

Adverse impact notification sent to Joint Commission on Administrative Rules, House Committee on Appropriations, and Senate Committee on Finance (COV § 2.2-4007.04.C): Yes  Not Needed

If/when this economic impact analysis (EIA) is published in the *Virginia Register of Regulations*, notification will be sent to each member of the General Assembly (COV § 2.2-4007.04.B).



## Virginia Department of Planning and Budget Economic Impact Analysis

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**18 VAC 115-20 Regulations Governing the Practice of Professional Counseling**  
**Department of Health Professions**  
**Town Hall Action/Stage: 4259/7390**  
March 27, 2016 (Revised May 5, 2016)

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### Summary of the Proposed Amendments to Regulation

Pursuant to a petition for rulemaking, the Board of Counseling (Board) proposes to add a requirement for all counseling programs leading to licensure as a professional counselor to be approved by the Council for Accreditation of Counseling and Related Educational Programs (CACREP)<sup>1</sup> or its affiliate, the Council on Rehabilitation Education (CORE).<sup>2</sup> This requirement would not be enforced until seven years after the effective date of the proposed regulation. Individuals licensed before that date will be able to obtain licensure under current standards. In most cases, individuals seeking licensure in Virginia after that point will have to meet educational requirements in programs that are approved by CACREP or CORE.

### Result of Analysis

Costs will likely outweigh benefits for this proposed change.

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<sup>1</sup> CACREP was established in 1981 and has been recognized by the Council for Higher Education Accreditation (CHEA). CHEA is an association of 3,000 degree-granting colleges and universities and recognizes 60 institutional and programmatic accrediting organizations. One of the goals of CACREP is to establish a uniform set of educational requirements across the United States.

<sup>2</sup> The Council on Rehabilitation Education (CORE) is a specialized accreditation organization that is recognized by the Council for Higher Education Accreditation (CHEA) and a member of the Association of Specialized and Professional Accreditors (ASPA). CORE accredits graduate programs which provide academic preparation for a variety of professional rehabilitation counseling positions. CORE also accredits undergraduate programs in Rehabilitation and Disability Studies.

## Estimated Economic Impact

### Current Licensure Requirements:

Professional counselors may currently be licensed by examination or by endorsement.<sup>3</sup> Currently, 18 VAC 115-20-49<sup>4</sup> requires individuals seeking licensure by examination as a professional counselor to complete education, as specified in 18 VAC 115-20-51,<sup>5</sup> in a degree program that “is offered by a college or university accredited by a regional accrediting agency” and that: 1) has an academic study sequence designed to prepare counselors for practice, 2) has an identifiable counselor training faculty and student body and 3) the academic unit responsible for the counseling program have clear authority and primary responsibility for the core and specialty areas of counseling study. Current regulation also requires these individuals to complete the residency requirements in 18 VAC 115-20-52<sup>6</sup> and to pass a written examination as prescribed by the Board.

Current regulation requires individuals who are seeking licensure by endorsement to: 1) hold or have held a professional counselor license in another jurisdiction of the United States, 2) submit an application processing fee and initial licensure fee, 3) have no unresolved action against a currently or previously held license or certificate, 4) have a passing score on an examination required for counseling licensure in the jurisdiction in which licensure was obtained, 5) submit an affidavit of having read and understood the regulations and laws

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<sup>3</sup>Individuals who are initially licensed in another political jurisdiction and subsequently move to Virginia are eligible to obtain licensure here without redoing their education so long as they meet certain criteria.

<sup>4</sup> To view each section of the current regulation, see <http://law.lis.virginia.gov/admincode/title18/agency115/chapter20/>.

<sup>5</sup> Counseling program coursework must include 60 semester hours or 90 quarter hours of graduate study in 12 core areas. The 12 core areas are: 1) professional counseling identity, function, and ethics, 2) theories of counseling and psychotherapy, 3) counseling and psychotherapy techniques, 4) human growth and development, 5) group counseling and psychotherapy theories and techniques, 6) career counseling and development theories and techniques, 7) appraisal, evaluation, and diagnostic procedures, 8) abnormal behavior and psychopathology, 9) multicultural counseling theories and techniques, 10) research, 11) diagnosis and treatment of addictive disorders, and 12) marriage and family systems theory. Programs that qualify graduates for licensure by examination must also require a supervised internship of at least 600 hours with 240 of those hours being face-to-face client contact.

<sup>6</sup> Applicants for licensure by examination must have completed a 3,400-hour supervised residency in the role of a professional counselor working with various populations, clinical problems, and theoretical approaches in six specified areas. The 6 specified areas are: 1) assessment and diagnosis using psychotherapy techniques, 2) appraisal, evaluation, and diagnostic procedures, 3) treatment planning and implementation, 4) case management and recordkeeping, 5) professional counselor identity and function, and 6) professional ethics and standards of practice.

governing the practice of professional counseling in Virginia. Applicants for licensure by endorsement must also either have met the educational and experience requirements in 18 VAC 115-20-49, as well as 18 VAC 115-20-51 and 18 VAC 115-20-52, or be able to 1) provide documentation of education and supervised experience that met the criteria for licensure in the jurisdiction where he was initially licensed and 2) provide evidence of post licensure clinical practice in counseling for 24 of the 60 months immediately preceding application for licensure in Virginia.

**Proposed Amendment in this Action:**

In 2014, the Board received a petition for rulemaking<sup>7</sup> asking that individuals seeking licensure as professional counselors be required to complete education approved by CACREP or an approved affiliate of CACREP that includes a minimum of 60 semester hour credits (90 quarter hour credits) of curricular experiences and a practicum of at least 100 hours and an internship of at least 600 hours. The petition also asked that this regulatory change be subject to a seven year delay. As a result of this petition, the Board proposes to limit educational programs that will qualify individuals for licensure to only those that are approved by CACREP or its affiliate CORE. As requested in the petition, the Board proposes to delay the enforcement of this requirement until seven years after the effective date of this proposed regulation.

Board staff reports that this change will benefit both the public and Commonwealth by providing greater consistency in the educational programs that qualify an individual for licensure and efficiency in reviewing applications for licensure. Board staff also notes that other health professions use private credentialing groups to evaluate and approve educational programs.<sup>8</sup> While accrediting groups can serve an important role in ensuring the quality of education needed for licensure, in this case, the Board already ensures that individuals licensed as professional counselors receive an education adequate to prepare them for future practice by: 1) specifying the coursework that applicants for licensure must have completed at an accredited college or university, 2) requiring a fairly lengthy residency and 3) requiring passage of a licensure exam

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<sup>7</sup> The petition for rulemaking and the public comments received in response to this petition may be viewed here: <http://townhall.virginia.gov/L/ViewPetition.cfm?petitionId=210> .

<sup>8</sup> The Board of Medicine, for instance, allows individuals to meet licensure in medicine requirements with educational programs approved the American Medical Association's Liaison Committee on Medical Education, the Committee for the Accreditation of Canadian Medical Schools or by any other group approved by the Board of Medicine.

that measures the counseling knowledge of applicants. These other requirements are not being repealed and will remain in place.

Costs of the proposed amendment. Obtaining and maintaining CACREP accreditation appears to involve significant costs. According to CACREP's website, CAPREP charges the following fees: 1) application process fee - \$2,500, 2) site visit fee - \$2,000 per visitor for 2-5 persons, 3) annual maintenance fee (2015) - \$2,976, and 4) student graduate certificate - \$50. George Mason University reports that initially obtaining CACREP approval would cost slightly less than \$70,000<sup>9</sup> and maintaining CACREP will cost George Mason over \$250,000 per year. George Mason University would incur approximately \$250,000 per year in staff and faculty costs for the hiring of new faculty to meet CACREP faculty and supervisory standards<sup>10</sup> and for maintaining the salary for the individual designated to coordinate ongoing accreditation compliance. Annual costs for George Mason would also include annual maintenance fees of \$3,514 (for two counseling degree programs), approximately \$1,500 for approximately 30 CACREP student graduation certificates per year. George Mason University also reports that being required to seek CACREP approval of its counseling program will force them to replace faculty who have been providing instruction in counseling but whose degrees and backgrounds are in psychology, psychiatry or social work. These actions would be necessary because CACREP's new standards require "a core faculty for the program that evidences a clear counseling professional identity."<sup>11</sup> DHP reports that counseling programs at 12 universities and colleges already have CACREP accreditation, two (at Longwood University and George Mason University) are not currently CACREP approved. The CACREP website additionally lists counseling programs at Liberty University and Virginia Commonwealth University as being "in process" of getting approval. DHP reports that Longwood University has begun the process of

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<sup>9</sup>Initial costs include \$1,000 fee for a representative of the program to take complete CACREP's day long self-study workshop plus the cost of that representatives time, \$6,000 to hire a consultant, \$50 to purchase a CACREP accreditation manual, the \$2,500 CACREP initial application fee, an estimated \$10,000 in site visit fees, \$20,000 to buy out the time of a counseling faculty member to oversee the 12 to 18 month approval process and \$30,000 to hire a half-time administrative assistant.

<sup>10</sup> CACREP's 2016 standards require a ratio of full time equivalent (FTE) students to FTE staff of not greater than 12:1, a student to supervisory faculty ratio of not greater than 6:1 for student completing a supervised practicum or internship and a ratio of not greater than 6:1 for student supervisors to faculty who supervises them.

<sup>11</sup> This quote is from the frequently asked questions on CACREP's website at <http://www.cacrep.org/for-programs/program-faqs-2/#FAQ13>

gaining CACREP approval also so George Mason University would be the learning institution most immediately affected by this proposed change. That is not to say, however, that counseling programs in other colleges in universities would be unaffected whether they are currently CACREP approved or not.

Currently, all CACREP approved programs in the Commonwealth have the flexibility to choose not to renew their CACREP accreditation should they judge in the future that it is not worth the costs involved. They would lose that flexibility if this proposed action goes forward. CACREP approval lasts eight years in most cases (in some cases, programs are approved for two years); after that schools must reapply for program approval under whatever iteration of CACREP standards are currently in place at the time of re-application. Because of this, if these programs must maintain CACREP accreditation, they will likely incur additional costs that may outweigh any perceived current benefit as they have to be re-approved and as CACREP standards change in the future. For instance, 2009 CACREP standards provide for grandfathering in of counseling program professors whose doctoral degree field is not in counseling even though they are competent to teach counseling skills.<sup>12</sup> 2016 standards will specify, however, that doctoral level professionals will not be permitted to hold faculty positions in CACREP approved programs unless their training is in counseling (preferably at a CACREP accredited program) or they were “employed as full time faculty members for a minimum of one full academic year before July 1, 2013.” This means that in order to be re-approved at the end of their accreditation period any time after June 30, 2016, programs in the state that have staff whose training is in psychology, psychiatry and social work or clinical social work will have to replace these faculty members (if they do not meet this new standard). Schools will also have future hiring decisions constrained by this new rule.

This proposed regulatory change will drive up costs for counseling programs at George Mason University<sup>13</sup> but could also adversely affect other universities and colleges in the Commonwealth whether they have CACREP approved programs or not. Universities that have

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<sup>12</sup> Several other professions, including psychologists, psychiatrists and licensed social workers, have overlapping scopes of practice with counseling.

<sup>13</sup> George Mason University reports that these costs would have to be covered by increased student fees. However, as George Mason University is a publicly funded college, this proposed regulatory change also has the potential to increase fiscal costs for the Commonwealth and for the taxpayers who fund the state budget.

CACREP approval could see increased costs as CACREP changes their standards as analyzed above. Also, by increasing required costs to start counseling programs, this proposed change may also limit the number of counseling programs that are instituted in the future below the number that might be instituted if current regulations remain in place.

This proposed regulatory change could also adversely affect individuals seeking licensure as professional counselors by endorsement from the Board. As mentioned above, these individuals must currently meet the educational and experience requirements in 18 VAC 115-20-49, as well as 18 VAC 115-20-51 and 18 VAC 115-20-52 or must have met the education and supervised experience for licensure in the jurisdiction where they were initially licensed and provide evidence of post licensure clinical practice in counseling for 24 of the 60 months immediately preceding application for licensure in Virginia. Further no applicant for licensure by endorsement must have graduated from a CAPREP approved program. Under this proposed change, all applicants for licensure by endorsement would have to have a CACREP approved education unless they can show that worked in clinical practice for at least 24 of the 60 months immediately preceding application. Since fewer than 20% of colleges and universities with counseling programs nationwide<sup>14</sup> have CACREP approval, this proposed change has the potential to shrink the pool of professional counselors licensed in other states who would be eligible for licensure in Virginia.

As noted above in the section on current licensure requirements, under existing regulation, there are multiple requirements to ensure the competency of applicants for licensure by examination. The Board currently requires that individuals licensed as professional counselors receive an education adequate to prepare them for future practice by 1) specifying the coursework that they must complete at an accredited college or university, 2) requiring a fairly lengthy residency and 3) requiring passage of a licensure exam that measures the counseling knowledge of applicants. These requirements are located in 18 VAC 115-20, sections 49, 51, 52 and 70, are not proposed for repeal as part of this action, and will remain in force. If a candidate can pass the examination for licensure without having earned a degree from a CACREP/affiliate-

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<sup>14</sup> Information obtained from <https://www.petersons.com/search/schools?searchtype=26&page=1&result=false&searchterm=counseling>. Around 1,600 universities and colleges have graduate level counseling programs and CACREP has approved programs at 276 colleges and universities (664 programs have been approved at those 276).

accredited program, and successfully complete a 3,400-hour supervised residency, then the candidate has presumably demonstrated significant knowledge and experience. Given this, the additional value of requiring CACREP/affiliate-specific accreditation appears to be limited. Further, there is no known evidence that individuals who pass the examination, successfully complete the residency, and have graduated from a program that meets all of the specifications already detailed in this regulation, but have not graduated from a CACREP/affiliate accredited program, are any less effective as professional counselors than graduates of CACREP/affiliate accredited programs. Given the significant costs associated with requiring CACREP accreditation, the costs of this proposed change appear to outweigh its benefits.

### **Businesses and Entities Affected**

The proposed amendment will affect all applicants for counseling licensure as well as any colleges or universities inside or outside of Virginia that currently do not have CACREP approval and who graduate students who may choose to seek initial or subsequent counseling licensure in Virginia.<sup>15</sup> The proposed amendment will also affect programs that already have CACREP approval as it will constrain their choice to drop CACREP approval in the future as costs increase.

### **Localities Particularly Affected**

The proposed amendment will likely not particularly affect any locality.

### **Projected Impact on Employment**

Seven years after its effective date, the proposed amendment will likely limit the number of individuals qualified to seek licensure by examination as professional counselors in Virginia to some unknown extent because it will likely make it more expensive to get the required education. Additionally, there will likely be fewer individuals who would be qualified to seek licensure by endorsement as they would need to have CACREP approved education or meet active practice requirements. This proposed change will also adversely affect the employment opportunities of doctoral level teaching professionals who have counseling activities within their scope of practice but who are not trained or licensed as professional counselors. This group would include psychologists, psychiatrists, and social workers.

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<sup>15</sup> As the CACREP requirement would not be enforced until 7 years after the effected date of the regulation, the adverse impacts of this regulation will be delayed.

**Effects on the Use and Value of Private Property**

The proposed amendment is unlikely to significantly affect the use and value of private property.

**Real Estate Development Costs**

The proposed amendment does not affect real estate development costs.

**Small Businesses:****Definition**

Pursuant to § 2.2-4007.04 of the Code of Virginia, small business is defined as “a business entity, including its affiliates, that (i) is independently owned and operated and (ii) employs fewer than 500 full-time employees or has gross annual sales of less than \$6 million.”

**Costs and Other Effects**

The proposed amendment would likely reduce the number of small business licensed professional counselors practicing in Virginia in the future below the number that would qualify to practice under current regulation.

**Alternative Method that Minimizes Adverse Impact**

Given that there are no health or safety problems that might be addressed by requiring CACREP approved education, one alternative that would minimize adverse impact would be maintain the status quo and continue to evaluate educational programs as it is done now.

**Adverse Impacts:****Businesses:**

The proposed amendment would likely reduce the number of licensed professional counselors practicing independently in Virginia in the future below the number that would qualify to practice under current regulation.

**Localities:**

The proposed amendment will not adversely affect localities.

**Other Entities:**

The proposed amendment would require George Mason University to obtain CACREP approval for their counseling program within seven years and at significant

initial cost and there will also be ongoing costs. The proposed amendment will likely also increase future costs at CACREP approved programs and will constrain those programs from dropping CACREP approval if they judge the costs of having that approval are no longer outweighed by the perceived benefits.

## Legal Mandates

**General:** The Department of Planning and Budget has analyzed the economic impact of this proposed regulation in accordance with § 2.2-4007.04 of the Code of Virginia (Code) and Executive Order Number 17 (2014). Code § 2.2-4007.04 requires that such economic impact analyses determine the public benefits and costs of the proposed amendments. Further the report should include but not be limited to: (1) the projected number of businesses or other entities to whom the proposed regulatory action would apply, (2) the identity of any localities and types of businesses or other entities particularly affected, (3) the projected number of persons and employment positions to be affected, (4) the projected costs to affected businesses or entities to implement or comply with the regulation, and (5) the impact on the use and value of private property.

**Adverse impacts:** Pursuant to Code § 2.2-4007.04(C): In the event this economic impact analysis reveals that the proposed regulation would have an adverse economic impact on businesses or would impose a significant adverse economic impact on a locality, business, or entity particularly affected, the Department of Planning and Budget shall advise the Joint Commission on Administrative Rules, the House Committee on Appropriations, and the Senate Committee on Finance within the 45-day period.

If the proposed regulatory action may have an adverse effect on small businesses, Code § 2.2-4007.04 requires that such economic impact analyses include: (1) an identification and estimate of the number of small businesses subject to the proposed regulation, (2) the projected reporting, recordkeeping, and other administrative costs required for small businesses to comply with the proposed regulation, including the type of professional skills necessary for preparing required reports and other documents, (3) a statement of the probable effect of the proposed regulation on affected small businesses, and (4) a description of any less intrusive or less costly alternative methods of achieving the purpose of the proposed regulation. Additionally, pursuant to Code § 2.2-4007.1, if there is a finding that a proposed regulation may have an adverse impact on small business, the Joint Commission on Administrative Rules shall be notified.