



Final Regulation Agency Background Document

Agency name	Board of Counseling, Department of Health Professions
Virginia Administrative Code (VAC) citation	18 VAC 115-50-10 et seq.
Regulation title	Regulations Governing the Practice of Marriage and Family Therapy
Action title	Supervision of residency and requirement for examination for licensure
Date this document prepared	February 6, 2009

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), Executive Orders 36 (2006) and 58 (1999), and the *Virginia Register Form, Style, and Procedure Manual*.

Brief summary

Please provide a brief summary (no more than 2 short paragraphs) of the proposed new regulation, proposed amendments to the existing regulation, or the regulation proposed to be repealed. Alert the reader to all substantive matters or changes. If applicable, generally describe the existing regulation. Also, please include a brief description of changes to the regulation from publication of the proposed regulation to the final regulation.

The requirements for a residency in marriage and family therapy are amended to specify that at least 100 of the required 200 hours of supervision must be provided by a person holding a license as a marriage and family therapist. The requirements for licensure by endorsement are amended to repeal the provision that allows a person holding a license as a licensed professional counselor to be licensed by endorsement without taking and passing the national examination in marriage and family therapy.

Statement of final agency action

Please provide a statement of the final action taken by the agency including (1) the date the action was taken, (2) the name of the agency taking the action, and (3) the title of the regulation.

On February 6, 2008, the Board of Counseling adopted final amendments to 18VAC115-50-10 et seq., Regulations Governing the Practice of Marriage and Family Therapy.

Legal basis

Please identify the state and/or federal legal authority to promulgate this proposed regulation, including (1) the most relevant law and/or regulation, including Code of Virginia citation and General Assembly chapter numbers, if applicable, and (2) promulgating entity, i.e., agency, board, or person. Describe the legal authority and the extent to which the authority is mandatory or discretionary.

Regulations are promulgated under the general authority of Chapter 24 of Title 54.1 of the Code of Virginia. Section 54.1-2400 (6) provides the Board of Counseling the authority to promulgate regulations to administer the regulatory system:

§ 54.1-2400 -General powers and duties of health regulatory boards

The general powers and duties of health regulatory boards shall be:

...
 6. *To promulgate regulations in accordance with the Administrative Process Act (§ 9-6.14:1 et seq.) which are reasonable and necessary to administer effectively the regulatory system. Such regulations shall not conflict with the purposes and intent of this chapter or of Chapter 1 (§ [54.1-100](#) et seq.) and Chapter 25 (§ [54.1-2500](#) et seq.) of this title. ...*

The specific authorization to promulgate regulations establishing the qualifications for licensure as a marriage and family therapist is found in the following section:

§ 54.1-3505. Specific powers and duties of the Board.

“...6. To promulgate regulations for the qualifications, education, and experience for licensure of marriage and family therapists. The requirements for clinical membership in the American Association for Marriage and Family Therapy (AAMFT), and the professional examination service's national marriage and family therapy examination may be considered by the Board in the promulgation of these regulations. The educational credit hour, clinical experience hour, and clinical supervision hour requirements for marriage and family therapists shall not be less than the educational credit hour, clinical experience hour, and clinical supervision hour requirements for professional counselors.”

Purpose

Please explain the need for the new or amended regulation. Describe the rationale or justification of the proposed regulatory action. Detail the specific reasons it is essential to protect the health, safety or welfare of citizens. Discuss the goals of the proposal and the problems the proposal is intended to solve.

The purpose of the action to amend regulations for the licensure of marriage and family therapists to require that at least 100 of the 200 hours of clinical supervision in a residency be provided by a licensed marriage and family therapist and to repeal the provision that allows a person holding a license as a professional counselor to be granted a license as a marriage and family therapist without further examination. The action is in response to a petition for rule-making submitted by Dr. Arnold Woodruff, President of the Virginia Association for Marriage and Family Therapy. It was strongly supported by comment to the Board from licensed MFT's and others.

The purpose of the action is to ensure that persons who hold the marriage and family therapy license are specifically trained, experienced and tested in the unique theories and modalities for addressing the needs of their clients. While other mental health professionals can and do treat individuals and families, public health and safety is protected by assurance that a person who hold a license as a marriage and family therapist is appropriately qualified in the specific application of theory and technique.

Substance

Please identify and explain the new substantive provisions, the substantive changes to existing sections, or both where appropriate. A more detailed discussion is required under the "All changes made in this regulatory action" section.

Section 60 of 18VAC115-50, which sets out the requirements for a residency in marriage and family therapy, is amended to specify that at least 100 of the required 200 hours of supervision be provided by a person holding a license as a marriage and family therapist. The requirement would be similar to that for licensed professional counselors and would include a provision to allow the Board to consider special requests in the event that the regulations create an undue burden in regard to geography or disability which limits the resident's access to qualified supervision.

In addition, section 40 is amended to repeal 3 b, which allows a person holding a license as a licensed professional counselor to be licensed by endorsement without taking and passing the national examination in marriage and family therapy. Both changes would provide the consumer of mental health services with greater assurance about the training and competency of the practitioner who holds a license to provide marriage and family therapy.

Issues

Please identify the issues associated with the proposed regulatory action, including:

- 1) the primary advantages and disadvantages to the public, such as individual private citizens or businesses, of implementing the new or amended provisions;*
- 2) the primary advantages and disadvantages to the agency or the Commonwealth; and*
- 3) other pertinent matters of interest to the regulated community, government officials, and the public.*

If there are no disadvantages to the public or the Commonwealth, please indicate.

1) The primary advantage to the public would be the assurance that persons who hold a license as a marriage and family therapist have had appropriate supervision in their residencies and have been tested on a national standard in the systemic theories and application relative to marriage and family therapy. There are no disadvantages to consumers of mental health services; persons who hold a license as a professional counselor will continue to be authorized to provide marriage and family counseling, and residents who have difficulty finding a licensed MFT to provide one-half of the required supervision will be able to request a hardship waiver.

2) There are no disadvantages to the agency or the Commonwealth. By specifying requirements for a supervisor, there will be less ambiguity in the regulation, which may encourage compliance.

3) There are no other matters of interest.

Changes made since the proposed stage

Please describe all changes made to the text of the proposed regulation since the publication of the proposed stage. For the Registrar’s office, please put an asterisk next to any substantive changes.

Section number	Requirement at proposed stage	What has changed	Rationale for change
60 C	Required at least one-half of the <u>face-to-face</u> hours of supervision be rendered by a licensed marriage and family therapist	Changed <u>face-to-face</u> to <u>200 hours of</u> .	On September 8, 2008, Chapter 50 was amended to eliminate a definition for face-to-face and specify that the 200 hours of supervision could be individual or group (no more than 100 can be group supervision). The concept of face-to-face supervision was changed to “individual” supervision. The Board agreed that a licensed MFT must provide 100 of the 200 hours of supervision, but it could be either individually or in group, so the change makes the regulation less restrictive.

Public comment

Please summarize all comments received during the public comment period following the publication of the proposed stage, and provide the agency response. If no comment was received, please so indicate.

Proposed regulations were published on October 27, 2008 with a 60-day comment period ending December 26, 2008. A public hearing was conducted on November 13, 2008. There were no written, oral or electronic comments offered.

All changes made in this regulatory action

Please detail all changes that are being proposed and the consequences of the proposed changes. Detail new provisions and/or all changes to existing sections.

Current section number	Proposed new section number	Current requirement	Proposed change and rationale
40	n/a	Allows licensure as a professional counselor to be licensed by endorsement as a marriage & family therapist without passage of the national examination	Would restrict licensure by endorsement to persons who hold a MFT license in another state. Persons holding a LPC or other behavioral health license in Virginia could still obtain a MFT license by completing educational requirements set forth in current regulations and passage of the national examination in marriage and family therapy.
60	n/a	Requires supervision of a resident to be provided by a person licensed in a mental health discipline	<p>Would require that at least one-half of the 200 hours of supervision (100 hours) be provided by a licensed marriage and family therapist.</p> <p><i>The rationale for both changes is that marriage and family therapy is now recognized as a separate discipline in counseling education, requiring understanding and mastery of unique theories and techniques. When the MFT license was new (1997), it was necessary to allow persons with other mental health licenses to provide supervision for a resident in marriage and family therapy. Ten years later, with 785 licensed MFT's, availability of MFT supervision for half of the face-to-face supervision should not be a concern. Likewise, it is no longer appropriate to allow a professional counselor who has not taken the examination testing knowledge and ability as a marriage and family therapist to hold such a license by endorsement.</i></p> <p><i>Educators and practitioners who are knowledgeable about the practice of marriage and family therapy believe that there are significant enough differences in paradigms to justify the need for some supervision by a licensed marriage and family therapist and for the</i></p>

			<i>passage of the national examination.</i>
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Regulatory flexibility analysis

Please describe the agency’s analysis of alternative regulatory methods, consistent with health, safety, environmental, and economic welfare, that will accomplish the objectives of applicable law while minimizing the adverse impact on small business. Alternative regulatory methods include, at a minimum: 1) the establishment of less stringent compliance or reporting requirements; 2) the establishment of less stringent schedules or deadlines for compliance or reporting requirements; 3) the consolidation or simplification of compliance or reporting requirements; 4) the establishment of performance standards for small businesses to replace design or operational standards required in the proposed regulation; and 5) the exemption of small businesses from all or any part of the requirements contained in the proposed regulation.

There are no alternative methods that would accomplish the purpose of this regulatory action.

Family impact

Please assess the impact of the proposed regulatory action on the institution of the family and family stability including to what extent the regulatory action will: 1) strengthen or erode the authority and rights of parents in the education, nurturing, and supervision of their children; 2) encourage or discourage economic self-sufficiency, self-pride, and the assumption of responsibility for oneself, one’s spouse, and one’s children and/or elderly parents; 3) strengthen or erode the marital commitment; and 4) increase or decrease disposable family income.

The proposed regulatory action may strengthen the institution of the family and family stability by ensuring that persons licensed as marriage and family therapists have been appropriately trained and examined.