Developmental Services (DBHDS), Office of Licensing and the Department of Medical Assistance Services (DMAS) both have established a system of credentialing mental health providers that parallels the DHP Behavioral Science Boards and actually undermines the authority of the Boards over those providers. The definitions of these categories are delineated in 12VAC30-50-226 Community Mental Health Services (DMAS) and 12VAC35-105-20 Definitions (DBHDS). The categories are:

1) Qualified Mental Health Professional-Adult (QMHP-A)
2) Qualified Mental Health Professional-Child (QMHP-C)
3) Qualified Mental Health Professional-Eligible (QMHP-E)
4) Qualified Mental Retardation Professional (QMRP)
5) Qualified Paraprofessional in Mental Health (QPPMH)
   (See definitions below for each category in references)

An example that applies to social work is in 12VAC30-50-226 (which addresses persons who are under approved supervision by the VBSW) by creating the title *"LMHP-supervisee in social work,"* and then notes "*….For purposes of Medicaid reimbursement to their supervisors for services provided by supervisees, these persons shall use the title "Supervisee in Social Work" after their signatures to indicate such status…"*

So in some practical respect the Behavior Science Boards authority over mental health providers has already been undermined by these two state agencies. In another respect the fact that these two state agencies have gone to such an extent as to develop this

other system of categorizing mental health providers may be seen as evidence for the VBSW that the public need does exist for mid-level licensure. However if one accepts that this is evidence that the public need exist then one must also accept that the public is currently "protected by other means" in that two other agencies of the Commonwealth have developed extensive regulation for these providers

C. Exemptions:

The Code of Virginia *§ 54.1-3701. Exemption from requirements of licensure* instructs that there are 5 categories of exemptions from licensure. The statute states that the licensing law "***shall not be applicable"*** to these categories. The proposed legislation contains four new sentences. The first two add two definitions to the "definitions" section. Below is a table that has one of the 5 categories from the statute on the left and the two definitions from the proposed legislation on the right. Highlighted are the parts of each that are referring to the same group of people.

Code of Virginia *§ 54.1-3701. Exemption from requirements of licensure*	**Proposed legislation of the VBSW**
4. Persons employed as salaried employees or volunteers of the federal government, the Commonwealth, a locality, or of any agency established or funded, in whole or part, by any such governmental entity or of a private, nonprofit organization or agency sponsored or funded, in whole or part, by a community-based citizen group or organization. Any person who renders psychological services, as defined in Chapter 36 (§ 54.1-3600 et seq.) of this title, shall be subject to the requirements of that chapter. Any person who, in addition to the above enumerated employment, engages in an independent private practice shall not be exempt from the requirements for licensure.	Baccalaureate social worker means a person who practices under the supervision of a master's social worker within an agency or institution and is engaged in a basic generalist practice to include casework management and supportive services and consultation and education. Master's social worker means a person who is employed by an agency or institution and is engaged in a non-clinical, generalist scope of practice of social work to include staff supervision and management.

The VSCSW* and the GWSCSW *contends that the Code of Virginia § 54.1-3701. Exemption from requirements of licensure prohibits the VBSW from including in the proposed legislation social workers who are exempt from the requirements of licensure. Given that the VBSW is prohibited from including these social workers in the legislation then there is no public need that the VBSW has authority to address.

2. How this legislation addresses or fails to address that need

This question assumes that the answer to #1 was that a need exist. The VSCSW contends that the VBSW has presented no evidence of a public need exist for mid-level licensure.

3. Give detail on your specific agreements and disagreements with the recommended legislation.

The VSCSW* and the GWSCSW *disagrees with all of the new language that is in the proposed legislation. Specifically the VSCSW contends that each of the items contained in the new language is already authorized in existing Code or regulation. Below are detailed exactly which Code section or regulation covers the four sentences in the proposed regulations.

PROPOSED LANGUAGE TO AMEND § 54.1-3700. Definitions	**Virginia Code and Regulations that VSCSW and the** GWSCSW **contends authorize the VBSW to accomplish all of the items in the proposed legislation**
Baccalaureate social worker means a person who practices under the supervision of a master's social worker …….	Under the current VBSW regulation *18VAC140-20-60. Education and experience requirements for licensed social worker (C)1.* the applicant is required to acquire *"supervision satisfactory to the board."* The VSCSW contends that the VBSW has the authority under current law to decide that "supervision of a master's social worker" is the minimum requirement that is needed by the applicant to be *"satisfactory to the board."* The proposed language does not specify that the person must have a Bachelor's of Social Work degree. To clarify the VBSW's intent the additional bold and italicized language below may be added: Baccalaureate social worker means a person ***with a bachelor's degree in social work from a program accredited by the Council on Social Work Education*** who practices under the supervision of a master's degree social worker within an agency or institution and is engaged in a basic generalist practice to include casework management and supportive services and consultation and education. ***(This additional language borrows from* § 54.1-3707.1. Educational requirements- See highlighted below)**

PROPOSED LANGUAGE TO AMEND § 54.1-3700. Definitions	Virginia Code and Regulations that VSCSW contends authorize the VBSW to accomplish all of the items in the proposed legislation
…within an agency or institution…..	Under the current VBSW regulation *18VAC140-20-60. Education and experience requirements for licensed social worker (C)* - To meet the experience requirement the Bachelor's degree applicant must acquire *"prior written board approval"* for that experience. **The VBSW under current law may decide that in order to give that approval the Bachelor's degree applicant must be practicing "within an agency or institution."** On the VBSW website are listed "Laws governing Social Work." one of those laws is § *54.1-3701. Exemption from requirements of licensure*. This statute explicitly states: *"… The requirements for licensure provided for in this chapter shall not be applicable to:"* and goes on to list several categories. The first sentence of category #4 reads as follows: *4. Persons employed as salaried employees or volunteers of the federal government, the Commonwealth, a locality, or of any agency established or funded, in whole or part, by any such governmental entity or of a private, nonprofit organization or agency sponsored or funded, in whole or part, by a community-based citizen group or organization.* The proposed language "…a person who practices ……within an agency or institution…" is in direct conflict with the existing exemption statute. **The VSCSW contends that the VBSW exceeds it's legislative authority in the proposed legislation by inserting language that is in direct conflict with the current exemption statute in the Code of Virginia.**
…..and is engaged in a basic generalist practice ……	The words *"basic generalist"* do not appear in the social work law or regulations. However in the current social work law section ***§54.1-3700. Definitions*- the words "Social Worker"** are defined as follows: *"Social worker" means a person trained to provide service and action to effect changes in human behavior, emotional responses, and the social conditions by the application of the values, principles, methods, and procedures of the profession of social work.* **The VSCSW contends that the definition of "Social Worker" in the current social work law is sufficient to convey the meaning of the words "basic generalist."**

PROPOSED LANGUAGE TO AMEND § 54.1-3700. Definitions	Virginia Code and Regulations that VSCSW contends authorize the VBSW to accomplish all of the items in the proposed legislation
…..to include casework management and supportive services and consultation and education.	**The VSCSW contends that under current law *§ 54.1-2400. General powers and duties of health regulatory boards (6)* the VBSW has authority "…** (6)***To promulgate regulations in accordance with the Administrative Process Act (§ 2.2-4000 et seq.) which are reasonable and necessary to administer effectively the regulatory system…".*** **The VBSW thus has current authority to define what criteria an applicant must have to acquire board approval for their experience. Historically courts have deferred to the professional judgement of health regulatory boards to decide the details of regulations that define aspects of the profession.** Under the current social work law section *§ 54.1-3700. Definitions the "Practice of social work"* is defined. That definition includes "… ***casework management and supportive services…"*** **and "…** ***consultation and education****…"* Any person licensed under the social work law would be considered to be practicing social work so this definition would apply to the Bachelor's degree applicant as well. **The VSCSW contends that the proposed language *…..include casework management and supportive services and consultation and education.* already exist in *§ 54.1-3700. Definitions the "Practice of social work"* and therefore this proposed legislation is unnecessary.** **The VSCSW contends that all of the intent and meaning of the proposed language to amend § 54.1-3700. Definitions regarding Bachelor's degree applicants are currently contained in existing code or the regulations of the VBSW.**

PROPOSED LANGUAGE TO AMEND § 54.1-3700. Definitions	Virginia Code and Regulations that VSCSW and the GWSCSW contends authorize the VBSW to accomplish all of the items in the proposed legislation
Master's social worker means a person who is employed by an agency or institution and is engaged in a non-clinical, generalist scope of practice of social work to include staff supervision and management.	The proposed language does not specify that the person must have a Master's of Social Work degree. To clarify the VBSW's intent the additional bold and italicized language below may be added: Master's social worker means a person with ***a master's degree in social work from a program accredited by the Council on Social Work Education*** who is employed by an agency or institution and is engaged in a non-clinical, generalist scope of practice of social work to include staff supervision and management. ***(This additional language borrows from* § 54.1-3707.1. Educational requirements- See highlighted below)**
….a person who is employed by an agency or institution…..	On the VBSW website are listed "Laws governing Social Work." one of those laws is § *54.1-3701. Exemption from requirements of licensure*. This statute explicitly states: *"… The requirements for licensure provided for in this chapter shall not be applicable to:"* and goes on to list several categories. The first sentence of category #4 reads as follows: *4. Persons employed as salaried employees or volunteers of the federal government, the Commonwealth, a locality, or of any agency established or funded, in whole or part, by any such governmental entity or of a private, nonprofit organization or agency sponsored or funded, in whole or part, by a community-based citizen group or organization.* The proposed language "…a person who is employed by an agency or institution…" is in direct conflict with the existing exemption statute. **The VSCSW contends that the VBSW exceeds it's legislative authority in the proposed legislation by inserting language that is in direct conflict with the current exemption statute in the Code of Virginia.**

While the VSCSW and the GWSCSW contends that the VBSW has not met the standard for establishing a public need for the proposed legislation the VSCSW and the GWSCSW also contends that the VBSW has the authority under current Code and regulations to create mid-level licensing if the decision of the Board is to establish mid-level licensing. Below is an outline of how the Board would proceed to accomplish this action.

AN ALTERNATIVE WAY FOR THE VBSW TO PROCEED WITH CREATING MID-LEVEL LICENSURE

The current social work statute does not specify the name of any of the licenses the VBSW currently issues. LCSW and LSW are names created by the VBSW (Refer to Chapter 37 of Title 54.1 of the Code of Virginia, Social Work). Instead what the current statute does is create definitions of terms. As long as any regulations or designations that the VBSW creates uses the terms in the current definitions section of the current statute to describe a new designation then there is no need to make any changes in the statute. The terms that are defined in the current statute are:

- Administration
- Board
- Casework
- Casework management and supportive services
- Clinical social worker
- Consultation and education
- Group work
- Planning and community organization
- Practice of social work
- Research
- Social worker

The current regulations of the VBSW also have definitions of terms. Regulations must be based on the statute and thus have "the force of law" so these definitions must also be considered. However it is worth noting that these definitions were developed by the VBSW not the General Assembly and can be altered by the VBSW. The terms defined in the regulations are:

- Accredited school of social work
- Active practice
- Ancillary services
- Clinical course of study
- Clinical social work services
- Exempt practice
- Face-to-face supervision
- Nonexempt practice
- Supervisee
- Supervision

Under the current statutes of ***§ 54.1-2400. General powers and duties of health regulatory boards*** and ***Chapter 37 of Title 54.1 of the Code of Virginia-Social Work*** (Refer to statutes) the VBSW currently has the authority to do the following:

- To establish the qualifications for licensure in accordance with the applicable law which are necessary to ensure competence and integrity to engage in the regulated profession – social work.
- To examine or cause to be examined applicants for licensure.
- To license qualified applicants as practitioners of the particular profession regulated by the VBSW.
- To promulgate regulations in accordance with the Administrative Process Act (§ 2.2-4000 et seq.) which are reasonable and necessary to administer effectively the regulatory system.
- 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.
- To conduct inspections to ensure that licensees conduct their practices in a competent manner and in conformance with the relevant regulations.
- ***To designate specialties within the profession***. (bold and italics added)

Based on the above if the VBSW wanted to create a new name for a license – such as LBSW or LMSW the current statute permits the VBSW to do so under their current authority to *"designate specialties within the profession."* (See ***§ 54.1-3705. Specific powers and duties of the Board. (3))***

SCOPE OF PRACTICE:

There has been much discussion at Regulatory Committee and VBSW meetings about the concept of "Scope of Practice." It is worth noting that **nowhere in the current social work statute or in the current regulations of the VBSW does the term "scope of practice" appear.**

"Scope of Practice" is inferred by the definitions of terms that are in the statute or regulations. So if you want to know what the "Scope of Practice" is for an LCSW then you look at the definitions of the following terms in the statute and regulations:

STATUTE:

- Casework
- Casework management and supportive services
- Clinical social worker
- Consultation and education
- Group work
- Planning and community organization
- Practice of social work
- Research
- Social worker

REGULATIONS:

- Accredited school of social work
- Active practice
- Ancillary services
- Clinical course of study
- Clinical social work services
- Exempt practice
- Face-to-face supervision
- Nonexempt practice
- Supervisee
- Supervision

As the VBSW develops any new credential it would need to be in accordance with the definitions above and the "Scope of Practice" would be inferred by which terms were included in the regulatory language for the new credential.

The VSCSW contends that if it is the will of the VBSW to create credentials such as LBSW or LMSW the current statutes allow the VBSW to do so under its current statutory authority

LSW-SAME LICENSE DIFFERENT REQUIREMENTS:

Currently the VBSW regulations for the LSW allow for different requirements for the same license. Below ae some of the differences:

Characteristic of LSW Regulation	VBSW Regulation	Bachelors LSW	Masters LSW
Education	18VAC140-20-60. Education and experience requirements for a licensed social worker**.**	A. Education. The applicant shall hold a bachelor's… from an accredited school of social work.	A. Education. The applicant shall hold … a master's degree from an accredited school of social work.
Supervised experience	18VAC140-20-60. Education and experience requirements for a licensed social worker.	2. Hours. Bachelor's degree applicants shall have completed a minimum of 3,000 hours of supervised post-bachelor's degree experience in casework management and supportive services under supervision satisfactory to the board. A minimum of one hour and a maximum of four hours of face-to-face supervision shall be provided per 40 hours of work experience for a total of at least 100 hours.	B. Master's degree applicant. An applicant who holds a master's degree may apply for licensure as a licensed social worker without documentation of supervised experience.

Currently the VBSW requires both the Bachelor's degree applicant and the Master's degree applicant to take the ASWB Bachelor's degree exam. However the regulations currently also state that the examination for the LSW license *"…shall* ***minimally be*** *the licensing examination of the Association of Social Work Boards* ***at the bachelor's level."*** This language in the regulation suggest that there are a range of exams and thus permits the VBSW to allow for the option of an examination that is above the minimal level. Since the regulations already allow for different educational and experience requirements it is within the current authority of the VBSW to require a different exam for the Master's level applicant. The ASWB Master's exam would be allowed.

CURRRENT LANGUAGE OF REGULATIONS FOR EXAMINATION FOR THE LSW

Characteristic	VBSW Regulation	Bachelors LSW	Masters LSW
Examinations	18VAC140-20-70. Examination requirement.	2. The examination prescribed for licensure as a social worker shall minimally be the licensing examination of the Association of Social Work Boards at the bachelor's level.	2. The examination prescribed for licensure as a social worker shall minimally be the licensing examination of the Association of Social Work Boards at the bachelor's level.

POSSIBLE NEW LANGUAGE OF REGULATIONS FOR EXAMINATION FOR THE LBSW &THE LMSW

Characteristic	VBSW Regulation	LBSW	LMSW
Examinations	18VAC140-20-70. Examination requirement.	2. The examination prescribed for licensure of Bachelor's degree applicants shall be the licensing examination of the Association of Social Work Boards at the bachelor's level.	2. The examination prescribed for licensure of Master's degree applicants be the licensing examination of the Association of Social Work Boards at the Master's level.

SUMMARY

The VSCSW and the GWSCSW contends that:

- The "demonstrated public need" standard has not been met.
- The Exemptions statute prohibits the VBSW from requiring social workers who are exempt from the requirements of licensure to now be required to be licensed.
- The VBSW has authority under current statutes and regulations "to designate specialties within the profession." Under this current authority of the VBSW the board could choose to designate the specialties of "LBSW" and "LMSW."
- If the VBSW creates a mid-level license it seems that it would be a voluntary (due to the Exemptions statute) license for a group of social workers who are already regulated by two other agencies of the Commonwealth. There may be very little incentive for this group of social workers to seek out such a credential.

Again the VSCSW and the GWSCSW appreciates the invitation to give input to the Regulatory Committee. We are open to further discussion about this topic and look forward to attending your meetings.

Submitted by:

Joseph G. Lynch LCSW
Legislative Vice President VSCSW

REFERENCES

1. **Code of Virginia**

§ 54.1-100. Regulations of professions and occupations.
The right of every person to engage in any lawful profession, trade or occupation of his choice is clearly protected by both the Constitution of the United States and the Constitution of the Commonwealth of Virginia. The Commonwealth cannot abridge such rights except as a reasonable exercise of its police powers when it is clearly found that such abridgment is necessary for the preservation of the health, safety and welfare of the public.

No regulation shall be imposed upon any profession or occupation except for the exclusive purpose of protecting the public interest when:

1. The unregulated practice of the profession or occupation can harm or endanger the health, safety or welfare of the public, and the potential for harm is recognizable and not remote or dependent upon tenuous argument;

2. The practice of the profession or occupation has inherent qualities peculiar to it that distinguish it from ordinary work and labor;

3. The practice of the profession or occupation requires specialized skill or training and the public needs, and will benefit by, assurances of initial and continuing professional and occupational ability; and

4. The public is not effectively protected by other means.

Chapter 37 of Title 54.1 of the Code of Virginia
Social Work

Table of Contents

§ 54.1-3700. Definitions.

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

"Administration" means the process of attaining the objectives of an organization through a system of coordinated and cooperative efforts to make social service programs effective instruments for the amelioration of social conditions and for the solution of social problems.

"Board" means the Board of Social Work.

"Casework" means both direct treatment, with an individual or several individuals, and intervention in the situation on the client's behalf with the objectives of meeting the client's needs, helping the client deal with the problem with which he is confronted, strengthening the client's capacity to function productively, lessening his distress, and enhancing his opportunities and capacities for fulfillment.

"Casework management and supportive services" means assessment of presenting problems and perceived needs, referral services, policy interpretation, data gathering, planning, advocacy, and coordination of services.

"Clinical social worker" means a social worker who, by education and experience, is professionally qualified at the autonomous practice level to provide direct diagnostic, preventive and treatment services where functioning is threatened or affected by social and psychological stress or health impairment.

"Consultation and education" means program consultation in social work to agencies, organizations, or community groups; academic programs and other training such as staff development activities, seminars, and workshops using social work principles and theories of social work education.

"Group work" means helping people, in the realization of their potential for social functioning, through group experiences in which the members are involved with common concerns and in which there is agreement about the group's purpose, function, and structure.

"Planning and community organization" means helping organizations and communities analyze social problems and human needs; planning to assist organizations and communities in organizing for general community development; and improving social conditions through the application of social planning, resource development, advocacy, and social policy formulation.

"Practice of social work" means rendering or offering to render to individuals, families, groups, organizations, governmental units, or the general public service which is guided by special knowledge of social resources, social systems, human capabilities, and the part conscious and unconscious motivation play in determining behavior. Any person regularly employed by a licensed hospital or nursing home who offers or renders such services in connection with his employment in accordance with patient care policies or plans for social services adopted pursuant to applicable regulations when such services do not include group, marital or family therapy, psychosocial treatment or other measures to modify human behavior involving child abuse, newborn intensive care, emotional disorders or similar issues, shall not be deemed to be engaged in the "practice of social work." Subject to the foregoing, the disciplined

application of social work values, principles and methods includes, but is not restricted to, casework management and supportive services, casework, group work, planning and community organization, administration, consultation and education, and research.

"Research" means the application of systematic procedures for the purpose of developing, modifying, and expanding knowledge of social work practice which can be communicated and verified.

"Social worker" means a person trained to provide service and action to effect changes in human behavior, emotional responses, and the social conditions by the application of the values, principles, methods, and procedures of the profession of social work.

(1976, c. 608, § 54-941; 1979, c. 398; 1981, c. 555; 1988, c. 765.)

§ 54.1-3701. Exemption from requirements of licensure.

The requirements for licensure provided for in this chapter shall not be applicable to:

1. Persons who render services that are like or similar to those falling within the scope of the classifications or categories in this chapter, so long as the recipients or beneficiaries of such services are not subject to any charge or fee, or any financial requirement, actual or implied, and the person rendering such service is not held out, by himself or otherwise, as a licensed practitioner.

2. The activities or services of a student pursuing a course of study in social work in an institution recognized by the Board for purposes of licensure upon completion of the course of study or under the supervision of a practitioner licensed under this chapter; if such activities or services constitute a part of his course of study and are adequately supervised.

3. The activities of rabbis, priests, ministers or clergymen of any religious denomination or sect when such activities are within the scope of the performance of their regular or specialized ministerial duties, and no separate charge is made or when such activities are performed, whether with or without charge, for or under auspices or sponsorship, individually or in conjunction with others, of an established and legally cognizable church, denomination or sect, and the person rendering service remains accountable to its established authority.

4. Persons employed as salaried employees or volunteers of the federal government, the Commonwealth, a locality, or of any agency established or funded, in whole or part, by any such governmental entity or of a private, nonprofit organization or agency sponsored or

funded, in whole or part, by a community-based citizen group or organization. Any person who renders psychological services, as defined in Chapter 36 (§ 54.1-3600 et seq.) of this title, shall be subject to the requirements of that chapter. Any person who, in addition to the above enumerated employment, engages in an independent private practice shall not be exempt from the requirements for licensure.

5. Persons regularly employed by private business firms as personnel managers, deputies or assistants so long as their counseling activities relate only to employees of their employer and in respect to their employment.

(1976, c. 608, § 54-944; 1986, c. 581; 1988, c. 765.)

§ 54.1-3702. Administration or prescription of drugs not permitted.

This chapter shall not be construed as permitting the administration or prescribing of drugs or in any way infringing upon the practice of medicine as defined in Chapter 29 (§ 54.1-2900 et seq.) of this title.

(1976, c. 608, § 54-945; 1988, c. 765.)

§ 54.1-3703. Board of Social Work; members.

The Board of Social Work shall regulate the practice of social work.

The Board shall be composed of nine nonlegislative citizen members appointed by the Governor, seven of whom shall be licensed social workers who have been in active practice of social work for at least five years prior to appointment and two of whom shall be nonlegislative citizen members at large. The terms of the members of the Board shall be four years.

(1976, c. 608, § 54-942; 1981, cc. 447, 555; 1986, c. 464; 1988, cc. 42, 765; 2006, c. 685.)

§ 54.1-3704. Nominations.

Nominations for professional members may be made from a list of at least three names for each vacancy submitted to the Governor by the Virginia Chapter of the National Association of Social Workers and by the Virginia Society for Clinical Social Work. The

Governor may notify such organizations of any professional vacancy other than by expiration. In no case shall the Governor be bound to make any appointment from among the nominees.

(1986, c. 464, § 54-942.1; 1988, c. 765.)

§ 54.1-3705. 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:

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. Expired.

(1976, c. 608, §§ 54-929, 54-931; 1983, c. 115; 1986, cc. 64, 100, 464; 1988, c. 765; 1994, c. 778.)

§ 54.1-3706. License required.

In order to engage in the practice of social work, it shall be necessary to hold a license.

(1979, c. 408, § 54-943.1; 1988, c. 765.)

§ 54.1-3707. Licenses continued.

All licenses heretofore issued by the Board of Social Work and its predecessors shall continue in effect, and be renewable under this chapter.

(1976, c. 608, § 54-943; 1988, c. 765.)

§ 54.1-3707.1. Educational requirements.

The Board shall accept proof of the successful completion of the following as evidence of the satisfaction of the educational requirements for licensure as a clinical social worker: (i) a master's degree in social work with a clinical course of study from a program accredited by the Council on Social Work Education, (ii) a master's degree in social work with a non-clinical concentration from a program accredited by the Council on Social Work Education together with successful completion of the educational requirements for a clinical course of study through a graduate program accredited by the Council on Social Work Education, or (iii) a program of education and training in social work at an educational institution outside the United States recognized by the Council on Social Work Education. For the purposes of this section, "clinical course of study" means graduate coursework that includes specialized advanced courses in human behavior and the social environment, social justice and policy, psychopathology, and diversity issues; research; clinical practice with individuals, families, and groups; and clinical practicum that focuses on diagnostic, prevention, and treatment services.

(2013, c. 533.)

§ 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.

(1999, c. 575.)

§ 54.1-3709. (Effective July 1, 2013) Unlawful designation as social worker.

A. It shall be unlawful for any person not licensed under this chapter to use the title "Social Worker" in writing or in advertising in connection with his practice unless he simultaneously uses clarifying initials that signify receiving a baccalaureate or master's degree

in social work from an accredited social work school or program approved by the Council on Social Work Education or a doctorate in social work.

B. If a complaint or report of a possible violation of this section is made against any person who is licensed, certified, registered, or permitted, or who holds a multistate licensure privilege issued by any of the health regulatory boards within the Department of Health Professions, that complaint shall be referred to the applicable board within the Department for disciplinary action. A violation of this section shall be a Class 1 misdemeanor.

C. Notwithstanding the provisions of this section, any individual meeting the qualifications provided for in 42 C.F.R. Part 483 may practice as a "qualified social worker" in any licensed nursing home using such title. However, any such individual may only use the title "social worker" in connection with the activities of the nursing home.

D. Notwithstanding the provisions of this section, any individual meeting the qualifications provided for in 42 C.F.R. § 418.114(b) (3) may practice as a "social worker" in any licensed hospice using such title. However, any such individual may only use the title "social worker" in connection with the activities of the hospice.

E. That nothing in this act shall be construed as requiring the Department of Social Services, or any other entity, to hire licensed social workers or social workers with a baccalaureate or master's degree in social work from an accredited social work school or program approved by the Council on Social Work Education or a doctorate in social work.

(2011, c. 794.)

12VAC30-50-226. Community Mental Health Services.

A. Definitions. The following words and terms when used in this section shall have the following meanings unless the context clearly indicates otherwise:

"Activities of daily living" or "ADLs" means personal care tasks such as bathing, dressing, toileting, transferring, and eating or feeding. An individual's degree of independence in performing these activities is a part of determining appropriate level of care and service needs.

"Affiliated" means any entity or property in which a provider or facility has a direct or indirect ownership interest of 5.0% or more, or any management, partnership, or control of an entity.

"Behavioral health services administrator" or "BHSA" means an entity that manages or directs a behavioral health benefits program under contract with DMAS. DMAS' designated BHSA shall be authorized to constitute, oversee, enroll, and train a provider network; perform service authorization; adjudicate claims; process claims; gather and maintain data; reimburse providers; perform quality assessment and improvement; conduct member outreach and education; resolve member and provider issues; and perform utilization management including care coordination for the provision of Medicaid-covered behavioral health services. Such authority shall include entering into or terminating contracts with providers in accordance with DMAS authority pursuant to 42 CFR Part 1002 and § 32.1-325 D and E of the Code of Virginia. DMAS shall retain authority for and oversight of the BHSA entity or entities.
"Certified prescreener" means an employee of either the local community services board/behavioral health authority or its designee who is skilled in the assessment and treatment of mental illness and who has completed a certification program approved by DBHDS.

"Clinical experience" means, for the purpose of rendering (i) mental health day treatment/partial hospitalization, (ii) intensive community treatment, (iii) psychosocial rehabilitation, (iv) mental health skill building, (v) crisis stabilization, or (vi) crisis intervention services, practical experience in providing direct services to individuals with diagnoses of mental illness or intellectual disability or the provision of direct geriatric services or special education services. Experience shall include supervised internships,

supervised practicums, or supervised field experience. Experience shall not include unsupervised internships, unsupervised practicums, and unsupervised field experience. The equivalency of part-time hours to full-time hours for the purpose of this requirement shall be established by DBHDS in the document titled Human Services and Related Fields Approved Degrees/Experience, issued March 12, 2013, revised May 3, 2013.

"Code" means the Code of Virginia.

"DBHDS" means the Department of Behavioral Health and Developmental Services consistent with Chapter 3 (§ 37.2-300 et seq.) of Title 37.2 of the Code of Virginia.
"DMAS" means the Department of Medical Assistance Services and its contractor or contractors consistent with Chapter 10 (§ 32.1-323 et seq.) of Title 32.1 of the Code of Virginia.
"DSM-5" means the Diagnostic and Statistical Manual of Mental Disorders, Fifth Edition, copyright 2013, American Psychiatric Association.

"Human services field" means the same as the term is defined by DBHDS in the guidance document entitled Human Services and Related Fields Approved Degrees/Experience, issued March 12, 2013, revised May 3, 2013.

"Individual" means the patient, client, or recipient of services described in this section.

"Individual service plan" or "ISP" means a comprehensive and regularly updated treatment plan specific to the individual's unique treatment needs as identified in the service-specific provider intake. The ISP contains, but is not limited to, the individual's treatment or training needs, the individual's goals and measurable objectives to meet the identified needs, services to be provided with the recommended frequency to accomplish the measurable goals and objectives, the estimated timetable for achieving the goals and objectives, and an individualized discharge plan that describes transition to other appropriate services. The individual shall be included in the development of the ISP and the ISP shall be signed by the individual. If the individual is a minor child, the ISP shall also be signed by the individual's parent/legal guardian. Documentation shall be provided if the individual, who is a minor child or an adult who lacks legal capacity, is unable or unwilling to sign the ISP.

"Individualized training" means instruction and practice in functional skills and appropriate behavior related to the individual's health and safety, instrumental activities of daily living skills, and use of community resources; assistance with medical management; and monitoring health, nutrition, and physical condition. The training shall be rehabilitative and based on a variety of incremental (or cumulative) approaches or tools to organize and guide the individual's life planning and shall reflect what is important to the individual in addition to all other factors that affect his functioning, including effects of the disability and issues of health and safety.

"Licensed mental health professional" or "LMHP" means the same as defined in 12VAC35-105-20.
"LMHP-resident" or "LMHP-R" means the same as "resident" as defined in (i) 18VAC115-20-10 for licensed professional counselors; (ii) 18VAC115-50-10 for licensed marriage and family therapists; or (iii) 18VAC115-60-10 for licensed substance abuse treatment practitioners. An LMHP-resident shall be in continuous compliance with the regulatory requirements of the applicable counseling profession for supervised practice and shall not perform the functions of the LMHP-R or be considered a "resident" until the supervision for specific clinical duties at a specific site has been preapproved in writing by the Virginia Board of Counseling. For purposes of Medicaid reimbursement to their supervisors for services provided by such residents, they shall use the title "Resident" in connection with the applicable profession after their signatures to indicate such status.

"LMHP-resident in psychology" or "LMHP-RP" means the same as an individual in a residency, as that term is defined in 18VAC125-20-10, program for clinical psychologists. An LMHP-resident in psychology shall be in continuous compliance with the regulatory requirements for supervised experience as found in 18VAC125-20-65and shall not perform the functions of the LMHP-RP or be considered a "resident" until the supervision for specific clinical duties at a specific site has been preapproved in writing by the Virginia Board of Psychology. For purposes of Medicaid reimbursement by supervisors for services provided by such residents, they shall use the title "Resident in Psychology" after their signatures to indicate such status.

"LMHP-supervisee in social work," "LMHP-supervisee," or "LMHP-S" means the same as "supervisee" is defined in 18VAC140-20-10 for licensed clinical social workers. An LMHP-supervisee in social work shall be in continuous compliance with the regulatory requirements for supervised practice as found in 18VAC140-20-50and shall not perform the functions of the LMHP-S or be considered a "supervisee" until the supervision for specific clinical duties at a specific site is preapproved in writing by the Virginia Board of Social Work. For purposes of Medicaid reimbursement to their supervisors for services provided by supervisees, these persons shall use the title "Supervisee in Social Work" after their signatures to indicate such status.
"Qualified mental health professional-adult" or "QMHP-A" means the same as defined in 12VAC35-105-20.
"Qualified mental health professional-child" or "QMHP-C" means the same as defined in 12VAC35-105-20.
"Qualified mental health professional-eligible" or "QMHP-E" means the same as defined in 12VAC35-105-20.
"Qualified paraprofessional in mental health" or "QPPMH" means the same as defined in 12VAC35-105-20.
"Register" or "registration" means notifying DMAS or its contractor that an individual will be receiving services that do not require service authorization.

"Review of ISP" means that the provider evaluates and updates the individual's progress toward meeting the individualized service plan objectives and documents the outcome of this review. For DMAS to determine that these reviews are satisfactory and complete,

the reviews shall (i) update the goals, objectives, and strategies of the ISP to reflect any change in the individual's progress and treatment needs as well as any newly identified problems; (ii) be conducted in a manner that enables the individual to participate in the process; and (iii) be documented in the individual's medical record no later than 15 calendar days from the date of the review.

"Service authorization" means the process to approve specific services for an enrolled Medicaid, FAMIS Plus, or FAMIS individual by a DMAS service authorization contractor prior to service delivery and reimbursement in order to validate that the service requested is medically necessary and meets DMAS and DMAS contractor criteria for reimbursement. Service authorization does not guarantee payment for the service.

"Service-specific provider intake" means the same as defined in 12VAC30-50-130 and also includes individuals who are older than 21 years of age.

B. Mental health services. The following services, with their definitions, shall be covered: day treatment/partial hospitalization, psychosocial rehabilitation, crisis services, intensive community treatment (ICT), and mental health skill building. Staff travel time shall not be included in billable time for reimbursement. These services, in order to be covered, shall meet medical necessity criteria based upon diagnoses made by LMHPs who are practicing within the scope of their licenses and are reflected in provider records and on providers' claims for services by recognized diagnosis codes that support and are consistent with the requested professional services. These services are intended to be delivered in a person-centered manner. The individuals who are receiving these services shall be included in all service planning activities. All services which do not require service authorization require registration. This registration shall transmit service-specific information to DMAS or its contractor in accordance with service authorization requirements.

1. Day treatment/partial hospitalization services shall be provided in sessions of two or more consecutive hours per day, which may be scheduled multiple times per week, to groups of individuals in a nonresidential setting. These services, limited annually to 780 units, include the major diagnostic, medical, psychiatric, psychosocial, and psychoeducational treatment modalities designed for individuals who require coordinated, intensive, comprehensive, and multidisciplinary treatment but who do not require inpatient treatment. One unit of service shall be defined as a minimum of two but less than four hours on a given day. Two units of service shall be defined as at least four but less than seven hours in a given day. Three units of service shall be defined as seven or more hours in a given day. Authorization is required for Medicaid reimbursement.

a. Day treatment/partial hospitalization services shall be time limited interventions that are more intensive than outpatient services and are required to stabilize an individual's psychiatric condition. The services are delivered when the individual is at risk of psychiatric hospitalization or is transitioning from a psychiatric hospitalization to the community. The service-

specific provider intake, as defined at 12VAC30-50-130, shall document the individual's behavior and describe how the individual is at risk of psychiatric hospitalization or is transitioning from a psychiatric hospitalization to the community.
b. Individuals qualifying for this service must demonstrate a clinical necessity for the service arising from mental, behavioral, or emotional illness that results in significant functional impairments in major life activities. Individuals must meet at least two of the following criteria on a continuing or intermittent basis:

(1) Experience difficulty in establishing or maintaining normal interpersonal relationships to such a degree that they are at risk of hospitalization or homelessness or isolation from social supports;

(2) Experience difficulty in activities of daily living such as maintaining personal hygiene, preparing food and maintaining adequate nutrition, or managing finances to such a degree that health or safety is jeopardized;

(3) Exhibit such inappropriate behavior that the individual requires repeated interventions or monitoring by the mental health, social services, or judicial system that have been documented; or

(4) Exhibit difficulty in cognitive ability such that they are unable to recognize personal danger or recognize significantly inappropriate social behavior.

c. Individuals shall be discharged from this service when they are no longer in an acute psychiatric state and other less intensive services may achieve psychiatric stabilization.

d. Admission and services for time periods longer than 90 calendar days must be authorized based upon a face-to-face evaluation by a physician, psychiatrist, licensed clinical psychologist, licensed professional counselor, licensed clinical social worker, or psychiatric clinical nurse specialist.

e. These services may only be rendered by an LMHP, LMHP-supervisee, LMHP-resident, LMHP-RP, QMHP-A, QMHP-C, QMHP-E, or a QPPMH.

2. Psychosocial rehabilitation shall be provided at least two or more hours per day to groups of individuals in a nonresidential setting. These services, limited annually to 936 units, include assessment, education to teach the patient about the diagnosed mental illness and appropriate medications to avoid complication and relapse, opportunities to learn and use independent living skills and to enhance social and interpersonal skills within a supportive and normalizing program structure and environment. One unit of service is defined as a minimum of two but less than four hours on a given day. Two units are defined as at least

four but less than seven hours in a given day. Three units of service shall be defined as seven or more hours in a given day. Authorization is required for Medicaid reimbursement. The service-specific provider intake, as defined at 12VAC30-50-130, shall document the individual's behavior and describe how the individual meets criteria for this service.

a. Individuals qualifying for this service must demonstrate a clinical necessity for the service arising from mental, behavioral, or emotional illness that results in significant functional impairments in major life activities. Services are provided to individuals: (i) who without these services would be unable to remain in the community or (ii) who meet at least two of the following criteria on a continuing or intermittent basis:

(1) Experience difficulty in establishing or maintaining normal interpersonal relationships to such a degree that they are at risk of psychiatric hospitalization, homelessness, or isolation from social supports;

(2) Experience difficulty in activities of daily living such as maintaining personal hygiene, preparing food and maintaining adequate nutrition, or managing finances to such a degree that health or safety is jeopardized;

(3) Exhibit such inappropriate behavior that repeated interventions documented by the mental health, social services, or judicial system are or have been necessary; or

(4) Exhibit difficulty in cognitive ability such that they are unable to recognize personal danger or significantly inappropriate social behavior.

b. These services may only be rendered by an LMHP, LMHP-supervisee, LMHP-resident, LMHP-RP, QMHP-A, QMHP-C, QMHP-E, or a QPPMH.

3. Crisis intervention shall provide immediate mental health care, available 24 hours a day, seven days per week, to assist individuals who are experiencing acute psychiatric dysfunction requiring immediate clinical attention. This service's objectives shall be to prevent exacerbation of a condition, to prevent injury to the client or others, and to provide treatment in the context of the least restrictive setting. Crisis intervention activities shall include assessing the crisis situation, providing short-term counseling designed to stabilize the individual, providing access to further immediate assessment and follow-up, and linking the individual and family with ongoing care to prevent future crises. Crisis intervention services may include office visits, home visits, preadmission screenings, telephone contacts, and other client-related activities for the prevention of institutionalization. The service-specific provider intake, as defined at 12VAC30-50-130, shall document the individual's behavior and describe how the individual meets criteria for this service. The provision of this service to an individual shall be

registered with either DMAS, DMAS contractors, or the BHSA within one business day or the completion of the service-specific provider intake to avoid duplication of services and to ensure informed care coordination.

a. Individuals qualifying for this service must demonstrate a clinical necessity for the service arising from an acute crisis of a psychiatric nature that puts the individual at risk of psychiatric hospitalization. Individuals must meet at least two of the following criteria at the time of admission to the service:

(1) Experience difficulty in establishing or maintaining normal interpersonal relationships to such a degree that they are at risk of psychiatric hospitalization, homelessness, or isolation from social supports;

(2) Experience difficulty in activities of daily living such as maintaining personal hygiene, preparing food and maintaining adequate nutrition, or managing finances to such a degree that health or safety is jeopardized;

(3) Exhibit such inappropriate behavior that immediate interventions documented by mental health, social services, or the judicial system are or have been necessary; or

(4) Exhibit difficulty in cognitive ability such that they are unable to recognize personal danger or significantly inappropriate social behavior.

b. The annual limit for crisis intervention is 720 units per year. A unit shall equal 15 minutes.

c. These services may only be rendered by an LMHP, an LMHP-supervisee, LMHP-resident, LMHP-RP, or a certified prescreener.

4. Intensive community treatment (ICT), initially covered for a maximum of 26 weeks based on an initial service-specific provider intake and may be reauthorized for up to an additional 26 weeks annually based on written intake and certification of need by a licensed mental health provider (LMHP), shall be defined by 12VAC35-105-20 or LMHP-S, LMHP-R, and LMHP-RP and shall include medical psychotherapy, psychiatric assessment, medication management, and care coordination activities offered to outpatients outside the clinic, hospital, or office setting for individuals who are best served in the community. Authorization is required for Medicaid reimbursement.

a. To qualify for ICT, the individual must meet at least one of the following criteria:

(1) The individual must be at high risk for psychiatric hospitalization or becoming or remaining homeless due to mental illness or require intervention by the mental health or criminal justice system due to inappropriate social behavior.

(2) The individual has a history (three months or more) of a need for intensive mental health treatment or treatment for co-occurring serious mental illness and substance use disorder and demonstrates a resistance to seek out and utilize appropriate treatment options.

b. A written, service-specific provider intake, as defined at 12VAC30-50-130, that documents the individual's eligibility and the need for this service must be completed prior to the initiation of services. This intake must be maintained in the individual's records.

c. An individual service plan shall be initiated at the time of admission and must be fully developed, as defined in this section, within 30 days of the initiation of services.

d. The annual unit limit shall be 130 units with a unit equaling one hour.

e. These services may only be rendered by a team that meets the requirements of 12VAC35-105-1370.

5. Crisis stabilization services for nonhospitalized individuals shall provide direct mental health care to individuals experiencing an acute psychiatric crisis which may jeopardize their current community living situation. Services may be provided for up to a 15-day period per crisis episode following a face-to-face service-specific provider intake by an LMHP, LMHP-supervisee, LMHP-resident, or LMHP-RP. Only one unit of service shall be reimbursed for this intake. The provision of this service to an individual shall be registered with either DMAS, DMAS contractors, or the BHSA within one business day of the completion of the service-specific provider intake to avoid duplication of services and to ensure informed care coordination.

a. The goals of crisis stabilization programs shall be to avert hospitalization or rehospitalization, provide normative environments with a high assurance of safety and security for crisis intervention, stabilize individuals in psychiatric crisis, and mobilize the resources of the community support system and family members and others for on-going maintenance and rehabilitation. The services must be documented in the individual's records as having been provided consistent with the ISP in order to receive Medicaid reimbursement.

b. The crisis stabilization program shall provide to individuals, as appropriate, psychiatric assessment including medication evaluation, treatment planning, symptom and behavior management, and individual and group counseling.

c. This service may be provided in any of the following settings, but shall not be limited to: (i) the home of an individual who lives with family or other primary caregiver; (ii) the home of an individual who lives independently; or (iii)

community-based programs licensed by DBHDS to provide residential services but which are not institutions for mental disease (IMDs).

d. This service shall not be reimbursed for (i) individuals with medical conditions that require hospital care; (ii) individuals with primary diagnosis of substance abuse; or (iii) individuals with psychiatric conditions that cannot be managed in the community (i.e., individuals who are of imminent danger to themselves or others).

e. The maximum limit on this service is 60 days annually.

f. Services must be documented through daily progress notes and a daily log of times spent in the delivery of services. The service-specific provider intake, as defined at 12VAC30-50-130, shall document the individual's behavior and describe how the individual meets criteria for this service. Individuals qualifying for this service must demonstrate a clinical necessity for the service arising from an acute crisis of a psychiatric nature that puts the individual at risk of psychiatric hospitalization. Individuals must meet at least two of the following criteria at the time of admission to the service:
(1) Experience difficulty in establishing and maintaining normal interpersonal relationships to such a degree that the individual is at risk of psychiatric hospitalization, homelessness, or isolation from social supports;

(2) Experience difficulty in activities of daily living such as maintaining personal hygiene, preparing food and maintaining adequate nutrition, or managing finances to such a degree that health or safety is jeopardized;

(3) Exhibit such inappropriate behavior that immediate interventions documented by the mental health, social services, or judicial system are or have been necessary; or

(4) Exhibit difficulty in cognitive ability such that the individual is unable to recognize personal danger or significantly inappropriate social behavior.

g. These services may only be rendered by an LMHP, LMHP-supervisee, LMHP-resident, LMHP-RP, QMHP-A, QMHP-C, QMHP-E or a certified prescreener.

6. Mental health skill-building services (MHSS) shall be defined as goal-directed training to enable individuals to achieve and maintain community stability and independence in the most appropriate, least restrictive environment. Authorization is required for Medicaid reimbursement. Services that are rendered before the date of service authorization shall not be reimbursed. These services may be authorized up to six consecutive months as long as the individual meets the coverage

criteria for this service. The service-specific provider intake, as defined at 12VAC30-50-130, shall document the individual's behavior and describe how the individual meets criteria for this service. These services shall provide goal-directed training in the following areas in order to be reimbursed by Medicaid or the BHSA: (i) functional skills and appropriate behavior related to the individual's health and safety, instrumental activities of daily living, and use of community resources; (ii) assistance with medication management; and (iii) monitoring of health, nutrition, and physical condition with goals towards self-monitoring and self-regulation of all of these activities. Providers shall be reimbursed only for training activities defined in the ISP and only where services meet the service definition, eligibility, and service provision criteria and this section. A review of MHSS services by an LMHP, LMHP-R, LMHP-RP, or LMHP-S shall be repeated for all individuals who have received at least six months of MHSS to determine the continued need for this service.

a. Individuals qualifying for this service shall demonstrate a clinical necessity for the service arising from a condition due to mental, behavioral, or emotional illness that results in significant functional impairments in major life activities. Services are provided to individuals who require individualized goal-directed training in order to achieve or maintain stability and independence in the community.

b. Individuals ages 21 and older shall meet all of the following criteria in order to be eligible to receive mental health skill-building services:

(1) The individual shall have one of the following as a primary mental health diagnosis:

(a) Schizophrenia or other psychotic disorder as set out in the DSM-5;

(b) Major depressive disorder;

(c) Recurrent Bipolar I or Bipolar II; or

(d) Any other serious mental health disorder that a physician has documented specific to the identified individual within the past year and that includes all of the following: (i) is a serious mental illness; (ii) results in severe and recurrent disability; (iii) produces functional limitations in the individual's major life activities that are documented in the individual's medical record; and (iv) requires individualized training for the individual in order to achieve or maintain independent living in the community.

(2) The individual shall require individualized goal-directed training in order to acquire or maintain self-regulation of basic living skills, such as symptom management; adherence to psychiatric and physical health medication treatment plans;

appropriate use of social skills and personal support systems; skills to manage personal hygiene, food preparation, and the maintenance of personal adequate nutrition; money management; and use of community resources.

(3) The individual shall have a prior history of any of the following: (i) psychiatric hospitalization; (ii) either residential or nonresidential crisis stabilization; (iii) intensive community treatment (ICT) or program of assertive community treatment (PACT) services; (iv) placement in a psychiatric residential treatment facility (RTC-Level C) as a result of decompensation related to the individual's serious mental illness; or (v) a temporary detention order (TDO) evaluation, pursuant to § 37.2-809 B of the Code of Virginia. This criterion shall be met in order to be initially admitted to services and not for subsequent authorizations of service. Discharge summaries from prior providers that clearly indicate (i) the type of treatment provided, (ii) the dates of the treatment previously provided, and (iii) the name of the treatment provider shall be sufficient to meet this requirement. Family member statements shall not suffice to meet this requirement.
(4) The individual shall have had a prescription for antipsychotic, mood stabilizing, or antidepressant medications within the 12 months prior to the service-specific provider intake date. If a physician or other practitioner who is authorized by his license to prescribe medications indicates that antipsychotic, mood stabilizing, or antidepressant medications are medically contraindicated for the individual, the provider shall obtain medical records signed by the physician or other licensed prescriber detailing the contraindication. This documentation shall be maintained in the individual's mental health skill-building services record, and the provider shall document and describe how the individual will be able to actively participate in and benefit from services without the assistance of medication. This criterion shall be met upon admission to services and shall not be required for subsequent authorizations of service. Discharge summaries from prior providers that clearly indicate (i) the type of treatment provided, (ii) the dates of the treatment previously provided, and (iii) the name of the treatment provider shall be sufficient to meet this requirement. Family member statements shall not suffice to meet this requirement.

c. Individuals aged 18 to 21 years shall meet all of the following criteria in order to be eligible to receive mental health skill-building services:

(1) The individual shall not be living in a supervised setting as described in § 63.2-905.1 of the Code of Virginia. If the individual is transitioning into an independent living situation, MHSS shall only be authorized for up to six months prior to the date of transition.
(2) The individual shall have at least one of the following as a primary mental health diagnosis.

(a) Schizophrenia or other psychotic disorder as set out in the DSM-5;

(b) Major depressive disorder;

(c) Recurrent Bipolar-I or Bipolar II; or

(d) Any other serious mental health disorder that a physician has documented specific to the identified individual within the past year and that includes all of the following: (i) is a serious mental illness or serious emotional disturbance; (ii) results in severe and recurrent disability; (iii) produces functional limitations in the individual's major life activities that are documented in the individual's medical record; and (iv) requires individualized training for the individual in order to achieve or maintain independent living in the community.

(3) The individual shall require individualized goal-directed training in order to acquire or maintain self-regulation of basic living skills such as symptom management; adherence to psychiatric and physical health medication treatment plans; appropriate use of social skills and personal support systems; skills to manage personal hygiene, food preparation, and the maintenance of personal adequate nutrition; money management; and use of community resources.

(4) The individual shall have a prior history of any of the following: (i) psychiatric hospitalization; (ii) either residential or nonresidential crisis stabilization; (iii) intensive community treatment (ICT) or program of assertive community treatment (PACT) services; (iv) placement in a psychiatric residential treatment facility (RTC-Level C) as a result of decompensation related to the individual's serious mental illness; or (v) temporary detention order (TDO) evaluation pursuant to § 37.2-809 B of the Code of Virginia. This criterion shall be met in order to be initially admitted to services and not for subsequent authorizations of service. Discharge summaries from prior providers that clearly indicate (i) the type of treatment provided, (ii) the dates of the treatment previously provided, and (iii) the name of the treatment provider shall be sufficient to meet this requirement. Family member statements shall not suffice to meet this requirement.
(5) The individual shall have had a prescription for antipsychotic, mood stabilizing, or antidepressant medications, within the 12 months prior to the assessment date. If a physician or other practitioner who is authorized by his license to prescribe medications indicates that antipsychotic, mood stabilizing, or antidepressant medications are medically contraindicated for the individual, the provider shall obtain medical records signed by the physician or other licensed prescriber detailing the contraindication. This documentation of medication management shall be maintained in the individual's mental health skill-building services record. For individuals not prescribed antipsychotic, mood stabilizing, or antidepressant medications, the provider shall have documentation from the medication management physician describing how the individual will be able to actively participate in and benefit from services without the assistance of medication. This criterion shall be met in order to be initially admitted to services and not for subsequent authorizations of service. Discharge summaries from prior

providers that clearly indicate (i) the type of treatment provided, (ii) the dates of the treatment previously provided, and (iii) the name of the treatment provider shall be sufficient to meet this requirement. Family member statements shall not suffice to meet this requirement.

(6) An independent clinical assessment, established in 12VAC30-130-3020, shall be completed for the individual.
d. Service-specific provider intakes shall be required at the onset of services and individual service plans (ISPs) shall be required during the entire duration of services. Services based upon incomplete, missing, or outdated service-specific provider intakes or ISPs shall be denied reimbursement. Requirements for service-specific provider intakes and ISPs are set out in 12VAC30-50-130.
e. The yearly limit for mental health skill-building services is 520 units. Only direct face-to-face contacts and services to the individual shall be reimbursable. One unit is 1 to 2.99 hours per day, two units is 3 to 4.99 hours per day.

f. These services may only be rendered by an LMHP, LMHP-R, LMHP-RP, LMHP-S, QMHP-A, QMHP-C, QMHP-E, or QPPMH.

g. The provider shall clearly document details of the services provided during the entire amount of time billed.

h. The ISP shall not include activities that contradict or duplicate those in the treatment plan established by the group home or assisted living facility. The provider shall coordinate mental health skill-building services with the treatment plan established by the group home or assisted living facility and shall document all coordination activities in the medical record.

i. Limits and exclusions.

(1) Group home (Level A or B) and assisted living facility providers shall not serve as the mental health skill-building services provider for individuals residing in the provider's respective facility. Individuals residing in facilities may, however, receive MHSS from another MHSS agency not affiliated with the owner of the facility in which they reside.

(2) Mental health skill-building services shall not be reimbursed for individuals who are receiving in-home residential services or congregate residential services through the Intellectual Disability Waiver or Individual and Family Developmental Disabilities Support Waiver.

(3) Mental health skill-building services shall not be reimbursed for individuals who are also receiving services under the Department of Social Services independent living program (22VAC40-151), independent living services (22VAC40-131 and 22VAC40-151), or independent living arrangement (22VAC40-131) or any Comprehensive Services Act-funded independent living skills programs.
(4) Mental health skill-building services shall not be available to individuals who are receiving treatment foster care (12VAC30-130-900 et seq.).
(5) Mental health skill-building services shall not be available to individuals who reside in intermediate care facilities for individuals with intellectual disabilities or hospitals.

(6) Mental health skill-building services shall not be available to individuals who reside in nursing facilities, except for up to 60 days prior to discharge. If the individual has not been discharged from the nursing facility during the 60-day period of services, mental health skill-building services shall be terminated and no further service authorizations shall be available to the individual unless a provider can demonstrate and document that mental health skill-building services are necessary. Such documentation shall include facts demonstrating a change in the individual's circumstances and a new plan for discharge requiring up to 60 days of mental health skill-building services.

(7) Mental health skill-building services shall not be available for residents of residential treatment centers (Level C facilities) except for the intake code H0032 (modifier U8) in the seven days immediately prior to discharge.

(8) Mental health skill-building services shall not be reimbursed if personal care services or attendant care services are being received simultaneously, unless justification is provided why this is necessary in the individual's mental health skill-building services record. Medical record documentation shall fully substantiate the need for services when personal care or attendant care services are being provided. This applies to individuals who are receiving additional services through the Intellectual Disability Waiver (12VAC30-120-1000 et seq.), Individual and Family Developmental Disabilities Support Waiver (12VAC30-120-700 et seq.), the Elderly or Disabled with Consumer Direction Waiver (12VAC30-120-900 et seq.), and EPSDT services (12VAC30-50-130).
(9) Mental health skill-building services shall not be duplicative of other services. Providers shall be required to ensure that if an individual is receiving additional therapeutic services that there will be coordination of services by either the LMHP, LMHP-R, LMHP-RP, LMHP-S, QMHP-A, QMHP-C, QMHP-E, or QPPMH to avoid duplication of services.

(10) Individuals who have organic disorders, such as delirium, dementia, or other cognitive disorders not elsewhere classified, will be prohibited from receiving mental health skill-building services unless their physicians issue signed and dated statements indicating that the individuals can benefit from this service.

(11) Individuals who are not diagnosed with a serious mental health disorder but who have personality disorders or other mental health disorders, or both, that may lead to chronic disability shall not be excluded from the mental health skill-building services eligibility criteria provided that the individual has a primary mental health diagnosis from the list included in subdivision B 6 b (1) or B 6 c (2) of this section and that the provider can document and describe how the individual is expected to actively participate in and benefit from mental health skill-building services.

Statutory Authority

§ 32.1-325 of the Code of Virginia; 42 USC § 1396 et seq.

Historical Notes

Derived from Volume 14, Issue 07, eff. January 22, 1998; amended, Virginia Register Volume 20, Issue 07, eff. February 1, 2004; Volume 27, Issue 10, eff. February 16, 2011; Volume 31, Issue 09, eff. January 30, 2015; Volume 32, Issue 22, eff. July 27, 2016.

Website addresses provided in the Virginia Administrative Code to documents incorporated by reference are for the reader's convenience only, may not necessarily be active or current, and should not be relied upon. To ensure the information incorporated by reference is accurate, the reader is encouraged to use the source document described in the regulation.

As a service to the public, the Virginia Administrative Code is provided online by the Virginia General Assembly. We are unable to answer legal questions or respond to requests for legal advice, including application of law to specific fact. To understand and protect your legal rights, you should consult an attorney.

12VAC35-105-20. Definitions.

ARTICLE 2. DEFINITIONS

The following words and terms when used in this chapter shall have the following meanings unless the context clearly indicates otherwise:

"Abuse" (§ 37.2-100 of the Code of Virginia) means any act or failure to act by an employee or other person responsible for the care of an individual in a facility or program operated, licensed, or funded by the department, excluding those operated by the Virginia Department of Corrections, that was performed or was failed to be performed knowingly, recklessly, or intentionally, and that caused or might have caused physical or psychological harm, injury, or death to a person receiving care or treatment for mental illness, mental retardation (intellectual disability), or substance abuse (substance use disorders). Examples of abuse include acts such as:

1. Rape, sexual assault, or other criminal sexual behavior;

2. Assault or battery;

3. Use of language that demeans, threatens, intimidates, or humiliates the person;

4. Misuse or misappropriation of the person's assets, goods, or property;

5. Use of excessive force when placing a person in physical or mechanical restraint;

6. Use of physical or mechanical restraints on a person that is not in compliance with federal and state laws, regulations, and policies, professional accepted standards of practice, or the person's individualized services plan;

7. Use of more restrictive or intensive services or denial of services to punish the person or that is not consistent with his individualized services plan.

"Activities of daily living" or "ADLs" means personal care activities and includes bathing, dressing, transferring, toileting, grooming, hygiene, feeding, and eating. An individual's degree of independence in performing these activities is part of determining the appropriate level of care and services.

"Admission" means the process of acceptance into a service as defined by the provider's policies.

"Authorized representative" means a person permitted by law or 12VAC35-115 to authorize the disclosure of information or consent to treatment and services or participation in human research.

"Behavior intervention" means those principles and methods employed by a provider to help an individual receiving services to achieve a positive outcome and to address challenging behavior in a constructive and safe manner. Behavior intervention principles and methods must be employed in accordance with the individualized services plan and written policies and procedures governing service expectations, treatment goals, safety, and security.

"Behavioral treatment plan," "functional plan," or "behavioral support plan" means any set of documented procedures that are an integral part of the individualized services plan and are developed on the basis of a systematic data collection, such as a functional assessment, for the purpose of assisting individuals to achieve the following:

1. Improved behavioral functioning and effectiveness;

2. Alleviation of symptoms of psychopathology; or

3. Reduction of challenging behaviors.

"Brain injury" means any injury to the brain that occurs after birth, but before age 65, that is acquired through traumatic or nontraumatic insults. Nontraumatic insults may include anoxia, hypoxia, aneurysm, toxic exposure, encephalopathy, surgical interventions, tumor, and stroke. Brain injury does not include hereditary, congenital, or degenerative brain disorders or injuries induced by birth trauma.

"Care" or "treatment" means the individually planned therapeutic interventions that conform to current acceptable professional practice and that are intended to improve or maintain functioning of an individual receiving services delivered by a provider.

"Case management service" means services that can include assistance to individuals and their family members in assessing needed services that are responsive to the person's individual needs. Case management services include: identifying potential users of the service; assessing needs and planning services; linking the individual to services and supports; assisting the individual directly to locate, develop, or obtain needed services and resources; coordinating services with other providers; enhancing community integration; making collateral contacts; monitoring service delivery; discharge planning; and advocating for individuals in response to their changing needs. "Case management service" does not include maintaining service waiting lists or periodically contacting or tracking individuals to determine potential service needs.

"Clinical experience" means providing direct services to individuals with mental illness or the provision of direct geriatric services or special education services. Experience may include supervised internships, practicums, and field experience.

"Commissioner" means the Commissioner of the Department of Behavioral Health and Developmental Services.

"Community gero-psychiatric residential services" means 24-hour care provided to individuals with mental illness, behavioral problems, and concomitant health problems who are usually age 65 or older in a geriatric setting that is less intensive than a psychiatric hospital but more intensive than a nursing home or group home. Services include assessment and individualized services planning by an interdisciplinary services team, intense supervision, psychiatric care, behavioral treatment planning and behavior interventions, nursing, and other health related services.

"Community intermediate care facility/mental retardation (ICF/MR)" means a residential facility in which care is provided to individuals who have mental retardation (intellectual disability) or a developmental disability who need more intensive training and supervision than may be available in an assisted living facility or group home. Such facilities shall comply with Title XIX of the Social Security Act standards and federal certification requirements, provide health or

rehabilitative services, and provide active treatment to individuals receiving services toward the achievement of a more independent level of functioning or an improved quality of life.

"Complaint" means an allegation of a violation of these regulations or a provider's policies and procedures related to these regulations.

"Co-occurring disorders" means the presence of more than one and often several of the following disorders that are identified independently of one another and are not simply a cluster of symptoms resulting from a single disorder: mental illness, mental retardation (intellectual disability), or substance abuse (substance use disorders); brain injury; or developmental disability.

"Co-occurring services" means individually planned therapeutic treatment that addresses in an integrated concurrent manner the service needs of individuals who have co-occurring disorders.

"Corrective action plan" means the provider's pledged corrective action in response to cited areas of noncompliance documented by the regulatory authority. A corrective action plan must be completed within a specified time.

"Correctional facility" means a facility operated under the management and control of the Virginia Department of Corrections.

"Crisis" means a deteriorating or unstable situation often developing suddenly or rapidly that produces acute, heightened, emotional, mental, physical, medical, or behavioral distress; or any situation or circumstance in which the individual perceives or experiences a sudden loss of his ability to use effective problem-solving and coping skills.

"Crisis stabilization" means direct, intensive nonresidential or residential direct care and treatment to nonhospitalized individuals experiencing an acute crisis that may jeopardize their current community living situation. Crisis stabilization is intended to avert hospitalization or rehospitalization; provide normative environments with a high assurance of safety and security for crisis intervention; stabilize individuals in crisis; and mobilize the resources of the community support system, family members, and others for ongoing rehabilitation and recovery.

"Day support service" means structured programs of activity or training services for adults with an intellectual disability or a developmental disability, generally in clusters of two or more continuous hours per day provided to groups or individuals in nonresidential community-based settings. Day support services may provide opportunities for peer interaction and community integration and are designed to enhance the following: self-care and hygiene, eating, toileting, task learning, community resource utilization, environmental and behavioral skills, social skills, medication management, prevocational skills, and transportation skills. The term "day support service" does not include services in which the primary function is to provide employment-related services, general educational services, or general recreational services.

"Department" means the Virginia Department of Behavioral Health and Developmental Services.

"Developmental disabilities" means autism or a severe, chronic disability that meets all of the following conditions identified in 42 CFR 435.1009:

1. Attributable to cerebral palsy, epilepsy, or any other condition, other than mental illness, that is found to be closely related to mental retardation (intellectual disability) because this condition results in impairment of general intellectual functioning or adaptive behavior similar to behavior of individuals with mental retardation (intellectual disability) and requires treatment or services similar to those required for these individuals;

2. Manifested before the individual reaches age 18;

3. Likely to continue indefinitely; and

4. Results in substantial functional limitations in three or more of the following areas of major life activity:

a. Self-care;

b. Understanding and use of language;

c. Learning;

d. Mobility;

e. Self-direction; or

f. Capacity for independent living.

"Discharge" means the process by which the individual's active involvement with a service is terminated by the provider, individual , or authorized representative.

"Discharge plan" means the written plan that establishes the criteria for an individual's discharge from a service and identifies and coordinates delivery of any services needed after discharge.

"Dispense" means to deliver a drug to an ultimate user by or pursuant to the lawful order of a practitioner, including the prescribing and administering, packaging, labeling or compounding necessary to prepare the substance for that delivery. (§ 54.1-3400 et seq. of the Code of Virginia.)

"Emergency service" means unscheduled and sometimes scheduled crisis intervention, stabilization, and referral assistance provided over the telephone or face-to-face, if indicated, available 24 hours a day and seven days per week. Emergency services also may include walk-ins, home visits, jail interventions, and preadmission screening activities associated with the judicial process .

"Group home or community residential service" means a congregate service providing 24-hour supervision in a community-based home having eight or fewer residents. Services include supervision, supports, counseling, and training in activities of daily living for individuals whose individualized services plan identifies the need for the specific types of services available in this setting.

"Home and noncenter based" means that a service is provided in the individual's home or other noncenter-based setting. This includes noncenter-based day support, supportive in-home, and intensive in-home services.

"IFDDS Waiver" means the Individual and Family Developmental Disabilities Support Waiver.

"Individual" or "individual receiving services" means a person receiving services that are licensed under this chapter whether that person is referred to as a patient, consumer, client, resident, student, individual, recipient, family member, relative, or other term. When the term is used, the requirement applies to every individual receiving licensed services from the provider.

"Individualized services plan" or "ISP" means a comprehensive and regularly updated written plan that describes the individual's needs, the measurable goals and objectives to address those needs, and strategies to reach the individual's goals. An ISP is person-centered, empowers the individual, and is designed to meet the needs and preferences of the individual. The ISP is developed through a partnership between the individual and the provider and includes an individual's treatment plan, habilitation plan, person-centered plan, or plan of care, which are all considered individualized service plans.

"Initial assessment" means an assessment conducted prior to or at admission to determine whether the individual meets the service's admission criteria; what the individual's immediate service, health, and safety needs are; and whether the provider has the capability and staffing to provide the needed services.

"Inpatient psychiatric service" means intensive 24-hour medical, nursing, and treatment services provided to individuals with mental illness or substance abuse (substance use disorders) in a hospital as defined in § 32.1-123 of the Code of Virginia or in a special unit of such a hospital.

"Instrumental activities of daily living" or "IADLs" means meal preparation, housekeeping, laundry, and managing money. A person's degree of independence in performing these activities is part of determining appropriate level of care and services.

"Intensive Community Treatment (ICT) service" means a self-contained interdisciplinary team of at least five full-time equivalent clinical staff, a program assistant, and a full-time psychiatrist that:

1. Assumes responsibility for directly providing needed treatment, rehabilitation, and support services to identified individuals with severe and persistent mental illness especially those who have severe symptoms that are not effectively remedied by available treatments or who because of reasons related to their mental illness resist or avoid involvement with mental health services;

2. Minimally refers individuals to outside service providers;

3. Provides services on a long-term care basis with continuity of caregivers over time;

4. Delivers 75% or more of the services outside program offices; and

5. Emphasizes outreach, relationship building, and individualization of services.

"Intensive in-home service" means family preservation interventions for children and adolescents who have or are at-risk of serious emotional disturbance, including individuals who also have a diagnosis of mental retardation (intellectual disability). Intensive in-home service is usually time-limited and is provided typically in the residence of an individual who is at risk of being moved to out-of-home placement or who is being transitioned back home from an out-of-home placement. The service includes 24-hour per day emergency response; crisis treatment; individual and family counseling; life, parenting, and communication skills; and case management and coordination with other services.

"Investigation" means a detailed inquiry or systematic examination of the operations of a provider or its services regarding an alleged violation of regulations or law. An investigation may be undertaken as a result of a complaint, an incident report, or other information that comes to the attention of the department.

"Licensed mental health professional (LMHP)" means a physician, licensed clinical psychologist, licensed professional counselor, licensed clinical social worker, licensed substance abuse treatment practitioner, licensed marriage and family therapist, or certified psychiatric clinical nurse specialist.

"Location" means a place where services are or could be provided.

"Medically managed withdrawal services" means detoxification services to eliminate or reduce the effects of alcohol or other drugs in the individual's body.

"Mandatory outpatient treatment order" means an order issued by a court pursuant to § 37.2-817 of the Code of Virginia.

"Medical detoxification" means a service provided in a hospital or other 24-hour care facility under the supervision of medical personnel using medication to systematically eliminate or reduce effects of alcohol or other drugs in the individual's body.

"Medical evaluation" means the process of assessing an individual's health status that includes a medical history and a physical examination of an individual conducted by a licensed medical practitioner operating within the scope of his license.

"Medication" means prescribed or over-the-counter drugs or both.

"Medication administration" means the direct application of medications by injection, inhalation, ingestion, or any other means to an individual receiving services by (i) persons legally permitted to administer medications or (ii) the individual at the direction and in the presence of persons legally permitted to administer medications.

"Medication assisted treatment (Opioid treatment service)" means an intervention strategy that combines outpatient treatment with the administering or dispensing of synthetic narcotics, such as methadone or buprenorphine (suboxone), approved by the federal Food and Drug Administration for the purpose of replacing the use of and reducing the craving for opioid substances, such as heroin or other narcotic drugs.

"Medication error" means an error in administering a medication to an individual and includes when any of the following occur: (i) the wrong medication is given to an individual, (ii) the wrong individual is given the medication, (iii) the wrong dosage is given to an individual, (iv) medication is given to an individual at the wrong time or not at all, or (v) the wrong method is used to give the medication to the individual.

"Medication storage" means any area where medications are maintained by the provider, including a locked cabinet, locked room, or locked box.

"Mental Health Community Support Service (MHCSS)" means the provision of recovery-oriented services to individuals with long-term, severe mental illness. MHCSS includes skills training and assistance in accessing and effectively utilizing services and supports that are essential to meeting the needs identified in the individualized services plan and development of environmental supports necessary to sustain active community living as independently as possible. MHCSS may be provided in any setting in which the individual's needs can be addressed, skills training applied, and recovery experienced.

"Mental illness" means a disorder of thought, mood, emotion, perception, or orientation that significantly impairs judgment, behavior, capacity to recognize reality, or ability to address basic life necessities and requires care and treatment for the health, safety, or recovery of the individual or for the safety of others.

"Mental retardation (intellectual disability)" means a disability originating before the age of 18 years characterized concurrently by (i) significantly subaverage intellectual functioning as demonstrated by performance on a standardized measure of intellectual functioning administered in conformity with accepted professional practice that is at least two standard deviations below the mean; and (ii) significant limitations in adaptive behavior as expressed in conceptual, social, and practical adaptive skills (§ 37.2-100 of the Code of Virginia).

"Neglect" means the failure by an individual or a program or facility operated, licensed, or funded by the department, excluding those operated by the Department of Corrections, responsible for providing services to do so, including nourishment, treatment, care, goods, or services necessary to the health, safety, or welfare of a person receiving care or treatment for mental illness, mental retardation (intellectual disability), or substance abuse (substance use disorders).

"Neurobehavioral services" means the assessment, evaluation, and treatment of cognitive, perceptual, behavioral, and other impairments caused by brain injury that affect an individual's ability to function successfully in the community.

"Outpatient service" means treatment provided to individuals on an hourly schedule, on an individual, group, or family basis, and usually in a clinic or similar facility or in another location. Outpatient services may include diagnosis and evaluation, screening and intake, counseling, psychotherapy, behavior management, psychological testing and assessment, laboratory and other ancillary services, medical services, and medication services. "Outpatient service" specifically includes:

1. Services operated by a community services board or a behavioral health authority established pursuant to Chapter 5 (§ 37.2-500 et seq.) or Chapter 6 (§ 37.2-600 et seq.) of Title 37.2 of the Code of Virginia;
2. Services contracted by a community services board or a behavioral health authority established pursuant to Chapter 5 (§ 37.2-500 et seq.) or Chapter 6 (§ 37.2-600 et seq.) of Title 37.2 of the Code of Virginia; or
3. Services that are owned, operated, or controlled by a corporation organized pursuant to the provisions of either Chapter 9 (§ 13.1-601 et seq.) or Chapter 10 (§ 13.1-801 et seq.) of Title 13.1 of the Code of Virginia.

"Partial hospitalization service" means time-limited active treatment interventions that are more intensive than outpatient services, designed to stabilize and ameliorate acute symptoms, and serve as an alternative to inpatient hospitalization or to reduce the length of a hospital stay. Partial hospitalization is focused on individuals with serious mental illness, substance abuse (substance use disorders), or co-occurring disorders at risk of hospitalization or who have been recently discharged from an inpatient setting.

"Person-centered" means focusing on the needs and preferences of the individual; empowering and supporting the individual in defining the direction for his life; and promoting self-determination, community involvement, and recovery.

"Program of Assertive Community Treatment (PACT) service" means a self-contained interdisciplinary team of at least 10 full-time equivalent clinical staff, a program assistant, and a full- or part-time psychiatrist that:

1. Assumes responsibility for directly providing needed treatment, rehabilitation, and support services to identified individuals with severe and persistent mental illnesses, including those who have severe symptoms that are not effectively remedied by available treatments or who because of reasons related to their mental illness resist or avoid involvement with mental health services;

2. Minimally refers individuals to outside service providers;

3. Provides services on a long-term care basis with continuity of caregivers over time;

4. Delivers 75% or more of the services outside program offices; and

5. Emphasizes outreach, relationship building, and individualization of services.

"Provider" means any person, entity, or organization, excluding an agency of the federal government by whatever name or designation, that delivers (i) services to individuals with mental illness, mental retardation (intellectual disability), or substance abuse (substance use disorders), (ii) services to individuals who receive day support, in-home support, or crisis stabilization services funded through the IFDDS Waiver, or (iii) residential services for individuals with brain injury. The person, entity, or organization shall include a hospital as defined in § 32.1-123 of the Code of Virginia, community services board, behavioral health authority, private provider, and any other similar or related person, entity, or organization. It shall not include any individual practitioner who holds a license issued by a health regulatory board of the Department of Health Professions or who is exempt from licensing pursuant to §§ 54.1-2901, 54.1-3001, 54.1-3501, 54.1-3601 and 54.1-3701 of the Code of Virginia.

"Psychosocial rehabilitation service" means a program of two or more consecutive hours per day provided to groups of adults in a nonresidential setting. Individuals must demonstrate a clinical need for the service arising from a condition due to mental, behavioral, or emotional illness that results in significant functional impairments in major life activities. This service provides education to teach the individual about mental illness, substance abuse, and appropriate medication to avoid complication and relapse and opportunities to learn and use independent skills and to enhance social and interpersonal skills within a consistent program structure and environment. Psychosocial rehabilitation includes skills training, peer support, vocational rehabilitation, and community resource development oriented toward empowerment, recovery, and competency.

"Qualified Mental Health Professional-Adult (QMHP-A)" means a person in the human services field who is trained and experienced in providing psychiatric or mental health services to individuals who have a mental illness; including (i) a doctor of medicine or osteopathy licensed in Virginia; (ii) a doctor of medicine or osteopathy, specializing in psychiatry and licensed in Virginia; (iii) an individual with a master's degree in psychology from an accredited college or university with at least one year of clinical experience; (iv) a social worker: an individual with at least a bachelor's degree in human services or related field (social work, psychology, psychiatric rehabilitation, sociology, counseling, vocational rehabilitation, human services counseling or other degree deemed equivalent to those

described) from an accredited college and with at least one year of clinical experience providing direct services to individuals with a diagnosis of mental illness; (v) a person with at least a bachelor's degree from an accredited college in an unrelated field that includes at least 15 semester credits (or equivalent) in a human services field and who has at least three years of clinical experience; (vi) a Certified Psychiatric Rehabilitation Provider (CPRP) registered with the United States Psychiatric Rehabilitation Association (USPRA); (vii) a registered nurse licensed in Virginia with at least one year of clinical experience; or (viii) any other licensed mental health professional.

"Qualified Mental Health Professional-Child (QMHP-C)" means a person in the human services field who is trained and experienced in providing psychiatric or mental health services to children who have a mental illness. To qualify as a QMHP-C, the individual must have the designated clinical experience and must either (i) be a doctor of medicine or osteopathy licensed in Virginia; (ii) have a master's degree in psychology from an accredited college or university with at least one year of clinical experience with children and adolescents; (iii) have a social work bachelor's or master's degree from an accredited college or university with at least one year of documented clinical experience with children or adolescents; (iv) be a registered nurse with at least one year of clinical experience with children and adolescents; (v) have at least a bachelor's degree in a human services field or in special education from an accredited college with at least one year of clinical experience with children and adolescents, or (vi) be a licensed mental health professional.

"Qualified Mental Health Professional-Eligible (QMHP-E)" means a person who has: (i) at least a bachelor's degree in a human service field or special education from an accredited college without one year of clinical experience or (ii) at least a bachelor's degree in a nonrelated field and is enrolled in a master's or doctoral clinical program, taking the equivalent of at least three credit hours per semester and is employed by a provider that has a triennial license issued by the department and has a department and DMAS-approved supervision training program.

"Qualified Mental Retardation Professional (QMRP)" means a person who possesses at least one year of documented experience working directly with individuals who have mental retardation (intellectual disability) or other developmental disabilities and one of the following credentials: (i) a doctor of medicine or osteopathy licensed in Virginia, (ii) a registered nurse licensed in Virginia, or (iii) completion of at least a bachelor's degree in a human services field, including, but not limited to sociology, social work, special education, rehabilitation counseling, or psychology.

"Qualified Paraprofessional in Mental Health (QPPMH)" means a person who must, at a minimum, meet one of the following criteria: (i) registered with the United States Psychiatric Association (USPRA) as an Associate Psychiatric Rehabilitation Provider (APRP); (ii) has an associate's degree in a related field (social work, psychology, psychiatric rehabilitation, sociology, counseling, vocational rehabilitation, human services counseling) and at least one year of experience providing direct services to individuals with a diagnosis of mental illness; or (iii) has a minimum of 90 hours classroom training and 12 weeks of experience under the direct personal supervision of a QMHP-Adult providing services to individuals with mental illness and at least one year of experience (including the 12 weeks of supervised experience).

"Recovery" means a journey of healing and transformation enabling an individual with a mental illness to live a meaningful life in a community of his choice while striving to achieve his full potential. For individuals with substance abuse (substance use disorders), recovery is an incremental process leading to positive social change and a full return to biological, psychological, and social functioning. For individuals with mental retardation (intellectual disability), the concept of recovery does not apply in the sense that individuals with mental retardation (intellectual disability) will need supports throughout their entire lives although these may change over time. With supports, individuals with mental retardation (intellectual disability) are capable of living lives that are fulfilling and satisfying and that bring meaning to themselves and others whom they know.

"Referral" means the process of directing an applicant or an individual to a provider or service that is designed to provide the assistance needed.

"Residential crisis stabilization service" means (i) providing short-term, intensive treatment to nonhospitalized individuals who require multidisciplinary treatment in order to stabilize acute psychiatric symptoms and prevent admission to a psychiatric inpatient unit; (ii) providing normative environments with a high assurance of safety and security for crisis intervention; and (iii) mobilizing the resources of the community support system, family members, and others for ongoing rehabilitation and recovery.

"Residential service" means providing 24-hour support in conjunction with care and treatment or a training program in a setting other than a hospital or training center. Residential services provide a range of living arrangements from highly structured and intensively supervised to relatively independent requiring a modest amount of staff support and monitoring. Residential services include residential treatment, group or community homes, supervised living, residential crisis stabilization, community gero-psychiatric residential, community intermediate care facility-MR, sponsored residential homes, medical and social detoxification, neurobehavioral services, and substance abuse residential treatment for women and children.

"Residential treatment service" means providing an intensive and highly structured mental health, substance abuse, or neurobehavioral service, or services for co-occurring disorders in a residential setting, other than an inpatient service.

"Respite care service" means providing for a short-term, time limited period of care of an individual for the purpose of providing relief to the individual's family, guardian, or regular care giver. Persons providing respite care are recruited, trained, and supervised by a licensed provider. These services may be provided in a variety of settings including residential, day support, in-home, or a sponsored residential home.

"Restraint" means the use of a mechanical device, medication, physical intervention, or hands-on hold to prevent an individual receiving services from moving his body to engage in a behavior that places him or others at imminent risk. There are three kinds of restraints:

1. Mechanical restraint means the use of a mechanical device that cannot be removed by the individual to restrict the individual's freedom of movement or functioning of a limb or portion of an individual's body when that behavior places him or others at imminent risk.

2. Pharmacological restraint means the use of a medication that is administered involuntarily for the emergency control of an individual's behavior when that individual's behavior places him or others at imminent risk and the administered medication is not a standard treatment for the individual's medical or psychiatric condition.

3. Physical restraint, also referred to as manual hold, means the use of a physical intervention or hands-on hold to prevent an individual from moving his body when that individual's behavior places him or others at imminent risk.

"Restraints for behavioral purposes" means using a physical hold, medication, or a mechanical device to control behavior or involuntary restrict the freedom of movement of an individual in an instance when all of the following conditions are met: (i) there is an emergency; (ii) nonphysical interventions are not viable; and (iii) safety issues require an immediate response.

"Restraints for medical purposes" means using a physical hold, medication, or mechanical device to limit the mobility of an individual for medical, diagnostic, or surgical purposes, such as routine dental care or radiological procedures and related post-procedure care processes, when use of the restraint is not the accepted clinical practice for treating the individual's condition.

"Restraints for protective purposes" means using a mechanical device to compensate for a physical or cognitive deficit when the individual does not have the option to remove the device. The device may limit an individual's movement, for example, bed rails or a gerichair, and prevent possible harm to the individual or it may create a passive barrier, such as a helmet to protect the individual.

"Restriction" means anything that limits or prevents an individual from freely exercising his rights and privileges.

"Screening" means the process or procedure for determining whether the individual meets the minimum criteria for admission.

"Seclusion" means the involuntary placement of an individual alone in an area secured by a door that is locked or held shut by a staff person, by physically blocking the door, or by any other physical means so that the individual cannot leave it.

"Serious injury" means any injury resulting in bodily damage, harm, or loss that requires medical attention by a licensed physician, doctor of osteopathic medicine, physician assistant, or nurse practitioner while the individual is supervised by or involved in services, such as attempted suicides, medication overdoses, or reactions from medications administered or prescribed by the service.

"Service" or "services" means (i) planned individualized interventions intended to reduce or ameliorate mental illness, mental retardation (intellectual disability), or substance abuse (substance use disorders) through care, treatment, training, habilitation, or other supports that are delivered by a provider to individuals with mental illness, mental retardation (intellectual disability), or substance abuse (substance use disorders). Services include outpatient services, intensive in-home services, opioid treatment services, inpatient psychiatric hospitalization, community gero-psychiatric residential services, assertive community treatment and other clinical services; day support, day treatment, partial hospitalization, psychosocial rehabilitation, and habilitation services; case management services; and supportive residential, halfway house, and other residential services; (ii) day support, in - home support, and crisis stabilization services provided to individuals under the IFDDS Waiver; and (iii) planned individualized interventions intended to reduce or ameliorate the effects of brain injury through care, treatment, or other supports or in residential services for persons with brain injury.

"Shall" means an obligation to act is imposed.

"Shall not" means an obligation not to act is imposed.

"Skills training" means systematic skill building through curriculum-based psychoeducational and cognitive-behavioral interventions. These interventions break down complex objectives for role performance into simpler components, including basic cognitive skills such as attention, to facilitate learning and competency.

"Social detoxification service" means providing nonmedical supervised care for the individual's natural process of withdrawal from use of alcohol or other drugs.

"Sponsored residential home" means a service where providers arrange for, supervise, and provide programmatic, financial, and service support to families or persons (sponsors) providing care or treatment in their own homes for individuals receiving services.

"State board" means the State Board of Behavioral Health and Developmental Services. The board has statutory responsibility for adopting regulations that may be necessary to carry out the provisions of Title 37.2 of the Code of Virginia and other laws of the Commonwealth administered by the commissioner or the department.

"State methadone authority" means the Virginia Department of Behavioral Health and Developmental Services that is authorized by the federal Center for Substance Abuse Treatment to exercise the responsibility and authority for governing the treatment of opiate addiction with an opioid drug.

"Substance abuse (substance use disorders)" means the use of drugs enumerated in the Virginia Drug Control Act (§ 54.1-3400 et seq.) without a compelling medical reason or alcohol that (i) results in psychological or physiological dependence or danger to self or others as a function of continued and compulsive use or (ii) results in mental, emotional, or physical impairment that causes socially dysfunctional or socially disordering behavior; and (iii), because of such substance abuse, requires care and treatment for the health of the individual. This care and treatment may include counseling, rehabilitation, or medical or psychiatric care.

"Substance abuse intensive outpatient service" means treatment provided in a concentrated manner for two or more consecutive hours per day to groups of individuals in a nonresidential setting. This service is provided over a period of time for individuals requiring more intensive services than an outpatient service can provide. Substance abuse intensive outpatient services include multiple group therapy sessions during the week, individual and family therapy, individual monitoring, and case management.

"Substance abuse residential treatment for women with children service" means a 24-hour residential service providing an intensive and highly structured substance abuse service for women with children who live in the same facility.

"Supervised living residential service" means the provision of significant direct supervision and community support services to individuals living in apartments or other residential settings. These services differ from supportive in-home service because the provider assumes responsibility for management of the physical environment of the residence, and staff supervision and monitoring are daily and available on a 24-hour basis. Services are provided based on the needs of the individual in areas such as food preparation, housekeeping, medication administration, personal hygiene, treatment, counseling, and budgeting.

"Supportive in-home service" (formerly supportive residential) means the provision of community support services and other structured services to assist individuals, to strengthen individual skills, and that provide environmental supports necessary to attain and sustain independent community residential living. Services include drop-in or friendly-visitor support and counseling to more intensive support, monitoring, training, in-home support, respite care, and family support services. Services are based on the needs of the individual and include training and assistance. These services normally do not involve overnight care by the provider; however, due to the flexible nature of these services, overnight care may be provided on an occasional basis.

"Therapeutic day treatment for children and adolescents" means a treatment program that serves (i) children and adolescents from birth through age 17 and under certain circumstances up to 21 with serious emotional disturbances, substance use, or co-occurring disorders or (ii) children from birth through age seven who are at risk of serious emotional disturbance, in order to combine psychotherapeutic interventions with education and mental health or substance abuse treatment. Services include: evaluation; medication education and management; opportunities to learn and use daily living skills and to enhance social and interpersonal skills; and individual, group, and family counseling.

"Time out" means the involuntary removal of an individual by a staff person from a source of reinforcement to a different, open location for a specified period of time or until the problem behavior has subsided to discontinue or reduce the frequency of problematic behavior.

"Volunteer" means a person who, without financial remuneration, provides services to individuals on behalf of the provider.

Statutory Authority

§ 37.2-203 of the Code of Virginia.

Historical Notes

Derived from Volume 18, Issue 18, eff. September 19, 2002; amended, Virginia Register Volume 19, Issue 24, eff. September 18, 2003; Volume 23, Issue 10, eff. February 21, 2007; Volume 28, Issue 05, eff. December 7, 2011.

APPROVAL OF MINUTES APRIL 29, 2016

THE VIRGINIA BOARD OF SOCIAL WORK
REGULATORY COMMITTEE MEETING MINUTES
Friday, April 29, 2016

The Regulatory Committee of the Virginia Board of Social Work ("Board") convened at 11:04 a.m. on Friday, April 29, 2016, at the Department of Health Professions, 9960 Mayland Drive, Richmond, Virginia. Bernadette Winters, Chair called the meeting to order.

BOARD MEMBERS PRESENT: Jaime Clancy, L.C.S.W
Maria Eugenia del Villar, L.C.S.W.
Yvonne Haynes, L.C.S.W.
Dolores Paulson, L.C.S.W., Ph.D.
John Salay, L.C.S.W.
Joseph Walsh, L.C.S.W., Ph.D.
Bernadette Winters, L.C.S.W., Ph.D.

BOARD MEMBERS ABSENT: Kristi Wooten
Angelia Allen

STAFF PRESENT: Sarah Georgen, Licensing Manager
Jaime Hoyle, Executive Director
Jennifer Lang, Deputy Executive Director
Charlotte Lenart, Licensing Specialist
Elaine Yeatts, Senior Policy Analyst

ESTABLISHMENT OF A QUORUM:

With seven members of the Committee present, a quorum was established.

MISSION STATEMENT:

Dr. Winters read the mission statement of the Department of Health Professions, which was also the mission statement of the Board.

EMERGENCY EGRESS:

Dr. Winters announced the Emergency Egress Procedures.

ADOPTION OF AGENDA:

The agenda was accepted as written.

PUBLIC COMMENT:

Joseph Lynch of the Virginia Society of Clinical Social Work provided written public comment.

Katie Hellebush on behalf of Debra Riggs, Executive Director of the National Association of Social Workers, Virginia Chapter provided written public comment.

APPROVAL OF MINUTES:

Dr. Walsh motioned that the minutes from the February 26, 2016 subcommittee and regulatory committee meeting be approved as written. The motion was seconded and carried.

UNFINISHED BUSINESS:

The Committee discussed the scope of practice regarding the practice of a Baccalaureate Social Worker ("BSW") and determined that it means "the application of social work theory, knowledge, methods, ethics and the professional use of self to restore or enhance social, psychosocial, or biopsychosocial functioning of individuals, couples, families, groups, organizations and communities. Baccalaureate Social Work is basic generalist practice that includes assessment, planning, intervention, evaluation, case management, information and referral, education, advocacy, community organization, and the development, implementation, and administration of policies, programs and activities."

The Committee discussed the scope of practice regarding the practice of Licensed Master Social Workers ("LMSW"); however the Committee Chair requested that each committee member review the materials provided at the meeting and conduct their own research on the practice of social work at a master's level for further discussion at the next meeting.

The topics of Psychosocial Interventions and Reinstatement/Reactivation were tabled to a later date.

NEW BUSINESS:

There was not new business.

NEXT MEETING:

Dr. Winters scheduled the next Regulatory Committee meeting for Friday, July 1, 2016 from 11:00 a.m. to 1:00 p.m.

ACTION ITEMS:

- Determine scope of practice for LMSW
- Psychosocial Interventions
- Reinstatement/Reactivation requirements

ADJOURNMENT:

There being no further business to come before the Committee, the meeting was adjourned at 2:00 p.m.

_____
Bernadette Winters, Chair

_____
Jaime Hoyle, Executive Director

NOTICE OF INTENDED REGULATORY ACTION (NOIRA)

townhall.virginia.gov

Notice of Intended Regulatory Action (NOIRA)
Agency Background Document

Agency name	Board of Social Work, Department of Health Professions
Virginia Administrative Code (VAC) citation(s)	18VAC140-20-10 et seq.
Regulation title(s)	Regulations Governing the Practice of Social Work
Action title	Definition of psychosocial interventions and requirement for supervision in a reinstatement or reactivation
Date this document prepared	9/28/16

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.*

Subject matter and intent

Please describe briefly the subject matter, intent, and goals of the planned regulatory action.

The Board intends to amend two sections of regulation by the following: 1) amend the definition of clinical social work services to include psychosocial interventions; and 2) amend section 110 to specify an amount of supervision that is required for a person who has not actively practiced and applies to reinstate or reactivate his license.

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 a specific amount of supervision is intended to clarify the intent of the Board in allowing a person to reinstate or reactivate by practicing as a supervisee 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, so the Board

intends to specify an amount such as one hour of supervision for 40 hours of practice (or approximately once a week).

Legal basis

Please identify the (1) the agency (includes any type of promulgating entity) and(2) the state and/or federal legal authority for the proposed regulatory action, including the most relevant citations to the Code of Virginia or General Assembly chapter number(s), if applicable. Your citation should 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'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 (§ 2.2-4000 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 describe the specific reasons why the agency has determined that the proposed regulatory action is essential to protect the health, safety, or welfare of citizens. In addition, please explain any potential issues that may need to be addressed as the regulation is developed.

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 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.

Substance

Please briefly identify and explain the new substantive provisions that are being considered, the substantive changes to existing sections that are being considered, or both.

The Board intends to amend two sections of regulation by the following: 1) amend the definition of clinical social work services to include psychosocial interventions; and 2) amend section 110

to specify an amount of supervision that is required for a person who has not actively practiced and applies to reinstate or reactivate his license.

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.

There are no viable alternatives that are less burdensome or intrusive.

Public participation

The agency is seeking comments on this regulatory action, including but not limited to: ideas to be considered in the development of this proposal, the costs and benefits of the alternatives stated in this background document or other alternatives, and the potential impacts of the regulation.

The agency is also seeking information on impacts on small businesses as defined in § 2.2-4007.1 of the Code of Virginia. Information may include: projected reporting, recordkeeping, and other administrative costs; the probable effect of the regulation on affected small businesses; and the description of less intrusive or costly alternatives for achieving the purpose of the regulation.

Anyone wishing to submit comments may do so via the Regulatory Town Hall website (**http://www.townhall.virginia.gov**), or by mail, email, or fax to Elaine Yeatts at Department of Health Professions, 9960 Mayland Drive, Suite 300, Richmond, VA 23233 or ela ne#) eatt˘ 7 dhp#_ r%n a#%o(or by fax to (804) 527-4434. Written comments must include the name and address of the commenter. In order to be considered, comments must be received by midnight on the last day of the public comment period.

A public hearing will be held following the publication of the proposed stage of this regulatory action 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.

SCOPE OF PRACTICE
(PREVIOUSLY DRAFTED LANGUAGE)

SCOPE OF PRACTICE
Draft Language

Licensed Baccalaureate Social Worker ("LBSW") means "the application of social work theory, knowledge, methods, ethics and the professional use of self to restore or enhance social, psychosocial, or biopsychosocial functioning of individuals, couples, families, groups, organizations and communities. Baccalaureate Social Work is basic generalist practice that includes assessment, planning, intervention, evaluation, case management, information and referral, education, advocacy, community organization, and the development, implementation, and administration of policies, programs and activities."

Licensed Master Social Work ("LMSW") means the application of social work theory, knowledge, methods and ethics and the professional use of self to restore or enhance social, psychosocial, or biopsychosocial functioning of individuals, couples, families, groups, organizations and communities. Master's Social Work practice includes the application of specialized knowledge and advanced practice skills in the areas of assessment, treatment planning, implementation and evaluation, case management, information and referral, education, research, advocacy, community organization and the development, implementation, and administration of policies, programs and activities.