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**10:05 a.m. Public Hearing**

- Amendments to 18VAC115-80 regarding Qualified Mental Health Professionals pursuant to SB403
- Amendments to 18VAC115-90 regarding Behavioral Health Technicians and Behavioral Health Technician Assistants pursuant to SB403

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**Please note: the full Board will discuss the requirement hours for didactic training during the full Board meeting at the conclusion of the public hearings**

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## Part I General Provisions

### 18VAC115-80-10. Definitions.

~~"Accredited" means a school that is listed as accredited on the U.S. Department of Education College Accreditation database found on the U.S. Department of Education website. If education was obtained outside the United States, the board may accept a report from a credentialing service that deems the degree and coursework is equivalent to a course of study at an accredited school.~~

~~"Applicant" means a person applying for registration as a qualified mental health professional.~~

"Board" means the Virginia Board of Counseling.

~~"Collaborative mental health services" means those rehabilitative supportive services that are provided by a qualified mental health professional, as set forth in a service plan under the direction of and in collaboration with either a mental health professional licensed in Virginia or a person under supervision that has been approved by the Board of Counseling, Board of Psychology, or Board of Social Work as a prerequisite for licensure.~~

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

"Face-to-face" means the physical presence of the individuals involved in the supervisory relationship or the use of technology that provides real-time, visual, and audio contact among the individuals involved.

"Mental health professional" means a person who by education and experience is professionally qualified and licensed in Virginia to provide counseling interventions designed to facilitate an individual's achievement of human development goals and remediate mental, emotional, or behavioral disorders and associated distresses that interfere with mental health and development.

~~"Qualified mental health professional" or "QMHP" includes qualified mental health professionals-adult and qualified mental health professionals-child.~~

~~"Qualified mental health professional-adult" or "QMHP-A" means a qualified mental health professional who provides collaborative mental health services for adults. A qualified mental health professional-adult shall provide such services as an employee or~~

~~independent contractor of the Department of Behavioral Health and Developmental Services or the Department of Corrections, or as a provider licensed by the Department of Behavioral Health and Developmental Services.~~

~~"Qualified mental health professional-child" or "QMHP-C" means a person who by education and experience is professionally qualified and registered by the board to provide collaborative mental health services for children and adolescents up to 22 years of age. A qualified mental health professional-child shall provide such services as an employee or independent contractor of the Department of Behavioral Health and Developmental Services or the Department of Corrections, or as a provider licensed by the Department of Behavioral Health and Developmental Services.~~

~~"Qualified mental health professional-trainee" means a person who is receiving supervised training to qualify as a qualified mental health professional and is registered with the board.~~

~~"Registrant" means a QMHP registered with the board.~~

**18VAC115-80-20. Fees required by the board.**

A. The board has established the following fees applicable to the registration of qualified mental health professionals:

Registration as a QMHP-A	\$50
Registration as a QMHP-C	\$50
Registration as a QMHP-trainee	\$25
Renewal of registration as a QMHP	\$30
Renewal of registration as a QMHP-trainee	\$10
Late renewal	\$20
Reinstatement of a lapsed registration	\$75
Duplicate certificate of registration	\$10
Returned check or dishonored credit card or debit card	\$50
Reinstatement following revocation or suspension	\$500

B. Unless otherwise provided, fees established by the board shall not be refundable.

**18VAC115-80-30. Current name and address.**

Each registrant shall furnish [a current name and address of record](#) to the board ~~his current name and address of record~~. Any change of name or address of record or public address if different from the address of record shall be furnished to the board within 60 days of such change. ~~It shall be the duty and responsibility of each registrant to inform the board of his current address.~~

**18VAC115-80-35. ~~(Repealed) Requirements for registration as a qualified mental health professional trainee.~~**

~~A. Prior to receiving supervised experience toward registration as a QMHP-A, an applicant for registration as a QMHP-trainee shall provide a completed application, the fee prescribed in 18VAC115-80-20, and verification of one of the following:~~

- ~~1. A master's degree in psychology, social work, counseling, substance abuse, or marriage and family therapy verified by an official transcript from an accredited college or university;~~
- ~~2. A master's or bachelor's degree in human services or a related field verified by an official transcript from an accredited college;~~
- ~~3. Current enrollment in a master's program in psychology, social work, counseling, substance abuse, marriage and family therapy, or human services with at least 30 semester or 45 quarter hours as verified by an official transcript;~~
- ~~4. A bachelor's degree verified by an official transcript from an accredited college in an unrelated field that includes at least 15 semester credits or 22 quarter hours in a human services field;~~
- ~~5. Licensure as a registered nurse in Virginia; or~~
- ~~6. Licensure as an occupational therapist.~~

~~B. Prior to receiving supervised experience toward registration as a QMHP-C, an applicant for registration as a QMHP-trainee shall provide a completed application, the fee prescribed in 18VAC115-80-20, and verification of one of the following:~~

- ~~1. A master's degree in psychology, social work, counseling, substance abuse, or marriage and family therapy verified by an official transcript from an accredited college or university;~~
- ~~2. A master's or bachelor's degree in a human services field or in special education verified by an official transcript from an accredited college;~~

~~3. Current enrollment in a master's program in psychology, social work, counseling, substance abuse, marriage and family therapy, human services, or special education with at least 30 semester or 45 quarter hours as verified by an official transcript;~~

~~4. Licensure as a registered nurse in Virginia; or~~

~~5. Licensure as an occupational therapist.~~

~~C. An applicant for registration as a QMHP trainee shall have no unresolved disciplinary action against a mental health or health professional license, certification, or registration held in any jurisdiction. The board will consider a history of disciplinary action on a case-by-case basis as grounds for denial under 18VAC115-80-100.~~

~~D. Registration as a QMHP trainee shall expire five years from date of issuance.~~

## **Part II Requirements for Registration**

**18VAC115-80-40. Requirements for registration as a qualified mental health professional-adult.**

A. An applicant for registration shall submit:

1. A completed application on forms provided by the board and any applicable fee as prescribed in 18VAC115-80-20;

2. A bachelor's degree from an institution of higher education listed as accredited on the U.S. Department of Education College Accreditation database found on the U.S. Department of Education website or accredited by another accrediting agency recognized by the board;

3. Evidence of completion of [40] hours of didactic education in a program recognized or approved by the board, unless such evidence was provided to the board to obtain a registration as a QMHP-trainee;

4. Evidence of 1,500 hours of supervised experience to be obtained within a five-year period immediately preceding application for registration;

5. A current report from the National Practitioner Data Bank (NPDB); and

6. Verification of any other mental health or health professional license, certification, or registration ever held in [Virginia or](#) another jurisdiction. An applicant for registration as a QMHP-~~A~~ shall have no unresolved disciplinary action. The board will

consider a history of disciplinary action on a case-by-case basis as grounds for denial under 18VAC115-80-100.

~~B. An applicant for registration as a QMHP-A shall provide evidence of:~~

~~1. A master's degree in psychology, social work, counseling, substance abuse, or marriage and family therapy, as verified by an official transcript, from an accredited college or university with an internship or practicum of at least 500 hours of experience with persons who have mental illness;~~

~~2. A master's or bachelor's degree in human services or a related field, as verified by an official transcript, from an accredited college with no less than 1,500 hours of supervised experience to be obtained within a five-year period immediately preceding application for registration and as specified in subsection C of this section;~~

~~3. A bachelor's degree, as verified by an official transcript, from an accredited college in an unrelated field that includes at least 15 semester credits or 22 quarter hours in a human services field and with no less than 3,000 hours of supervised experience to be obtained within a five-year period immediately preceding application for registration and as specified in subsection C of this section;~~

~~4. A registered nurse licensed in Virginia with no less than 1,500 hours of supervised experience to be obtained within a five-year period immediately preceding application for registration and as specified in subsection C of this section; or~~

~~5. A licensed occupational therapist with an internship or practicum of at least 500 hours with persons with mental illness or no less than 1,500 hours of supervised experience to be obtained within a five-year period immediately preceding application for registration and as specified in subsection C of this section.~~

C. Experience required for registration.

1. To be registered as a QMHP-A, an applicant ~~who does not have a master's degree as set forth in subdivision B-1 of this section~~ shall provide documentation of experience in providing direct services to individuals as part of a population of adults or children with mental illness in a setting where mental health treatment, practice, observation, or diagnosis occurs. The services provided shall be appropriate to the practice of a QMHP.-  
~~A and under the supervision of~~

2. The following may serve as a supervisor for a QMHP-trainee:

a. A licensed mental health professional licensed by a board of the Department of Health Professions who has completed the required supervisor training;

b. A person under supervision that has been approved by the Board of Counseling, Board of Psychology, or Board of Social Work and who has completed the required supervisor training; or

c. A registered QMHP who has (i) practiced for three years and (ii) has completed the required supervisor training. ~~as a prerequisite for licensure.~~

3. Supervision obtained in another United States jurisdiction shall be provided by a mental health professional ~~licensed in Virginia or~~ licensed in that jurisdiction.

4. Supervision shall consist of face-to-face training in the services of a QMHP ~~-A~~ until the supervisor determines competency in the provision of such services, after which supervision may be indirect in which the supervisor is either onsite or immediately available for consultation with the person being trained.

5. Hours obtained in a bachelor's or master's level internship or practicum in a human services field may be counted toward completion of the required hours of experience.

~~4. Supervised experience obtained prior to meeting the education requirements of subsection B of this section shall not be accepted.~~

**18VAC115-80-50. (Repealed.) ~~Requirements for registration as a qualified mental health professional-child.~~**

~~A. An applicant for registration shall submit:~~

~~1. A completed application on forms provided by the board and any applicable fee as prescribed in 18VAC115-80-20;~~

~~2. A current report from the National Practitioner Data Bank (NPDB); and~~

~~3. Verification of any other mental health or health professional license, certification, or registration ever held in another jurisdiction. An applicant for registration as a QMHP-C shall have no unresolved disciplinary action. The board will consider a history of disciplinary action on a case-by-case basis as grounds for denial under 18VAC115-80-100.~~

~~B. An applicant for registration as a QMHP-C shall provide evidence of:~~

~~1. A master's degree in psychology, social work, counseling, substance abuse, or marriage and family therapy, as verified by an official transcript, from an accredited college or university with an internship or practicum of at least 500 hours of experience with persons who have mental illness;~~

~~2. A master's or bachelor's degree in a human services field or in special education, as verified by an official transcript, from an accredited college with no less than 1,500 hours of supervised experience to be obtained within a five-year period immediately preceding application for registration and as specified in subsection C of this section;~~

~~3. A registered nurse licensed in Virginia with no less than 1,500 hours of supervised experience to be obtained within a five-year period immediately preceding application for registration and as specified in subsection C of this section; or~~

~~4. A licensed occupational therapist with an internship or practicum of at least 500 hours with persons with mental illness or no less than 1,500 hours of supervised experience to be obtained within a five-year period immediately preceding application for registration and as specified in subsection C of this section.~~

~~C. Experience required for registration.~~

~~1. To be registered as a QMHP-C, an applicant who does not have a master's degree as set forth in subdivision B-1 of this section shall provide documentation of 1,500 hours of experience in providing direct services to individuals as part of a population of children or adolescents with mental illness in a setting where mental health treatment, practice, observation, or diagnosis occurs. The services provided shall be appropriate to the practice of a QMHP-C and under the supervision of a licensed mental health professional or a person under supervision that has been approved by the Board of Counseling, Board of Psychology, or Board of Social Work as a prerequisite for licensure. Supervision obtained in another United States jurisdiction shall be provided by a mental health professional licensed in Virginia or licensed in that jurisdiction.~~

~~2. Supervision shall consist of face-to-face training in the services of a QMHP-C until the supervisor determines competency in the provision of such services, after which supervision may be indirect in which the supervisor is either onsite or immediately available for consultation with the person being trained.~~

~~3. Hours obtained in a bachelor's or master's level internship or practicum in a human services field may be counted toward completion of the required hours of experience.~~

~~4. Supervised experience obtained prior to meeting the education requirements of subsection B of this section shall not be accepted.~~

**18VAC115-80-60. Reserved.**

**18VAC115-80-65. [Requirements for registration as a qualified mental health professional-trainee.](#)**



Prior to receiving supervised experience toward registration as a QMHP, an applicant for registration as a QMHP-trainee shall provide a completed application, the fee prescribed in 18VAC115-80-20, and verification of the following:

1. Enrollment in or completion of a bachelor's degree program from an institution of higher education listed as accredited on the U.S. Department of Education College Accreditation database found on the U.S. Department of Education website or accredited by another accrediting agency recognized by the board;
2. Evidence of completion of [40] hours of didactic education in a program recognized or approved by the Board;
3. Verification of any other mental health or health professional license, certification, or registration ever held in Virginia or another jurisdiction. An applicant for registration as a QMHP-trainee shall have no unresolved disciplinary action. The board will consider a history of disciplinary action on a case-by-case basis as grounds for denial under 18VAC115-80-100.

### **Part III Renewal of Registration**

#### **18VAC115-80-70. Annual renewal of registration.**

All registrants as a QMHP ~~A or a QMHP-C~~ or QMHP-trainee shall renew ~~their registrations~~ registration on or before June 30 of each year. Along with the renewal form, the registrant shall submit the renewal fee as prescribed in 18VAC115-80-20.

#### **18VAC115-80-80. Continued competency requirements for renewal of registration for qualified mental health professionals.**

A. Qualified mental health professionals shall be required to have completed a minimum of eight contact hours of continuing education for each annual registration renewal. ~~Persons who hold registration both as a QMHP-A and QMHP-C shall only be required to complete eight contact hours.~~ A minimum of one of these hours shall be in a course that emphasizes ethics.

B. Qualified mental health professionals shall complete continuing competency activities that focus on increasing knowledge or skills in areas directly related to the services provided by a QMHP.

C. The following organizations, associations, or institutions are approved by the board to provide continuing education, provided the hours are directly related to the provision of mental health services:

1. Federal, state, or local governmental agencies, public school systems, licensed health facilities, or an agency licensed by DBDHS; and
2. Entities approved for continuing education by a health regulatory board within the Department of Health Professions.

D. ~~Attestation of completion~~ Completion of continuing education is not required for the first renewal following initial registration in Virginia.

E. The board may grant an extension for good cause of up to one year for the completion of continuing education requirements upon written request from the registrant prior to the renewal date. Such extension shall not relieve the registrant of the continuing education requirement.

F. The board may grant an exemption for all or part of the continuing education requirements due to circumstances beyond the control of the registrant, such as temporary disability, mandatory military service, or officially declared disasters, upon written request from the registrant prior to the renewal date.

G. All registrants shall maintain ~~original~~ documentation of official transcripts showing credit hours earned or certificates of participation for a period of three years following renewal.

H. The board may conduct an audit of registrants to verify compliance with the requirement for a renewal period. Upon request, a registrant shall provide documentation as follows:

1. Official transcripts showing credit hours earned; or
2. Certificates of participation.

I. Continuing education hours required by a disciplinary order shall not be used to satisfy renewal requirements.

## **Part IV**

### **Standards of Practice, Disciplinary Action, and Reinstatement**

**18VAC115-80-90. Standards of practice.**

A. The protection of the public health, safety, and welfare and the best interest of the public shall be the primary guide in determining the appropriate professional conduct of all persons whose activities are regulated by the board.

B. Persons registered by the board shall:

1. Practice in a manner that is in the best interest of the public and does not endanger the public health, safety, or welfare.

2. Practice only within the competency area for which they are qualified by training or experience and shall not provide clinical mental health services for which a license is required pursuant to Chapters 35 (§ 54.1-3500 et seq.), 36 (§ 54.1-3600 et seq.), and 37 (§ 54.1-3700 et seq.) of the Code of Virginia.

3. Report to the board known or suspected violations of the laws and regulations governing the practice of qualified mental health professionals.

4. Neither accept nor give commissions, rebates, or other forms of remuneration for the referral of clients for professional services and make appropriate consultations and referrals based on the interest of patients or clients.

5. Stay abreast of new developments, concepts, and practices that are necessary to providing appropriate services.

C. In regard to confidentiality and client records, persons registered by the board shall:

1. Not willfully or negligently breach the confidentiality between a practitioner and a client. A breach of confidentiality that is required or permitted by applicable law or beyond the control of the practitioner shall not be considered negligent or willful.

2. Disclose client records to others only in accordance with applicable law.

3. Maintain client records securely, inform all employees of the requirements of confidentiality, and provide for the destruction of records that are no longer useful in a manner that ensures client confidentiality.

4. Maintain timely, accurate, legible, and complete written or electronic records for each client, to include dates of service and identifying information to substantiate treatment plan, client progress, and termination.

D. In regard to dual relationships, persons registered by the board shall:

1. Not engage in dual relationships with clients or former clients that are harmful to the client's well-being, that would impair the practitioner's objectivity and professional

judgment, or that would increase the risk of client exploitation. This prohibition includes such activities as providing services to close friends, former sexual partners, employees, or relatives or engaging in business relationships with clients.

2. Not engage in sexual intimacies or romantic relationships with current clients. For at least five years after cessation or termination of professional services, practitioners shall not engage in sexual intimacies or romantic relationships with a client or those included in collateral therapeutic services. Because sexual or romantic relationships are potentially exploitative, the practitioner shall bear the burden of demonstrating that there has been no exploitation. A client's consent to, initiation of, or participation in sexual behavior or involvement with a practitioner does not change the nature of the conduct nor lift the regulatory prohibition.

3. Recognize conflicts of interest and inform all parties of obligations, responsibilities, and loyalties to third parties.

E. Upon learning of evidence that indicates a reasonable probability that another mental health service provider, as defined in § 54.1-2400.1 of the Code of Virginia, is or may be guilty of a violation of standards of conduct as defined in statute or regulation, persons registered by the board shall advise their clients of the client's right to report such misconduct to the Department of Health Professions in accordance with § 54.1-2400.4 of the Code of Virginia.

**18VAC115-80-100. Grounds for revocation, suspension, restriction, or denial of registration.**

~~In accordance with subdivision 7 of § 54.1-2400 of the Code of Virginia, the~~ The board may revoke, suspend, restrict, or decline to issue or renew a registration based upon the following conduct:

1. Conviction of a felony, or of a misdemeanor involving moral turpitude, or violation of or aid to another in violating any provision of Chapter 35 (§ [54.1-3500](#) et seq.) of Title 54.1 of the Code of Virginia, any other statute applicable to the practice of qualified mental health professionals, or any provision of this chapter;
2. Procuring, attempting to procure, or maintaining a registration by fraud or misrepresentation;
3. Conducting one's practice in such a manner so as to make it a danger to the health and welfare of one's clients or to the public, or if one is unable to practice with reasonable skill and safety to clients by reason of illness or abusive use of alcohol, drugs, narcotics, chemicals, or any other type of material or as a result of any mental or physical condition;

4. Violating or abetting another person in the violation of any provision of any statute applicable to the practice of qualified mental health professionals or any regulation in this chapter;
5. Performance of functions outside the board-registered area of competency;
6. Performance of an act likely to deceive, defraud, or harm the public;
7. Intentional or negligent conduct that causes or is likely to cause injury to a client;
8. Action taken against a health or mental health license, certification, registration, or application in Virginia or other jurisdiction;
- [9. Knowingly allowing persons under supervision to jeopardize client safety or provide care to clients outside of such person's scope of practice or area of responsibility;](#)
- ~~9.~~ [10.](#) Failure to cooperate with an employee of the Department of Health Professions in the conduct of an investigation; or
- ~~10.~~ [11.](#) Failure to report evidence of child abuse or neglect as required in § [63.2-1509](#) of the Code of Virginia or elder abuse or neglect as required in § [63.2-1606](#) of the Code of Virginia.

#### **18VAC115-80-110. Late renewal and reinstatement.**

A. A person whose registration ~~as a QMHP-A or a QMHP-C~~ has expired may renew it within one year after its expiration date by paying the late renewal fee and the registration fee as prescribed in [18VAC115-80-20](#) for the year in which the registration was not renewed and by providing documentation of completion of continuing education as prescribed in [18VAC115-80-80](#).

B. A person who fails to renew registration ~~as a QMHP-A or a QMHP-C~~ after one year or more shall:

1. Apply for reinstatement;
2. Pay the reinstatement fee for a lapsed registration;
- [3. Provide a current report from the NPDB, if applicable;](#) and
3. Submit evidence of completion of ~~20~~ [eight](#) hours of continuing education ~~consistent with requirements of 18VAC115-80-80~~ [for each year in which the license has been inactive or lapsed, not to exceed 32 hours.](#)

C. A person whose registration has been suspended or who has been denied reinstatement by board order, having met the terms of the order, may submit a new application and fee for reinstatement of registration as prescribed in [18VAC115-80-20](#). Any person whose registration has been revoked by the board may, three years subsequent to such board action, submit a new application and fee for reinstatement of registration as prescribed in [18VAC115-80-20](#). The board in its discretion may, after an administrative proceeding, grant the reinstatement sought in this subsection.

Language below is part of a new VAC chapter for BHTs and BHTAs

**Part I**

**General Provisions**

**18VAC115-90-10. Definitions.**

A. The following words and terms when used in this chapter shall have the meaning ascribed to them in 54.1-3500, 54.1-3518, and 54.1-3519 of the Code of Virginia:

“Board”

“Behavioral health technician”

“Behavioral health technician assistant”

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

“DBHDS” means the Virginia Department of Behavioral Health and Developmental Services.

“NPDB” means the National Practitioner Data Bank.

“Supervision” means the ongoing process performed by a supervisor who monitors the performance of the person supervised.

“Supervisor” means an individual who assumes responsibility for the activities of a person under supervision and who provides supervision consistent with the training and experience of both the supervisor and the person under supervision and with the type of services being provided.

**18VAC115-90-20. Fees required by the Board.**

A. The Board has established fees for the following:

Registration as a behavioral health technician	\$40
Registration as a behavioral health technician assistant	\$25
Renewal of registration	\$30
Late renewal	\$20
Reinstatement of a lapsed registration	\$75
Duplicate certificate of registration	\$10
Returned check or dishonored credit card or debit card	\$50
Reinstatement following revocation or suspension	\$500

B. Unless otherwise established by the board, all fees shall be nonrefundable.

**18VAC115-90-30. Current name and address.**

A. Each registrant shall furnish a current name and address of record to the Board.

B. Registrants shall notify the Board in writing within 60 days of:

1. Any name change; or
2. Any change of address of record or of the registrant's public address if different from the address of record.

**Part II**

**Requirements for Registration**

**18VAC115-90-40. Requirements for registration as a behavioral health technician.**

An applicant for registration as a behavioral health technician shall submit:

1. A completed application on forms provided by the board and any applicable fee as prescribed in 18VAC115-90-20;
2. An associate's degree or higher verified by an official transcript from an institution of higher education accredited by the U.S Department of Education or an accrediting agency recognized by the board;
3. Evidence of completion of [20] hours of didactic education in a program recognized or approved by the Board;
4. A current report from the NPDB, if applicable; and
5. Verification of any other mental health or health professional license, certification, or registration ever held in Virginia or another jurisdiction. An applicant for registration as a behavioral health technician shall have no unresolved disciplinary action on any license, certification, or registration in any jurisdiction. The board will consider a history of disciplinary action on a case-by-case basis as grounds for denial under 18VAC115-90-90.

**18VAC115-90-50. Requirements for registration as a behavioral health technician assistant.**

An applicant for registration as a behavioral health technician assistant shall submit:

1. A completed application on forms provided by the board and any applicable fee as prescribed in 18VAC115-90-20;
2. Evidence of a high school diploma or equivalent;

3. Evidence of completion of [20] hours of didactic education in a program recognized or approved by the Board;
4. A current report from the NPDB, if applicable; and
5. Verification of any other mental health or health professional license, certification, or registration ever held in Virginia or another jurisdiction. An applicant for registration as a behavioral health technician assistant shall have no unresolved disciplinary action on any license, certification, or registration in any jurisdiction. The board will consider a history of disciplinary action on a case-by-case basis as grounds for denial under 18VAC115-90-90.

### **Part III**

#### **Renewal of Registration**

##### **18VAC115-90-60. Annual renewal of registration**

All registrants as a behavioral health technician or a behavioral health technician assistant shall renew their registrations on or before June 30 of each year. The registrant shall submit:

1. A completed form for renewal of the registration;
  2. An attestation to completion of two hours of continuing education in ethics;
- and
2. The renewal fee prescribed in 18VAC115-90-20.

### **Part IV**

#### **Standards of Practice, Disciplinary Action, and Reinstatement**

##### **18VAC115-90-70. Standards of practice**

A. The protection of the public health, safety, and welfare and the best interest of the public shall be the primary guide in determining the appropriate professional conduct of all persons whose activities are regulated by the board.

B. Persons registered by the board shall:

1. Practice in a manner that is in the best interest of the public and does not endanger the public health, safety, or welfare.
2. Practice only within the competency area for which they are qualified by training or experience and shall not provide clinical mental health services for which a license is required pursuant to Chapters 35 (§ 54.1-3500 et seq.), 36 (§ 54.1-3600 et seq.), and 37 (§ 54.1-3700 et seq.) of the Code of Virginia.



3. Report to the board known or suspected violations of the laws and regulations governing the practice of behavioral health technicians or behavioral health technician assistants.

4. Neither accept nor give commissions, rebates, or other forms of remuneration for the referral of clients for professional services and make appropriate consultations and referrals based on the interest of patients or clients.

5. Stay abreast of new developments, concepts, and practices that are necessary to providing appropriate services.

C. In regard to confidentiality and client records, persons registered by the board shall:

1. Not willfully or negligently breach the confidentiality between a practitioner and a client. A breach of confidentiality that is required or permitted by applicable law or beyond the control of the practitioner shall not be considered willful or negligent.

2. Disclose client records to others only in accordance with applicable law.

3. Maintain client records securely, inform all employees of the requirements of confidentiality, and provide for the destruction of records that are no longer useful in a manner that ensures client confidentiality.

4. Maintain timely, accurate, legible, and complete written or electronic records for each client, to include dates of service and identifying information to substantiate services provided, progress, and termination.

D. Persons registered by the board shall:

1. Not engage in dual relationships with clients or former clients that are harmful to the client's well-being, that would impair the practitioner's objectivity and professional judgment, or that would increase the risk of client exploitation. This prohibition includes such activities as providing services to close friends, former sexual partners, employees, or relatives or engaging in business relationships with clients.

2. Not engage in sexual intimacies or romantic relationships with current clients. For at least five years after cessation or termination of professional services, practitioners shall not engage in sexual intimacies or romantic relationships with a client or those included in collateral therapeutic services. Because sexual or romantic relationships are potentially exploitative, the practitioner shall bear the burden of demonstrating that there has been no exploitation. A client's consent to, initiation of, or participation in sexual behavior or involvement with a practitioner does not change the nature of the conduct nor lift the regulatory prohibition.

3. As necessary, persons registered by the board shall recognize conflicts of interest and inform all parties of obligations, responsibilities, and loyalties to third parties.

#### **18VAC115-90-80. Grounds for revocation, suspension, restriction, or denial of registration**

The board may revoke, suspend, restrict, or decline to issue or renew a registration based upon the following conduct:

1. Conviction of a felony, or of a misdemeanor involving moral turpitude, or violation of or aid to another in violating any provision of Chapter 35 (§ 54.1-3500 et seq.) of Title 54.1 of the Code of Virginia, any other statute applicable to the practice of qualified mental health professionals, or any provision of this chapter;
2. Procuring, attempting to procure, or maintaining a registration by fraud or misrepresentation;
3. Conducting one's practice in such a manner so as to make it a danger to the health and welfare of one's clients or to the public, or if one is unable to practice with reasonable skill and safety to clients by reason of illness or abusive use of alcohol, drugs, narcotics, chemicals, or any other type of material or as a result of any mental or physical condition;
4. Violating or abetting another person in the violation of any provision of any statute applicable to the practice of behavioral health technicians or behavioral health technician assistants, or any regulation in this chapter;
5. Performance of an act likely to deceive, defraud, or harm the public;
7. Intentional or negligent conduct that causes or is likely to cause injury to a client;
8. Action taken against a health or mental health license, certification, registration, or application in Virginia or other jurisdiction;
9. Failure to cooperate with an employee of the Department of Health Professions in the conduct of an investigation; or
10. Failure to report evidence of child abuse or neglect as required in § 63.2-1509 of the Code of Virginia or elder abuse or neglect as required in § 63.2-1606 of the Code of Virginia.

#### **18VAC115-90-100. Late renewal and reinstatement**

A. A person whose registration as a behavioral health technician or behavioral health technician assistant has expired may renew it within one year after its expiration date by paying the late renewal fee and the registration fee as prescribed in 18VAC115-90-20 for the year in which the registration was not renewed.

B. A person who fails to renew registration as a behavioral health technician or behavioral health technician assistant after one year or more shall:

1. Apply for reinstatement;
2. Pay the reinstatement fee for a lapsed registration;
3. Provide a current report from the NPDB, if applicable; and
4. Submit evidence of completion of two hours of continuing education for each year in which the license has been inactive or lapsed, not to exceed eight hours.

C. A person whose registration has been suspended or who has been denied reinstatement by board order, having met the terms of the order, may submit a new application and fee for reinstatement of registration as prescribed in 18VAC115-90-20. Any person whose registration has been revoked by the board may, three years subsequent to such board action, submit a new application and fee for reinstatement of registration as prescribed in 18VAC115-90-20. The board in its discretion may, after an administrative proceeding, grant the reinstatement sought in this subsection.