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

Agency name	Board of Social Work, Department of Health Professions
Virginia Administrative Code (VAC) citation	18 VAC 140-20-10 et seq.
Regulation title	Regulations Governing the Practice of Social Work
Action title	Amendments to Requirements for licensure by Examination, Supervision and Standards of Practice
Document preparation date	October 5, 2006

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), Executive Orders 21 (2002) and 58 (1999), and the *Virginia Register Form, Style, and Procedure Manual*.

Purpose

Please describe the subject matter and intent of the planned regulatory action. Also include a brief explanation of the need for and the goals of the new or amended regulation.

The Board intends to amend existing regulations to address several issues that have arisen. First, the Standards of Practice for Social Work, relating to professional conduct, grounds for disciplinary action, and reinstatement following disciplinary action, need to be updated for consistency with current practice and with the other behavioral sciences.

Second, the Board will consider amendments to allow for the applicants for Licensed Social Worker (LSW) to take the licensure examination upon completion of the required education and prior to the completion of the required supervised experience for applicants with a Bachelor of Social Work degree. Licensed Social Worker applicants possessing a Masters of Social Work degree currently are not required to fulfill the supervision requirement and will continue to be exempt from this requirement under the intended regulatory change.

Third, the Board intends to amend the supervision section to accept "group supervision" as a method of obtaining the required hours necessary for licensure. The language would specify a limitation of six people as the maximum size in a group and that only half of the required hours could be gained through group.

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 number(s), 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, 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 (§ 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 statutory authority for licensure and regulation of social workers is found in Chapter 37 of Title 54.1 of the Code of Virginia.

§ 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.]*

Substance

Please detail any changes that will be proposed. For new regulations, include a summary of the proposed regulatory action. Where provisions of an existing regulation are being amended, explain how the existing regulation will be changed. Include the specific reasons why the agency has determined that the proposed regulatory action is essential to protect the health, safety, or welfare of citizens. Delineate any potential issues that may need to be addressed as the regulation is developed.

Amendments to standards of practice.

The Board intends to amend section 150 on professional conduct and section 160 on grounds for disciplinary action or denial of issuance of a license, both of which fall under Part VI Standards of Practice in the Boards Regulations.

In January 2005 the Board of Social Work created an Ad Hoc Committee to conduct an in-depth review of the Board's Standards of Practice. This Committee was convened as a result of the Board Chair's seven-year history of conducting disciplinary hearings during which board members came to believe that the Standards did not adequately address many of the inappropriate practice situations or failed to adequately provide ethical guidance in certain situations. As a result of the perceived deficiencies, the Ad Hoc Committee, consisting of board members, the Executive Director of the Virginia Chapter of the National Association of Social Work, and two members of the Clinical Society of Social Work met to review pertinent professional literature, standards for Counseling and Psychology Boards, standards of other state social work boards, as well as, disciplinary orders from the Board of Social Work over the past three years.

In the initial phase of considering changes to the Standards, there was consensus among the three behavioral science board (Counseling, Psychology and Social Work) that the regulations for all licensed therapists should be very similar among the helping professions. Consequently the three boards agreed to review the Standards, being mindful of the need to have similar requirements among the Behavioral Science Boards.

The Ad Hoc Committee has recommended that the Board consider amendments that would eliminate inconsistencies in ethical standards among mental health professions, modify outdated standards that are unresponsive to current practices, and clarify standards that have been somewhat confusing to licensees.

For example, amendments would address issues such as: standards for therapy not rendered in face-to-face settings, information which should be provided to clients at the initial sessions, informed consent, appropriate collaboration with other treating professionals, the requirement to maintain adequate information in client records, and the prohibition of engaging in relationships with clients, supervisees, students and those in collateral relationships with clients (such as spouses or other relatives). The proposed regulations will provide a more consistent and up-to-date basis for disciplinary action which will better serve to protect the health and safety of the client and provide clearer guidance for the practice of social workers.

Amendments to examination requirement

The Board intends to amend sections 40 and 60 to allow Bachelors education (BSW) applicants to take the basic level examination for Licensed Social Worker (LSW) designation prior to completion of 3,000 hours of post-bachelor's experience required in 18 VAC 140-20-60 B2a.

The proposed change will not reduce the requirements for LSW licensure nor will it result in applicants obtaining licensure without completing all existing requirements. This change will allow applicants to take the required examination upon completion of the educational

requirements as set out in 18 VAC 140-20-60. The rationale for proposing this change is threefold. First, the Virginia Chapter of the National Association of Social Workers (NASW-VA) approached the Board about making this change. NASW-VA believes that by allowing students to take the examination upon graduation, more will opt to take it. Second, and closely related to the first reason, the Board has heard from several students that they would prefer to take the examination shortly after graduating while the information is still fresh in their minds. It takes roughly two years to obtain the 3,000 hours of supervision. The basic examination is primarily non-clinical in nature, therefore obtaining the 3,000 hours of supervision does not improve the candidates chances of successfully passing the examination. Third, this change would bring Virginia in line with the surround jurisdictions (District of Columbia and Maryland) in terms of requirement for basic level licensure. Candidates for LSW level licensure are able to sit for the required examination in those jurisdictions upon completion of the necessary educational requirements.

Amendments to supervision

Currently, an applicant for licensure as a clinical social worker must have completed a minimum of 3,000 hours of supervised post-master's degree experience in the delivery of clinical social work services or the equivalent in part-time experience. A minimum of one hour of individual face-to-face supervision must be provided each week for a total of at least 100 hours. The regulations do not specify that group supervision is allowed, but it is already being utilized by persons obtaining the required 3,000 hours. The intended regulatory change would clarify that group supervision is a method for obtaining the hours, but there would be a limitation on the number of persons who could constitute a group and would require that no more than half the hours could be gained in group supervision.

Alternatives

Please describe all viable alternatives to the proposed regulatory action that have been or will be considered to meet the essential purpose of the action.

As an alternative to changes in the Standards of Practice section, the Board considered retaining existing language. This alternative was not accepted because inconsistencies in the standards of practice may not adequately protect the today's consumer against unprofessional practices of the professionals regulated by this Board. For the most part the current standards of practice relate to business related aspects of the practice, not the clinical treatment aspect of the practice.

As an alternative to change in examination requirements for Licensed Social Workers, the Board considered retaining existing requirements and continuing to require that bachelor's level applicants complete the required supervision prior to taking the basic examination. This alternative was not accepted due to the diverse consumer groups who have requested this change. A diverse group consisting of: applicants, academics, and the National Association of Social Workers (NASW).

The Board published two NOIRA's for amendments to the standards of practice and examination requirement for LSW's in August of 2005 but did not proceed with promulgating amendments at that time. During the 2006 General Assembly Session, HB1146 was introduced to revise definitions and licensure in social work. The bill was amended to delete the substantial revisions in the practice act but to increase the size of the Board. In addition, an enactment clause requires: *That the Board of Social Work shall consult with relevant stakeholders, including educators, professionals, and appropriate agencies and organizations, to determine (i) if current education and training requirements for social workers are adequate to assure the public of professional competency and (ii) whether current exemptions from the requirements for licensure best serve the citizens of the Commonwealth.*

Given the mandate to study the current requirements and discussion of another issue that had arisen, namely the need to allow group supervision, it was decided to withdraw the 2005 notices and consolidate all intended amendments into one action. Once approval to publish the Notice of Intended Regulatory Action is granted, the Board will consider any comment received during its meetings and public comment periods on any proposed regulations.

Family impact

Assess the potential impact of the proposed regulatory action on the institution of the family and family stability.

There is no impact on the institution of the family and family stability.