Virginia Department of Health Professions
Board of Counseling

Agenda
Regulatory Committee Meeting

January 22, 2021
VIRTUAL
10:00 a.m.

Call to Order – Holly Tracy, LPC, LMFT, Committee Chairperson

- Welcome and Introductions
- Mission of the Board Page 3

Approval of Agenda

Approval of Minutes

- Regulatory Committee Meeting – July 31, 2020* Page 4

Public Comment

The Committee will not receive comment on any pending regulation process for which a public comment period has closed or any pending or closed complaint or disciplinary matter.

New Business

- Multi-Systemic Therapy & Functional Family Therapy - Alyssa M. Ward, Ph.D., Behavioral Health Clinical Director, DMAS and Alexis Aplasca, MD, FAAP, FAPA, Chief Clinical Officer, DBHDS Page 7
- Chart of Regulatory Actions -- Elaine Yeatts, Department of Health Professions Sr. Policy Analyst/Regulatory Compliance Manager Page 26
    - Adoption of Final Regulations on Unprofessional Conduct/Conversion Therapy*
    - Adoption of Final Regulations on Resident License* - Ms. Yeatts Page 64
        - Discussion of Reinstatement for Resident License
    - Adoption of Final Regulations resulting from the Periodic Review of the Regulations Governing the Certification of Rehabilitation Counselors* -- Ms. Yeatts Page 93
    - Consideration of Petition for Rulemaking - Ms. Yeatts Page 101
- Review of Guidance Document 115-4.3, Hours in an internship applied towards residency -- Ms. Yeatts Page 106
- Development of Guidance Document regarding Independent Practice of CSACs – Jaime Hoyle, JD, Executive Director

Next Meeting – April 23, 2021

Meeting Adjournment

*Requires a Committee Vote.This information is in **DRAFT** form and is subject to change. The official agenda and packet will be approved by the public body at the meeting and will be available to the public pursuant to Virginia Code Section 2.2-3707(F).

Virginia Board of Counseling

Instructions for Accessing January 22, 2021 Virtual Regulatory Meeting and Providing Public Comment

- **Access:** Perimeter Center building access is closed to the public due to the COVID-19 pandemic. To observe this virtual meeting, use one of the options below. Participation capacity is limited and is on a first come, first serve basis due to the capacity of CISCO WebEx technology.
- **Public comment:** Comments will be received during the public comment period from those persons who have submitted an email to jaime.hoyle@dhp.virginia.gov **no later than 9:30 am on January 22, 2021** indicating that they wish to offer comment. Comment may be offered by these individuals when their names are announced by the Chairperson. Comments must be restricted to 3-5 minutes each.
- Public participation connections will be muted following the public comment periods.
- Please call from a location without background noise and ensure your line is muted.
- Dial (804) 938-6243 to report an interruption during the broadcast.
- FOIA Council *Electronic Meetings Public Comment* form for submitting feedback on this electronic meeting may be accessed at http://foiacouncil.dls.virginia.gov/sample%20letters/welcome.htm

JOIN BY AUDIO ONLY

1-408-418-9388

Meeting number (access code): 132 719 4312

Meeting password : **dtPqRJNh743 (38777564 from phones and video systems)**

Join meeting

Virginia Department of
Health Professions
Board of Counseling

MISSION STATEMENT

Our mission is to ensure safe and competent patient care by licensing health professionals, enforcing standards of practice, and providing information to health care practitioners and the public.

VIRGINIA BOARD OF COUNSELING
REGULATORY COMMITTEE MEETING
DRAFT
Friday, July 31, 2020

TIME AND PLACE: Consistent with Amendment 28 to HB29 (the Budget Bill for 2018-2020) and the applicable provisions of § 2.2-3708.2 in the Freedom of Information Act, the Committee convened the meeting virtually to consider such regulatory and business matters as are presented on the agenda necessary for the committee to discharge its lawful purposes, duties, and responsibilities.

PRESIDING: Holly Tracy, LPC, LMFT, Chairperson

COMMITTEE MEMBERS PRESENT:
Johnston Brendel, Ed.D, LPC, LMFT
Kevin Doyle, Ed.D, LPC, LSATP
Vivian Sanchez-Jones, Citizen Member
Terry Tinsley, PhD, LPC, LMFT, CSOTP

STAFF PRESENT:
Jaime Hoyle, JD, Executive Director
Jennifer Lang, Deputy Executive Director
Charlotte Lenart, Deputy Executive Director-Licensing
Sharniece Vaughan, Licensing Specialist

OTHERS PRESENT: Elaine Yeatts, DHP Senior Policy Analyst

APPROVAL OF MINUTES: Dr. Brendel moved to approve the minutes of the January 24, 2020 meeting. Dr. Doyle, seconded the motion, and it passed unanimously.

PUBLIC COMMENT: There were no public comments.

DISCUSSIONS:

I. **Unfinished Business:**

- **Regulatory Actions:** Ms. Yeatts discussed the current regulatory actions included in the agenda packet.

II. **New Business:**

- **Petition for Rulemaking to amend section 18VAC115-60-50(5) of the Regulations Governing the Practice of Licensed Substance Abuse Treatment Practitioners to waive the examination requirements for Licensed Clinical Social Workers (LCSW)** Dr. Brendel moved, which Ms. Tracy seconded, to deny the petitioner's request. The motion passed unanimously.

- **Consideration of any waiver of experience requirements for spouse of active duty military or veteran.** The Committee discussed the requirements for endorsement and the

possibility of waiving the experience requirement in 18VAC115-20-45(B)(2)(b). This section requires evidence of post-licensure clinical practice in counseling for at least 24 of the last 60 months immediately preceding licensure application for spouses of active military or spouses of veterans who left active-duty within the last year and who accompany the applicant's spouse to the Commonwealth, or an adjoining state, or the District of Columbia. Dr. Brendel moved, which Dr. Tinsley seconded, to recommend to the full Board to grant military spouses additional pathways to licensure by endorsement. The Board already approved these additional pathways as a part of the periodic review that is currently in the proposed stage of the regulatory process. The motion passed unanimously. Additional avenues would include:

- Verification from the credentials registry of the American Association of State Counseling Boards, of the Certified Clinical Mental Health Counselor (CCMHC) credential from the National Board of Certified Counselors (NBCC) or any other board-recognized entity.; or
- Evidence of an active license at the highest level of counselor licensure for independent practice for at least 10 years prior to the date of application; or
- Evidence of an active license at the highest level of counselor licensure for independent practice for at least three years prior to the date of application and one of the following:
  - (1) The National Certified Counselor (NCC) credential, in good standing, as issued by the National Board of Certified Counselors (NBCC); or
  - (2) A graduate-level degree from a program accredited in clinical mental health counseling by CACREP.

RECESS: The meeting recessed at 10:41a.m. due to technical issues.

RECONVENTION: The meeting reconvened at 10:47a.m. Roll call was completed and all Board members were present with the exception of Vivian Sanchez-Jones. With four members of the Regulatory Committee present, a quorum was established.

- **Review of Guidance Document 115-1.4: Guidance of Technology-Assisted Counseling and Technology-Assisted Supervision.** After a lengthy discussion, Dr. Brendel moved, which Dr. Doyle seconded, to recommend to the full Board to table any action and retain the current Guidance Document 115-1.4 until Committee receives further consultation. The motion passed unanimously. The Committee felt that the Board did not have expertise in this area and thought it would be prudent to make sure that the Board received recommendations from an expert in the field before making recommendations for change to the Guidance Document and Regulations.

- **Review of Guidance Document 115-1.8: Examinations approved by the Board for Certification as a Rehabilitation Counselor and Guidance Document 115-7: Supervision Experience Requirements for the Delivery of Clinical Services for Professional Counselor Licensure.** Dr. Doyle moved, which Ms. Tracy seconded, to recommend to the full board to re-affirm Guidance Document 115-1.8 as written, and defer any action on Guidance Document 115-7 to allow staff time to make recommended changes and present those changes at the August Quarterly Board meeting.

- **Discussion on the need for additional waivers or changes to the Regulations in anticipation of future Emergency Orders.** The Committee discussed the waiver of internship hours that was effective March 27, 2020 through June 10, 2020. The Committee supported

amending the waiver to include the language that the Board approved as part of the periodic review, which are currently in the proposed stage of the regulatory process. This waiver would allow students who completed less than 600 hours of internship make up the deficient hours up to 100 of the 600 hours and up to 40 of the 240 hours of face-to-face client during the residency.

The Committee also discussed the possibility of a waiver of the endorsement requirements, which require an applicant to submit a certified copy of the application materials from the jurisdiction in which the applicant was initially licensed.

No action needed from the Regulatory Committee. Ms. Hoyle will present these recommended waivers to the Director's Office after consultation with Dr. Brendel, Board Chair.

- **NAADAC Passing Score:** Ms. Lenart informed the Board that NAADAC decreased the passing score from 70% to 67% after beta testing.

  The Committee also discussed NBCC's policy, which requires individuals that who fail the NCMCHE examination to wait for 90 days before they can re-register for the examination. Staff will write a letter to NBCC to regarding the Boards concerns on this policy.

- **Update on Workgroup/Committee with Board of Medicine on Study of Mental Health Services for Minors:** The Behavioral Sciences Boards, along with the Board of Medicine, will conduct a study on the mental health services for minors. Ms. Hoyle asked volunteers to participate in the study. Ms. Tracy informed Ms. Hoyle that she is willing to participate. Ms. Yeatts mentioned the deadline for completion of the report is November 1, 2020.

NEXT SCHEDULED MEETING: The next Committee meeting is scheduled for October 9, 2020 at 10:00 a.m.

ADJOURNMENT: The meeting adjourned at 12:00 p.m.

Holly Tracy, LPC, LMFT
Chairperson

Date

Jaime Hoyle, JD
Executive Director

Date

MULTI-SYSTEMIC THERAPY & FUNCTIONAL FAMILY THERAPY

Behavioral Health Enhancement Updates

Board of Counseling Regulatory Committee

January 22, 2021

PRESENTERS TODAY

Alyssa M. Ward, Ph.D.

Behavioral Health Clinical Director, DMAS

Alexis Aplasca, M.D.

Chief Clinical Officer, DBHDS

Agenda Today

- Brief Overview: Background on MST & FFT within Enhancement Initiative
- Shared Vision for Workforce Goals
- MST & FFT Description
- Collaborative MH Service Model & Louisiana Medicaid Example
- DMAS Manual Plans
- Questions

Enhanced Behavioral Health Services for Virginia

Vision

Implement fully-integrated behavioral health services that provide a full continuum of care to Medicaid members. This comprehensive system will focus on access to services that are:

High Quality

Quality care from quality providers in community settings such as home, schools and primary care

Evidence-Based

Proven practices that are preventive and offered in the least restrictive environment

Trauma-Informed

Better outcomes from best-practice services that acknowledge and address the impact of trauma for individuals

Cost-Effective

Encourages use of services and delivery mechanism that have been shown to reduce cost of care for system

Enhancement Brings Alignment Across Initiatives

BH Enhancement Leverages Medicaid Dollars to Support Cross-Secretariat Priorities

Enhancement & Family First Prevention Services Act

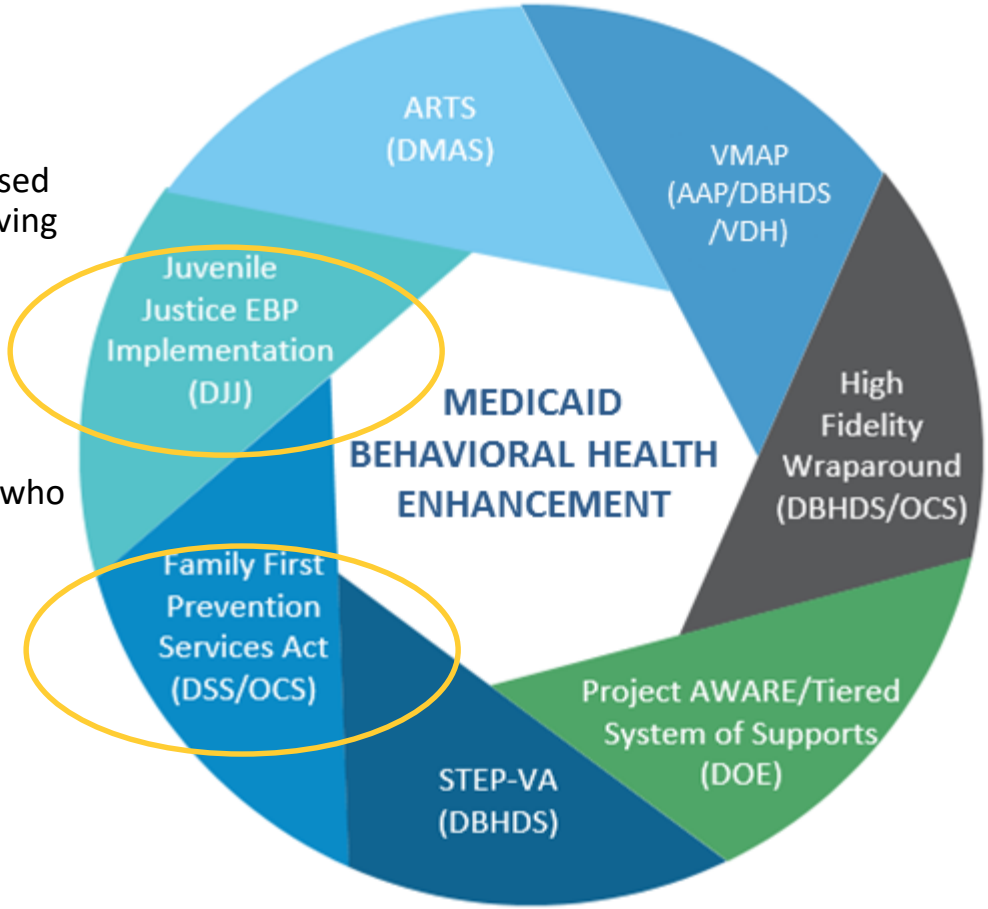
Focused on workforce development, evidence-based programs, prevention-focused investment, improving outcomes, and trauma informed principles

Enhancement & Juvenile Justice Transformation

Supports sustainability of these services for the provider community, particularly in rural settings who have struggled with maintaining caseloads and business models when dependent on DJJ or CSA

Enhancement & Governor's Children's Cabinet on Trauma Informed Care

BH Enhancement continuum is built on trauma-informed principles of prevention and early intervention to address adverse childhood experiences



Enhancement of Behavioral Health Services: *Current Priorities Explained*

What are our top priorities at this time?

Implementation of ***SIX*** high quality, high intensity and evidence-based services that have demonstrated impact and value to patients

Services that currently exist and are licensed in Virginia ***BUT*** **are not covered by Medicaid** ***or the service is not adequately funded through Medicaid***

- Partial Hospitalization Program (PHP)
- Assertive Community Treatment (ACT)
- Multi-Systemic Therapy (MST)
- Intensive Outpatient Program (IOP)
- Comprehensive Crisis Services (Mobile Crisis, Intervention, Community-Based, Residential, 23Hr Observation)
- Functional Family Therapy (FFT)

Why Enhancement of BH for Virginia?

- ✓ Provides alternatives to state psychiatric admissions and offers step-down resources not currently available in the continuum of care, which will assist with the psychiatric bed crisis
- ✓ Demonstrated cost-efficiency and value in other states

Shared Goals for the BH Workforce

Improve Access and Quality in Service Delivery

- The lack of a sufficient workforce of mental health professionals is a problem in most of the country, and Virginia is consistently near the bottom in national rankings (MHA-41st).
- **We have a shortage of LMHPs in Virginia, particularly within our Medicaid System**
  - BHE improves reimbursement for services so that it reflects the true cost of service, including costs of LMHPs
  - BHE integrates evidence-based treatments across levels of care to support LMHP workforce development and career opportunities with specialization and value
  - Drive towards long term vision of integration of evidence-based practice training in education programs that feed our workforce supply
- **QMHPs will always have a role in our system**
  - BHE and EBP implementation on the whole provide opportunities to provide training and strengthen/further clarify their scope within collaborative role in the delivery of care

Virginia's EBP Center of Excellence

OCS-DBHDS-DSS-DMAS-DJJ-VDH

- Support coordinated fidelity and outcome monitoring across state implementations
- Facilitate credentialing database for EBP training and certification status
- VCU as initial Academic partner

Priority Services Summary

Multi-Systemic Therapy & Functional Family Therapy

- High intensity, community-based services for adolescents with significant evidence base as being cost-effective alternatives that significantly reduce reliance on inpatient and residential placements.
- Record of success in Virginia through DJJ Transformation, but not readily available to other adolescents in need due to lack of a sustainable Medicaid rate.

MST & FFT

Service and Training Descriptions

- MST
  - Community-based service, intensive with small caseloads, provider available 24/7
  - Evidence-based and principle-oriented model
  - 5 day initial training, 1.5 day booster trainings each quarter, separate Supervisor trainings to establish sustainability
- FFT
  - Community-based service, intensive with small caseloads
  - Evidence-based and principle-oriented model
  - 1 day initial training and baseline caseload, follow up on-site training, periodic follow up trainings at 6 weeks, 4-5 months, and 8-10 months with a full process taking around 3 years to complete, separate Supervisor trainings to establish sustainability

MST & FFT: *Fidelity and Oversight*

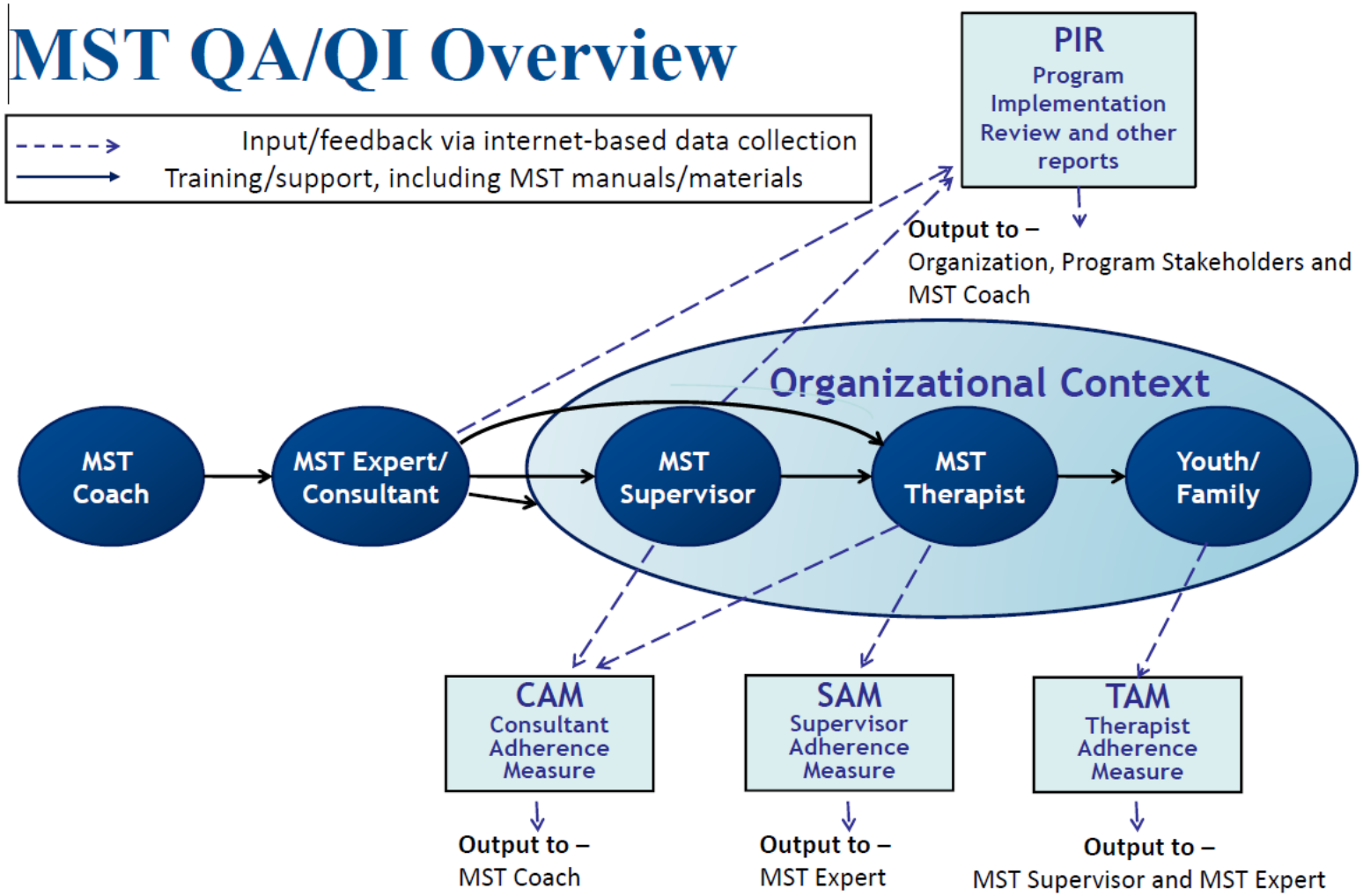
MST

- Weekly supervision with MST Site Supervisor (LMHP) and weekly telephone consult with national consultant with case summary and documentation review
- Each MST provider has professional development plan to guide them to effective adherence to model
- Supervisors available 24/7
- Supervisors are also supervised by system supervisor which includes audiotape review and case reviews
- Monthly adherence measurement that includes ratings from participating youth/family for provider fidelity and bi-monthly adherence rating for supervisors
- Collection of standardized outcome and quality measures that go into database
- Program implementation review every 6 months

FFT

- National consultant provides monitoring, supervision and training during the first 2 years (weekly consultation for the 1st year and bi-weekly in 2nd year)
- During 2nd year, site supervisor takes over weekly supervision role and then supervisor themselves gets weekly supervision with expert consultant
- Team also meets for internal supervision weekly including documentation and fidelity review
- Online database that monitors process and outcome variables for participants and weekly adherence ratings by national consultant
- Tri-annual performance evaluation of all this data for ongoing certification of the team

Example of Required Quality Assurance



MST and FFT Team Structure

Basis for Collaborative Structure

- MST
  - Teams have supervisor and 2-4 team members (therapists)
  - Team members hold their own caseloads and deliver the interventions themselves, but they cannot do so without the structure and affiliation with their team.
  - Team members do not hold the MST role autonomously, they only are able to practice MST when they are functioning in the team and within the supervision and fidelity structure.
- FFT
  - Teams have supervisor and 3-8 team members (therapists)
  - Team members hold their own caseloads and deliver the interventions themselves, but they cannot do so without the structure and affiliation with their team.
  - Team members do not hold the FFT role autonomously, they only are able to practice FFT when they are functioning in the team and within the supervision and fidelity structure.

Defined role of QMHPs in MST and FFT

- QMHPs cannot provide MST and FFT autonomously, they can only work with families in collaboration with their supervisor and the team
- The TEAM and not the individual members are credentialed, so the QMHP does not hold an autonomous ability to practice MST-FFT
- QMHPs would not perform any assessment activities
- Required adherence to fidelity standards in intervention and model is monitored including degree of supervision, collaboration, and tasks completed
- Training and credential held is requirement to serve on MST and FFT teams

Collaborative MH service language

DHP Code Reference

18VAC115-80-10. Definitions.

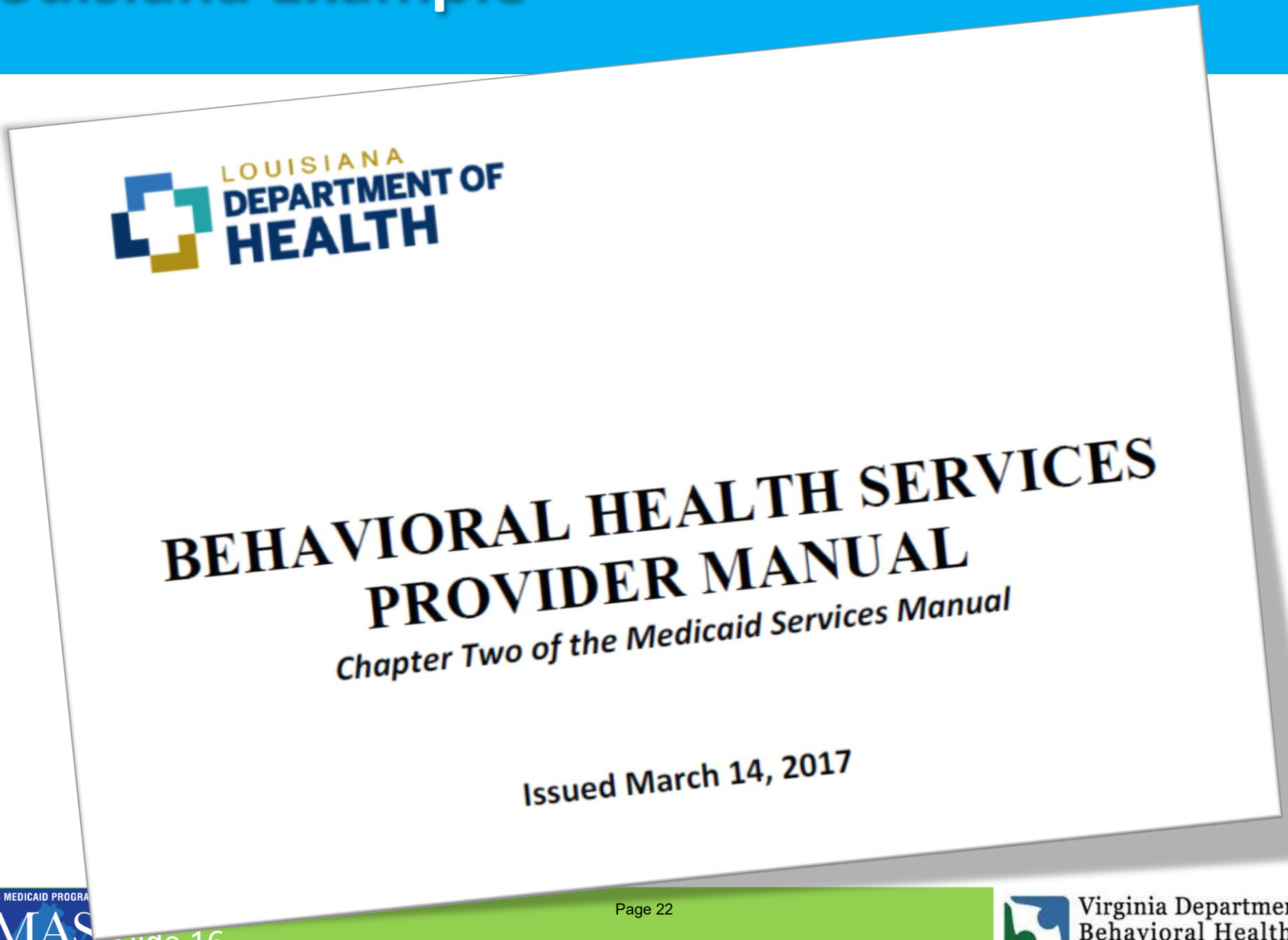
"Accredited" means a school that is listed as accredited on the U.S. Department of Education College Accreditation database found on the U.S. Department of Education website. If education was obtained outside the United States, the board may accept a report from a credentialing service that deems the 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.

Louisiana Example



DMAS Manual Specifications

- Define the role of “therapist” as nomenclature specific to these EBPs and separate from LMHP
- Set standard of LMHP supervisor expectation for each team
- Set limits for QMHPs as being at most, 1/3 of the team composition and set conditions for those QMHPs so that they meet provider standards set by the developer
- Set expectation that conditions of hiring of QMHPs into these roles include documented barriers to recruitment of licensed or license-eligible staff (per Louisiana example)
- Make clear in regulation that practice of MST-FFT is not autonomous and that provision of these practices is dependent upon team-affiliation and meeting fidelity standards within that team

Enhancement of Behavioral Health Services

Special Session 2020: Revised Implementation VERSION 2

	Fiscal Year 21-22
General Fund	$10,273,553
Non-General Funds	$14,070,322
TOTAL FUNDS	$24,343,875

Implementation *July 2021*
Assertive Community Treatment
Partial Hospitalization
Intensive Outpatient Programs

Implementation *December 2021*
Multi-Systemic Therapy
Functional Family Therapy
Comprehensive Crisis Services
(23 hour beds, Residential Crisis, Community Based Stabilization, Mobile Crisis Intervention)

Thank you for your partnership, support and participation.

Additional Questions?

Please contact us at:
Enhancedbh@dmas.virginia.gov

Agenda Item: **Regulatory Actions - Chart of Regulatory Actions**

Staff Note: Attached is a chart with the status of regulations for the Board as of January 8, 2021

Board of Counseling

Chapter		Action / Stage Information
[18 VAC 115 - 20]	Regulations Governing the Practice of Professional Counseling	Unprofessional conduct - conversion therapy [Action 5225] Proposed - *Register Date: 8/31/20* *Comment period closed: 10/30/20* *Board to adopt final regulations: 2/5/21*
[18 VAC 115 - 20]	Regulations Governing the Practice of Professional Counseling	Periodic review [Action 5230] Proposed - *At Governor's Office for 32 days*
[18 VAC 115 - 20]	Regulations Governing the Practice of Professional Counseling	Resident license [Action 5371] Proposed - *Register Date: 9/14/20* *Comment period closed: 11/13/20* *Board to adopt final regulations: 2/5/21*
[18 VAC 115 - 40]	Regulations Governing the Certification of Rehabilitation Providers	Periodic review [Action 5305] Proposed - *Register Date: 9/14/20* *Comment period closed: 11/13/20* *Board to adopt final regulations: 2/5/21*
[18 VAC 115 - 90]	Regulations Governing the Licensure of Art Therapists (under development)	New chapter for licensure [Action 5656] NOIRA - *At Governor's Office for 3 days*

Agenda Item: Adoption of final regulation on Conversion Therapy

Included in your agenda package are:

Copy of announcement on Townhall

Copy of minutes of public hearing on proposed regulations (10/23)

Copies of comments received on Townhall

Copy of Code section as added by the 2020 General Assembly

Copy of proposed regulations with change in definition for consistency with the definition in the Code

Committee action:

To recommend that the Board adopt final regulations as amended to conform definition to the definition now included in 54.1-2409.5 of the Code of Virginia;

Or

To take other action.

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VIRGINIA REGULATORY TOWN HALL

Agency Department of Health Professions

Board Board of Counseling

Chapter **Regulations Governing the Practice of Professional Counseling [18 VAC 115 - 20]**

Action: Unprofessional conduct - conversion therapy

Proposed Stage Action 5225 / Stage 8743

Edit Stage | Withdraw Stage | Go to RIS Project

Documents

Proposed Text	11/18/2019 3:20 pm	Sync Text with RIS
Agency Background Document	9/4/2019	Upload / Replace
Attorney General Certification	10/8/2019	
DPB Economic Impact Analysis	11/22/2019 (modified 12/19/2019)	
Agency Response to EIA	2/25/2020	Upload / Replace
Governor's Review Memo	8/6/2020	
Registrar Transmittal	8/6/2020	

Status

Incorporation by Reference	No
Exempt from APA	No, this stage/action is subject to article 2 of the *Administrative Process Act* and the standard executive branch review process.
Attorney General Review	Submitted to OAG: 9/4/2019 Review Completed: 10/8/2019 Result: Certified
DPB Review	Submitted on 10/8/2019 Economist: Jini Rao Policy Analyst: Jeannine Rose Review Completed: 11/22/2019 *DPB's policy memo is "Governor's Confidential Working Papers"*
Secretary Review	Secretary of Health and Human Resources Review Completed: 5/29/2020
Governor's Review	Review Completed: 8/6/2020 Result: Approved
Virginia Registrar	Submitted on 8/6/2020 The Virginia Register of Regulations Publication Date: 8/31/2020 Volume: 37 Issue: 1
Public Hearings	10/23/2020 9:45 AM

Comment Period	**Ended 10/30/2020** **6 comments**

Contact Information

Name / Title:	Jaime Hoyle / *Executive Director*
Address:	9960 Mayland Drive Suite 300 Richmond, VA 23233
Email Address:	**jaime.hoyle@dhp.virginia.gov**
Telephone:	(804)367-4406 FAX: (804)527-4435 TDD: ()-

This person is the primary contact for this board.
This stage was created by Elaine J. Yeatts on 09/04/2019
16

VIRGINIA BOARD OF COUNSELING
PUBLIC HEARING
Friday, October 23, 2020

TIME AND PLACE: Consistent with Amendment 28 to HB29 (the Budget Bill for 2018-2020) and the applicable provisions of § 2.2-3708.2 in the Freedom of Information Act, the Committee convened the meeting virtually to consider such regulatory and business matters as are presented on the agenda necessary for the committee to discharge its lawful purposes, duties, and responsibilities.

PRESIDING: Holly Tracy, LPC, LMFT, Chairperson

BOARD STAFF PRESENT: Jaime Hoyle, JD, Executive Director
Charlotte Lenart, Deputy Executive Director-Licensing
Jared McDonough, Administrative Assistant
Sharniece Vaughan, Licensing Specialist

OTHER STAFF PRESENT: Elaine Yeatts, DHP Senior Policy Analyst

PURPOSE OF HEARING: To received public comment on the Board's proposed regulatory change to amend its regulations to specify in regulations that the standard of practice requiring persons license, certified or registered by the Board to" *Practice in a manner that is in the best interest of the public and does not endanger the public health, safety, or welfare*" precludes the provision of conversion therapy and to define what conversion therapy is and is not.

CALL TO ORDER: Ms. Tracy called the virtual hearing to order at 9:45 a.m.

VIRTUAL PUBLIC ATTENDEES: Adam Trimmer, Born Perfect Virginia Ambassador
Dr. MurielAzia-Evans, LPC
Ari Loach, LPC
Calvin Bartella
Lindsay Goodrich Komline

PUBLIC COMMENT: Adam Trimmer stated that he is a survivor of conversion therapy and he appreciates and supports the Board's efforts on the regulatory changes on conversion therapy.

Dr. Azia-Evans, LPC, advocated that there is no scientific evidence that conversion therapy is helpful, and it has shown to be harmful and unethical. Expressed support for the Board's intended regulations.

Ari Loach, LPC, comments echoed Dr. Azia-Evans comments and supported the intended regulatory changes.

ADJOURNMENT: Ms. Tracy adjourned the Public Hearing at 9:52 a.m.

Holly Tracy, LPC, LMFT
Chairperson

11/4/2020
Date

Jaimie Hoyle, JD
Executive Director

11/6/2020
Date

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Agency Department of Health Professions

Board Board of Counseling

Chapter Regulations Governing the Practice of Professional Counseling [18 VAC 115 - 20]

Action	Unprofessional conduct - conversion therapy
Stage	Proposed
Comment Period	Ends 10/30/2020

6 comments

All good comments for this forum Show Only Flagged

Back to List of Comments

Commenter: Regan Price, Virginia Tech Graduate School 9/27/20 5:19 pm

In Support of Proposed Regulatory Change

As a private citizen, a policy student, and an LGBTQ ally, I would like to voice my approval for the proposed rule change to ban conversion therapy by accredited/licensed counseling professionals. In my anecdotal experience, I have heard from many LGBTQ persons who were forced to endure conversion therapy and it caused emotional harm to their sense of well-being and acceptance of identity. Not only is conversion therapy harmful to the wellbeing of its clients, but it has also been discredited by almost all of the scientific community ("Conversion Therapy," 2020). I am pleased that policymakers and public administrators are working to create an equitable Commonwealth and ensure that we support the LGBTQ members of our community and not cause further harm through this discredited and harmful form of "therapy."

Conversion Therapy (2020). *Southern Poverty Law Center.* Retrieved: https://www.splcenter.org/issues/lgbt-rights/conversion-therapy

CommentID: 86693

Commenter: Carrie Hartwell, PhD, LCSW 10/23/20 1:42 pm

Ban Conversion "therapy"

I am an LCSW who has been in practice for over 20 years, serving a wide range of clientele including members of the LGBTQ+ community. I am also a professor in a social work graduate program. There is no scientific basis for "conversion therapy" and substantial research demonstrating the significant harm it can cause. It is based on the religious and associated political perspectives of those who believe (falsely) that sexual orientation is a choice and something that individuals can "overcome" through through coercive practices. Science has consistently shown, however, that sexual orientation is not a "lifestyle" or a "choice" but rather a biologically based, inborn trait. We are ethically bound to refrain from imposing our own religious, social, or political perspectives on those we work with, and we are ethically and legally bound to provide appropriate, evidence-based services. Conversion therapy is based on intolerance for human diversity and a biased moralistic perspective that conflicts with science. As with any practices that have been consistently

shown to cause harm or to be ineffective, licensed professionals in Virginia and elsewhere must be prohibited from engaging in conversion "therapy" as it violates the principles to which we are ethically and legally bound.

CommentID: 87379

Commenter: Ari Laoch 10/26/20 8:43 am

Conversion 'therapy' is unprofessional conduct

I am a Virginia Licensed Professional Counselor, a Certified Rehabilitation Counselor, and a Certified Brain Injury Specialist-Trainer working in Richmond, VA. I provide mental health counseling and substance use counseling at a community-based organization and in private practice.
There is no scientifically validated or ethically acceptable way to change sexual orientation or gender identity and there is a consensus among professional organizations regarding the harmful effects of those attempts. Conversion (aka reparative) 'therapy' is harmful, unethical, and unprofessional conduct for any counselor; conversion 'therapy' is not in the best interest of the public.
The ACA Code of Ethics directs counselors to challenge our own provider bias, to provide competent services, and to challenge discrimination in all its forms. It is unethical to participate in conversion/reparative 'therapy' just as it is unethical to deny services to someone based on sexual orientation and/or gender. Counselors do no harm (nonmaleficence), we do good (beneficence), tell the truth (veracity), uphold and keep our word (fidelity), apply equal treatment to all (justice), and support persons in achieving their self-identified goals (autonomy), these are the ethical principles of a counselor. The idea of changing a person's gender identity or their sexual orientation is unfounded and clearly unethical behavior.
CommentID: 87380

Commenter: Muriel Azria-Evans 10/26/20 9:26 am

Ban Conversion "therapy"

Please stop PROFESSIONALS from doing harm to their clients by banning this "practice." Virginia must be on the right side of history on this. We must believe in the research that clearly supports conversion therapy is harmful to others. We must ensure that our regulations reflect our fundamental principle of professional ethical behavior specifically ***nonmaleficence***: avoiding actions that cause harm. Thank you

CommentID: 87381

Commenter: Melissa Andersen, LPC 10/29/20 4:59 pm

Unconditional Positive Regard

I am a Licensed Professional Counselor working as an Outpatient Therapist with a history in community work with in-home mental health services. I have worked with a very diverse background of people and there has been one common need, acceptance. There is no evidence of any benefit from conversion therapies or any treatment approach to change a persons sexual or gender identity. What we have seen evidence for is the harm created by these therapies and the rejection of a persons identity. It depletes their resiliency through removing social support, reducing self-worth, creating fractured ideas of themselves, and a lack of trust in others, in addition to increasing suicidal ideation. Though individual people maintain the right to hold a belief system, we as professionals have a responsibility to use evidence based practices and do no harm. We should not allow for personal belief systems to affect a clients treatment and we are obligated to be open to their actual needs for acceptance and unconditional positive regard. The attempt to actively

change them, violates that. Also, to allow any professional in the mental health field to hold a license and practice conversion therapy, threatens the trust that any of us can hold with people who seek that acceptance. There are many people who experience fear and distrust because of their circumstances, and mental health treatment and services should be a place where they feel safe, not as risk of further harm and estrangement. Thank you for your time and consideration.

CommentID: **87406**

Commenter: Todd Gathje, Ph.D., The Family Foundation 10/30/20 12:37 pm

Support Biologically Affirming Counseling

The Family Foundation is deeply concerned about this regulatory action that would prevent licensed practitioners to have conversations to help a minor patient overcome unwanted sexual desires or to feel comfortable in their own body. Therefore, we believe it's important that this board understand some of the inherent problems with this policy and its ultimate consequences.

First, and foremost, Virginia law makes clear that parents, not the government and its regulatory agencies, have a "fundamental right to make decisions concerning the upbringing, education, and care of the parent's child,", which includes seeking counseling that is consistent with their values and their judgement about their child's best interests. However, by prohibiting licensed professionals from simply talking about these issues, this regulatory action excludes an otherwise viable option for parents and their children to pursue.

Second, the law passed by the 2020 General Assembly along with this regulatory action expressly allows a licensed professional to promote the transgender lifestyle, including hormone treatments and surgery. It states: "Conversion therapy" does not include – meaning these things are not prohibited - counseling that facilitates a person's coping and identity exploration and development. It prohibits licensed professionals from helping kids resolve confusing or unwanted feelings about their identity by simply engaging in talk therapy with them in a way that affirms their biological and genetic characteristics.

Moreover, the law, and this proposed regulation, actually promotes so-called "conversion therapy" because it will permit a licensed professional to encourage a boy or girl to explore or affirm their unnatural and often unwanted same-sex attractions or to undergo the process of changing their physical bodies and to present as the opposite sex.

Third, there are serious mental and physical health concerns that we cannot and must not overlook if licensed professionals are only allowed to encourage patients to expand their sexuality, and even to undergo physical bodily changes in order to look more like the opposite sex. This policy proposal comes at a time when young teens are being overwhelmed with what could only be described as a sexual revolution in our culture. And it shouldn't be shocking that the number and also the suicide rates of children who struggle with unwanted sexual desires or gender dysphoria are on the rise.

A corrected 2019 study in the "American Journal of Psychiatry" also that found that transgender surgeries offer no mental health benefits for those who receive them. If this will not make a person happier or provide mental health benefits, should a licensed health professional then be allowed to encourage a child to embrace these transgender feelings even to the point of hormone treatment or mutilating the bodies they were born in, let alone be prohibited from encouraging that child to embrace the body they were born with?

To subject a licensed professional to disciplinary action for working with a willing client using talk therapy to overcome same sex desires, or the desire to project a new identity of the opposite sex, but not apply the same disciplinary action should their ideologically-based opinions lead to serious outcomes like suicide or more mental anguish after going through medical treatments, is hypocritical and frankly outrageous.

Finally, this proposed action will violate the constitutionally-protected free speech rights of health professionals willing to help those who are struggling with their sexuality by implementing viewpoint-based restrictions, or more commonly "viewpoint discrimination." Viewpoint discrimination is clearly evident in the law and the draft regulation before this board.
A prohibition on some talk therapy but not others is a complete double standard. It doesn't actually prohibit licensed professionals from engaging in any sexual orientation or gender identity change efforts requested by a patient; indeed, it gives licensed professionals the ability to encourage and support patients to explore their sexuality in various ways, and even to undergo physical bodily changes in order to look more like the opposite sex. However, the same counselor would now be prohibited from encouraging a minor to accept their biological sex. Those who do could face the loss of their professional license.

Recently, the U.S. Supreme Court rejected this type of restriction on professional speech in *NIFLA v. Bacerra*, which struck down a California law that forced certain speech requirements on pro-life pregnancy centers. In his majority opinion, Justice Thomas stated that "states cannot choose the protection that speech receives under the First Amendment, as that would give them a powerful tool to impose "invidious discrimination of disfavored subjects."

Justice Kennedy made an even more compelling and forceful admonition of viewpoint discrimination in his concurring opinion, opining that the California law "is a paradigmatic example of the serious threat presented when government seeks to impose its own message in the place of individual speech, thought, and expression" ... and that it "compels individuals to contradict their most deeply held beliefs, beliefs grounded in basic philosophical, ethical, or religious precepts, or all of these." *In that case, the Supreme Court actually reversed several similar bans on so-called "conversion therapy."*

We should expect that any regulatory action that subjects licensed health professionals to misconduct for engaging in this form of speech would receive the same judicial treatment.
Fort these reasons, we are notifying this board that this regulatory language is wholly inconsistent with the Constitution, and will thus be ripe for a legal challenge if you approve it.

CommentID: 87407

Code of Virginia
Title 54.1. Professions and Occupations
Chapter 24. General Provisions

§ 54.1-2409.5. Conversion therapy prohibited.

A. As used in this section, "conversion therapy" means any practice or treatment that seeks to change an individual's sexual orientation or gender identity, including efforts to change behaviors or gender expressions or to eliminate or reduce sexual or romantic attractions or feelings toward individuals of the same gender. "Conversion therapy" does not include counseling that provides acceptance, support, and understanding of a person or facilitates a person's coping, social support, and identity exploration and development, including sexual-orientation-neutral interventions to prevent or address unlawful conduct or unsafe sexual practices, as long as such counseling does not seek to change an individual's sexual orientation or gender identity.

B. No person licensed pursuant to this subtitle or who performs counseling as part of his training for any profession licensed pursuant to this subtitle shall engage in conversion therapy with a person under 18 years of age. Any conversion therapy efforts with a person under 18 years of age engaged in by a provider licensed in accordance with the provisions of this subtitle or who performs counseling as part of his training for any profession licensed pursuant to this subtitle shall constitute unprofessional conduct and shall be grounds for disciplinary action by the appropriate health regulatory board within the Department of Health Professions.

2020, cc. 41, 721.

go back | open in word

Project 5842 - Proposed

BOARD OF COUNSELING

Unprofessional conduct - conversion therapy

Part I

General Provisions

18VAC115-20-10. Definitions.

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

"Board"

"Counseling"

"Professional counselor"

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

"Ancillary counseling services" means activities such as case management, recordkeeping, referral, and coordination of services.

"Applicant" means any individual who has submitted an official application and paid the application fee for licensure as a professional counselor.

"CACREP" means the Council for Accreditation of Counseling and Related Educational Programs.

"Candidate for licensure" means a person who has satisfactorily completed all educational and experience requirements for licensure and has been deemed eligible by the board to sit for its examinations.

"Clinical counseling services" means activities such as assessment, diagnosis, treatment planning, and treatment implementation.

"Competency area" means an area in which a person possesses knowledge and skill and the ability to apply them in the clinical setting.

"Conversion therapy" means any practice or treatment [~~that seeks to change an individual's sexual orientation or gender identity, including efforts to change behaviors or gender expressions or to eliminate or reduce sexual or romantic attractions or feelings toward individuals of the same gender. Conversion therapy does not include:~~

~~1. Counseling that provides assistance to a person undergoing gender transition; or~~

~~2. Counseling that provides acceptance, support, and understanding of a person or facilitates a person's coping, social support, and identity exploration and development, including sexual-orientation-neutral interventions to prevent or address unlawful conduct or unsafe sexual practices, as long as such counseling does not seek to change an individual's sexual orientation or gender identity in any direction.~~

as defined in § 54.1-2409.5 (A) of the Code of Virginia.]

"CORE" means Council on Rehabilitation Education.

"Exempt setting" means an agency or institution in which licensure is not required to engage in the practice of counseling according to the conditions set forth in § 54.1-3501 of the Code of Virginia.

"Face-to-face" means the in-person delivery of clinical counseling services for a client.

"Group supervision" means the process of clinical supervision of no more than six persons in a group setting provided by a qualified supervisor.

"Internship" means a formal academic course from a regionally accredited college or university in which supervised, practical experience is obtained in a clinical setting in the application of counseling principles, methods, and techniques.

"Jurisdiction" means a state, territory, district, province, or country that has granted a professional certificate or license to practice a profession, use a professional title, or hold oneself out as a practitioner of that profession.

"Nonexempt setting" means a setting that does not meet the conditions of exemption from the requirements of licensure to engage in the practice of counseling as set forth in § 54.1-3501 of the Code of Virginia.

"Regional accrediting agency" means one of the regional accreditation agencies recognized by the U.S. Secretary of Education responsible for accrediting senior postsecondary institutions.

"Residency" means a postgraduate, supervised, clinical experience registered with the board.

"Resident" means an individual who has submitted a supervisory contract and has received board approval to provide clinical services in professional counseling under supervision.

"Supervision" means the ongoing process performed by a supervisor who monitors the performance of the person supervised and provides regular, documented individual or group consultation, guidance, and instruction that is specific to the clinical counseling services being performed with respect to the clinical skills and competencies of the person supervised.

Part V

Standards of Practice; Unprofessional Conduct; Disciplinary Actions; Reinstatement

18VAC115-20-130. 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. Regardless of the delivery method, whether in person, by phone, or electronically, these standards shall apply to the practice of counseling.

B. Persons licensed or 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 boundaries of their competence, based on their education, training, supervised experience, and appropriate professional experience and represent their education, training, and experience accurately to clients;

3. Stay abreast of new counseling information, concepts, applications, and practices that are necessary to providing appropriate, effective professional services;

4. Be able to justify all services rendered to clients as necessary and appropriate for diagnostic or therapeutic purposes;

5. Document the need for and steps taken to terminate a counseling relationship when it becomes clear that the client is not benefiting from the relationship. Document the assistance provided in making appropriate arrangements for the continuation of treatment for clients, when necessary, following termination of a counseling relationship;

6. Make appropriate arrangements for continuation of services, when necessary, during interruptions such as vacations, unavailability, relocation, illness, and disability;

7. Disclose to clients all experimental methods of treatment and inform clients of the risks and benefits of any such treatment. Ensure that the welfare of the clients is in no way compromised in any experimentation or research involving those clients;

8. Neither accept nor give commissions, rebates, or other forms of remuneration for referral of clients for professional services;

9. Inform clients of the purposes, goals, techniques, procedures, limitations, potential risks, and benefits of services to be performed; the limitations of confidentiality; and other pertinent information when counseling is initiated and throughout the counseling process as necessary. Provide clients with accurate information regarding the implications of diagnosis, the intended use of tests and reports, fees, and billing arrangements;

10. Select tests for use with clients that are valid, reliable, and appropriate and carefully interpret the performance of individuals not represented in standardized norms;

11. Determine whether a client is receiving services from another mental health service provider, and if so, refrain from providing services to the client without having an informed consent discussion with the client and having been granted communication privileges with the other professional;

12. Use only in connection with one's practice as a mental health professional those educational and professional degrees or titles that have been earned at a college or university accredited by an accrediting agency recognized by the U.S. Department of Education, or credentials granted by a national certifying agency, and that are counseling in nature; ~~and~~

13. Advertise professional services fairly and accurately in a manner that is not false, misleading, or deceptive; and

14. Not engage in conversion therapy with any person younger than 18 years of age.

C. In regard to patient records, persons licensed by the board shall:

1. Maintain written or electronic clinical records for each client to include treatment dates and identifying information to substantiate diagnosis and treatment plan, client progress, and termination;

2. 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;

3. Disclose or release records to others only with the client's expressed written consent or that of the client's legally authorized representative in accordance with § 32.1-127.1:03 of the Code of Virginia;

4. Ensure confidentiality in the usage of client records and clinical materials by obtaining informed consent from the client or the client's legally authorized representative before (i) videotaping, (ii) audio recording, (iii) permitting third party observation, or (iv) using identifiable client records and clinical materials in teaching, writing, or public presentations; and

5. Maintain client records for a minimum of five years or as otherwise required by law from the date of termination of the counseling relationship with the following exceptions:

a. At minimum, records of a minor child shall be maintained for five years after attaining the age of majority (18 years) or 10 years following termination, whichever comes later;

b. Records that are required by contractual obligation or federal law to be maintained for a longer period of time; or

c. Records that have been transferred to another mental health service provider or given to the client or his legally authorized representative.

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

1. Avoid dual relationships with clients that could impair professional judgment or increase the risk of harm to clients. Examples of such relationships include~~, but are not limited to,~~ familial, social, financial, business, bartering, or close personal relationships with clients. Counselors shall take appropriate professional precautions when a dual relationship cannot be avoided, such as informed consent, consultation, supervision, and documentation to ensure that judgment is not impaired and no exploitation occurs;

2. Not engage in any type of romantic relationships or sexual intimacies with clients or those included in a collateral relationship with the client and not counsel persons with whom they have had a romantic relationship or sexual intimacy. Counselors shall not engage in romantic relationships or sexual intimacies with former clients within a minimum of five years after terminating the counseling relationship. Counselors who engage in such relationship or intimacy after five years following termination shall have the responsibility to examine and document thoroughly that such relations do not have an exploitive nature, based on factors such as duration of counseling, amount of time since counseling, termination circumstances, client's personal history and mental status, or adverse impact on the client. A client's consent to, initiation of, or participation in sexual behavior or involvement with a counselor does not change the nature of the conduct nor lift the regulatory prohibition;

3. Not engage in any romantic relationship or sexual intimacy or establish a counseling or psychotherapeutic relationship with a supervisee or student. Counselors shall avoid any nonsexual dual relationship with a supervisee or student in which there is a risk of exploitation or potential harm to the supervisee or student or the potential for interference with the supervisor's professional judgment; and

4. Recognize conflicts of interest and inform all parties of the nature and directions of loyalties and responsibilities involved.

E. Persons licensed by this board shall report to the board known or suspected violations of the laws and regulations governing the practice of professional counseling.

F. Persons licensed by the board shall advise their clients of their right to report to the Department of Health Professions any information of which the licensee may become aware in his professional capacity indicating that there is a reasonable probability that a person licensed or certified as a mental health service provider, as defined in § 54.1-2400.1 of the Code of Virginia, may have engaged in unethical, fraudulent, or unprofessional conduct as defined by the pertinent licensing statutes and regulations.

Part I

General Provisions

18VAC115-30-10. Definitions.

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

"Board"

"Certified substance abuse counselor"

"Certified substance abuse counseling assistant"

"Licensed substance abuse treatment practitioner"

"Practice of substance abuse treatment"

"Substance abuse" and "substance dependence"

"Substance abuse treatment"

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

"Applicant" means an individual who has submitted a completed application with documentation and the appropriate fees to be examined for certification as a substance abuse counselor or substance abuse counseling assistant.

"Candidate" means a person who has been approved to take the examinations for certification as a substance abuse counselor or substance abuse counseling assistant.

"Clinical supervision" means the ongoing process performed by a clinical supervisor who monitors the performance of the person supervised and provides regular, documented face-to-face consultation, guidance and education with respect to the clinical skills and competencies of the person supervised.

"Clinical supervisor" means one who provides case-related supervision, consultation, education and guidance for the applicant. The supervisor must be credentialed as defined in 18VAC115-30-60 C.

"Competency area" means an area in which a person possesses knowledge and skill and the ability to apply them in the clinical setting.

"Contact hour" means the amount of credit awarded for 60 minutes of participation in and successful completion of a continuing education program.

"Conversion therapy" means any practice or treatment [~~that seeks to change an individual's sexual orientation or gender identity, including efforts to change behaviors or gender expressions or to eliminate or reduce sexual or romantic attractions or feelings toward individuals of the same gender. Conversion therapy does not include:~~

~~1. Counseling that provides assistance to a person undergoing gender transition; or~~

~~2. Counseling that provides acceptance, support, and understanding of a person or facilitates a person's coping, social support, and identity exploration and development, including sexual-orientation-neutral interventions to prevent or address unlawful conduct or unsafe sexual practices, as long as such counseling does not seek to change an individual's sexual orientation or gender identity in any direction.~~

as defined in § 54.1-2409.5 (A) of the Code of Virginia.]

"Didactic" means teaching-learning methods that impart facts and information, usually in the form of one-way communication (includes directed readings and lectures).

"Group supervision" means the process of clinical supervision of no less than two nor more than six persons in a group setting provided by a clinical supervisor.

"NAADAC" means the Association of Addiction Professionals.

"NCC AP" means the National Certification Commission for Addiction Professionals, an affiliate of NAADAC.

"Regionally accredited" means accredited by one of the regional accreditation agencies recognized by the U.S. Department of Education as responsible for accrediting senior postsecondary institutions.

"Substance abuse counseling" means applying a counseling process, treatment strategies and rehabilitative services to help an individual to:

1. Understand his substance use, abuse, or dependency; and

2. Change his drug-taking behavior so that it does not interfere with effective physical, psychological, social, or vocational functioning.

Part V

Standards of Practice; Disciplinary Actions; Reinstatement

18VAC115-30-140. 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 certified 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. Be able to justify all services rendered to clients as necessary for diagnostic or therapeutic purposes.

3. Practice only within the competency area for which they are qualified by training or experience.

4. Report to the board known or suspected violations of the laws and regulations governing the practice of certified substance abuse counselors or certified substance abuse counseling assistants.

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

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

7. Document the need for and steps taken to terminate a counseling relationship when it becomes clear that the client is not benefiting from the relationship. Document the

assistance provided in making arrangements for the continuation of treatment for clients when necessary, following termination of a counseling relationship.

8. 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.

9. Not engage in conversion therapy with any person younger than 18 years of age.

C. In regard to client records, persons certified by the board shall:

1. Disclose counseling records to others only in accordance with applicable law.

2. 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.

3. Ensure confidentiality in the usage of client records and clinical materials by obtaining informed consent from the client or the client's legally authorized representative before (i) videotaping, (ii) audio recording, (iii) permitting third-party observation, or (iv) using identifiable client records and clinical materials in teaching, writing, or public presentations.

4. Maintain timely, accurate, legible, and complete written or electronic records for each client, to include counseling dates and identifying information to substantiate the substance abuse counseling plan, client progress, and termination.

5. Maintain client records for a minimum of five years or as otherwise required by law from the date of termination of the counseling relationship with the following exceptions:

a. At minimum, records of a minor child shall be maintained for five years after attaining the age of majority (18 years);

b. Records that are required by contractual obligation or federal law to be maintained for a longer period of time; or

c. Records that have been transferred to another mental health service provider or given to the client or the client's legally authorized representative.

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

1. Not engage in dual relationships with clients, former clients, supervisees, and supervisors that are harmful to the client's or supervisee's well-being or that would impair the substance abuse counselor's, substance abuse counseling assistant's, or supervisor's objectivity and professional judgment or increase the risk of client or supervisee exploitation. This prohibition includes such activities as counseling 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 or supervisees. For at least five years after cessation or termination of professional services, certified substance abuse counselors and certified substance abuse counseling assistants 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, certified substance abuse counselors and certified substance abuse counseling assistants 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 certified substance abuse counselor or certified substance abuse counseling assistants 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 provider is or may be guilty of a violation of standards of conduct as defined in statute or regulation, persons certified by the board shall advise their clients of their right to report such misconduct to the Department of Health Professions in accordance with § 54.1-2400.4 of the Code of Virginia.

18VAC115-50-10. Definitions.

A. The following words and terms when used in this chapter shall have the meaning ascribed to them in § 54.1-3500 of the Code of Virginia: (i) "board," (ii) "marriage and family therapy," (iii) "marriage and family therapist," and (iv) "practice of marriage and family therapy."

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

"Ancillary counseling services" means activities such as case management, recordkeeping, referral, and coordination of services.

"CACREP" means the Council for Accreditation of Counseling and Related Educational Programs.

"COAMFTE" means the Commission on Accreditation for Marriage and Family Therapy Education.

"Clinical marriage and family services" means activities such as assessment, diagnosis, and treatment planning and treatment implementation for couples and families.

"Conversion therapy" means any practice or treatment [~~that seeks to change an individual's sexual orientation or gender identity, including efforts to change behaviors or gender expressions or to eliminate or reduce sexual or romantic attractions or feelings toward individuals of the same gender. Conversion therapy does not include:~~

~~1. Counseling that provides assistance to a person undergoing gender transition; or~~

~~2. Counseling that provides acceptance, support, and understanding of a person or facilitates a person's coping, social support, and identity exploration and development, including sexual-orientation-neutral interventions to prevent or address unlawful conduct or unsafe sexual practices, as long as such counseling does not seek to change an individual's sexual orientation or gender identity in any direction.~~

as defined in § 54.1-2409.5 (A) of the Code of Virginia.]

"Face-to-face" means the in-person delivery of clinical marriage and family services for a client.

"Internship" means a formal academic course from a regionally accredited university in which supervised practical experience is obtained in a clinical setting in the application of counseling principles, methods, and techniques.

"Regional accrediting agency" means one of the regional accreditation agencies recognized by the U.S. Secretary of Education as responsible for accrediting senior post-secondary institutions and training programs.

"Residency" means a postgraduate, supervised clinical experience registered with the board.

"Resident" means an individual who has submitted a supervisory contract to the board and has received board approval to provide clinical services in marriage and family therapy under supervision.

"Supervision" means an ongoing process performed by a supervisor who monitors the performance of the person supervised and provides regular, documented, individual or group consultation, guidance, and instruction with respect to the clinical skills and competencies of the person or persons being supervised.

18VAC115-50-110. Standards of practice.

A. The protection of the public's 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. Regardless of the delivery method, whether in person, by phone or electronically, these standards shall apply to the practice of marriage and family therapy.

B. Persons licensed or 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 boundaries of their competence, based on their education, training, supervised experience, and appropriate professional experience and represent their education, training, and experience accurately to clients;

3. Stay abreast of new marriage and family therapy information, concepts, applications, and practices that are necessary to providing appropriate, effective professional services;

4. Be able to justify all services rendered to clients as necessary and appropriate for diagnostic or therapeutic purposes;

5. Document the need for and steps taken to terminate a counseling relationship when it becomes clear that the client is not benefiting from the relationship. Document the assistance provided in making appropriate arrangements for the continuation of treatment for clients, when necessary, following termination of a counseling relationship;

6. Make appropriate arrangements for continuation of services, when necessary, during interruptions such as vacations, unavailability, relocation, illness, and disability;

7. Disclose to clients all experimental methods of treatment and inform client of the risks and benefits of any such treatment. Ensure that the welfare of the client is not compromised in any experimentation or research involving those clients;

8. Neither accept nor give commissions, rebates or other forms of remuneration for referral of clients for professional services;

9. Inform clients of the purposes, goals, techniques, procedures, limitations, potential risks, and benefits of services to be performed; the limitations of confidentiality; and other pertinent information when counseling is initiated and throughout the counseling process as necessary. Provide clients with accurate information regarding the implications of diagnosis, the intended use of tests and reports, fees, and billing arrangements;

10. Select tests for use with clients that are valid, reliable, and appropriate and carefully interpret the performance of individuals not represented in standardized norms;

11. Determine whether a client is receiving services from another mental health service provider, and if so, refrain from providing services to the client without having an informed consent discussion with the client and having been granted communication privileges with the other professional;

12. Use only in connection with one's practice as a mental health professional those educational and professional degrees or titles that have been earned at a college or university accredited by an accrediting agency recognized by the U.S. Department of Education, or credentials granted by a national certifying agency, and that are counseling in nature; ~~and~~

13. Advertise professional services fairly and accurately in a manner that is not false, misleading or deceptive; and

14. Not engage in conversion therapy with any person younger than 18 years of age.

C. In regard to patient records, persons licensed by the board shall:

1. Maintain written or electronic clinical records for each client to include treatment dates and identifying information to substantiate diagnosis and treatment plan, client progress, and termination;

2. 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;

3. Disclose or release client records to others only with clients' expressed written consent or that of their legally authorized representative in accordance with § 32.1-127.1:03 of the Code of Virginia;

4. Ensure confidentiality in the usage of client records and clinical materials by obtaining informed consent from clients or their legally authorized representative before (i) videotaping, (ii) audio recording, (iii) permitting third party observation, or (iv) using identifiable client records and clinical materials in teaching, writing, or public presentations; and

5. Maintain client records for a minimum of five years or as otherwise required by law from the date of termination of the counseling relationship with the following exceptions:

a. At minimum, records of a minor child shall be maintained for five years after attaining the age of majority (18 years) or 10 years following termination, whichever comes later;

b. Records that are required by contractual obligation or federal law to be maintained for a longer period of time; or

c. Records that have transferred to another mental health service provider or given to the client or his legally authorized representative.

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

1. Avoid dual relationships with clients that could impair professional judgment or increase the risk of harm to clients. Examples of such relationships include~~, but are not limited to,~~ familial, social, financial, business, bartering, or close personal relationships with clients. Marriage and family therapists shall take appropriate professional precautions when a dual relationship cannot be avoided, such as informed consent, consultation, supervision, and documentation to ensure that judgment is not impaired and no exploitation occurs;

2. Not engage in any type of romantic relationships or sexual intimacies with clients or those included in a collateral relationship with the client and also not counsel persons with whom they have had a sexual intimacy or romantic relationship. Marriage and family therapists shall not engage in romantic relationships or sexual intimacies with former clients within a minimum of five years after terminating the counseling relationship. Marriage and family therapists who engage in such relationship or intimacy after five years following termination shall have the responsibility to examine and document thoroughly that such relations do not have an exploitive nature, based on factors such as duration of counseling, amount of time since counseling, termination circumstances, client's personal history and mental status, or adverse impact on the client. A client's consent to, initiation of or participation in sexual behavior or involvement with a marriage and family therapist does not change the nature of the conduct nor lift the regulatory prohibition;

3. Not engage in any romantic relationships or sexual relationship or establish a counseling or psychotherapeutic relationship with a supervisee or student. Marriage and family therapists shall avoid any nonsexual dual relationship with a supervisee or student in which there is a risk of exploitation or potential harm to the supervisee or student or the potential for interference with the supervisor's professional judgment; and

4. Recognize conflicts of interest and inform all parties of the nature and directions of loyalties and responsibilities involved.

E. Persons licensed by this board shall report to the board known or suspected violations of the laws and regulations governing the practice of marriage and family therapy.

F. Persons licensed by the board shall advise their clients of their right to report to the Department of Health Professions any information of which the licensee may become aware in his professional capacity indicating that there is a reasonable probability that a person licensed or certified as a mental health service provider, as defined in § 54.1-2400.1 of the Code of Virginia, may have engaged in unethical, fraudulent or unprofessional conduct as defined by the pertinent licensing statutes and regulations.

Part I

General Provisions

18VAC115-60-10. Definitions.

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

"Board"

"Licensed substance abuse treatment practitioner"

"Substance abuse"

"Substance abuse treatment"

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

"Ancillary services" means activities such as case management, recordkeeping, referral, and coordination of services.

"Applicant" means any individual who has submitted an official application and paid the application fee for licensure as a substance abuse treatment practitioner.

"CACREP" means the Council for Accreditation of Counseling and Related Educational Programs.

"Candidate for licensure" means a person who has satisfactorily completed all educational and experience requirements for licensure and has been deemed eligible by the board to sit for its examinations.

"Clinical substance abuse treatment services" means activities such as assessment, diagnosis, treatment planning, and treatment implementation.

"COAMFTE" means the Commission on Accreditation for Marriage and Family Therapy Education.

"Competency area" means an area in which a person possesses knowledge and skill and the ability to apply them in the clinical setting.

"Conversion therapy" means any practice or treatment [~~that seeks to change an individual's sexual orientation or gender identity, including efforts to change behaviors or gender expressions or to eliminate or reduce sexual or romantic attractions or feelings toward individuals of the same gender. Conversion therapy does not include:~~

~~1. Counseling that provides assistance to a person undergoing gender transition; or~~

~~2. Counseling that provides acceptance, support, and understanding of a person or facilitates a person's coping, social support, and identity exploration and development, including sexual-orientation-neutral interventions to prevent or address unlawful conduct or unsafe sexual practices, as long as such counseling does not seek to change an individual's sexual orientation or gender identity in any direction.~~

as defined in § 54.1-2409.5 (A) of the Code of Virginia.]

"Exempt setting" means an agency or institution in which licensure is not required to engage in the practice of substance abuse treatment according to the conditions set forth in § 54.1-3501 of the Code of Virginia.

"Face-to-face" means the in-person delivery of clinical substance abuse treatment services for a client.

"Group supervision" means the process of clinical supervision of no more than six persons in a group setting provided by a qualified supervisor.

"Internship" means a formal academic course from a regionally accredited university in which supervised, practical experience is obtained in a clinical setting in the application of counseling principles, methods and techniques.

"Jurisdiction" means a state, territory, district, province, or country ~~which~~ that has granted a professional certificate or license to practice a profession, use a professional title, or hold oneself out as a practitioner of that profession.

"Nonexempt setting" means a setting ~~which~~ that does not meet the conditions of exemption from the requirements of licensure to engage in the practice of substance abuse treatment as set forth in § 54.1-3501 of the Code of Virginia.

"Regional accrediting agency" means one of the regional accreditation agencies recognized by the U.S. Secretary of Education responsible for accrediting senior postsecondary institutions.

"Residency" means a postgraduate, supervised, clinical experience registered with the board.

"Resident" means an individual who has submitted a supervisory contract and has received board approval to provide clinical services in substance abuse treatment under supervision.

"Supervision" means the ongoing process performed by a supervisor who monitors the performance of the person supervised and provides regular, documented individual or group consultation, guidance, and instruction with respect to the clinical skills and competencies of the person supervised.

Part V

Standards of Practice; Unprofessional Conduct; Disciplinary Actions; Reinstatement

18VAC115-60-130. 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. Regardless of the delivery method, whether in person, by phone or electronically, these standards shall apply to the practice of substance abuse treatment.

B. Persons licensed or 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 boundaries of their competence, based on their education, training, supervised experience and appropriate professional experience and represent their education, training and experience accurately to clients;

3. Stay abreast of new substance abuse treatment information, concepts, application, and practices that are necessary to providing appropriate, effective professional services;

4. Be able to justify all services rendered to clients as necessary and appropriate for diagnostic or therapeutic purposes;

5. Document the need for and steps taken to terminate a counseling relationship when it becomes clear that the client is not benefiting from the relationship. Document the assistance provided in making appropriate arrangements for the continuation of treatment for clients, when necessary, following termination of a counseling relationship;

6. Make appropriate arrangements for continuation of services, when necessary, during interruptions such as vacations, unavailability, relocation, illness, and disability;

7. Disclose to clients all experimental methods of treatment and inform clients of the risks and benefits of any such treatment. Ensure that the welfare of the clients is in no way compromised in any experimentation or research involving those clients;

8. Neither accept nor give commissions, rebates, or other forms of remuneration for referral of clients for professional services;

9. Inform clients of the purposes, goals, techniques, procedures, limitations, potential risks, and benefits of services to be performed; the limitations of confidentiality; and other pertinent information when counseling is initiated and throughout the counseling process as necessary. Provide clients with accurate information regarding the implications of diagnosis, the intended use of tests and reports, fees, and billing arrangements;

10. Select tests for use with clients that are valid, reliable, and appropriate and carefully interpret the performance of individuals not represented in standardized norms;

11. Determine whether a client is receiving services from another mental health service provider, and if so, refrain from providing services to the client without having an informed consent discussion with the client and having been granted communication privileges with the other professional;

12. Use only in connection with one's practice as a mental health professional those educational and professional degrees or titles that have been earned at a college or

university accredited by an accrediting agency recognized by the U.S. Department of Education, or credentials granted by a national certifying agency, and that are counseling in nature; ~~and~~

13. Advertise professional services fairly and accurately in a manner that is not false, misleading or deceptive; and

14. Not engage in conversion therapy with any person younger than 18 years of age.

C. In regard to patient records, persons licensed by the board shall:

1. Maintain written or electronic clinical records for each client to include treatment dates and identifying information to substantiate diagnosis and treatment plan, client progress, and termination;

2. 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;

3. Disclose or release records to others only with clients' expressed written consent or that of their legally authorized representative in accordance with § 32.1-127.1:03 of the Code of Virginia;

4. Maintain client records for a minimum of five years or as otherwise required by law from the date of termination of the substance abuse treatment relationship with the following exceptions:

a. At minimum, records of a minor child shall be maintained for five years after attaining the age of majority (18 years) or 10 years following termination, whichever comes later;

b. Records that are required by contractual obligation or federal law to be maintained for a longer period of time; or

c. Records that have been transferred to another mental health service provider or given to the client; and

5. Ensure confidentiality in the usage of client records and clinical materials by obtaining informed consent from clients or their legally authorized representative before (i) videotaping, (ii) audio recording, (iii) permitting third party observation, or (iv) using identifiable client records and clinical materials in teaching, writing or public presentations.

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

1. Avoid dual relationships with clients that could impair professional judgment or increase the risk of harm to clients. Examples of such relationships include~~, but are not limited to,~~ familial, social, financial, business, bartering, or close personal relationships with clients. Counselors shall take appropriate professional precautions when a dual relationship cannot be avoided, such as informed consent, consultation, supervision, and documentation to ensure that judgment is not impaired and no exploitation occurs;

2. Not engage in any type of romantic relationships or sexual intimacies with clients or those included in a collateral relationship with the client and not counsel persons with whom they have had a romantic relationship or sexual intimacy. Licensed substance abuse treatment practitioners shall not engage in romantic relationships or sexual intimacies with former clients within a minimum of five years after terminating the counseling relationship. Licensed substance abuse treatment practitioners who engage in such relationship or intimacy after five years following termination shall have the responsibility to examine and document thoroughly that such relations do not have an exploitive nature, based on factors such as duration of counseling, amount of time since counseling, termination circumstances, client's personal history and mental status, or adverse impact on the client. A client's consent to, initiation of or participation in sexual

behavior or involvement with a licensed substance abuse treatment practitioner does not change the nature of the conduct nor lift the regulatory prohibition;

3. Not engage in any sexual intimacy or romantic relationship or establish a counseling or psychotherapeutic relationship with a supervisee or student. Licensed substance abuse treatment practitioners shall avoid any nonsexual dual relationship with a supervisee or student in which there is a risk of exploitation or potential harm to the supervisee or the potential for interference with the supervisor's professional judgment; and

4. Recognize conflicts of interest and inform all parties of the nature and directions of loyalties and responsibilities involved.

E. Persons licensed by this board shall report to the board known or suspected violations of the laws and regulations governing the practice of substance abuse treatment.

F. Persons licensed by the board shall advise their clients of their right to report to the Department of Health Professions any information of which the licensee may become aware in his professional capacity indicating that there is a reasonable probability that a person licensed or certified as a mental health service provider, as defined in § 54.1-2400.1 of the Code of Virginia, may have engaged in unethical, fraudulent or unprofessional conduct as defined by the pertinent licensing statutes and regulations.

Agenda Item: Adoption of Amendments for a Resident License

Included in your agenda package are:

Copy of announcement on Townhall

Summary of comments on proposed regulations

Copies of comments received on Townhall

Copy of proposed regulations

Committee Action:

Recommendation for adoption of final amendments to regulations identical to emergency regulations and to the proposed regulations; or

Recommendation for other action.

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VIRGINIA REGULATORY TOWN HALL

Agency **Department of Health Professions**

Board **Board of Counseling**

Chapter **Regulations Governing the Practice of Professional Counseling [18 VAC 115 - 20]**

Action: Resident license

Proposed Stage

Action 5371 / Stage 8897

Edit Stage | Withdraw Stage | Go to RIS Project

Documents

Proposed Text	9/9/2020 2:44 pm	Sync Text with RIS
Agency Background Document	2/20/2020	Upload / Replace
Attorney General Certification	3/3/2020	
DPB Economic Impact Analysis	4/13/2020	
Agency Response to EIA	6/1/2020	Upload / Replace
Governor's Review Memo	8/12/2020	
Registrar Transmittal	8/16/2020	

Status

Changes to Text	The proposed text has changed from that of the **emergency stage**.
Incorporation by Reference	No
Exempt from APA	No, this stage/action is subject to article 2 of the *Administrative Process Act* and the standard executive branch review process.
Attorney General Review	Submitted to OAG: 2/20/2020 Review Completed: 3/3/2020 Result: Certified
DPB Review	Submitted on 3/3/2020 Economist: Oscar Ozfidan Policy Analyst: Cari Corr Review Completed: 4/16/2020 *DPB's policy memo is "Governor's Confidential Working Papers"*
Secretary Review	Secretary of Health and Human Resources Review Completed: 5/29/2020
Governor's Review	Review Completed: 8/12/2020 Result: Approved
Virginia Registrar	Submitted on 8/16/2020 The Virginia Register of Regulations Publication Date: 9/14/2020 **Volume: 37 Issue: 2**
Public Hearings	**10/23/2020 10:20 AM**

Comment Period	**Ended 11/13/2020** **13 comments**

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This person is the primary contact for this board.
This stage was created by Elaine J. Yeatts on 02/20/2020
16

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VIRGINIA REGULATORY TOWN HALL

Proposed Text

highlight

Action: Resident license
Stage: Proposed 9/9/20 2:44 PM [latest]

18VAC115-20-10
Part I
General Provisions

18VAC115-20-10. Definitions.

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

"Board"

"Counseling"

"Professional counselor"

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

"Ancillary counseling services" means activities such as case management, recordkeeping, referral, and coordination of services.

"Applicant" means any individual who has submitted an official application and paid the application fee for licensure as a professional counselor.

"CACREP" means the Council for Accreditation of Counseling and Related Educational Programs.

"Candidate for licensure" means a person who has satisfactorily completed all educational and experience requirements for licensure and has been deemed eligible by the board to sit for its examinations.

"Clinical counseling services" means activities such as assessment, diagnosis, treatment planning, and treatment implementation.

"Competency area" means an area in which a person possesses knowledge and skill and the ability to apply them in the clinical setting.

"CORE" means Council on Rehabilitation Education.

"Exempt setting" means an agency or institution in which licensure is not required to engage in the practice of counseling according to the conditions set forth in § 54.1-3501 of the Code of Virginia.

"Face-to-face" means the in-person delivery of clinical counseling services for a client.

"Group supervision" means the process of clinical supervision of no more than six persons in a group setting provided by a qualified supervisor.

Summary of Public Comment

Regulations Governing the Practice of Professional Counseling

Proposed regulations for licensure of residents in counseling were published on September 14, 2020 with comment accepted through November 13, 2020. A public hearing was conducted on October 23, 2020; no comment was received at the hearing.

The following comments were received through the Virginia Regulatory Townhall:

Commenter	Comment
Bob Horne	Requests hours provided via audio (telephone) be counted towards required residency hours.
Sandy Irby	Same as above
Kathryn Anderson	Same as above
Danyell Collins-Facteau	Same as above
Dr. Stacey Fernandes	Same as above
Andrea	Same as above
Dr. Melanie Burgess	Same as above
Jodie Burton	Same as above
Dillon Woods	Same as above
Jordan Frijas	Same as above; emergency regulations should allow for issuance of temporary licenses
M. Phillips, PhD	Same as above
Kristy Walker	Same as above
Andrew Leonard LCSW	Same as above

The Board will consider the comment and respond at the time of adoption of final regulations.

However, given that promulgation of an amended regulation is a lengthy process that will likely not be completed until sometime in 2021, the Board has requested a waiver of the current regulation to allow licensed residents, during the state of emergency, to count a maximum **of 10%** (200 hours) of their hours providing clinical services via audio communication (that does not have a visual component) toward the 2,000 hours of face-to-face client contact. If and when the waiver of regulations is approved, the Board will post that information for all licensees.

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VIRGINIA REGULATORY TOWN HALL

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Agency **Department of Health Professions**

Board **Board of Counseling**

Chapter **Regulations Governing the Practice of Professional Counseling [18 VAC 115 - 20]**

Action	Resident license
Stage	Proposed
Comment Period	Ends 11/13/2020

13 comments

All good comments for this forum Show Only Flagged

Back to List of Comments

Commenter: Bob Horne 10/21/20 10:21 am

Audio

Please consider allowing (at least a portion of) hours provided via audio to be counted toward heir hours. If DMAS is allowing for reimbursement for both Audio/Visual and audio only telehealth sessions, then these hours should be considered to count by the BHP as well.

CommentID: 87377

Commenter: Sandy Irby, Danville-Pittsylvania Community Services 10/23/20 1:06 pm

audio services

Please allow audio telephonic services to be allowed to count toward licensure hours. DMAS allows both visual and audio services to be billed.

CommentID: 87378

Commenter: Kathryn Anderson 10/26/20 1:46 pm

We didn't shut down.

Please allow audio telephonic services to be allowed to count toward licensure hours. When the pandemic hit we didn't stop "counseling" just because we had to use precautions to keep our communities and selves safer! We kept going, assisting our clients, and had to adapt to keep them stable through this pandemic without accidental exposure. Please don't make all the work and struggles we had to endure because of this pandemic mean nothing. We kept fighting because we were "essential", but doesn't that mean our work is important regardless if it's on the phone, in an office, out in the community, or somewhere else? Please allow these hours to count, they matter to us just as they mattered to our clients who received them when they were in need and couldn't/were too scared to leave home. Thank you.

CommentID: 87383

Commenter: Danyell Collins-Facteau 10/26/20 2:35 pm

Audio

These unprecedented times have required all (DMAS, DBHDS, clinicians) to be flexible and adaptable in an effort to meet the behavioral health needs of all. To echo others who have also commented, DMAS's flexibilities allow for both audio/video AND audio alone. This swift adaptation in billing/documentation and telephonic options has not only benefited service recipients as they did not experience an interruption to much needed services during a time of increased anxieties, but also Residents in Counseling, who with this invaluable experience, are paving the way in the field of behavioral telehealth. Not counting audio hours would imply that their service was not worthy of recognition and would be a disservice to an ever changing field.

CommentID: 87384

Commenter: Dr. Stacey Fernandes 10/26/20 3:38 pm

Audio residency hours

It is absolutely reprehensible that in times when counselors are in higher need than ever, we are penalizing residents by not allowing them to use audio hours to count towards their 3,400 hour residency. Despite much of the economy being in turmoil, one business that has picked up more than ever is mental health services. Now, more than ever, providing mental, behavioral, and emotional support is crucial as Virginians navigate their way through a seemingly never-ending pandemic, further complicated by job loss, schooling/childcare complications, and increasing political tensions. With counselors being essential during this time, it seems absurd that Virginia would place such a detrimental restriction on residents becoming licensed. Within the context of the four-year completion requirement, considering that at least one year is going to be telehealth (if not more, depending on what 2021 has in store), this is postponing the licensure of many hard-working residents and potentially putting them in a position where they will be required to petition the board for more time.

Virginia is well-known in the counseling world for having stringent requirements for becoming an LPC, which has helped showcase the high quality of counselors that are educated here. However, removing the ability to count audio-only sessions toward licensure--sessions which are being billed and accepted by insurances, by the way--is not something that will continue ensuring counselors have the best training, and does not seem to be anyone's benefit. It is only an unnecessary and, in these times, frankly cruel, further roadblock toward becoming professionals in an already under-funded, under-appreciated, and very difficult career field.

CommentID: 87386

Commenter: Andrea 10/26/20 5:08 pm

Audio residency hours

The COVID-19 pandemic has brought forth many challenges for a variety of different fields. Not only has the mental health field adapted to these challenges, but the number of people seeking out mental health treatment has increased since this pandemic has started. Resident's in counseling are being provided an opportunity to grow with this field and to grow as clinician's in ways that many of them probably never saw coming. They have had to adapt to different forms of providing therapy, many of which most residents would probably consider more challenging than the typical face-to-face format, which is what they were trained for. To be prevented from being able to utilize these hours would be like being told that their efforts have gone unnoticed and the hard work they are doing is not worthy of moving forward in their careers. Residents did not ask for this pandemic

to happen, but they are doing the best they can do adapt to that and they should not be punished for this.

CommentID: 87388

Commenter: Dr. Melanie Burgess

10/26/20 6:09 pm

Audio Hours

I strongly urge you to include audio hours towards residency licensure hours. Especially during a pandemic, counseling is an essential service that is effectively improving the lives of clients, regardless of the format (e.g., audio, video, or in-person modalities). Counselors have been flexible to adapt to the needs of their clients during an unprecedented pandemic; therefore, it is shocking that this barrier is being intentionally placed between mental health residents achieving well-deserved licensure.

Failing to count audio hours toward licensure makes the audacious and faulty assumption that audio hours are not worthy of recognition. This could not be further from the truth. Behavioral telehealth services are rescuing lives during unrest, turmoil, and existential crises related to this pandemic. Failure to recognize audio hours as worthy towards total residency licensure hours is disgraceful and appalling.

CommentID: 87389

Commenter: Jodie Burton, DPCS

10/29/20 9:53 am

audio services

Please allow audio services to count toward residency hours.

CommentID: 87405

Commenter: Dillon Woods

11/1/20 1:28 pm

Audio Hours

As someone who's mother has PTSD and cannot complete in-person treatment with a health professional, it seems apparent, if not necessary, to not allow residents making their way into the mental health professions the ability to procure hours toward licensing requirements by means of audio communication. While perhaps not suitable to ascertain analysis of in-person modality with a patient, you cannot expect all individuals, depending upon which part of the state they are in, to be able to fulfill these requirements amidst a pandemic. If not applicable, perhaps a cut-off or a codified timeframe in which audio is counted and then back to in-person requirements? At the minimum until the end of 2021, in hopes of a vaccine, whenever that will come to culmination. I am unjust in stating I understand all of the implications leading up to the conclusion to keep audio hours out of the legislation, but I implore you to reconsider. Even a phone call has shown exemplary aid in my mother's overall mental wellbeing. I am sure residents are eager to begin work during these tumultuous times, as they are utmost vital to combat the understated hardships of the pandemic. Please give them equal opportunity in all modalities of modern communication.

CommentID: 87409

Commenter: Jordan Frijas

11/8/20 9:45 pm

Pass Emergency Regulations

Many of my family members are professional counselors. It is imperative that emergency regulations make it easier for them to work during this pandemic. Emergency regulations for the issuance of temporary licenses to individuals should be granted. With this pandemic and its effects on health, now more than ever, changes and reforms must be accepted. Audio meetings should also count toward licensure hours.

CommentID: 87412

Commenter: M Phillips, PhD

11/13/20 4:35 pm

Essential workers must be acknowledged in all modalities.

At a time of pandemic, with the country in various states of quarantine, and with the dire need for mental health counseling in all its delivery modes made obvious, it is only just and fair, and respectful of these essential workers, to give them all credit towards licensure. This should be obvious, not something requiring petition. Anything less causes harm to all, including state government.

CommentID: 87423

Commenter: Kristy Walker

11/13/20 4:54 pm

Telephone contact is therapeutic

I cannot impress enough to the Board how imperative telephone counseling has been for my rural, lower SES, immunocompromised, and disabled clients during this pandemic. As resident counselors, we have had to embrace flexibility to meet the myriad of mental health needs that have been exacerbated by the uncertainty of these times we are living in. We are truly working in a proving ground, and to disallow the hours we have put into helping others amid a pandemic due to a lack of an electronic interface does not feel adaptive, but restrictive. If DMAS is allowing for reimbursement via telephone contact, how can not including those same hours in pursuit towards licensure be considered? Telephone counseling has a precedence - Suicide Hotlines save lives.

CommentID: 87424

Commenter: Andrew Leonard, LCSW

11/13/20 4:58 pm

The need for Residents in Counseling to count telehealth hours toward licensure.

In the light of the current pandemic, it has become necessary for supervisees and residents to do their contact via video chat and telephone. Many of our consumers, especially in impoverished areas, do not have access to computers, etc. Residents in Counseling need to be able to count their contact hours toward licensure, including telephone contacts.

CommentID: 87425

"Internship" means a formal academic course from a regionally accredited college or university in which supervised, practical experience is obtained in a clinical setting in the application of counseling principles, methods, and techniques.

"Jurisdiction" means a state, territory, district, province, or country that has granted a professional certificate or license to practice a profession, use a professional title, or hold oneself out as a practitioner of that profession.

"Nonexempt setting" means a setting that does not meet the conditions of exemption from the requirements of licensure to engage in the practice of counseling as set forth in § 54.1-3501 of the Code of Virginia.

"Regional accrediting agency" means one of the regional accreditation agencies recognized by the U.S. Secretary of Education responsible for accrediting senior postsecondary institutions.

"Residency" means a postgraduate, supervised, clinical experience ~~registered with the board~~.

"Resident" means an individual who has ~~submitted~~ a supervisory contract and has ~~received board approval~~ been issued a temporary license by the board to provide clinical services in professional counseling under supervision.

"Supervision" means the ongoing process performed by a supervisor who monitors the performance of the person supervised and provides regular, documented individual or group consultation, guidance, and instruction that is specific to the clinical counseling services being performed with respect to the clinical skills and competencies of the person supervised.

"Supervisory contract" means an agreement that outlines the expectations and responsibilities of the supervisor and resident in accordance with regulations of the board.

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

A. The board has established the following fees applicable to licensure as a professional counselor or a resident in counseling:

~~Active annual license renewal~~	~~$130~~
~~Inactive annual license renewal~~	~~$65~~
Initial licensure by examination: Application processing and initial licensure as a professional counselor	$175
Initial licensure by endorsement: Application processing and initial licensure as a professional counselor	$175
~~Registration of supervision~~ Application and initial licensure as a resident in counseling	$65
~~Add or change supervisor~~ Pre-review of education only	~~$30~~ $75
Duplicate license	$10
Verification of licensure to another jurisdiction	$30
Active annual license renewal for a professional counselor	$130
Inactive annual license renewal for a professional counselor	$65
Annual renewal for a resident in counseling	$30
Late renewal for a professional counselor	$45

Late renewal for a resident in counseling	$10
Reinstatement of a lapsed license for a professional counselor	$200
Reinstatement following revocation or suspension	$600
Replacement of or additional wall certificate	$25
Returned check	$35
~~Reinstatement following revocation or suspension~~	~~$600~~

B. All fees are nonrefundable.

C. Examination fees shall be determined and made payable as determined by the board.

18VAC115-20-40
Part II
Requirements for Licensure as a Professional Counselor

18VAC115-20-40. Prerequisites for licensure by examination.

Every applicant for licensure examination by the board shall:

1. Meet the degree program requirements prescribed in 18VAC115-20-49, the ~~course work~~ coursework requirements prescribed in 18VAC115-20-51, and the experience requirements prescribed in 18VAC115-20-52;

2. Pass the licensure examination specified by the board;

3. Submit the following to the board:

a. A completed application;

b. Official transcripts documenting the applicant's completion of the degree program and coursework requirements prescribed in 18VAC115-20-49 and 18VAC115-20-51. Transcripts previously submitted for ~~registration of supervision~~ board approval of a resident license do not have to be resubmitted unless additional coursework was subsequently obtained;

c. Verification of ~~Supervision~~ supervision forms documenting fulfillment of the residency requirements of 18VAC115-20-52 and copies of all required evaluation forms, including verification of current licensure of the supervisor if any portion of the residency occurred in another jurisdiction;

d. Verification of any other mental health or health professional license or certificate ever held in another jurisdiction;

e. The application processing and initial licensure fee as prescribed in 18VAC115-20-20; and

f. A current report from the U.S. Department of Health and Human Services National Practitioner Data Bank (NPDB); and

4. Have no unresolved disciplinary action against a mental health or health professional license or certificate held in Virginia or in another jurisdiction. The board will consider history of disciplinary action on a case-by-case basis.

18VAC115-20-52
18VAC115-20-52. ~~Residency~~ Resident license and requirements for a residency.

A. ~~Registration~~ Resident license. Applicants ~~who render~~ for temporary licensure as a resident in counseling ~~services~~ shall:

1. ~~With their supervisor, register their supervisory contract on the appropriate forms for board approval before starting to practice under supervision~~ Apply for licensure on a form provided by the board to include the following: (i) verification of a supervisory contract, (ii) the name and licensure number of the clinical supervisor and location for the supervised practice, and (iii) an attestation that the applicant will be providing clinical counseling services;

2. Have submitted an official transcript documenting a graduate degree ~~as~~ that meets the requirements specified in 18VAC115-20-49 to include completion of the coursework and internship requirement specified in 18VAC115-20-51; ~~and~~

3. Pay the registration fee;

4. Submit a current report from the U.S. Department of Health and Human Services National Practitioner Data Bank (NPDB); and

5. Have no unresolved disciplinary action against a mental health or health professional license, certificate, or registration in Virginia or in another jurisdiction. The board will consider the history of disciplinary action on a case-by-case basis.

B. Residency requirements.

1. The applicant for licensure as a professional counselor shall 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 the following areas:

a. Assessment and diagnosis using psychotherapy techniques;

b. Appraisal, evaluation, and diagnostic procedures;

c. Treatment planning and implementation;

d. Case management and recordkeeping;

e. Professional counselor identity and function; and

f. Professional ethics and standards of practice.

2. The residency shall include a minimum of 200 hours of in-person supervision between supervisor and resident in the consultation and review of clinical counseling services provided by the resident. Supervision shall occur at a minimum of one hour and a maximum of four hours per 40 hours of work experience during the period of the residency. For the purpose of meeting the 200-hour supervision requirement, in-person may include the use of secured technology that maintains client confidentiality and provides real-time, visual contact between the supervisor and the resident. Up to 20 hours of the supervision received during the supervised internship may be counted ~~towards~~ toward the 200 hours of in-person supervision if the supervision was provided by a licensed professional counselor.

3. No more than half of the 200 hours may be satisfied with group supervision. One hour of group supervision will be deemed equivalent to one hour of individual supervision.

4. Supervision that is not concurrent with a residency will not be accepted, nor will residency hours be accrued in the absence of approved supervision.

5. The residency shall include at least 2,000 hours of face-to-face client contact in providing clinical counseling services. The remaining hours may be spent in the performance of ancillary counseling services.

6. A graduate-level internship in excess of 600 hours, which was completed in a program that meets the requirements set forth in 18VAC115-20-49, may count for up to an additional 300 hours ~~towards~~ toward the requirements of a residency.

7. Supervised practicum and internship hours in a CACREP-accredited doctoral counseling program may be accepted for up to 900 hours of the residency requirement and up to 100 of the required hours of supervision provided the supervisor holds a current, unrestricted license as a professional counselor.

8. The residency shall be completed in not less than 21 months or more than four years. Residents who began a residency before August 24, 2016, shall complete the residency by August 24, 2020. An individual who does not complete the residency after four years shall submit evidence to the board showing why the supervised experience should be allowed to continue. A resident shall meet the renewal requirements of subsection C of 18VAC115-20-100 in order to maintain a license in current, active status.

9. The board may consider special requests in the event that the regulations create an undue burden in regard to geography or disability that limits the resident's access to qualified supervision.

10. Residents may not call themselves professional counselors, directly bill for services rendered, or in any way represent themselves as independent, autonomous practitioners or professional counselors. During the residency, residents shall use their names and the initials of their degree, and the title "Resident in Counseling" in all written communications. Clients shall be informed in writing ~~of the resident's status~~ that the resident does not have authority for independent practice and is under supervision and shall provide the supervisor's name, professional address, and phone number.

11. Residents shall not engage in practice under supervision in any areas for which they have not had appropriate education.

12. Residency hours approved by the licensing board in another United States jurisdiction that meet the requirements of this section shall be accepted.

C. Supervisory qualifications. A person who provides supervision for a resident in professional counseling shall:

1. Document two years of post-licensure clinical experience;

2. Have received professional training in supervision, consisting of three credit hours or 4.0 quarter hours in graduate-level coursework in supervision or at least 20 hours of continuing education in supervision offered by a provider approved under 18VAC115-20-106; and

3. Hold an active, unrestricted license as a professional counselor or a marriage and family therapist in the jurisdiction where the supervision is being provided. At least 100 hours of the supervision shall be rendered by a licensed professional counselor. Supervisors who are substance abuse treatment practitioners, school psychologists, clinical psychologists, clinical social workers, or psychiatrists and have been approved to provide supervision may continue to do so until August 24, 2017.

D. Supervisory responsibilities.

1. Supervision by any individual whose relationship to the resident compromises the objectivity of the supervisor is prohibited.

2. The supervisor of a resident shall assume full responsibility for the clinical activities of that resident specified within the supervisory contract for the duration of the residency.

3. The supervisor shall complete evaluation forms to be given to the resident at the end of each three-month period.

4. The supervisor shall report the total hours of residency and shall evaluate the applicant's competency in the six areas stated in subdivision B 1 of this section.

5. The supervisor shall provide supervision as defined in 18VAC115-20-10.

E. Applicants shall document successful completion of their residency on the Verification of Supervision Form at the time of application. Applicants must receive a satisfactory competency evaluation on each item on the evaluation sheet. Supervised experience obtained prior to April 12, 2000, may be accepted toward licensure if this supervised experience met the board's requirements that were in effect at the time the supervision was rendered.

18VAC115-20-70
Part III
Examinations

18VAC115-20-70. General examination requirements; schedules; time limits.

A. Every applicant for initial licensure by examination by the board as a professional counselor shall pass a written examination as prescribed by the board. An applicant is required to have passed the prescribed examination within six years from the date of initial issuance of a resident license by the board.

B. Every applicant for licensure by endorsement shall have passed a licensure examination in the jurisdiction in which licensure was obtained.

~~C. A candidate approved to sit for the examination shall pass the examination within two years from the date of such initial approval. If the candidate has not passed the examination by the end of the two-year period here prescribed:~~

~~1. The initial approval to sit for the examination shall then become invalid; and~~

~~2. The applicant shall file a new application with the board, meet the requirements in effect at that time, and provide evidence of why the board should approve the reapplication for examination. If approved by the board, the applicant shall pass the examination within two years of such approval. If the examination is not passed within the additional two-year period, a new application will not be accepted.~~

~~D.~~ C. The board shall establish a passing score on the written examination.

~~E.~~ D. A ~~candidate for examination or an applicant shall not provide clinical counseling services unless he is under supervision approved by the board~~ resident shall remain in a residency practicing under supervision until the resident has passed the licensure examination and been granted a license as a professional counselor.

18VAC115-20-100
Part IV
Licensure Renewal; Reinstatement

18VAC115-20-100. Annual renewal of licensure.

~~A. All licensees shall renew licenses on or before June 30 of each year.~~

~~B.~~ A. Every ~~license holder~~ licensed professional counselor who intends to continue an active practice shall submit to the board on or before June 30 of each year:

1. A completed form for renewal of the license on which the licensee attests to compliance with the continuing competency requirements prescribed in this chapter; and

2. The renewal fee prescribed in 18VAC115-20-20.

~~C.~~ B. A ~~licensee~~ licensed professional counselor who wishes to place his license in an inactive status may do so upon payment of the inactive renewal fee as established in 18VAC115-20-20. No person shall practice counseling in Virginia unless he holds a current active license. A licensee who has placed himself in inactive status may become active by fulfilling the reactivation requirements set forth in subsection C of 18VAC115-20-110 ~~C~~.

C. For renewal of a resident license in counseling, the following shall apply:

1. A resident license shall expire annually in the month the resident license was initially issued and may be renewed up to five times by submission of the renewal form and payment of the fee prescribed in 18VAC115-20-20.

2. On the annual renewal, the resident shall attest that a supervisory contract is in effect with a board-approved supervisor for each of the locations at which the resident is currently providing clinical counseling services.

3. On the annual renewal, the resident in counseling shall attest to completion of three hours in continuing education courses that emphasize the ethics, standards of practice, or laws governing behavioral science professions in Virginia, offered by an approved provider as set forth in subsection B of 18VAC115-20-106.

D. Licensees shall notify the board of a change in the address of record or the public address, if different from the address of record within 60 days. Failure to receive a renewal notice from the board shall not relieve the license holder from the renewal requirement.

E. Practice with an expired license is prohibited and may constitute grounds for disciplinary action.

18VAC115-20-9998
FORMS (18VAC115-20)

Registration of Supervision - Post Graduate Degree Supervised Experience, LPC Form 1 (rev. 2/2011)

Quarterly Evaluation, LPC Form 1-QE (rev. 2/2011)

Licensure Verification of Out-of-State Supervisor, LPC Form 1-LV (rev. 2/2011)

Licensure Application, LPC Form 2 (rev. 2/2011)

Verification of Supervision Post-Graduate Degree Supervised Experience, LPC Form 2-VS (rev. 2/2011)

Coursework Outline Form, LPC Form 2-CO (rev. 2/2011)

Verification of Internship Hours Towards the Residency, LPC Form 2-IR (rev. 2/2011)

Verification of Internship, LPC Form 2-VI (rev. 2/2011)

Verification of Licensure, LPC Form 2-VL (rev. 2/2011)

Supervision Outline - Examination Applicants Only, LPC Form 2-SO (rev. 2/2011)

Verification of Clinical Practice, 5 of Last 6 Years Immediately Preceding Submission of Application for Licensure, LPC Form-ECP (rev. 2/2011)

Continuing Education Summary Form (LPC) (rev. 3/2009)

Application for Reinstatement of a Lapsed License (rev. 8/2007)

Application for Reinstatement of a Revoked, Suspended, or Surrendered License (rev. 8/2007)

Application Instructions for Temporary Licensure as a Resident in Counseling (rev. 12/2019)

18VAC115-50-10
18VAC115-50-10. Definitions.

A. The following words and terms when used in this chapter shall have the meaning ascribed to them in § 54.1-3500 of the Code of Virginia: (i) "board," (ii) "marriage and family therapy," (iii) "marriage and family therapist," and (iv) "practice of marriage and family therapy."

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

"Ancillary counseling services" means activities such as case management, recordkeeping, referral, and coordination of services.

"CACREP" means the Council for Accreditation of Counseling and Related Educational Programs.

"COAMFTE" means the Commission on Accreditation for Marriage and Family Therapy Education.

"Clinical marriage and family services" means activities such as assessment, diagnosis, and treatment planning and treatment implementation for couples and families.

"Face-to-face" means the in-person delivery of clinical marriage and family services for a client.

"Internship" means a formal academic course from a regionally accredited university in which supervised practical experience is obtained in a clinical setting in the application of counseling principles, methods, and techniques.

"Regional accrediting agency" means one of the regional accreditation agencies recognized by the U.S. Secretary of Education as responsible for accrediting senior post-secondary institutions and training programs.

"Residency" means a postgraduate, supervised, clinical experience ~~registered with the board~~.

"Resident" means an individual who has ~~submitted~~ a supervisory contract ~~to the board~~ and has ~~received~~ been issued a temporary license by the board ~~approval~~ to provide clinical services in marriage and family therapy under supervision.

"Supervision" means an ongoing process performed by a supervisor who monitors the performance of the person supervised and provides regular, documented, individual or group consultation, guidance, and instruction with respect to the clinical skills and competencies of the person ~~or persons~~ being supervised.

"Supervisory contract" means an agreement that outlines the expectations and responsibilities of the supervisor and resident in accordance with regulations of the board.

18VAC115-50-20
18VAC115-50-20. Fees.

A. The board has established fees for the following:

	$65

~~Registration of supervision~~ Application and initial licensure as a resident	
~~Add or change supervisor~~ Pre-review of education only	~~$30~~ $75
Initial licensure by examination: Processing and initial licensure as a marriage and family therapist	$175
Initial licensure by endorsement: Processing and initial licensure as a marriage and family therapist	$175
Active annual license renewal for a marriage and family therapist	$130
Inactive annual license renewal for a marriage and family therapist	$65
Annual renewal for a resident in marriage and family therapy	$30
Penalty for late renewal for a marriage and family therapist	$45
Late renewal for resident in marriage and family therapy	$10
Reinstatement of a lapsed license for a marriage and family therapist	$200
Verification of license to another jurisdiction	$30
Additional or replacement licenses	$10
Additional or replacement wall certificates	$25
Returned check	$35
Reinstatement following revocation or suspension	$600

B. All fees are nonrefundable.

C. Examination fees shall be determined and made payable as determined by the board.

18VAC115-50-30
18VAC115-50-30. Application for licensure as a marriage and family therapist by examination.

Every applicant for licensure by examination by the board shall:

1. Meet the education and experience requirements prescribed in 18VAC115-50-50, 18VAC115-50-55, and 18VAC115-50-60;

2. Meet the examination requirements prescribed in 18VAC115-50-70;

3. Submit to the board office the following items:

a. A completed application;

b. The application processing and initial licensure fee prescribed in 18VAC115-50-20;

c. Documentation~~,~~ on the appropriate forms~~,~~ of the successful completion of the residency requirements of 18VAC115-50-60 along with documentation of the supervisor's out-of-state license where applicable;

d. Official ~~transcript or~~ transcripts submitted from the appropriate institutions of higher education, verifying satisfactory completion of the education requirements set forth in 18VAC115-50-50 and 18VAC115-50-55. Previously submitted transcripts for ~~registration of supervision~~ board approval of a resident license do

not have to be resubmitted unless additional coursework was subsequently obtained;

e. Verification on a board-approved form of any mental health or health out-of-state license, certification, or registration ever held in another jurisdiction; and

f. A current report from the U.S. Department of Health and Human Services National Practitioner Data Bank (NPDB); and

4. Have no unresolved disciplinary action against a mental health or health professional license or certificate held in Virginia or in another jurisdiction. The board will consider history of disciplinary action on a case-by-case basis.

18VAC115-50-60
18VAC115-50-60. ~~Residency~~ Resident license and requirements for a residency.

A. ~~Registration~~ Resident license. Applicants ~~who render~~ for temporary licensure as a resident in marriage and family therapy ~~services~~ shall:

1. ~~With their supervisor, register their supervisory contract on the appropriate forms for board approval before starting to practice under supervision~~ Apply for licensure on a form provided by the board to include the following: (i) verification of a supervisory contract, (ii) the name and licensure number of the supervisor and location for the supervised practice, and (iii) an attestation that the applicant will be providing marriage and family services.

2. Have submitted an official transcript documenting a graduate degree as that meets the requirements specified in 18VAC115-50-50 to include completion of the coursework and internship requirement specified in 18VAC115-50-55; ~~and~~

3. Pay the registration fee;

4. Submit a current report from the U.S. Department of Health and Human Services National Practitioner Data Bank (NPDB); and

5. Have no unresolved disciplinary action against a mental health or health professional license, certificate, or registration in Virginia or in another jurisdiction. The board will consider the history of disciplinary action on a case-by-case basis.

B. Residency requirements.

1. The applicant for licensure as a marriage and family therapist shall have completed no fewer than 3,400 hours of supervised residency in the role of a marriage and family therapist, to include 200 hours of in-person supervision with the supervisor in the consultation and review of marriage and family services provided by the resident. For the purpose of meeting the 200 hours of supervision required for a residency, in-person may also include the use of technology that maintains client confidentiality and provides real-time, visual contact between the supervisor and the resident. At least one-half of the 200 hours of supervision shall be rendered by a licensed marriage and family therapist.

a. Residents shall receive a minimum of one hour and a maximum of four hours of supervision for every 40 hours of supervised work experience.

b. No more than 100 hours of the supervision may be acquired through group supervision, with the group consisting of no more than six residents. One hour of group supervision will be deemed equivalent to one hour of individual supervision.

c. Up to 20 hours of the supervision received during the supervised internship may be counted towards the 200 hours of in-person supervision if the supervision was provided by a licensed marriage and family therapist or a licensed professional counselor.

2. The residency shall include documentation of at least 2,000 hours in clinical marriage and family services of which 1,000 hours shall be face-to-face client contact with couples or families or both. The remaining hours may be spent in the performance of ancillary counseling services. For applicants who hold current, unrestricted licensure as a professional counselor, clinical psychologist, or clinical social worker, the remaining hours may be waived.

3. The residency shall consist of practice in the core areas set forth in 18VAC115-50-55.

4. The residency shall begin after the completion of a master's degree in marriage and family therapy or a related discipline as set forth in 18VAC115-50-50.

5. A graduate-level internship in excess of 600 hours, which was completed in a program that meets the requirements set forth in 18VAC115-50-50, may count for up to an additional 300 hours towards the requirements of a residency.

6. Supervised practicum and internship hours in a COAMFTE-accredited or a CACREP-accredited doctoral program in marriage and family therapy or counseling may be accepted for up to 900 hours of the residency requirement and up to 100 of the required hours of supervision provided the supervisor holds a current, unrestricted license as a marriage and family therapist or professional counselor.

7. The board may consider special requests in the event that the regulations create an undue burden in regard to geography or disability ~~which~~ that limits the resident's access to qualified supervision.

8. Residents shall not call themselves marriage and family therapists, directly bill for services rendered, or in any way represent themselves as marriage and family therapists. During the residency, residents may use their names, the initials of their degree, and the title "Resident in Marriage and Family Therapy." Clients shall be informed in writing ~~of the resident's status~~ that the resident does not have authority for independent practice and is under supervision, along with the name, address, and telephone number of the resident's supervisor.

9. Residents shall not engage in practice under supervision in any areas for which they do not have appropriate education.

10. The residency shall be completed in not less than 21 months or more than four years. Residents who began a residency before August 24, 2016, shall complete the residency by August 24, 2020. An individual who does not complete the residency after four years shall submit evidence to the board showing why the supervised experience should be allowed to continue. A resident shall meet the renewal requirements of subsection C of 18VAC115-50-90 in order to maintain a resident license in current, active status.

11. Residency hours that are approved by the licensing board in another United States jurisdiction and that meet the requirements of this section shall be accepted.

C. Supervisory qualifications. A person who provides supervision for a resident in marriage and family therapy shall:

1. Hold an active, unrestricted license as a marriage and family therapist or professional counselor in the jurisdiction where the supervision is being provided;

2. Document two years post-licensure marriage and family therapy experience; and

3. Have received professional training in supervision, consisting of three credit hours or 4.0 quarter hours in graduate-level coursework in supervision or at least

20 hours of continuing education in supervision offered by a provider approved under 18VAC115-50-96. At least one-half of the 200 hours of supervision shall be rendered by a licensed marriage and family therapist. Supervisors who are clinical psychologists, clinical social workers, or psychiatrists and have been approved to provide supervision may continue to do so until August 24, 2017.

D. Supervisory responsibilities.

1. The supervisor shall complete evaluation forms to be given to the resident at the end of each three-month period. The supervisor shall report the total hours of residency and evaluate the applicant's competency to the board.

2. Supervision by an individual whose relationship to the resident is deemed by the board to compromise the objectivity of the supervisor is prohibited.

3. The supervisor shall provide supervision as defined in 18VAC115-50-10 and shall assume full responsibility for the clinical activities of residents as specified within the supervisory contract~~,~~ for the duration of the residency.

18VAC115-50-70
18VAC115-50-70. General examination requirements.

A. All applicants for initial licensure shall pass an examination, as prescribed by the board, with a passing score as determined by the board. The examination is waived for an applicant who holds a current and unrestricted license as a professional counselor issued by the board.

B. ~~The examination shall concentrate on the core areas of marriage and family therapy set forth in subsection A of 18VAC115-50-55~~ An applicant is required to pass the prescribed examination within six years from the date of initial issuance of a resident license by the board.

~~C. A candidate approved to sit for the examination shall pass the examination within two years from the initial notification date of approval. If the candidate has not passed the examination within two years from the date of initial approval:~~

~~1. The initial approval to sit for the examination shall then become invalid; and~~

~~2. The applicant shall file a new application with the board, meet the requirements in effect at that time, and provide evidence of why the board should approve the reapplication for examination. If approved by the board, the candidate shall pass the examination within two years of such approval. If the examination is not passed within the additional two-year period, a new application will not be accepted.~~

~~D. Applicants or candidates for examination shall not provide marriage and family services unless they are under supervision approved by the board~~ C. A resident shall remain in a residency practicing under supervision until the resident has passed the licensure examination and been granted a license as a marriage and family therapist.

18VAC115-50-90
18VAC115-50-90. Annual renewal of license.

~~A. All licensees shall renew licenses on or before June 30 of each year.~~

~~B.~~ A. All ~~licensees~~ licensed marriage and family therapists who intend to continue an active practice shall submit to the board on or before June 30 of each year:

1. A completed form for renewal of the license on which the licensee attests to compliance with the continuing competency requirements prescribed in this chapter; and

2. The renewal fee prescribed in 18VAC115-50-20.

~~C.~~ B. A ~~licensee~~ licensed marriage and family therapist who wishes to place his license in an inactive status may do so upon payment of the inactive renewal fee as established in 18VAC115-50-20. No person shall practice marriage and family therapy in Virginia unless he holds a current active license. A licensee who has placed himself in inactive status may become active by fulfilling the reactivation requirements set forth in 18VAC115-50-100 C.

C. For renewal of a resident license in marriage and family therapy, the following shall apply:

1. A resident license shall expire annually in the month the license was initially issued and may be renewed up to five times by submission of the renewal form and payment of the fee prescribed in 18VAC115-50-20.

2. On the annual renewal, the resident shall attest that a supervisory contract is in effect with a board-approved supervisor for each of the locations at which the resident is currently providing marriage and family therapy.

3. On the annual renewal, residents in marriage and family therapy shall attest to completion of three hours in continuing education courses that emphasize the ethics, standards of practice, or laws governing behavioral science professions in Virginia, offered by an approved provider as set forth in subsection B of 18VAC115-50-96.

D. Licensees shall notify the board of a change in the address of record or the public address, if different from the address of record within 60 days. Failure to receive a renewal notice from the board shall not relieve the license holder from the renewal requirement.

E. After the renewal date, the license is expired; practice with an expired license is prohibited and may constitute grounds for disciplinary action.

18VAC115-50-9998
FORMS (18VAC115-50)

Licensure Application - Marriage and Family Therapist, MFT Form 2 (rev. 2/2011)

Verification of Licensure, MFT Form 2-VL (rev. 2/2011)

Verification of Supervision Post-Graduate Degree Supervised Experience, MFT Form 2-VS (rev. 2/2011)

Licensure Verification of Out-of-State Supervisor, MFT Form 1-LV (rev. 2/2011)

Quarterly Evaluation, MFT Form 1-QE (rev. 2/2011)

Coursework Outline Form, MFT Form 2-CO (rev. 2/2011)

Verification of Internship, MFT Form 2-VI (rev. 2/2011)

Verification of Internship Hours Towards the Residency, MFT Form 2-IR (rev. 2/2011)

Supervision Outline - Examination Applicants Only, MFT Form 2-SO (rev. 2/2011)

Verification of Clinical Practice 5 of Last 6 Years Immediately Preceding Submission for Application of Licensure, Endorsement Applicants Only, Form MFT-ECP (rev. 2/2011)

Registration of Supervision - Post Graduate Degree Supervised Experience, MFT Form 1 (rev. 2/2011)

Application for Reinstatement of a Lapsed License (rev. 8/2007)

Continuing Education Summary Form (LMFT) (rev. 3/2009)

Applications Instructions - Temporary Licensure as a Resident in Marriage and Family Therapy (rev. 12/2019)

18VAC115-60-10
Part I
General Provisions

18VAC115-60-10. Definitions.

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

"Board"

"Licensed substance abuse treatment practitioner"

"Substance abuse"

"Substance abuse treatment"

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

"Ancillary services" means activities such as case management, recordkeeping, referral, and coordination of services.

"Applicant" means any individual who has submitted an official application and paid the application fee for licensure as a substance abuse treatment practitioner.

"CACREP" means the Council for Accreditation of Counseling and Related Educational Programs.

"Candidate for licensure" means a person who has satisfactorily completed all educational and experience requirements for licensure and has been deemed eligible by the board to sit for its examinations.

"Clinical substance abuse treatment services" means activities such as assessment, diagnosis, treatment planning, and treatment implementation.

"COAMFTE" means the Commission on Accreditation for Marriage and Family Therapy Education.

"Competency area" means an area in which a person possesses knowledge and skill and the ability to apply them in the clinical setting.

"Exempt setting" means an agency or institution in which licensure is not required to engage in the practice of substance abuse treatment according to the conditions set forth in § 54.1-3501 of the Code of Virginia.

"Face-to-face" means the in-person delivery of clinical substance abuse treatment services for a client.

"Group supervision" means the process of clinical supervision of no more than six persons in a group setting provided by a qualified supervisor.

"Internship" means a formal academic course from a regionally accredited university in which supervised, practical experience is obtained in a clinical setting in the application of counseling principles, methods, and techniques.

"Jurisdiction" means a state, territory, district, province, or country ~~which~~ that has granted a professional certificate or license to practice a profession, use a professional title, or hold oneself out as a practitioner of that profession.

"Nonexempt setting" means a setting ~~which~~ that does not meet the conditions of exemption from the requirements of licensure to engage in the practice of substance abuse treatment as set forth in § 54.1-3501 of the Code of Virginia.

"Regional accrediting agency" means one of the regional accreditation agencies recognized by the U.S. Secretary of Education responsible for accrediting senior postsecondary institutions.

"Residency" means a postgraduate, supervised, clinical experience ~~registered with the board~~.

"Resident" means an individual who has ~~submitted~~ a supervisory contract and has ~~received board approval~~ been issued a temporary license by the board to provide clinical services in substance abuse treatment under supervision.

"Supervision" means the ongoing process performed by a supervisor who monitors the performance of the person supervised and provides regular, documented individual or group consultation, guidance, and instruction with respect to the clinical skills and competencies of the person supervised.

"Supervisory contract" means an agreement that outlines the expectations and responsibilities of the supervisor and resident in accordance with regulations of the board.

18VAC115-60-20
18VAC115-60-20. Fees required by the board.

A. The board has established the following fees applicable to licensure as a substance abuse treatment practitioner or resident in substance abuse treatment:

~~Registration of supervision (initial)~~ Application and initial licensure as a resident in substance abuse treatment	$65
~~Add/change supervisor~~ Pre-review of education only	~~$30~~ $75
Initial licensure by examination: Processing and initial licensure as a substance abuse treatment practitioner	$175
Initial licensure by endorsement: Processing and initial licensure as a substance abuse treatment practitioner	$175
Active annual license renewal for a substance abuse treatment practitioner	$130
Inactive annual license renewal for a substance abuse treatment practitioner	$65
Annual renewal for a resident in substance abuse treatment	$30
Duplicate license	$10
Verification of license to another jurisdiction	$30
Late renewal for a substance abuse treatment practitioner	$45
Late renewal for a resident in substance abuse treatment	$10
Reinstatement of a lapsed license of a substance abuse treatment practitioner	$200
Replacement of or additional wall certificate	$25

Returned check	$35
Reinstatement following revocation or suspension	$600

B. All fees are nonrefundable.

C. Examination fees shall be determined and made payable as determined by the board.

18VAC115-60-40
Part II
Requirements for Licensure as a Substance Abuse Treatment Practitioner

18VAC115-60-40. Application for licensure by examination.

Every applicant for licensure by examination by the board shall:

1. Meet the degree program, coursework, and experience requirements prescribed in 18VAC115-60-60, 18VAC115-60-70, and 18VAC115-60-80;

2. Pass the examination required for initial licensure as prescribed in 18VAC115-60-90;

3. Submit the following items to the board:

a. A completed application;

b. Official transcripts documenting the applicant's completion of the degree program and coursework requirements prescribed in 18VAC115-60-60 and 18VAC115-60-70. Transcripts previously submitted for ~~registration of supervision~~ board approval of a resident license do not have to be resubmitted unless additional coursework was subsequently obtained;

c. Verification of supervision forms documenting fulfillment of the residency requirements of 18VAC115-60-80 and copies of all required evaluation forms, including verification of current licensure of the supervisor of any portion of the residency occurred in another jurisdiction;

d. Documentation of any other mental health or health professional license or certificate ever held in another jurisdiction;

e. The application processing and initial licensure fee as prescribed in 18VAC115-60-20; and

f. A current report from the U.S. Department of Health and Human Services National Practitioner Data Bank (NPDB); and

4. Have no unresolved disciplinary action against a mental health or health professional license or certificate held in Virginia or in another jurisdiction. The board will consider history of disciplinary action on a case-by-case basis.

18VAC115-60-80
18VAC115-60-80. ~~Residency~~ Resident license and requirements for a residency.

A. ~~Registration~~ Licensure. Applicants ~~who render~~ for a temporary resident license in substance abuse treatment ~~services~~ shall:

1. ~~With their supervisor, register their supervisory contract on the appropriate forms for board approval before starting to practice under supervision~~ Apply for licensure on a form provided by the board to include the following: (i) verification of a supervisory contract, (ii) the name and licensure number of the supervisor and location for the supervised practice, and (iii) an attestation that the applicant will be providing substance abuse treatment services;

2. Have submitted an official transcript documenting a graduate degree ~~as~~ that meets the requirements specified in 18VAC115-60-60 to include completion of the coursework and internship requirement specified in 18VAC115-60-70; ~~and~~

3. Pay the registration fee;

4. Submit a current report from the U.S. Department of Health and Human Services National Practitioner Data Bank (NPDB); and

5. Have no unresolved disciplinary action against a mental health or health professional license, certificate, or registration in Virginia or in another jurisdiction. The board will consider the history of disciplinary action on a case-by-case basis.

B. Applicants who are beginning their residencies in exempt settings shall register supervision with the board to assure acceptability at the time of application.

C. Residency requirements.

1. The applicant for licensure as a substance abuse treatment practitioner shall have completed no fewer than 3,400 hours in a supervised residency in substance abuse treatment with various populations, clinical problems and theoretical approaches in the following areas:

a. Clinical evaluation;

b. Treatment planning, documentation, and implementation;

c. Referral and service coordination;

d. Individual and group counseling and case management;

e. Client family and community education; and

f. Professional and ethical responsibility.

2. The residency shall include a minimum of 200 hours of in-person supervision between supervisor and resident occurring at a minimum of one hour and a maximum of four hours per 40 hours of work experience during the period of the residency.

a. No more than half of these hours may be satisfied with group supervision.

b. One hour of group supervision will be deemed equivalent to one hour of individual supervision.

c. Supervision that is not concurrent with a residency will not be accepted, nor will residency hours be accrued in the absence of approved supervision.

d. For the purpose of meeting the 200-hour supervision requirement, in-person supervision may include the use of technology that maintains client confidentiality and provides real-time, visual contact between the supervisor and the resident.

e. Up to 20 hours of the supervision received during the supervised internship may be counted towards the 200 hours of in-person supervision if the supervision was provided by a licensed professional counselor.

3. The residency shall include at least 2,000 hours of face-to-face client contact in providing clinical substance abuse treatment services with individuals, families, or groups of individuals suffering from the effects of substance abuse or dependence. The remaining hours may be spent in the performance of ancillary services.

4. A graduate level degree internship in excess of 600 hours, which is completed in a program that meets the requirements set forth in 18VAC115-60-70, may count for up to an additional 300 hours towards the requirements of a residency.

5. The residency shall be completed in not less than 21 months or more than four years. Residents who began a residency before August 24, 2016, shall complete the residency by August 24, 2020. An individual who does not complete the residency after four years shall submit evidence to the board showing why the supervised experience should be allowed to continue. A resident shall meet the renewal requirements of subsection C of 18VAC115-60-110 in order to maintain a license in current, active status.

6. The board may consider special requests in the event that the regulations create an undue burden in regard to geography or disability ~~which~~ that limits the resident's access to qualified supervision.

7. Residents may not call themselves substance abuse treatment practitioners, directly bill for services rendered, or in any way represent themselves as independent, autonomous practitioners or substance abuse treatment practitioners. During the residency, residents shall use their names and the initials of their degree, and the title "Resident in Substance Abuse Treatment" in all written communications. Clients shall be informed in writing ~~of the resident's status,~~ that the resident does not have authority for independent practice and is under supervision and shall provide the supervisor's name, professional address, and telephone number.

8. Residents shall not engage in practice under supervision in any areas for which they have not had appropriate education.

9. Residency hours that are approved by the licensing board in another United States jurisdiction and that meet the requirements of this section shall be accepted.

D. Supervisory qualifications.

1. A person who provides supervision for a resident in substance abuse treatment shall hold an active, unrestricted license as a professional counselor or substance abuse treatment practitioner in the jurisdiction where the supervision is being provided. Supervisors who are marriage and family therapists, school psychologists, clinical psychologists, clinical social workers, clinical nurse specialists, or psychiatrists and have been approved to provide supervision may continue to do so until August 24, 2017.

2. All supervisors shall document two years post-licensure substance abuse treatment experience and at least 100 hours of didactic instruction in substance abuse treatment. Supervisors must document a three-credit-hour course in supervision, a 4.0-quarter-hour course in supervision, or at least 20 hours of continuing education in supervision offered by a provider approved under 18VAC115-60-116.

E. Supervisory responsibilities.

1. Supervision by any individual whose relationship to the resident compromises the objectivity of the supervisor is prohibited.

2. The supervisor of a resident shall assume full responsibility for the clinical activities of that resident specified within the supervisory contract for the duration of the residency.

3. The supervisor shall complete evaluation forms to be given to the resident at the end of each three-month period.

4. The supervisor shall report the total hours of residency and shall evaluate the applicant's competency in the six areas stated in subdivision C 1 of this section.

F. Documentation of supervision. Applicants shall document successful completion of their residency on the Verification of Supervision form at the time of application. Applicants must receive a satisfactory competency evaluation on each item on the evaluation sheet.

18VAC115-60-90
Part III
Examinations

18VAC115-60-90. General examination requirements; ~~schedules;~~ time limits.

A. Every applicant for ~~initial~~ licensure as a substance abuse treatment practitioner by examination shall pass a written examination as prescribed by the board. Such applicant is required to pass the prescribed examination within six years from the date of initial issuance of a resident license by the board.

B. Every applicant for licensure as a substance abuse treatment practitioner by endorsement shall have passed a substance abuse examination deemed by the board to be substantially equivalent to the Virginia examination.

C. The examination is waived for an applicant who holds a current and unrestricted license as a professional counselor issued by the board.

~~D. A candidate approved by the board to sit for the examination shall pass the examination within two years from the date of such initial board approval. If the candidate has not passed the examination within two years from the date of initial approval:~~

~~1. The initial board approval to sit for the examination shall then become invalid; and~~

~~2. The applicant shall file a complete new application with the board, meet the requirements in effect at that time, and provide evidence of why the board should approve the reapplication for examination. If approved by the board, the applicant shall pass the examination within two years of such approval. If the examination is not passed within the additional two year period, a new application will not be accepted.~~

~~E.~~ D. The board shall establish a passing score on the written examination.

~~F. A candidate for examination or an applicant shall not provide clinical services unless he is under supervision approved by the board.~~ E. A resident shall remain in a residency practicing under supervision until the resident has passed the licensure examination and been granted a license as a substance abuse treatment practitioner.

18VAC115-60-110
Part IV
Licensure Renewal; Reinstatement

18VAC115-60-110. Renewal of licensure.

~~A. All licensees shall renew licenses on or before June 30 of each year.~~

~~B.~~ A. Every ~~license holder~~ substance abuse treatment practitioner who intends to continue an active practice shall submit to the board on or before June 30 of each year:

1. A completed form for renewal of the license on which the licensee attests to compliance with the continuing competency requirements prescribed in this chapter; and

2. The renewal fee prescribed in 18VAC115-60-20.

~~C.~~ B. A ~~licensee~~ substance abuse treatment practitioner who wishes to place his license in an inactive status may do so upon payment of the inactive renewal fee as established in 18VAC115-60-20. No person shall practice substance abuse treatment in Virginia unless he holds a current active license. A licensee who has placed himself in inactive status may become active by fulfilling the reactivation requirements set forth in subsection C of 18VAC115-60-120 ~~C~~.

C. For renewal of a resident license in substance abuse treatment, the following shall apply:

1. A resident license shall expire annually in the month the resident license was initially issued and may be renewed up to five times by submission of the renewal form and payment of the fee prescribed in 18VAC115-60-20.

2. On the annual renewal, the resident shall attest that a supervisory contract is in effect with a board-approved supervisor for each of the locations at which the resident is currently providing substance abuse treatment services.

3. On the annual renewal, residents in substance abuse treatment shall attest to completion of three hours in continuing education courses that emphasize the ethics, standards of practice, or laws governing behavioral science professions in Virginia, offered by an approved provider as set forth in subsection B of 18VAC115-60-116.

D. Licensees shall notify the board of a change in the address of record or the public address, if different from the address of record within 60 days. Failure to receive a renewal notice from the board shall not relieve the license holder from the renewal requirement.

E. After the renewal date, the license is expired; practice with an expired license is prohibited and may constitute grounds for disciplinary action.

18VAC115-60-9998
FORMS (18VAC115-60)

Licensure Application, Licensed Substance Abuse Treatment Practitioner, LSATP Form 2 (rev. 1/2011)

Verification of Licensure, Form LSATP 2-VL (rev. 1/2011)

Verification of Supervision Post Graduate Degree Supervised Experience, LSATP 2-VS (rev. 1/2011)

Supervisor's Experience and Education (rev. 1/2011)

Licensure Verification of Out-of-State Supervisor, LSATP Form 1-LV (rev. 1/2011)

Coursework Outline Form, Form LSATP 2-CO (rev. 1/2011)

Verification of Internship, Form LSATP 2-VI (rev. 1/2011)

Verification of Internship Hours Towards the Residency, Form LSATP 2-IR (rev. 1/2011)

Registration of Supervision Post Graduate Degree Supervised Experience, LSATP Form 1 (rev. 1/2011)

Quarterly Evaluation Form, LSATP Form 1-QE (rev. 1/2011)

Supervision Outline Form Examination Applicants Only, Form LSATP 2-SO (rev. 1/2011).

Verification of Post-Licensure Clinical Practice, Endorsement Applicants Only, Form LSATP-ECP (rev. 1/2011)

Licensed Substance Abuse Treatment Practitioner Application for Reinstatement of a Lapsed Certificate (rev. 7/2011)

Continuing Education Summary Form (LSATP) (rev. 3/2009)

Application Instructions for Temporary Licensure as a Resident in Substance Abuse Treatment (rev. 12/2019)

Agenda Item: Adoption of Amendments for Rehabilitation Providers (periodic review action)

Included in your agenda package are:

Copy of announcement on Townhall

Copy of comment

Copy of proposed regulations

Committee Action:

Recommendation for adoption of final amendments to regulations identical to the proposed regulations; or

Recommendation for other action.

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VIRGINIA REGULATORY TOWN HALL

Agency **Department of Health Professions**

Board **Board of Counseling**

Chapter **Regulations Governing the Certification of Rehabilitation Providers [18 VAC 115 - 40]**

Action: Periodic review

Proposed Stage

Action 5305 / Stage 8908

Edit Stage | Withdraw Stage | Go to RIS Project

Documents		
Proposed Text	9/9/2020 2:45 pm	Sync Text with RIS
Agency Background Document	2/25/2020	Upload / Replace
Attorney General Certification	3/2/2020	
DPB Economic Impact Analysis	4/16/2020	
Agency Response to EIA	6/1/2020	Upload / Replace
Governor's Review Memo	8/12/2020	
Registrar Transmittal	8/12/2020	

Status	
Incorporation by Reference	No
Exempt from APA	No, this stage/action is subject to article 2 of the *Administrative Process Act* and the standard executive branch review process.
Attorney General Review	Submitted to OAG: 2/25/2020 Review Completed: 3/2/2020 Result: Certified
DPB Review	Submitted on 3/2/2020 Economist: Jini Rao Policy Analyst: Jeannine Rose Review Completed: 4/16/2020 *DPB's policy memo is "Governor's Confidential Working Papers"*
Secretary Review	Secretary of Health and Human Resources Review Completed: 5/31/2020
Governor's Review	Review Completed: 8/12/2020 Result: Approved
Virginia Registrar	Submitted on 8/12/2020 The Virginia Register of Regulations Publication Date: 9/14/2020 Volume: 37 Issue: 2
Public Hearings	10/23/2020 10:05 AM

Comment Period	Ended 11/13/2020 0 comments

Contact Information	
Name / Title:	Jaime Hoyle / *Executive Director*
Address:	9960 Mayland Drive Suite 300 Richmond, VA 23233
Email Address:	**jaime.hoyle@dhp.virginia.gov**
Telephone:	(804)367-4406 FAX: (804)527-4435 TDD: ()-

This person is the primary contact for this board.
This stage was created by Elaine J. Yeatts on 02/25/2020
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PUBLIC IN ATTENDANCE:

Lori Cowan, LPC, LMFT, CRP
Matthew Shurka, Co-Founder, Born Perfect
Adam Trimmer, Virginia Ambassador, Born Perfect

PUBLIC COMMENT:

Ms. Cowan stated that the International Association Rehabilitation Professionals, Virginia Chapter is in support of the proposed changes to the Regulations Governing Certified Rehabilitation Providers. *

AGENCY REPORT:

Dr. Brown reported that Dr. Allison-Bryan would not attend today as she is representing the Agency at a Virginia Healthcare Work Force Advisor Counsel.

The Agency continues to telework extensively. Boards are conducting meetings and disciplinary hearings virtually and in person depending on the preferences of the Board or the respondent.

Dr. Brown indicated that Ms. Hoyle has submitted several regulatory waivers on the Board's behalf. These waivers would help the Board of Counseling workforce during the COVID-19 crisis. The waivers must be approved by the Agency, Attorney General's office and then by the Office of the Secretary.

Dr. Brown provided information on the three workgroups studying marijuana/cannabis in Virginia. Secretary of Health and Human Resources (HHS) is examining the expansion of medical marijuana program. The Virginia Department of Agriculture and Consumer Services (VDACS) is looking into the legalization and recreational use of cannabis for adults. The General Assembly has asked the Joint Legislative Audit and Review Commission (JLARC) to make recommendations on the legalization of marijuana.

CHAIRPERSON REPORT:

Dr. Brendel provided the quarterly accomplishment report and thanked Board members for their involvement in the various endeavors of the Board. Dr. Brendel acknowledge several Board members and staff for their support with two virtual presentations for the Virginia Counseling Association (VCA) annual conference.

Dr. Doyle provided a brief summary of the American Association of State Counseling Board (AASCB) annual business meeting. Dr. Doyle thanked staff and Board members for their attendance and commented on the importance of the Boards involvement in the AACSB.

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VIRGINIA REGULATORY TOWN HALL

Proposed Text

highlight

Action: Periodic review
Stage: Proposed 9/9/20 2:45 PM [latest]

18VAC115-40-20
18VAC115-40-20. Fees required by the board.

A. The board has established the following fees applicable to the certification of rehabilitation providers:

Initial certification by examination: Processing and initial certification	$115
Initial certification by endorsement: Processing and initial certification	$115
Certification renewal	$65
Duplicate certificate	$10
Verification of certification	$25
Late renewal	$25
Reinstatement of a lapsed certificate	$125
Replacement of or additional wall certificate	$25
Returned check	$35
Reinstatement following revocation or suspension	$600

B. Fees shall be paid to the board. All fees are nonrefundable.

18VAC115-40-22
Part II
Requirements for Certification

18VAC115-40-22. Criteria for eligibility.

A. Education and experience requirements for certification are as follows:

1. Any baccalaureate degree from a regionally accredited college or university or a current registered nurse license in good standing in Virginia; and

2. Documentation of 2,000 hours of supervised experience in performing those services that will be offered to a workers' compensation claimant under § 65.2-603 of the Code of Virginia. Experience may be acquired through supervised training or experience or both. A supervised internship in rehabilitation services may count toward part of the required 2,000 hours. Any individual who does not meet the experience requirement for certification must practice under the supervision of an individual who meets the requirements of 18VAC115-40-27. Individuals shall not practice in an internship or supervisee capacity for more than five years.

B. A passing score on a board-approved examination shall be required.

C. The board may grant certification without examination to applicants certified as rehabilitation providers in other states or by nationally recognized certifying agencies, boards, associations and commissions by standards substantially equivalent to those set forth in the board's current regulation.

D. The applicant shall have no unresolved disciplinary action against a health, mental health, or rehabilitation-related license, certificate, or registration in Virginia or in another jurisdiction. The board will consider history of disciplinary action on a case-by-case basis.

18VAC115-40-25
18VAC115-40-25. Application process.

The applicant shall submit to the board:

1. A completed application form;

2. The official transcript or transcripts submitted from the appropriate institutions of higher education;

3. Documentation, on the appropriate forms, of the successful completion of the supervised experience requirement of 18VAC115-40-26. Documentation of supervision obtained outside of Virginia must include verification of the supervisor's out-of-state license or certificate;

4. Documentation of passage of the examination required by 18VAC115-40-28;

5. A current report from the U.S. Department of Health and Human Services National Practitioner Data Bank (NPDB); and

~~5. Documentation of~~ 6. Verification that the applicant's national or out-of-state license or certificate is in good standing where applicable.

18VAC115-40-26
18VAC115-40-26. Supervised experience requirement.

The following shall apply to the supervised experience requirement for certification:

1. On average, the supervisor and the supervisee shall consult for two hours per week in group or personal instruction. The total hours of personal instruction shall not be less than 100 hours within the 2,000 hours of experience. Group instruction shall not exceed six ~~members~~ persons in a group.

2. Half of the personal instruction contained in the total supervised experience shall be face-to-face between the supervisor and supervisee. A portion of the face-to-face instruction shall include direct observation of the supervisee-rehabilitation client interaction.

18VAC115-40-30
Part IV
Renewal and Reinstatement

18VAC115-40-30. Annual renewal of certificate.

Every certificate issued by the board shall expire on ~~January 31~~ June 30 of each year.

1. To renew certification, the certified rehabilitation provider shall submit a renewal form and fee as prescribed in 18VAC115-40-20.

2. Failure to receive a renewal notice and form shall not excuse the certified rehabilitation provider from the renewal requirement.

18VAC115-40-35

18VAC115-40-35. Reinstatement.

A. A person whose certificate has expired may renew it within one year after its expiration date by paying the renewal fee and the late renewal fee prescribed in 18VAC115-40-20.

B. A person who fails to renew a certificate for one year or more shall apply for reinstatement, pay the reinstatement fee and submit evidence regarding the continued ability to perform the functions within the scope of practice of the certification, such as certificates of completion for continuing education, verification of practice in another jurisdiction, or maintenance of national certification.

18VAC115-40-38
18VAC115-40-38. Change of name or address.

A certified rehabilitation provider whose name has changed or whose address of record or public address, if different from the address of record, has changed shall submit the name change or new address in writing to the board within ~~30~~ 60 days of such change.

18VAC115-40-50
18VAC115-40-50. Grounds for revocation, suspension, probation, reprimand, censure, denial of renewal of certificate; petition for rehearing.

Action by the board to revoke, suspend, decline to issue or renew a certificate, to place such a certificate holder on probation or to censure, reprimand or fine a certified rehabilitation provider may be taken in accord with the following:

1. Procuring, attempting to procure, or maintaining a license, certificate, or registration by fraud or misrepresentation.

2. Violation of, or aid to another in violating, any regulation or statute applicable to the provision of rehabilitation services.

3. The denial, revocation, suspension or restriction of a registration, license, or certificate to practice in another state, or a United States possession or territory or the surrender of any such registration, license, or certificate while an active administrative investigation is pending.

4. Conviction of any felony, or of a misdemeanor involving moral turpitude.

5. Providing rehabilitation services without reasonable skill and safety to clients by virtue of physical, mental, or emotional illness or substance ~~abuse~~ misuse;

6. Conducting one's practice in such a manner as to be a danger to the health and welfare of one's clients or to the public;

7. Performance of functions outside of one's board-certified area of competency;

8. Intentional or negligent conduct that causes or is likely to cause injury to a client;

9. Performance of an act likely to deceive, defraud, or harm the public;

10. Failure to cooperate with an employee of the Department of Health Professions in the conduct of an investigation;

11. Failure to report evidence of child abuse or neglect as required by § 63.2-1509 of the Code of Virginia or elder abuse or neglect as required by § 63.2-1606 of the Code of Virginia;

12. 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; or

13. Violating any provisions of this chapter, including practice standards set forth in 18VAC115-40-40.

18VAC115-40-9998
FORMS (18VAC115-40)

~~Application for Certification as a Rehabilitation Provider, Form 1 (rev. 8/07).~~

Application for Certification as a Rehabilitation Provider (rev. 5//2018)

General Information for Certification as a Rehabilitation Provider (rev. 7/2011)

~~Verification of Experience for Rehabilitation Provider Certification, Form 2 (rev. 8/07).~~

~~Rehabilitation Provider Verification of Licensure/Certification (rev. 8/07).~~

~~Licensure/Certification Verification of Out-of-State Supervisor, Form 4 (rev. 8/07 4/18).~~

~~Rehabilitation Provider Application for Reinstatement of a Lapsed Certificate (rev. 8/07 5/18).~~

Verification of Experience for Rehabilitation Provider Certification (rev. 5/2018)

Out-of-State License or Certification Verification (4/2018)

Licensure/Certification Verification of Out-of-State Supervisor (4/2018)

Rehabilitation Provider Application for Reinstatement of a Lapsed Certificate (5/2018)

Agenda Item: Response to Petitions for Rulemaking

Included in your agenda package are:

A copy of the petition received from Tasha Burnett requesting modification of endorsement regulations.

Copy of comments on petition (Comment period closes 1/20/21)

Section of regulation

Staff note:
The petitioner wants to modify the endorsement requirement of 24 of the last 60 months if an applicant does not have the requisite education and experience to be licensed as an LPC.

Committee action on petition:

To recommend initiation of rulemaking by adoption of a Notice of Intended Regulatory Action or a fast-track action; or

To recommend rejection of the petitioner's request *(The Board will need to discuss or state its reasons for denial).*

Request for comment on Petition for Rulemaking

Promulgating Board: **Board of Counseling**

Regulatory Coordinator: Elaine J. Yeatts
(804)367-4688
elaine.yeatts@dhp.virginia.gov

Agency Contact: Jaime Hoyle
Executive Director
(804)367-4406
jaime.hoyle@dhp.virginia.gov

Contact Address: Department of Health Professions
9960 Mayland Drive
Suite 300
Richmond, VA 23233

Chapter Affected:

18 vac 115 - 20: **Regulations Governing the Practice of Professional Counseling**

Statutory Authority: State: Chapter 35 of Title 54.1

Date Petition Received 12/01/2020

Petitioner Tasha Burnette

Petitioner's Request

To modify the regulation on required supervision hours for endorsement.

Agency Plan

In accordance with Virginia law, the petition will be filed with the Register of Regulations and published on December 21, 2020 with comment requested until January 20, 2021. It will also be placed on the Virginia Regulatory Townhall and available for comments to be posted electronically at www.townhall.virginia.gov. At its first meeting following the close of comment, which is scheduled for February 5, 2021, the Board will consider the request to amend regulations and all comment received in support or opposition. The petitioner will be informed of the board's response and any action it approves.

Publication Date 12/21/2020 *(comment period will also begin on this date)*

Comment End Date 01/20/2021

COMMONWEALTH OF VIRGINIA
Board of Counseling

9960 Mayland Drive, Suite 300
Richmond, Virginia 23233-1463

(804) 367-4610 (Tel)
(804) 527-4435(Fax)

Petition for Rule-making

The Code of Virginia (§2.2-4007) and the Public Participation Guidelines of this board require a person who wishes to petition the board to develop a new regulation or amend an existing regulation to provide certain information. Within 14 days of receiving a valid petition, the board will notify the petitioner and send a notice to the Register of Regulations identifying the petitioner, the nature of the request and the plan for responding to the petition. Following publication of the petition in the Register, a 21-day comment period will begin to allow written comment on the petition. Within 90 days after the comment period, the board will issue a written decision on the petition. If the board has not met within that 90-day period, the decision will be issued no later than 14 days after it next meets.

Please provide the information requested below. (Print or Type)

Petitioner's full name (Last, First, Middle Initial, Suffix,)

Burnette, Tasha L.

Street Address	Area Code and Telephone Number
1411 L. Adams Farm Pkwy	540-278-3665
City	**State** / **Zip Code**
Greensboro	NC / 27407
Email Address (optional)	**Fax (optional)**
tshburnette@yahoo.com	

Respond to the following questions:

1. What regulation are you petitioning the board to amend? Please state the title of the regulation and the section/sections you want the board to consider amending. 18VAC115-20-45 (provide evidence of post-licensure clinical practice in counseling for 24 of the last 60 months immediately preceding your licensure application, then you must provide the requirements of 18VAC115-20-49, 18VAC115-20-51, 18VAC115-20-52.

2. Please summarize the substance of the change you are requesting and state the rationale or purpose for the new or amended rule. I am requesting the regulation on required supervision hours of endorsed therapist be modified. As a NC fully licensed therapist I have completed the required amount of supervision as an associate. My completion of the standards for state licensure indicate I have met the qualifications to be a fully licensed therapist. I currently have clients waiting to be seen due to being granted a temporary license in VA. Lastly, I completed a VA institution for my graduate degree meeting your standards.

3. State the legal authority of the board to take the action requested. In general, the legal authority for the adoption of regulations by the board is found in § 54.1-2400 of the Code of Virginia. If there is other legal authority for promulgation of a regulation, please provide that Code reference.

Signature: [signature] Date: 11/19/20

18VAC115-20-45. Prerequisites for licensure by endorsement.

A. Every applicant for licensure by endorsement shall hold or have held a professional counselor license in another jurisdiction of the United States and shall submit the following:

1. A completed application;

2. The application processing fee and initial licensure fee as prescribed in 18VAC115-20-20;

3. Verification of all mental health or health professional licenses or certificates ever held in any other jurisdiction. In order to qualify for endorsement the applicant shall have no unresolved action against a license or certificate. The board will consider history of disciplinary action on a case-by-case basis;

4. Documentation of having completed education and experience requirements as specified in subsection B of this section;

5. Verification of a passing score on an examination required for counseling licensure in the jurisdiction in which licensure was obtained;

6. A current report from the U.S. Department of Health and Human Services National Practitioner Data Bank (NPDB); and

7. An affidavit of having read and understood the regulations and laws governing the practice of professional counseling in Virginia.

B. Every applicant for licensure by endorsement shall meet one of the following:

1. Educational requirements consistent with those specified in 18VAC115-20-49 and 18VAC115-20-51 and experience requirements consistent with those specified in 18VAC115-20-52;

2. If an applicant does not have educational and experience credentials consistent with those required by this chapter, he shall provide:

a. Documentation of education and supervised experience that met the requirements of the jurisdiction in which he was initially licensed as verified by an official transcript and a certified copy of the original application materials; and

b. Evidence of post-licensure clinical practice in counseling, as defined in § 54.1-3500 of the Code of Virginia, for 24 of the last 60 months immediately preceding his licensure application in Virginia. Clinical practice shall mean the rendering of direct clinical counseling services or clinical supervision of counseling services; or

3. In lieu of transcripts verifying education and documentation verifying supervised experience, the board may accept verification from the credentials registry of the American Association of State Counseling Boards or any other board-recognized entity.

Statutory Authority

§ 54.1-2400 of the Code of Virginia.

Historical Notes

Derived from Volume 16, Issue 13, eff. April 12, 2000; amended, Virginia Register Volume 24, Issue 24, eff. September 3, 2008; Volume 25, Issue 20, eff. July 23, 2009; Volume 26, Issue 01, eff. October 14, 2009; Volume 30, Issue 19, eff. July 3, 2014; Volume 32, Issue 24, eff. August 24, 2016.

Guidance document: 115-4.3

Adopted: February 19, 2010
Reaffirmed: November 3, 2016

Virginia Board of Counseling

Direct Client Contact Hours in an Internship that can be Applied Towards the Residency

Regulation 18VAC115-20-51(A)(13) states that a supervised internship of 600 hours must include a minimum of 240 hours of face-to-face direct client contact, but it does not specify a *maximum* number of face-to-face hours. The consensus of the Board is that any amount of additional direct client contact hours in excess of 240 hours required in an internship can be counted towards the 2,000 direct client contact hours required for the Residency.

Guidance document: 115-4.3

Adopted: February 19, 2010
Reaffirmed: November 3, 2016

Virginia Board of Counseling

Direct Client Contact Hours in an Internship that can be Applied Towards the Residency

Regulation 18VAC115-20-51(A)(13) states that a supervised internship of 600 hours must include a minimum of 240 hours of face-to-face direct client contact, but it does not specify a *maximum* number of face-to-face hours. The consensus of the Board is that any amount of additional direct client contact hours in excess of 240 hours required in an internship can be counted towards the 2,000 direct client contact hours required for the Residency.