



## Notice of Intended Regulatory Action (NOIRA) Agency Background Document

<b>Agency name</b>	Board of Psychology, Department of Health Professions
<b>Virginia Administrative Code (VAC) citation</b>	18VAC125-20
<b>Regulation title</b>	Regulations Governing the Practice of Psychology
<b>Action title</b>	Clarify and update regulations pursuant to a periodic review; Allow certain pre-doctoral supervised experience to count toward residency requirement
<b>Date this document prepared</b>	9/23/09

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*.

### Purpose

The purposes of the planned regulatory action are: removal of unnecessary requirements for licensure by endorsement, such as 20 years of experience as a licensee in another state; acceptance of pre-internship supervised professional experience in lieu of all or part of the post-doctoral residency currently required; consistency in requirements for a jurisprudence examination; extension of the prohibition on sexual intimacies with clients from two years to five years following termination; and clarification of existing regulations.

### Legal basis

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 Psychology 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. ...*

In addition, the powers and duties of the Board are set forth in:

**§ 54.1-3605. Powers and duties of the Board.**

*In addition to the powers granted in other provisions of this title, 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. To issue a temporary license for such periods as the Board may prescribe to practice psychology to persons who are engaged in a residency or pursuant to subdivision 7 of § [54.1-3601](#).*

*5. To promulgate regulations for the voluntary certification of licensees as sex offender treatment providers.*

*6. To administer the mandatory certification of sex offender treatment providers for those professionals who are otherwise exempt from licensure under subdivision 4 of §§ [54.1-3501](#), [54.1-3601](#) or § [54.1-3701](#) and to promulgate regulations governing such mandatory certification. The regulations shall include provisions for fees for application processing, certification qualifications, certification issuance and renewal and disciplinary action.*

*7. To promulgate regulations establishing the requirements for licensure of clinical psychologists that shall include appropriate emphasis in the diagnosis and treatment of persons with moderate and severe mental disorders.*

**Need**

The agency has determined that the regulatory action is necessary to eliminate any impediments to licensure for clinical psychologists. For licensure by endorsement, it should be possible to assure minimum competency through documentation of having the appropriate degree, passage of the national examination, a license in good standing with practice in another U. S. jurisdiction, and malpractice and disciplinary history as evidence that the applicant has not committed acts that would be cause for discipline in Virginia. A requirement for lengthy practice in another state does not ensure competency for clients receiving services by an endorsement applicant.

For licensure by examination, the hours of post-doctoral clinical experience may be an unnecessary extension of the supervised training and experience an applicant would have received in his educational program. By standardizing the requirements for pre-internship experience, the Board may be able to count hours of supervised experience in a pre-doctoral program in lieu of hours of post-doctoral experience. That may allow a person to obtain a license and began providing clinical services after completing a doctorate without having to complete an additional 1,500 hours in a residency. With the oversight incorporated in an accredited educational program for the supervised professional experience, the Board is confident that a licensee would be qualified to provide clinical services with safety and competency.

## Substance

**Definitions** (Section 10) – New definitions for terms used in standards for pre-doctoral training may be necessary for clarity in their meaning.

**Fees** (Section 30) – The fee for a continuing education provider will be eliminated since the Board has eliminated approval of individual providers, and the examination fee language will be eliminated since the Board will not administer examinations directly to applicants.

**Requirements for licensure by examination** (Section 41) – The listing of examinations listed in subsection B are outdated; the examination for all types of licensees is the Examination for Professional Practice of Psychology (EPPP). The Board will consider elimination of the jurisprudence examination and replacement with an attestation of having read and agreed to comply with current standards of practice and laws governing psychology in Virginia (current requirement for licensure by endorsement).

**Prerequisites for licensure by endorsement** (Section 42) – For consistency in licensure of applicants, the Board will either retain the affidavit of having read laws and regulations for applicants by endorsement or will amend to require a jurisprudence examination (current requirement for licensure by examination). Additionally, the Board may add a requirement for a report on malpractice and disciplinary history from the national data banks. To simplify the qualifications for endorsement and make the process less burdensome, the Board will consider eliminating the 20-year practice regulation and replacing it with requirements for evidence of holding the degree appropriate to the level of licensure sought, passage of the national examination (EPPP), minimal years in practice, verification of a license in good standing, and no unresolved disciplinary or malpractice history.

**Requirements for licensure as a school psychologist-limited** (Section 43) – To clarify the regulation, the Board will specify current employment by a school system under the Virginia Department of Education.

**Education requirements for clinical psychologists** (Section 54) – The Board will consider changes or clarification to the requirements for graduate hours and practicum experiences in consultation and supervision.

**Supervised experience** (Section 65) – Subsection A on the internship will be moved to section 54 or section 56 since the internship is part of the educational program. Subsection B may be amended to eliminate the “one-year, full-time” language and provide that the residency (consisting of 1,500 hours of delivery of services) shall be completed in not less than one or more than three years. The Board may also add a requirement for the supervisor to hold a current, unrestricted license in order to be registered with the Board to provide supervision and may clarify the requirement to complete the verification of supervision form at the end of the residency. The Board will consider a hardship provision to allow approval of alternative supervision arrangements for geography or disability.

The Board intends to allow the required 1,500 hours of supervised experience or some part thereof to be accomplished in pre-doctoral experiences. In order to ensure consistency and quality in those experiences, it is necessary to establish standards for pre-doctoral training. Those standards would include the following:

- Training must be part of an organized sequence with graded complexity overseen by the applicant’s doctoral training program, which meets the criteria specified in section 54.
- A minimum of one hour of individual face-to-face supervision must be provided for every eight (8) hours of supervised professional experience spent in service-related activities and direct client contact. Time spent in supervision provided onsite or in the student’s department for service-related activities would not count toward face-to-face or service related activities.
- The "Supervised Professional Experience" would encompass three types of experiences for a total of 1,500 hours: Face-to-Face Direct Services, Service-Related Activities, and Supporting Activities.
- "Face-to-Face Direct Services" means *treatment/intervention, assessment and interviewing*, in direct contact with patients/clients. There would need to be at least 375 hours in face-to-face direct services within the 1,500 hours.
- "Service-Related Activities" means *scoring, report or treatment note writing, and consultation* related to Face-to-Face Direct Services. Combining face-to-face direct service hours and service-related activities, the applicant would need to report at least 750 hours within the 1,500 hours.
- "Supporting Activities" means time spent in *supervision* of the above Services and Activities, provided on-site or in the trainee's academic department, as well as related *didactic experiences* (e.g. labs or classroom instruction). Supervision hours are separate from and not included in Face-to-Face Direct Services or Service-Related Activities.
- The program’s director of clinical training must certify the pre-doctoral hours reported.

For applicants proposing to submit pre-internship practicum training to satisfy a portion of the postdoctoral requirement the following would be required:

- Applicants submitting pre-internship practicum experience meeting the above standards, but totaling less than the required 1,500 hours may obtain the remainder of required hours in accordance with current residency requirement standards. Specifically, their supervisor must be duly licensed and registered by the Board as set forth in 18VAC125020-65(B). The supervised experience must meet those same standards.
- When the applicant/resident has completed the supervised professional experience hours contracted for, the supervisor must submit a written evaluation of the applicant's performance to the Board.
- The supervised experience requirement must be completed over a period not to exceed three years.
- The current regulations would remain unchanged for those electing to obtain the entire second year of required supervised experience through a postdoctoral residency.

**General examination requirements** (Section 80) – Amendments will make the requirements consistent with the policies of the examining service for re-examination after failure. The Board will also consider a waiting period of one year after the candidate has failed two times to obtain additional education and/or training.

**Annual renewal of licensure** (Section 120) – Amendments will eliminate unnecessary dates and specify that the waiver of continuing education is only for those initially licensed by examination.

**Standards of practice** (Section 150) – The board will consider amending its prohibition on sexual intimacies from two years after cessation of professional services to five years, for consistency with other behavioral health professions.

## Alternatives

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The Board has not identified other viable alternatives since the education, examination and experience required for licensure are set in regulations.

## Public participation

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The agency is seeking comments on the intended regulatory action, including but not limited to 1) ideas to assist in the development of a proposal, 2) the costs and benefits of the alternatives

stated in this background document or other alternatives and 3) 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 1) projected reporting, recordkeeping and other administrative costs, 2) probable effect of the regulation on affected small businesses, and 3) description of less intrusive or costly alternative methods of achieving the purpose of the regulation.

Anyone wishing to submit comments may do so via the Regulatory Townhall website, [www.townhall.virginia.gov](http://www.townhall.virginia.gov), or by mail to Elaine Yeatts, Department of Health Professions, 9960 Mayland Drive, Suite 300, Richmond, VA 23233 or by email to [elaine.yeatts@dhp.virginia.gov](mailto:elaine.yeatts@dhp.virginia.gov) 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 the last day of the public comment period.

After publication of the proposed regulation, a public hearing will be held and notice of the hearing will be found on the Virginia Regulatory Town Hall website ([www.townhall.virginia.gov](http://www.townhall.virginia.gov)) and in the Calendar of Events section of the Virginia Register of Regulations. Both oral and written comments may be submitted at that time.

### Participatory approach

During its periodic review of regulations, the Regulatory Committee of the Board has worked with representatives of the professional association, schools and other interested parties to develop regulatory recommendations. After comment on the NOIRA, the Committee will encourage continued participation in the development of regulatory amendments to accomplish the intent of making the licensure process less burdensome.

### Family impact

There is no potential impact on the family.

### Periodic review - Public comment

In December of 2006, the Board received a petition for rule-making from Dr. Jan Hembree on behalf of the Virginia Association of Clinical Psychologists proposing that applicants for licensure as Clinical Psychologists be given the option of fulfilling one year's worth of the required two years of required supervisory experience through pre-internship training that met certain standards. The petition request would not affect the one year internship nor would it prohibit applicants from obtaining post-doctoral supervised experience as currently required. The Board referred the petition request to the Regulatory Committee at its April 2007 meeting.

The Committee began discussion and research at its meeting in September 2007 and began to gather information and receive testimony about the proposal. Research was continued through 2008 and was extensive, encompassing pertinent articles in the professional literature, the disciplinary history of licensees based on years in practice, review of a national survey of the issue, and the experiences of selected states that have recently adopted similar regulatory changes or have never had a post-doctoral supervision requirement. The Committee also reviewed the recently released report from the Association of State and Provincial Psychology Board Task Force on Guidelines for Practicum Experience.

At its meeting on September 3, 2008, the Committee voted to initiate regulatory changes as part of the required periodic review to count up to one year of pre-internship practica experience toward the two years of supervisory experience currently required. The requirement of a one-year internship would remain and the option of acquiring experience post-doctorally would remain.

The Notice of Periodic Review was published by the Board on October 27, 2008 with comment until November 26, 2008. There were no comments during the comment period, but the Committee has continued to receive comment during its meeting as the development of recommendations and regulations on the pre-internship hours.

### Periodic review - Discussion

18VAC125-20-10 et seq., Regulations Governing the Board of Psychology was last amended as a result of a periodic review in 1999. However, it has been amended nine times since then to continually update and clarify the regulations. The Board has reviewed every requirement in every section to ensure the continued need for the regulation and is recommending amendments to make it significantly less burdensome and time-consuming to obtain a psychologist license – while retaining requirements necessary to fulfill its obligation to assure minimal competency to protect the public.