
Call to Order – Gerard Lawson, Ph.D, LPC, LSATP, Committee Chairperson

- Welcome and Introductions
- Mission of the Committee/Evacuation Instructions.....Page 3

Approval of Agenda

Approval of Minutes

- Regulatory Committee Meeting – July 15, 2022*Page 6

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.

Unfinished Business

- RAP follow-up discussion
- Discussion of Reinstatement for Licensed Residents - Staff
- Discussion of the Need for Active/Inactive Status for Licensed Residents - Staff

New Business

- **Regulatory and Legislative Report - Erin L. Barrett, JD, Director of Legislative and Regulatory Affairs**
 - Adoption of exempt regulatory changes pursuant to Chapter 191 of the 2023 Acts of Assembly*Page 11
 - Adoption of emergency regulations to implement provisions of Chapters 684 and 802 of the 2023 General Assembly*.....Page 15
- **Preliminary CSAC discussion regarding the need for regulatory changes and changes to the FAQs – Staff**.....Page 27
 - Creating/reviewing definition for the required didactic training. (This is not a regulation change but important for staff and applicants to have this information).
 - Identify a more streamlined approach to obtaining the required 240 didactic training. (i.e. community college certificates in lieu of the 240 didactic training hours).
 - Create a fast-track process/pathway for a Behavioral Health licensee to obtain CSAC certification.
 - Consider allowing CSAC to take the NCAC1 examination while under supervision.
 - Consider alternatives to the current CSAC endorsement requirements.
- **Right Help Right Now- Jaime Hoyle, JD, Executive Director, Boards of Counseling, Psychology, and Social Work**

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- Universal licensure, reciprocity, compact, and endorsement discussions (verbal report with handout available at the meeting)
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Next Meetings

- Need for an Additional RAP and Potential Dates
 - Regulatory Committee Meeting – July 14, 2023
-

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).

DRAFT



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.

PERIMETER CENTER CONFERENCE CENTER
EMERGENCY EVACUATION OF BOARD AND TRAINING ROOMS
(Script to be read at the beginning of each meeting.)

PLEASE LISTEN TO THE FOLLOWING INSTRUCTIONS ABOUT EXITING THESE PREMISES IN THE EVENT OF AN EMERGENCY.

In the event of a fire or other emergency requiring the evacuation of the building, alarms will sound.

When the alarms sound, leave the room immediately. Follow any instructions given by Security staff

Board Room 1

Exit the room using one of the doors at the back of the room. **(Point)** Upon exiting the room, turn **RIGHT**. Follow the corridor to the emergency exit at the end of the hall.

Upon exiting the building, proceed straight ahead through the parking lot to the fence at the end of the lot. Wait there for further instructions.

Board Room 2

Exit the room using one of the doors at the back of the room. **(Point)** Upon exiting the room, turn **RIGHT**. Follow the corridor to the emergency exit at the end of the hall.

Upon exiting the building, proceed straight ahead through the parking lot to the fence at the end of the lot. Wait there for further instructions.

You may also exit the room using the side door **(Point)**, turn **Right** out the door and make an immediate **Left**. Follow the corridor to the emergency exit at the end of the hall.

Upon exiting the building, proceed straight ahead through the parking lot to the fence at the end of the lot. Wait there for further instructions.

Board Rooms 3 and 4

Exit the room using one of the doors at the back of the room. **(Point)** Upon exiting the room, turn **RIGHT**. Follow the corridor to the emergency exit at the end of the hall.

Upon exiting the building, proceed straight ahead through the parking lot to the fence at the end of the lot. Wait there for further instructions.

Training Room 1

Exit the room using one of the doors at the back of the room. **(Point)** Upon exiting the room, turn **LEFT**. Follow the corridor to the emergency exit at the end of the hall.

Upon exiting the building, proceed straight ahead through the parking lot to the fence at the end of the lot. Wait there for further instructions.

Training Room 2

Exit the room using one of the doors at the back of the room. **(Point)** Upon exiting the doors, turn **LEFT**. Follow the corridor to the emergency exit at the end of the hall.

Upon exiting the building, proceed straight ahead through the parking lot to the fence at the end of the lot. Wait there for further instructions.



**Virginia Board of Counseling
Regulatory Committee Meeting Minutes
Friday, July 15, 2022 at 1:00 p.m.
9960 Mayland Drive, Henrico, VA 23233
Board Room 4**

CALL TO ORDER: Ms. Tracy called the Regulatory Committee meeting to order at 1:03 p.m.

PRESIDING OFFICER: Holly Tracy, LPC, LMFT, Committee Chair

COMMITTEE MEMBERS PRESENT: Barry Alvarez, LMFT
Johnston Brendel, Ed.D, LPC, LMFT
Gerard Lawson, PhD, LPC, LSATP
Terry Tinsley, PhD, LPC, LMFT, CSOTP
Vivian Sanchez-Jones, Citizen Member

BOARD STAFF PRESENT: Jaime Hoyle, JD, Executive Director
Jennifer Lang, Deputy Executive Director
Charlotte Lenart, Deputy Executive Director
Leoni Wells, Executive Assistant

DHP STAFF PRESENT: Erin Barrett, JD, Senior Policy Analyst, Regulatory Compliance Manager

ESTABLISHMENT OF A QUORUM/ROLL CALL: Ms. Tracy requested a roll call by Ms. Hoyle. Ms. Hoyle announced that with 6 (six) members present a quorum was established.

MISSION STATEMENT: Ms. Hoyle read the mission statement of the Department of Health Professions, which is also the mission statement of the Committee and Board.

ADOPTION OF AGENDA: Agenda was adopted as presented.

APPROVAL OF MINUTES: Meeting minutes from the Regulatory Committee Meeting held on April 15, 2022 were approved as written with suggested edits.

PUBLIC COMMENT: There were no public comments.

PUBLIC ATTENDEES: none

NEW BUSINESS: A letter from Joshua C. DeSilva, who is the Vice Chair, of Virginia Latino Advisory Board, was read and discussed with the Board. Mr. DeSilva recommended that the Boards of Psychology, Social Work and Counseling consider adding regulations to require that licensed providers in each profession complete continuing education credits in working with diverse

populations annually in order to renew their licenses. This would be in addition to the required ethics credits that the Board currently require by regulation.

The Committee was in support of the letter and asked Ms. Barrett to come up with a creative way to add the need for diversity training in a guidance documents. This issue will continue to be on the agenda for future discussions.

UNFINISHED BUSINESS:

I. Regulatory Report Update:

Ms. Barrett updated the Board on the current regulatory actions. Ms. Barrett provided two proposals (see attachment "A") for the Committee to consider to address the public comments and confusion over proposed changes to the endorsement requirements. After a long discussion, the Committee agreed that option 2 of the proposed changes would be beneficial to public to help streamline the multiple avenues for licensure by endorsement.

Motion: Mr. Tinsley moved, which was properly seconded, to recommend to the Board to adopt final regulations with changes (option 2) as proposed by Ms. Barrett. The motion passed unanimously.

II. Review & Consideration of Guidance Documents

a. Discussion of Guidance Document 115-8 Approved Degrees in Human Services for QMHP Registration

Ms. Barrett stated that the regulations do not support separating the degrees into two categories within the guidance document. The Committee agreed to not take action on this issue.

b. Discussion of Reinstatement for Licensed Residents

The Board discussed the reinstatement for licensed residents. After having a lengthy discussion, the Committee did not make a decision but agreed to revisit this issue at a later time.

c. Discussion of the need Active/Inactive Status for Licensed Residents- Staff

The Board discussed the need for active/inactive status for licensed residents. After discussion on this topic, the Committee agreed to revisit this issue at a later time.

NEXT MEETING:

Ms. Tracey announced that the next Regulatory Committee will occur October 14, 2022.

ADJOURNMENT:

Ms. Tracey adjourned the July 15, 2022 Regulatory Meeting at 2:54 p.m.

Holly Tracy, LPC, LMFT, Committee Chair

Jaime Hoyle, JD, Executive Director

Attachment A

SUGGESTIONS TO ADDRESS PUBLIC CONFUSION OVER REQUIREMENTS

Option 1:

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; or

2. ~~If an applicant does not have~~ In lieu of documentation of educational and experience credentials consistent with those required by this chapter, he shall the applicant may provide evidence of one of the four following options in a-d, below:

~~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.~~ a. Evidence of post-licensure clinical practice in counseling, as defined in § 54.1-3500 of the Code of Virginia, at the highest level for independent practice 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 teaching graduate-level courses in counseling; 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.~~

b. Verification of the Certified Clinical Mental Health Counselor credential from the National Board of Certified Counselors (NBCC) or any other board-recognized entity; or

c. 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

d. 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 credential, in good standing, as issued by the NBCC; or

(2) A graduate-level degree from a program accredited in clinical mental health counseling by CACREP.

Option 2:

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; or

2. ~~If an applicant does not have~~ In lieu of documentation of educational and experience credentials consistent with those required by this chapter, ~~he shall~~ the applicant may provide **evidence specified in C.:**

~~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. or~~

C. Applicants for endorsement that do not meet the requirements in B 1 may provide evidence of one of the following:

1. Evidence of post-licensure clinical practice in counseling, as defined in § 54.1-3500 of the Code of Virginia, at the highest level for independent practice 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 teaching graduate-level courses in counseling; **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.~~

b.2. Verification of the Certified Clinical Mental Health Counselor credential from the National Board of Certified Counselors (NBCC) or any other board-recognized entity; **or**

e.3. 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**

d.4. 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)a. The National Certified Counselor credential, in good standing, as issued by the NBCC; or

(2)b. A graduate-level degree from a program accredited in clinical mental health counseling by CACREP.

Same change would be made to Chapter 50 (page 86 of agenda)

Agenda Item: Adoption of exempt regulatory changes pursuant to Ch. 191 of the 2023 Acts of Assembly

Included in your agenda package are:

- Proposed exempt regulatory changes to 18VAC115-15-10; and
- Ch. 191 of the 2023 Acts of Assembly.

Action needed:

- Motion to adopt exempt changes to 18VAC115-15-10 **effective July 1, 2023.**

Project 7550 - Exempt Final

Board of Counseling

Exempt regulatory changes to allow agency subordinates to hear credentials cases

18VAC115-15-10. Decision to delegate.

In accordance with § 54.1-2400 (10) of the Code of Virginia, the board may delegate an informal fact-finding proceeding to an agency subordinate ~~upon determination that probable cause exists that a practitioner may be subject to a disciplinary action.~~

VIRGINIA ACTS OF ASSEMBLY -- 2023 SESSION

CHAPTER 191

An Act to amend and reenact § 54.1-2400 of the Code of Virginia, relating to health regulatory boards; delegation of authority to conduct informal fact-finding proceedings.

[H 1622]

Approved March 22, 2023

Be it enacted by the General Assembly of Virginia:

1. That § 54.1-2400 of the Code of Virginia is amended and reenacted as follows:

§ 54.1-2400. General powers and duties of health regulatory boards.

The general powers and duties of health regulatory boards shall be:

1. To establish the qualifications for registration, certification, licensure, permit, or the issuance of a multistate licensure privilege in accordance with the applicable law which are necessary to ensure competence and integrity to engage in the regulated professions.

2. To examine or cause to be examined applicants for certification, licensure, or registration. Unless otherwise required by law, examinations shall be administered in writing or shall be a demonstration of manual skills.

3. To register, certify, license, or issue a multistate licensure privilege to qualified applicants as practitioners of the particular profession or professions regulated by such board.

4. To establish schedules for renewals of registration, certification, licensure, permit, and the issuance of a multistate licensure privilege.

5. To levy and collect fees for application processing, examination, registration, certification, permitting, or licensure or the issuance of a multistate licensure privilege and renewal that are sufficient to cover all expenses for the administration and operation of the Department of Health Professions, the Board of Health Professions, and the health regulatory boards.

6. To promulgate regulations in accordance with the Administrative Process Act (§ 2.2-4000 et seq.) that are reasonable and necessary to administer effectively the regulatory system, which shall include provisions for the satisfaction of board-required continuing education for individuals registered, certified, licensed, or issued a multistate licensure privilege by a health regulatory board through delivery of health care services, without compensation, to low-income individuals receiving health services through a local health department or a free clinic organized in whole or primarily for the delivery of those health services. Such regulations shall not conflict with the purposes and intent of this chapter or of Chapter 1 (§ 54.1-100 et seq.) and Chapter 25 (§ 54.1-2500 et seq.).

7. To revoke, suspend, restrict, or refuse to issue or renew a registration, certificate, license, permit, or multistate licensure privilege which such board has authority to issue for causes enumerated in applicable law and regulations.

8. To appoint designees from their membership or immediate staff to coordinate with the Director and the Health Practitioners' Monitoring Program Committee and to implement, as is necessary, the provisions of Chapter 25.1 (§ 54.1-2515 et seq.). Each health regulatory board shall appoint one such designee.

9. To take appropriate disciplinary action for violations of applicable law and regulations, and to accept, in their discretion, the surrender of a license, certificate, registration, permit, or multistate licensure privilege in lieu of disciplinary action.

10. To appoint a special conference committee, composed of not less than two members of a health regulatory board or, when required for special conference committees of the Board of Medicine, not less than two members of the Board and one member of the relevant advisory board, or, when required for special conference committees of the Board of Nursing, not less than one member of the Board and one member of the relevant advisory board, to act in accordance with § 2.2-4019 upon receipt of information that a practitioner or permit holder of the appropriate board may be subject to disciplinary action or to consider an application for a license, certification, registration, permit or multistate licensure privilege in nursing. The special conference committee may (i) exonerate; (ii) reinstate; (iii) place the practitioner or permit holder on probation with such terms as it may deem appropriate; (iv) reprimand; (v) modify a previous order; (vi) impose a monetary penalty pursuant to § 54.1-2401, (vii) deny or grant an application for licensure, certification, registration, permit, or multistate licensure privilege; and (viii) issue a restricted license, certification, registration, permit or multistate licensure privilege subject to terms and conditions. The order of the special conference committee shall become final 30 days after service of the order unless a written request to the board for a hearing is received within such time. If service of the decision to a party is accomplished by mail, three days shall be added to the 30-day period. Upon receiving a timely written request for a hearing, the board or a panel of the board shall then proceed with a hearing as provided in § 2.2-4020, and the action of the committee shall be vacated.

This subdivision shall not be construed to limit the authority of a board to delegate to an appropriately qualified agency subordinate, as defined in § 2.2-4001, the authority to conduct informal fact-finding proceedings in accordance with § 2.2-4019; ~~upon receipt of information that a practitioner may be subject to a disciplinary action.~~ The recommendation of such subordinate may be considered by a panel consisting of at least five board members, or, if a quorum of the board is less than five members, consisting of a quorum of the members, convened for the purpose of issuing a case decision. Criteria for the appointment of an agency subordinate shall be set forth in regulations adopted by the board.

11. To convene, at their discretion, a panel consisting of at least five board members or, if a quorum of the board is less than five members, consisting of a quorum of the members to conduct formal proceedings pursuant to § 2.2-4020, decide the case, and issue a final agency case decision. Any decision rendered by majority vote of such panel shall have the same effect as if made by the full board and shall be subject to court review in accordance with the Administrative Process Act. No member who participates in an informal proceeding conducted in accordance with § 2.2-4019 shall serve on a panel conducting formal proceedings pursuant to § 2.2-4020 to consider the same matter.

12. To issue inactive licenses or certificates and promulgate regulations to carry out such purpose. Such regulations shall include, but not be limited to, the qualifications, renewal fees, and conditions for reactivation of licenses or certificates.

13. To meet by telephone conference call to consider settlement proposals in matters pending before special conference committees convened pursuant to this section, or matters referred for formal proceedings pursuant to § 2.2-4020 to a health regulatory board or a panel of the board or to consider modifications of previously issued board orders when such considerations have been requested by either of the parties.

14. To request and accept from a certified, registered, or licensed practitioner; a facility holding a license, certification, registration, or permit; or a person holding a multistate licensure privilege to practice nursing, in lieu of disciplinary action, a confidential consent agreement. A confidential consent agreement shall be subject to the confidentiality provisions of § 54.1-2400.2 and shall not be disclosed by a practitioner or facility. A confidential consent agreement shall include findings of fact and may include an admission or a finding of a violation. A confidential consent agreement shall not be considered either a notice or order of any health regulatory board, but it may be considered by a board in future disciplinary proceedings. A confidential consent agreement shall be entered into only in cases involving minor misconduct where there is little or no injury to a patient or the public and little likelihood of repetition by the practitioner or facility. A board shall not enter into a confidential consent agreement if there is probable cause to believe the practitioner or facility has (i) demonstrated gross negligence or intentional misconduct in the care of patients or (ii) conducted his practice in such a manner as to be a danger to the health and welfare of his patients or the public. A certified, registered, or licensed practitioner, a facility holding a license, certification, registration, or permit, or a person holding a multistate licensure privilege to practice nursing who has entered into two confidential consent agreements involving a standard of care violation, within the 10-year period immediately preceding a board's receipt of the most recent report or complaint being considered, shall receive public discipline for any subsequent violation within the 10-year period unless the board finds there are sufficient facts and circumstances to rebut the presumption that the disciplinary action be made public.

15. When a board has probable cause to believe a practitioner is unable to practice with reasonable skill and safety to patients because of excessive use of alcohol or drugs or physical or mental illness, the board, after preliminary investigation by an informal fact-finding proceeding, may direct that the practitioner submit to a mental or physical examination. Failure to submit to the examination shall constitute grounds for disciplinary action. Any practitioner affected by this subsection shall be afforded reasonable opportunity to demonstrate that he is competent to practice with reasonable skill and safety to patients. For the purposes of this subdivision, "practitioner" shall include any person holding a multistate licensure privilege to practice nursing.

Agenda Item: Adoption of emergency regulations to implement provisions of Chapters 684 and 802 of the 2023 General Assembly

Included in your agenda package:

- Ch. 684 of the 2023 Acts of Assembly.

Provided as a handout at your seat:

- Draft changes to existing regulations to implement provisions of the Counseling Compact.

Action needed:

- Motion to adopt emergency regulations and issue a Notice of Intended Regulatory Action for permanent regulations to replace emergency regulations.

VIRGINIA ACTS OF ASSEMBLY -- 2023 SESSION

CHAPTER 684

An Act to amend the Code of Virginia by adding a section numbered 54.1-3500.1, relating to Counseling Compact.

[H 1433]

Approved March 27, 2023

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding a section numbered 54.1-3500.1 as follows:

§ 54.1-3500.1. Counseling Compact.

The General Assembly hereby enacts, and the Commonwealth of Virginia hereby enters into, the Counseling Compact with any and all states legally joining therein according to its terms, in the form substantially as follows:

COUNSELING COMPACT

Article I.

Purpose.

The purpose of this Compact is to facilitate interstate practice of Licensed Professional Counselors with the goal of improving public access to Professional Counseling services. The practice of Professional Counseling occurs in the State where the client is located at the time of the counseling services. The Compact preserves the regulatory authority of States to protect public health and safety through the current system of State licensure.

This Compact is designed to achieve the following objectives:

- 1. Increase public access to Professional Counseling services by providing for the mutual recognition of other Member State licenses;*
- 2. Enhance the States' ability to protect the public's health and safety;*
- 3. Encourage the cooperation of Member States in regulating multistate practice for Licensed Professional Counselors;*
- 4. Support spouses of relocating Active Duty Military personnel;*
- 5. Enhance the exchange of licensure, investigative, and disciplinary information among Member States;*
- 6. Allow for the use of Telehealth technology to facilitate increased access to Professional Counseling services;*
- 7. Support the uniformity of Professional Counseling licensure requirements throughout the States to promote public safety and public health benefits;*
- 8. Invest all Member States with the authority to hold a Licensed Professional Counselor accountable for meeting all State practice laws in the State in which the client is located at the time care is rendered through the mutual recognition of Member State licenses;*
- 9. Eliminate the necessity for licenses in multiple States; and*
- 10. Provide opportunities for interstate practice by Licensed Professional Counselors who meet uniform licensure requirements.*

Article II.

Definitions.

As used in this Compact, and except as otherwise provided, the following definitions shall apply:

"Active Duty Military" means full-time duty status in the active uniformed service of the United States, including members of the National Guard and Reserve on active duty orders pursuant to 10 U.S.C. Chapters 1209 and 1211.

"Adverse Action" means any administrative, civil, equitable, or criminal action permitted by a State's laws which is imposed by a licensing board or other authority against a Licensed Professional Counselor, including actions against an individual's license or Privilege to Practice such as revocation, suspension, probation, monitoring of the licensee, limitation on the licensee's practice, or any other Encumbrance on licensure affecting a Licensed Professional Counselor's authorization to practice, including issuance of a cease and desist action.

"Alternative Program" means a non-disciplinary monitoring or practice remediation process approved by a Professional Counseling Licensing Board to address Impaired Practitioners.

"Continuing Competence/Education" means a requirement, as a condition of license renewal, to provide evidence of participation in, and/or completion of, educational and professional activities relevant to practice or area of work.

"Counseling Compact Commission" or "Commission" means the national administrative body whose membership consists of all States that have enacted the Compact.

"Current Significant Investigative Information" means:

1. Investigative Information that a Licensing Board, after a preliminary inquiry that includes notification and an opportunity for the Licensed Professional Counselor to respond, if required by State law, has reason to believe is not groundless and, if proved true, would indicate more than a minor infraction; or

2. Investigative Information that indicates that the Licensed Professional Counselor represents an immediate threat to public health and safety regardless of whether the Licensed Professional Counselor has been notified and had an opportunity to respond.

"Data System" means a repository of information about Licensees, including, but not limited to, continuing education, examination, licensure, investigative, Privilege to Practice, and Adverse Action information.

"Encumbered License" means a license in which an Adverse Action restricts the practice of licensed Professional Counseling by the Licensee and said Adverse Action has been reported to the National Practitioners Data Bank (NPDB).

"Encumbrance" means a revocation or suspension of, or any limitation on, the full and unrestricted practice of Licensed Professional Counseling by a Licensing Board.

"Executive Committee" means a group of directors elected or appointed to act on behalf of, and within the powers granted to them by, the Commission.

"Home State" means the Member State that is the Licensee's primary State of residence.

"Impaired Practitioner" means an individual who has a condition(s) that may impair their ability to practice as a Licensed Professional Counselor without some type of intervention and may include, but are not limited to, alcohol and drug dependence, mental health impairment, and neurological or physical impairments.

"Investigative Information" means information, records, and documents received or generated by a Professional Counseling Licensing Board pursuant to an investigation.

"Jurisprudence Requirement" if required by a Member State, means the assessment of an individual's knowledge of the laws and Rules governing the practice of Professional Counseling in a State.

"Licensed Professional Counselor" means a counselor licensed by a Member State, regardless of the title used by that State, to independently assess, diagnose, and treat behavioral health conditions.

"Licensee" means an individual who currently holds an authorization from the State to practice as a Licensed Professional Counselor.

"Licensing Board" means the agency of a State, or equivalent, that is responsible for the licensing and regulation of Licensed Professional Counselors.

"Member State" means a State that has enacted the Compact.

"Privilege to Practice" means a legal authorization, which is equivalent to a license, permitting the practice of Professional Counseling in a Remote State.

"Professional Counseling" means the assessment, diagnosis, and treatment of behavioral health conditions by a Licensed Professional Counselor.

"Remote State" means a Member State other than the Home State, where a Licensee is exercising or seeking to exercise the Privilege to Practice.

"Rule" means a regulation promulgated by the Commission that has the force of law.

"Single State License" means a Licensed Professional Counselor license issued by a Member State that authorizes practice only within the issuing State and does not include a Privilege to Practice in any other Member State.

"State" means any state, commonwealth, district, or territory of the United States of America that regulates the practice of Professional Counseling.

"Telehealth" means the application of telecommunication technology to deliver Professional Counseling services remotely to assess, diagnose, and treat behavioral health conditions.

"Unencumbered License" means a license that authorizes a Licensed Professional Counselor to engage in the full and unrestricted practice of Professional Counseling.

Article III.

State Participation in the Compact.

A. To Participate in the Compact, a State must currently:

1. License and regulate Licensed Professional Counselors;
2. Require Licensees to pass a nationally recognized exam approved by the Commission;
3. Require Licensees to have a 60 semester-hour (or 90 quarter-hour) master's degree in counseling or 60 semester-hours (or 90 quarter-hours) of graduate course work including the following topic areas:
 - a. Professional Counseling Orientation and Ethical Practice;
 - b. Social and Cultural Diversity;
 - c. Human Growth and Development;
 - d. Career Development;
 - e. Counseling and Helping Relationships;
 - f. Group Counseling and Group Work;
 - g. Diagnosis and Treatment; Assessment and Testing;
 - h. Research and Program Evaluation; and

- i. Other areas as determined by the Commission.
 - 4. Require Licensees to complete a supervised postgraduate professional experience as defined by the Commission; and
 - 5. Have a mechanism in place for receiving and investigating complaints about Licensees.
- B. A Member State shall:
- 1. Participate fully in the Commission's Data System, including using the Commission's unique identifier as defined in Rules;
 - 2. Notify the Commission, in compliance with the terms of the Compact and Rules, of any Adverse Action or the availability of Investigative Information regarding a Licensee;
 - 3. Implement or utilize procedures for considering the criminal history records of applicants for an initial Privilege to Practice. These procedures shall include the submission of fingerprints or other biometric-based information by applicants for the purpose of obtaining an applicant's criminal history record information from the Federal Bureau of Investigation and the agency responsible for retaining that State's criminal records;
 - a. A member state must fully implement a criminal background check requirement, within a time frame established by rule, by receiving the results of the Federal Bureau of Investigation record search and shall use the results in making licensure decisions.
 - b. Communication between a Member State, the Commission and among Member States regarding the verification of eligibility for licensure through the Compact shall not include any information received from the Federal Bureau of Investigation relating to a federal criminal records check performed by a Member State under Public Law 92-544.
 - 4. Comply with the Rules of the Commission;
 - 5. Require an applicant to obtain or retain a license in the Home State and meet the Home State's qualifications for licensure or renewal of licensure, as well as all other applicable State laws;
 - 6. Grant the Privilege to Practice to a Licensee holding a valid Unencumbered License in another Member State in accordance with the terms of the Compact and Rules; and
 - 7. Provide for the attendance of the State's commissioner to the Counseling Compact Commission meetings.
- C. Member States may charge a fee for granting the Privilege to Practice.
- D. Individuals not residing in a Member State shall continue to be able to apply for a Member State's Single State License as provided under the laws of each Member State. However, the Single State License granted to these individuals shall not be recognized as granting a Privilege to Practice Professional Counseling in any other Member State.
- E. Nothing in this Compact shall affect the requirements established by a Member State for the issuance of a Single State License.
- F. A license issued to a Licensed Professional Counselor by a Home State to a resident in that State shall be recognized by each Member State as authorizing a Licensed Professional Counselor to practice Professional Counseling, under a Privilege to Practice, in each Member State.

Article IV.

Privilege to Practice.

- A. To exercise the Privilege to Practice under the terms and provisions of the Compact, the Licensee shall:
- 1. Hold a license in the Home State;
 - 2. Have a valid United States Social Security Number or National Practitioner Identifier;
 - 3. Be eligible for a Privilege to Practice in any Member State in accordance with subsections D, G, and H;
 - 4. Have not had any Encumbrance or restriction against any license or Privilege to Practice within the previous two (2) years;
 - 5. Notify the Commission that the Licensee is seeking the Privilege to Practice within a Remote State(s);
 - 6. Pay any applicable fees, including any State fee, for the Privilege to Practice;
 - 7. Meet any Continuing Competence/Education requirements established by the Home State;
 - 8. Meet any Jurisprudence Requirements established by the Remote State(s) in which the Licensee is seeking a Privilege to Practice; and
 - 9. Report to the Commission any Adverse Action, Encumbrance, or restriction on license taken by any non-Member State within 30 days from the date the action is taken.
- B. The Privilege to Practice is valid until the expiration date of the Home State license. The Licensee must comply with the requirements of subsection A to maintain the Privilege to Practice in the Remote State.
- C. A Licensee providing Professional Counseling in a Remote State under the Privilege to Practice shall adhere to the laws and regulations of the Remote State.
- D. A Licensee providing Professional Counseling services in a Remote State is subject to that State's regulatory authority. A Remote State may, in accordance with due process and that State's laws, remove a Licensee's Privilege to Practice in the Remote State for a specific period of time, impose fines, and/or

take any other necessary actions to protect the health and safety of its citizens. The Licensee may be ineligible for a Privilege to Practice in any Member State until the specific time for removal has passed and all fines are paid.

E. If a Home State license is encumbered, the Licensee shall lose the Privilege to Practice in any Remote State until the following occur:

1. The Home State license is no longer encumbered; and
2. Have not had any Encumbrance or restriction against any license or Privilege to Practice within the previous two (2) years.

F. Once an Encumbered License in the Home State is restored to good standing, the Licensee must meet the requirements of subsection A to obtain a Privilege to Practice in any Remote State.

G. If a Licensee's Privilege to Practice in any Remote State is removed, the individual may lose the Privilege to Practice in all other Remote States until the following occur:

1. The specific period of time for which the Privilege to Practice was removed has ended;
2. All fines have been paid; and
3. Have not had any Encumbrance or restriction against any license or Privilege to Practice within the previous two (2) years.

H. Once the requirements of subsection G have been met, the Licensee must meet the requirements in subsection A to obtain a Privilege to Practice in a Remote State.

Article V.

Obtaining a New Home State License Based on a Privilege to Practice.

A. A Licensed Professional Counselor may hold a Home State license, which allows for a Privilege to Practice in other Member States, in only one Member State at a time.

B. If a Licensed Professional Counselor changes primary State of residence by moving between two Member States:

1. The Licensed Professional Counselor shall file an application for obtaining a new Home State license based on a Privilege to Practice, pay all applicable fees, and notify the current and new Home State in accordance with applicable Rules adopted by the Commission.

2. Upon receipt of an application for obtaining a new Home State license by virtue of a Privilege to Practice, the new Home State shall verify that the Licensed Professional Counselor meets the pertinent criteria outlined in Article IV via the Data System, without need for primary source verification except for:

- a. A Federal Bureau of Investigation fingerprint based criminal background check if not previously performed or updated pursuant to applicable rules adopted by the Commission in accordance with Public Law 92-544;

- b. Other criminal background check as required by the new Home State; and

- c. Completion of any requisite Jurisprudence Requirements of the new Home State.

3. The former Home State shall convert the former Home State license into a Privilege to Practice once the new Home State has activated the new Home State license in accordance with applicable Rules adopted by the Commission.

4. Notwithstanding any other provision of this Compact, if the Licensed Professional Counselor cannot meet the criteria in Article IV, the new Home State may apply its requirements for issuing a new Single State License.

5. The Licensed Professional Counselor shall pay all applicable fees to the new Home State in order to be issued a new Home State license.

C. If a Licensed Professional Counselor changes Primary State of Residence by moving from a Member State to a non-Member State, or from a non-Member State to a Member State, the State criteria shall apply for issuance of a Single State License in the new State.

D. Nothing in this Compact shall interfere with a Licensee's ability to hold a Single State License in multiple States, however for the purposes of this Compact, a Licensee shall have only one Home State license.

E. Nothing in this Compact shall affect the requirements established by a Member State for the issuance of a Single State License.

Article VI.

Active Duty Military Personnel or their Spouses.

Active Duty Military personnel, or their spouse, shall designate a Home State where the individual has a current license in good standing. The individual may retain the Home State designation during the period the service member is on active duty. Subsequent to designating a Home State, the individual shall only change their Home State through application for licensure in the new State, or through the process outlined in Article V.

Article VII.

Compact Privilege to Practice Telehealth.

A. Member States shall recognize the right of a Licensed Professional Counselor, licensed by a Home State in accordance with Article III and under Rules promulgated by the Commission, to practice Professional Counseling in any Member State via Telehealth under a Privilege to Practice as provided

in the Compact and Rules promulgated by the Commission.

B. A Licensee providing Professional Counseling services in a Remote State under the Privilege to Practice shall adhere to the laws and regulations of the Remote State.

Article VIII.

Adverse Actions.

A. In addition to the other powers conferred by State law, a Remote State shall have the authority, in accordance with existing State due process law, to:

1. Take Adverse Action against a Licensed Professional Counselor's Privilege to Practice within that Member State, and

2. Issue subpoenas for both hearings and investigations that require the attendance and testimony of witnesses as well as the production of evidence. Subpoenas issued by a Licensing Board in a Member State for the attendance and testimony of witnesses or the production of evidence from another Member State shall be enforced in the latter State by any court of competent jurisdiction, according to the practice and procedure of that court applicable to subpoenas issued in proceedings pending before it. The issuing authority shall pay any witness fees, travel expenses, mileage, and other fees required by the service statutes of the State in which the witnesses or evidence are located.

3. Only the Home State shall have the power to take Adverse Action against a Licensed Professional Counselor's license issued by the Home State.

B. For purposes of taking Adverse Action, the Home State shall give the same priority and effect to reported conduct received from a Member State as it would if the conduct had occurred within the Home State. In so doing, the Home State shall apply its own State laws to determine appropriate action.

C. The Home State shall complete any pending investigations of a Licensed Professional Counselor who changes primary State of residence during the course of the investigations. The Home State shall also have the authority to take appropriate action(s) and shall promptly report the conclusions of the investigations to the administrator of the Data System. The administrator of the coordinated licensure information system shall promptly notify the new Home State of any Adverse Actions.

D. A Member State, if otherwise permitted by State law, may recover from the affected Licensed Professional Counselor the costs of investigations and dispositions of cases resulting from any Adverse Action taken against that Licensed Professional Counselor.

E. A Member State may take Adverse Action based on the factual findings of the Remote State, provided that the Member State follows its own procedures for taking the Adverse Action.

F. Joint Investigations:

1. In addition to the authority granted to a Member State by its respective Professional Counseling practice act or other applicable State law, any Member State may participate with other Member States in joint investigations of Licensees.

2. Member States shall share any investigative, litigation, or compliance materials in furtherance of any joint or individual investigation initiated under the Compact.

G. If Adverse Action is taken by the Home State against the license of a Licensed Professional Counselor, the Licensed Professional Counselor's Privilege to Practice in all other Member States shall be deactivated until all Encumbrances have been removed from the State license. All Home State disciplinary orders that impose Adverse Action against the license of a Licensed Professional Counselor shall include a Statement that the Licensed Professional Counselor's Privilege to Practice is deactivated in all Member States during the pendency of the order.

H. If a Member State takes Adverse Action, it shall promptly notify the administrator of the Data System. The administrator of the Data System shall promptly notify the Home State of any Adverse Actions by Remote States.

I. Nothing in this Compact shall override a Member State's decision that participation in an Alternative Program may be used in lieu of Adverse Action.

Article IX.

Establishment of Counseling Compact Commission.

A. The Compact Member States hereby create and establish a joint public agency known as the Counseling Compact Commission:

1. The Commission is an instrumentality of the Compact States.

2. Venue is proper and judicial proceedings by or against the Commission shall be brought solely and exclusively in a court of competent jurisdiction where the principal office of the Commission is located. The Commission may waive venue and jurisdictional defenses to the extent it adopts or consents to participate in alternative dispute resolution proceedings.

3. Nothing in this Compact shall be construed to be a waiver of sovereign immunity.

B. Membership, Voting, and Meetings

1. Each Member State shall have and be limited to one (1) delegate selected by that Member State's Licensing Board.

2. The delegate shall be either:

a. A current member of the Licensing Board at the time of appointment, who is a Licensed Professional Counselor or public member; or

b. An administrator of the Licensing Board.

3. Any delegate may be removed or suspended from office as provided by the law of the State from which the delegate is appointed.

4. The Member State Licensing Board shall fill any vacancy occurring on the Commission within 60 days.

5. Each delegate shall be entitled to one (1) vote with regard to the promulgation of Rules and creation of bylaws and shall otherwise have an opportunity to participate in the business and affairs of the Commission.

6. A delegate shall vote in person or by such other means as provided in the bylaws. The bylaws may provide for delegates' participation in meetings by telephone or other means of communication.

7. The Commission shall meet at least once during each calendar year. Additional meetings shall be held as set forth in the bylaws.

8. The Commission shall by Rule establish a term of office for delegates and may by Rule establish term limits.

C. The Commission shall have the following powers and duties:

1. Establish the fiscal year of the Commission;

2. Establish bylaws;

3. Maintain its financial records in accordance with the bylaws;

4. Meet and take such actions as are consistent with the provisions of this Compact and the bylaws;

5. Promulgate Rules which shall be binding to the extent and in the manner provided for in the Compact;

6. Bring and prosecute legal proceedings or actions in the name of the Commission, provided that the standing of any State Licensing Board to sue or be sued under applicable law shall not be affected;

7. Purchase and maintain insurance and bonds;

8. Borrow, accept, or contract for services of personnel, including, but not limited to, employees of a Member State;

9. Hire employees, elect or appoint officers, fix compensation, define duties, grant such individuals appropriate authority to carry out the purposes of the Compact, and establish the Commission's personnel policies and programs relating to conflicts of interest, qualifications of personnel, and other related personnel matters;

10. Accept any and all appropriate donations and grants of money, equipment, supplies, materials, and services, and to receive, utilize, and dispose of the same; provided that at all times the Commission shall avoid any appearance of impropriety and/or conflict of interest;

11. Lease, purchase, accept appropriate gifts or donations of, or otherwise to own, hold, improve, or use, any property, real, personal, or mixed; provided that at all times the Commission shall avoid any appearance of impropriety;

12. Sell convey, mortgage, pledge, lease, exchange, abandon, or otherwise dispose of any property real, personal, or mixed;

13. Establish a budget and make expenditures;

14. Borrow money;

15. Appoint committees, including standing committees composed of members, State regulators, State legislators or their representatives, and consumer representatives, and such other interested persons as may be designated in this Compact and the bylaws;

16. Provide and receive information from, and cooperate with, law enforcement agencies;

17. Establish and elect an Executive Committee; and

18. Perform such other functions as may be necessary or appropriate to achieve the purposes of this Compact consistent with the State regulation of Professional Counseling licensure and practice.

D. The Executive Committee

1. The Executive Committee shall have the power to act on behalf of the Commission according to the terms of this Compact.

2. The Executive Committee shall be composed of up to eleven (11) members:

a. Seven voting members who are elected by the Commission from the current membership of the Commission; and

b. Up to four (4) ex-officio, nonvoting members from four (4) recognized national professional counselor organizations.

c. The ex-officio members will be selected by their respective organizations.

3. The Commission may remove any member of the Executive Committee as provided in bylaws.

4. The Executive Committee shall meet at least annually.

5. The Executive Committee shall have the following duties and responsibilities:

a. Recommend to the entire Commission changes to the Rules or bylaws, changes to this Compact legislation, fees paid by Compact Member States such as annual dues, and any Commission Compact fee charged to Licensees for the Privilege to Practice;

b. Ensure Compact administration services are appropriately provided, contractual or otherwise;

c. Prepare and recommend the budget;

- d. Maintain financial records on behalf of the Commission;
- e. Monitor Compact compliance of Member States and provide compliance reports to the Commission;
- f. Establish additional committees as necessary; and
- g. Other duties as provided in Rules or bylaws.

E. Meetings of the Commission

1. All meetings shall be open to the public, and public notice of meetings shall be given in the same manner as required under the Rulemaking provisions in Article XI.

2. The Commission or the Executive Committee or other committees of the Commission may convene in a closed, non-public meeting if the Commission or Executive Committee or other committees of the Commission must discuss:

- a. Non-compliance of a Member State with its obligations under the Compact;
- b. The employment, compensation, discipline, or other matters, practices, or procedures related to specific employees or other matters related to the Commission's internal personnel practices and procedures;
- c. Current, threatened, or reasonably anticipated litigation;
- d. Negotiation of contracts for the purchase, lease, or sale of goods, services, or real estate;
- e. Accusing any person of a crime or formally censuring any person;
- f. Disclosure of trade secrets or commercial or financial information that is privileged or confidential;
- g. Disclosure of information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy;
- h. Disclosure of investigative records compiled for law enforcement purposes;
- i. Disclosure of information related to any investigative reports prepared by or on behalf of or for use of the Commission or other committee charged with responsibility of investigation or determination of compliance issues pursuant to the Compact; or
- j. Matters specifically exempted from disclosure by federal or Member State statute.

3. If a meeting, or portion of a meeting, is closed pursuant to this provision, the Commission's legal counsel or designee shall certify that the meeting may be closed and shall reference each relevant exempting provision.

4. The Commission shall keep minutes that fully and clearly describe all matters discussed in a meeting and shall provide a full and accurate summary of actions taken, and the reasons therefore, including a description of the views expressed. All documents considered in connection with an action shall be identified in such minutes. All minutes and documents of a closed meeting shall remain under seal, subject to release by a majority vote of the Commission or order of a court of competent jurisdiction.

F. Financing of the Commission

1. The Commission shall pay, or provide for the payment of, the reasonable expenses of its establishment, organization, and ongoing activities.

2. The Commission may accept any and all appropriate revenue sources, donations, and grants of money, equipment, supplies, materials, and services.

3. The Commission may levy on and collect an annual assessment from each Member State or impose fees on other parties to cover the cost of the operations and activities of the Commission and its staff, which must be in a total amount sufficient to cover its annual budget as approved each year for which revenue is not provided by other sources. The aggregate annual assessment amount shall be allocated based upon a formula to be determined by the Commission, which shall promulgate a Rule binding upon all Member States.

4. The Commission shall not incur obligations of any kind prior to securing the funds adequate to meet the same; nor shall the Commission pledge the credit of any of the Member States, except by and with the authority of the Member State.

5. The Commission shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the Commission shall be subject to the audit and accounting procedures established under its bylaws. However, all receipts and disbursements of funds handled by the Commission shall be audited yearly by a certified or licensed public accountant, and the report of the audit shall be included in and become part of the annual report of the Commission.

G. Qualified Immunity, Defense, and Indemnification

1. The members, officers, executive director, employees, and representatives of the Commission shall be immune from suit and liability, either personally or in their official capacity, for any claim for damage to or loss of property or personal injury or other civil liability caused by or arising out of any actual or alleged act, error, or omission that occurred, or that the person against whom the claim is made had a reasonable basis for believing occurred within the scope of Commission employment, duties, or responsibilities; provided that nothing in this paragraph shall be construed to protect any such person from suit and/or liability for any damage, loss, injury, or liability caused by the intentional or willful or wanton misconduct of that person.

2. The Commission shall defend any member, officer, executive director, employee, or representative of the Commission in any civil action seeking to impose liability arising out of any actual or alleged act, error, or omission that occurred within the scope of Commission employment, duties, or responsibilities, or that the person against whom the claim is made had a reasonable basis for believing occurred within the scope of Commission employment, duties, or responsibilities; provided that nothing herein shall be construed to prohibit that person from retaining his or her own counsel; and provided further, that the actual or alleged act, error, or omission did not result from that person's intentional or willful or wanton misconduct.

3. The Commission shall indemnify and hold harmless any member, officer, executive director, employee, or representative of the Commission for the amount of any settlement or judgment obtained against that person arising out of any actual or alleged act, error, or omission that occurred within the scope of Commission employment, duties, or responsibilities, or that such person had a reasonable basis for believing occurred within the scope of Commission employment, duties, or responsibilities, provided that the actual or alleged act, error, or omission did not result from the intentional or willful or wanton misconduct of that person.

Article X.

Data System.

A. The Commission shall provide for the development, maintenance, operation, and utilization of a coordinated database and reporting system containing licensure, Adverse Action, and Investigative Information on all licensed individuals in Member States.

B. Notwithstanding any other provision of State law to the contrary, a Member State shall submit a uniform data set to the Data System on all individuals to whom this Compact is applicable as required by the Rules of the Commission, including:

1. Identifying information;
2. Licensure data;
3. Adverse Actions against a license or Privilege to Practice;
4. Non-confidential information related to Alternative Program participation;
5. Any denial of application for licensure, and the reason(s) for such denial;
6. Current Significant Investigative Information; and
7. Other information that may facilitate the administration of this Compact, as determined by the Rules of the Commission.

C. Investigative Information pertaining to a Licensee in any Member State will only be available to other Member States.

D. The Commission shall promptly notify all Member States of any Adverse Action taken against a Licensee or an individual applying for a license. Adverse Action information pertaining to a Licensee in any Member State will be available to any other Member State.

E. Member States contributing information to the Data System may designate information that may not be shared with the public without the express permission of the contributing State.

F. Any information submitted to the Data System that is subsequently required to be expunged by the laws of the Member State contributing the information shall be removed from the Data System.

Article XI.

Rulemaking.

A. The Commission shall promulgate reasonable Rules in order to effectively and efficiently achieve the purpose of the Compact. Notwithstanding the foregoing, in the event the Commission exercises its Rulemaking authority in a manner that is beyond the scope of the purposes of the Compact, or the powers granted hereunder, then such an action by the Commission shall be invalid and have no force or effect.

B. The Commission shall exercise its Rulemaking powers pursuant to the criteria set forth in this article and the Rules adopted thereunder. Rules and amendments shall become binding as of the date specified in each Rule or amendment.

C. If a majority of the legislatures of the Member States rejects a Rule, by enactment of a statute or resolution in the same manner used to adopt the Compact within four (4) years of the date of adoption of the Rule, then such Rule shall have no further force and effect in any Member State.

D. Rules or amendments to the Rules shall be adopted at a regular or special meeting of the Commission.

E. Prior to promulgation and adoption of a final Rule or Rules by the Commission, and at least thirty (30) days in advance of the meeting at which the Rule will be considered and voted upon, the Commission shall file a Notice of Proposed Rulemaking:

1. On the website of the Commission or other publicly accessible platform; and
2. On the website of each Member State Professional Counseling Licensing Board or other publicly accessible platform or the publication in which each State would otherwise publish proposed Rules.

F. The Notice of Proposed Rulemaking shall include:

1. The proposed time, date, and location of the meeting in which the Rule will be considered and voted upon;

2. The text of the proposed Rule or amendment and the reason for the proposed Rule;
3. A request for comments on the proposed Rule from any interested person; and
4. The manner in which interested persons may submit notice to the Commission of their intention to attend the public hearing and any written comments.

G. Prior to adoption of a proposed Rule, the Commission shall allow persons to submit written data, facts, opinions, and arguments, which shall be made available to the public.

H. The Commission shall grant an opportunity for a public hearing before it adopts a Rule or amendment if a hearing is requested by:

1. At least twenty-five (25) persons;
 2. A State or federal governmental subdivision or agency; or
 3. An association having at least twenty-five (25) members.
- I. If a hearing is held on the proposed Rule or amendment, the Commission shall publish the place, time, and date of the scheduled public hearing. If the hearing is held via electronic means, the Commission shall publish the mechanism for access to the electronic hearing.

1. All persons wishing to be heard at the hearing shall notify the executive director of the Commission or other designated member in writing of their desire to appear and testify at the hearing not less than five (5) business days before the scheduled date of the hearing.

2. Hearings shall be conducted in a manner providing each person who wishes to comment a fair and reasonable opportunity to comment orally or in writing.

3. All hearings will be recorded. A copy of the recording will be made available on request.

4. Nothing in this subsection shall be construed as requiring a separate hearing on each Rule. Rules may be grouped for the convenience of the Commission at hearings required by this subsection.

J. Following the scheduled hearing date, or by the close of business on the scheduled hearing date if the hearing was not held, the Commission shall consider all written and oral comments received.

K. If no written notice of intent to attend the public hearing by interested parties is received, the Commission may proceed with promulgation of the proposed Rule without a public hearing.

L. The Commission shall, by majority vote of all members, take final action on the proposed Rule and shall determine the effective date of the Rule, if any, based on the Rulemaking record and the full text of the Rule.

M. Upon determination that an emergency exists, the Commission may consider and adopt an emergency Rule without prior notice, opportunity for comment, or hearing, provided that the usual Rulemaking procedures provided in the Compact and in this article shall be retroactively applied to the Rule as soon as reasonably possible, in no event later than ninety (90) days after the effective date of the Rule. For the purposes of this provision, an emergency Rule is one that must be adopted immediately in order to:

1. Meet an imminent threat to public health, safety, or welfare;
2. Prevent a loss of Commission or Member State funds;
3. Meet a deadline for the promulgation of an administrative Rule that is established by federal law or Rule; or
4. Protect public health and safety.

N. The Commission or an authorized committee of the Commission may direct revisions to a previously adopted Rule or amendment for purposes of correcting typographical errors, errors in format, errors in consistency, or grammatical errors. Public notice of any revisions shall be posted on the website of the Commission. The revision shall be subject to challenge by any person for a period of thirty (30) days after posting. The revision may be challenged only on grounds that the revision results in a material change to a Rule. A challenge shall be made in writing and delivered to the chair of the Commission prior to the end of the notice period. If no challenge is made, the revision will take effect without further action. If the revision is challenged, the revision may not take effect without the approval of the Commission.

Article XII.

Oversight, Dispute Resolution, and Enforcement.

A. Oversight

1. The executive, legislative, and judicial branches of State government in each Member State shall enforce this Compact and take all actions necessary and appropriate to effectuate the Compact's purposes and intent. The provisions of this Compact and the Rules promulgated hereunder shall have standing as statutory law.

2. All courts shall take judicial notice of the Compact and the Rules in any judicial or administrative proceeding in a Member State pertaining to the subject matter of this Compact which may affect the powers, responsibilities, or actions of the Commission.

3. The Commission shall be entitled to receive service of process in any such proceeding and shall have standing to intervene in such a proceeding for all purposes. Failure to provide service of process to the Commission shall render a judgment or order void as to the Commission, this Compact, or promulgated Rules.

B. Default, Technical Assistance, and Termination

1. If the Commission determines that a Member State has defaulted in the performance of its obligations or responsibilities under this Compact or the promulgated Rules, the Commission shall:

a. Provide written notice to the defaulting State and other Member States of the nature of the default, the proposed means of curing the default and/or any other action to be taken by the Commission; and

b. Provide remedial training and specific technical assistance regarding the default.

c. If a State in default fails to cure the default, the defaulting State may be terminated from the Compact upon an affirmative vote of a majority of the Member States, and all rights, privileges, and benefits conferred by this Compact may be terminated on the effective date of termination. A cure of the default does not relieve the offending State of obligations or liabilities incurred during the period of default.

d. Termination of membership in the Compact shall be imposed only after all other means of securing compliance have been exhausted. Notice of intent to suspend or terminate shall be given by the Commission to the governor, the majority and minority leaders of the defaulting State's legislature, and each of the Member States.

e. A State that has been terminated is responsible for all assessments, obligations, and liabilities incurred through the effective date of termination, including obligations that extend beyond the effective date of termination.

f. The Commission shall not bear any costs related to a State that is found to be in default or that has been terminated from the Compact, unless agreed upon in writing between the Commission and the defaulting State.

g. The defaulting State may appeal the action of the Commission by petitioning the U.S. District Court for the District of Columbia or the federal district where the Commission has its principal offices. The prevailing member shall be awarded all costs of such litigation, including reasonable attorney's fees.

H. Dispute Resolution

1. Upon request by a Member State, the Commission shall attempt to resolve disputes related to the Compact that arise among Member States and between member and non-Member States.

2. The Commission shall promulgate a Rule providing for both mediation and binding dispute resolution for disputes as appropriate.

I. Enforcement

1. The Commission, in the reasonable exercise of its discretion, shall enforce the provisions and Rules of this Compact.

2. By majority vote, the Commission may initiate legal action in the United States District Court for the District of Columbia or the federal district where the Commission has its principal offices against a Member State in default to enforce compliance with the provisions of the Compact and its promulgated Rules and bylaws. The relief sought may include both injunctive relief and damages. In the event judicial enforcement is necessary, the prevailing member shall be awarded all costs of such litigation, including reasonable attorney's fees.

3. The remedies herein shall not be the exclusive remedies of the Commission. The Commission may pursue any other remedies available under federal or State law.

Article XIII.

Date of Implementation of the Counseling Compact Commission and Associated Rules, Withdrawal, and Amendment.

A. The Compact shall come into effect on the date on which the Compact statute is enacted into law in the tenth Member State. The provisions, which become effective at that time, shall be limited to the powers granted to the Commission relating to assembly and the promulgation of Rules. Thereafter, the Commission shall meet and exercise Rulemaking powers necessary to the implementation and administration of the Compact.

B. Any State that joins the Compact subsequent to the Commission's initial adoption of the Rules shall be subject to the Rules as they exist on the date on which the Compact becomes law in that State. Any Rule that has been previously adopted by the Commission shall have the full force and effect of law on the day the Compact becomes law in that State.

C. Any Member State may withdraw from this Compact by enacting a statute repealing the same.

1. A Member State's withdrawal shall not take effect until six (6) months after enactment of the repealing statute.

2. Withdrawal shall not affect the continuing requirement of the withdrawing State's Professional Counseling Licensing Board to comply with the investigative and Adverse Action reporting requirements of this act prior to the effective date of withdrawal.

D. Nothing contained in this Compact shall be construed to invalidate or prevent any Professional Counseling licensure agreement or other cooperative arrangement between a Member State and a non-Member State that does not conflict with the provisions of this Compact.

E. This Compact may be amended by the Member States. No amendment to this Compact shall become effective and binding upon any Member State until it is enacted into the laws of all Member

States.

Article XIV.

Construction and Severability.

This Compact shall be liberally construed so as to effectuate the purposes thereof. The provisions of this Compact shall be severable and if any phrase, clause, sentence, or provision of this Compact is declared to be contrary to the constitution of any Member State or of the United States or the applicability thereof to any government, agency, person, or circumstance is held invalid, the validity of the remainder of this Compact and the applicability thereof to any government, agency, person, or circumstance shall not be affected thereby. If this Compact shall be held contrary to the constitution of any Member State, the Compact shall remain in full force and effect as to the remaining Member States and in full force and effect as to the Member State affected as to all severable matters.

Article XV.

Binding Effect of Compact and Other Laws.

A. A Licensee providing Professional Counseling services in a Remote State under the Privilege to Practice shall adhere to the laws and regulations, including scope of practice, of the Remote State.

B. Nothing herein prevents the enforcement of any other law of a Member State that is not inconsistent with the Compact.

C. Any laws in a Member State in conflict with the Compact are superseded to the extent of the conflict.

D. Any lawful actions of the Commission, including all Rules and bylaws properly promulgated by the Commission, are binding upon the Member States.

E. All permissible agreements between the Commission and the Member States are binding in accordance with their terms.

F. In the event any provision of the Compact exceeds the constitutional limits imposed on the legislature of any Member State, the provision shall be ineffective to the extent of the conflict with the constitutional provision in question in that Member State.

2. That the Board of Counseling shall promulgate regulations to implement the provisions of this act to be effective within 280 days of its enactment.

3. That the provisions of this act shall become effective on January 1, 2024.

Commonwealth of Virginia



REGULATIONS

GOVERNING THE CERTIFICATION OF SUBSTANCE ABUSE COUNSELORS AND SUBSTANCE ABUSE COUNSELING ASSISTANTS

VIRGINIA BOARD OF COUNSELING

Title of Regulations: 18 VAC 115-30-10 et seq.

**Statutory Authority: §§ 54.1-2400 and Chapter 35 of Title 54.1
of the *Code of Virginia***

Revised Date: February 17, 2022

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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 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.

18VAC115-30-15. Maintenance of current name and address.

A. Certified substance abuse counselors or counseling assistants shall notify the board of any change of name, email address, or address of record within 60 days.

B. Failure to receive a renewal notice and application forms shall not excuse the certified substance abuse counselor or counseling assistant from the renewal requirement.

18VAC115-30-20. [Repealed]

18VAC115-30-30. Fees required by the board.

A. The board has established the following fees applicable to the certification of substance abuse counselors and substance abuse counseling assistants:

Substance abuse counselor annual certification renewal	\$65
Substance abuse counseling assistant annual certification renewal	\$50

Substance abuse counselor initial certification by examination:	\$115
Application processing and initial certification	
Substance abuse counseling assistant initial certification by examination:	\$115
Application processing and initial certification	
Initial certification by endorsement of substance abuse counselors:	\$115
Application processing and initial certification	
Registration of supervision	\$65
Add or change to supervision	\$30
Duplicate certificate	\$10
Certificate verification	\$25
Late renewal	\$25
Reinstatement of a lapsed certificate	\$125
Replacement of or additional wall certificate	\$25
Returned check or dishonored credit card or debit card	\$50
Reinstatement following revocation or suspension	\$600

B. All fees are nonrefundable.

C. Examination fees shall be paid directly to the examination services according to its requirements.

Part II Requirements for Certification

18VAC115-30-40. Prerequisites for certification by examination for substance abuse counselors.

A. Every applicant for certification as a substance abuse counselor by examination shall pass a written examination approved by the board. The board shall determine the passing score on the examination.

1. If an applicant fails to achieve a passing score within two years of board approval to sit for the examination, the applicant shall reapply according to regulations in effect at that time.

2. An applicant who has applied twice and has not passed the examination shall not be approved to retake the examination, unless the applicant can provide evidence of extenuating circumstances for failure to pass the examination within the four-year period.

B. Every applicant for examination for certification by the board shall:

1. Meet the educational and experience requirements prescribed in 18VAC115-30-50 and 18VAC115-30-60;

2. Submit the following to the board:

a. A completed application form;

b. Official transcript documenting coursework and attainment of a bachelor's or post-baccalaureate degree;

c. Official transcripts or certificates verifying completion of the didactic training requirement set forth in subsection B of 18VAC115-30-50;

d. Attestation of supervisor's education and experience as required under 18VAC115-30-60 if supervised experience was not previously approved by the board;

e. Verification of supervision forms documenting fulfillment of the experience requirements of 18VAC115-30-60;

f. Verification of any other health or mental health license or certificate ever held in Virginia or in another jurisdiction. In order to qualify for certification by examination, 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;

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

h. The application processing and initial certification fee; and

i. Attestation of having read and understood the laws and regulations governing the practice of substance abuse counseling in Virginia.

18VAC115-30-45. Prerequisites for certification by endorsement for substance abuse counselors.

Every applicant for certification by endorsement shall submit:

1. A completed application;

2. The application processing and initial certification fee;
3. Verification of all health or mental health licenses or certificates ever held in Virginia or 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. The board will also determine whether any or all other professional licenses or certificates held in another jurisdiction are substantially equivalent to those sought in Virginia;
4. A current report from the U.S. Department of Health and Human Services National Practitioner Data Bank (NPDB);
5. Attestation of having read and understood the regulations and laws governing the practice of substance abuse counseling in Virginia;
6. Further documentation of one of the following:
 - a. Active, unrestricted licensure or certification as a substance abuse counselor in another jurisdiction obtained by standards substantially equivalent to the education and experience requirements set forth in this chapter as verified directly from the out-of-state licensing agency or a copy of the regulations in effect at the time of initial licensure or certification; or
 - b. Verification of a current certification in good standing issued by NCC AP or other board-recognized national certification in substance abuse counseling obtained by educational and experience standards substantially equivalent to those set forth in this chapter; and
7. Verification of a passing score on an examination in the jurisdiction in which licensure or certification was obtained or on a board-approved national examination at the level for which the applicant is seeking certification in Virginia.

18VAC115-30-50. Educational requirements for substance abuse counselors.

- A. An applicant for examination for certification as a substance abuse counselor shall:
1. Have a bachelor's or post-baccalaureate degree; and
 2. Have completed 240 clock hours of didactic training in substance abuse education from one of the following programs:
 - a. A regionally accredited university or college; or
 - b. Seminars and workshops that meet the requirements of subsection B of this section and are offered or approved by one of the following:

- (1) Federal, state, or local governmental agencies; public school systems; or licensed health facilities.
- (2) The American Association of Marriage and Family Therapists and its state affiliates.
- (3) The American Association of State Counseling Boards.
- (4) The American Counseling Association and its state and local affiliates.
- (5) The American Psychological Association and its state affiliates.
- (6) The Commission on Rehabilitation Counselor Certification.
- (7) NAADAC and its state and local affiliates.
- (8) National Association of Social Workers.
- (9) National Board for Certified Counselors.
- (10) A national behavioral health organization or certification body recognized by the board.
- (11) Individuals or organizations that have been approved as continuing competency sponsors by the American Association of State Counseling Boards or a counseling board in another state.

B. Substance abuse education.

1. Of the 240 hours of didactic training in substance abuse counseling, a minimum of 120 hours shall be completed prior to registration of supervision.
2. Each applicant shall have received a minimum of 16 clock hours in each of the following 13 areas:
 - a. Dynamics of human behavior;
 - b. Signs and symptoms of substance abuse;
 - c. Counseling theories and techniques;
 - d. Continuum of care and case management skills;
 - e. Recovery process and relapse prevention methods;
 - f. Professional orientation and ethics;
 - g. Pharmacology of abused substances;
 - h. Trauma and crisis intervention;

- i. Co-occurring disorders;
- j. Cultural competency;
- k. Substance abuse counseling approaches and treatment planning;
- l. Group counseling; and
- m. Prevention, screening, and assessment of substance use and abuse.

C. Groups and classes attended as a part of a therapy or treatment program will not be accepted as any part of the educational experience.

18VAC115-30-60. Experience requirements for substance abuse counselors.

A. Registration. Supervision in Virginia shall be registered and approved by the board prior to the beginning of supervised experience in order to be counted toward certification. Supervision will not be accepted if it does not meet the requirements set forth in subsections B and C of this section. To register supervision for board approval prior to obtaining the supervised experience, an applicant shall submit in one package:

1. A supervisory contract;
2. Attestation of the supervisor's education and experience as required under subsections C and D of this section;
3. The registration fee;
4. An official transcript documenting attainment of a bachelor's or post-baccalaureate degree; and
5. Evidence of completion of at least 120 hours of didactic education as required by 18VAC115-30-50 B.

B. Experience requirements.

1. An applicant for certification as a substance abuse counselor shall have had 2,000 hours of supervised experience in the practice of substance abuse counseling services.
2. The supervised experience shall include a minimum of one hour and a maximum of four hours per 40 hours of work experience between the supervisor and the applicant to total 100 hours within the required experience. No more than half of these hours may be satisfied with group supervision. One hour of group supervision will be deemed equivalent to one hour of individual supervision.

3. The supervised experience shall be completed in not less than 12 months and not more than 60 months.
 - a. Supervisees who began a supervised experience before February 19, 2020, shall complete the supervised experience by February 19, 2025.
 - b. An individual who does not complete the supervised experience within 60 months may request an extension and shall submit evidence to the board demonstrating the extenuating circumstances that prevented completion of the supervised experience within the required timeframe.
4. Supervised experience obtained more than 10 years from (February 19, 2020, shall not be accepted for certification by examination. The board may make an exception for an applicant who has been providing substance abuse counseling for a minimum of 2,000 hours within the past 60 months and who can submit evidence of such experience.
5. During the supervised experience, supervisees shall use their names and the title "supervisee" in all written communications. Clients shall be informed in writing of the supervisee's status and the supervisor's name, professional address, and phone number. Supervisees shall not directly bill for their services or represent themselves as independent or autonomous practitioners.
6. The supervised experience shall consist of 160 hours of experience performing the following tasks with substance abuse clients. Each of the following tasks shall be performed for at least eight hours under supervision as verified by the supervisor on an application for certification:
 - a. Screening clients to determine eligibility and appropriateness for admission to a particular program;
 - b. Intake of clients by performing the administrative and initial assessment tasks necessary for admission to a program;
 - c. Orientation of new clients to program's rules, goals, procedures, services, costs, and the rights of the client;
 - d. Assessment of client's strengths, weaknesses, problems, and needs for the development of a treatment plan;
 - e. Treatment planning with the client to identify and rank problems to be addressed, establish goals, and agree on treatment processes;
 - f. Counseling the client utilizing specialized skills in both individual and group approaches to achieve treatment goals and objectives;
 - g. Case management activities that bring services, agencies, people, and resources together in a planned framework of action to achieve established goals;

h. Crisis intervention responses to a client's needs during acute mental, emotional, or physical distress;

i. Education of clients by providing information about drug abuse and available services and resources;

j. Referral of clients in order to meet identified needs unable to be met by the counselor and assisting the client in effectively utilizing those resources;

k. Reporting and charting information about a client's assessment, treatment plan, progress, discharge summaries, and other client-related data; and

l. Consultation with other professionals to assure comprehensive quality care for the client.

C. Supervisor qualifications. A board-approved clinical supervisor shall hold an active, unrestricted license or certification and shall be:

1. A licensed substance abuse treatment practitioner;

2. A licensed professional counselor, licensed clinical psychologist, licensed clinical social worker, licensed marriage and family therapist, medical doctor, or registered nurse who has either:

a. A board-recognized national certification in substance abuse counseling obtained by standards substantially equivalent to those set forth in this chapter;

b. A certification as a substance abuse counselor issued by this board; or

c. A minimum of one year of experience in substance abuse counseling and at least 100 hours of didactic training covering the areas outlined in 18VAC115-30-50 B 2 a through 2 m; or

3. A substance abuse counselor certified by the Virginia Board of Counseling who has two years of experience as a Virginia board-certified substance abuse counselor.

D. Supervisor training. In order to be approved by the board after February 19, 2021, a clinical supervisor shall obtain professional training in supervision consisting of three credit hours or four quarter hours in graduate-level coursework in supervision or at least 20 hours of continuing education in supervision offered by a provider approved under 18VAC115-30-50.

E. Supervisory responsibilities.

1. Supervisors shall assume responsibility for the professional activities of the supervisee under their supervision.

2. Supervisors shall not provide supervision for activities for which supervisees have not had appropriate education.
3. Supervisors shall provide supervision only for those substance abuse counseling services that they are qualified to render.
4. At the time of the application for certification by examination, the board-approved supervisor shall document minimal competencies in the areas in 18VAC115-30-60 B 6, the total hours of supervision, and any needs for additional supervision or training. The supervisor shall document successful completion of the applicant's supervised experience on the Verification of Supervision Form and shall maintain documentation for five years post supervision.
5. Supervision by any individual whose relationship to the supervisee compromises the objectivity of the supervisor is prohibited.

18VAC115-30-61. Prerequisites for certification by examination for substance abuse counseling assistants.

A. Every applicant for certification as a substance abuse counseling assistant shall pass a written examination approved by the board. The board shall determine the passing score on the examination.

1. If an applicant fails to achieve a passing score within two years of board approval to sit for the examination, the applicant shall reapply according to regulations in effect at that time.
2. An applicant who has applied twice and has not passed the examination shall not be approved to retake the examination, unless the applicant can provide evidence of extenuating circumstances for failure to pass the examination within the four-year period.

B. Every applicant for examination for certification by the board shall:

1. Meet the educational and experience requirements prescribed in 18VAC115-30-62 and 18VAC115-30-63; and
2. Submit the following to the board within the timeframe established by the board:
 - a. A completed application form;
 - b. Official transcript documenting attainment of a high school diploma, a general education development (GED) certificate, or a post-secondary degree;
 - c. The application processing and initial certification fee;
 - d. Verification of all health or mental health licenses or certificates ever held in Virginia or in any other jurisdiction. In order to qualify for certification, the applicant shall have no unresolved action

against a license or certificate. The board will consider the history of disciplinary action on a case-by-case basis; and

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

18VAC115-30-62. Educational requirements for substance abuse counseling assistants.

A. An applicant for certification as a substance abuse counseling assistant shall:

1. Have obtained a high school diploma, a general educational development (GED) certificate, or a post-secondary degree; and
2. Have completed substance abuse education from one of the following programs:

a. A regionally accredited university or college; or

b. Seminars and workshops that meet the educational requirements specified in subsection B of this section and are offered or approved by one of the following:

(1) Federal, state, or local governmental agencies; public school systems; or licensed health facilities.

(2) The American Association of Marriage and Family Therapists and its state affiliates.

(3) The American Association of State Counseling Boards.

(4) The American Counseling Association and its state and local affiliates.

(5) The American Psychological Association and its state affiliates.

(6) The Commission on Rehabilitation Counselor Certification.

(7) NAADAC and its state and local affiliates.

(8) National Association of Social Workers.

(9) National Board for Certified Counselors.

(10) A national behavioral health organization or certification body recognized by the board.

(11) Individuals or organizations that have been approved as continuing competency sponsors by the American Association of State Counseling Boards or a counseling board in another state.

B. Substance abuse education. The education will include 120 hours spent in receiving didactic training in substance abuse counseling. Each applicant shall have received a minimum of eight clock hours in each of the following 13 areas:

- a. Understanding the dynamics of human behavior;
- b. Signs and symptoms of substance abuse;
- c. Counseling theories and techniques;
- d. Case management skills and continuum of care;
- e. Recovery process and relapse prevention methods;
- f. Professional orientation and ethics;
- g. Cultural competency;
- h. Trauma and crisis intervention;
- i. Pharmacology of abused substances;
- j. Co-occurring disorders;
- k. Substance abuse counseling approaches and treatment planning;
- l. Group counseling; and
- m. Prevention, screening, and assessment of substance use and abuse.

18VAC115-30-63. Experience requirements for substance abuse counseling assistants.

A. In addition to the didactic training required in 18VAC115-30-62, the education shall include 180 hours of experience in a practicum or internship consistent with § 54.1-3507.2 C of the Code of Virginia performing the following tasks with substance abuse clients while under supervision:

1. Screening clients and gathering information used in making the determination for the need for additional professional assistance;
2. Intake of clients by performing the administrative tasks necessary for admission to a program;
3. Orientation of new clients to program's rules, goals, procedures, services, costs, and the rights of the client;
4. Assisting the client in identifying and ranking problems to be addressed, establishing goals, and agreeing on treatment processes;
5. Implementation of a substance abuse treatment plan as directed by the supervisor;
6. Implementation of case management activities that bring services, agencies, people, and resources together in a planned framework of action to achieve established goals;

7. Assistance in identifying appropriate crisis intervention responses to a client's needs during acute mental, emotional, or physical distress;

8. Education of clients by providing information about drug abuse and available services and resources;

9. Facilitating the client's utilization of available support systems and community resources to meet needs identified in clinical valuation or treatment planning;

10. Reporting and charting information about the client's treatment, progress, and other client-related data; and

11. Consultation with other professionals to assure comprehensive quality care for the client.

B. Each of these tasks shall be performed for at least eight hours under supervision and shall be verified as a part of the application by the supervisor.

C. Groups and classes attended as a part of a therapy or treatment program shall not be accepted as any part of the educational experience.

18VAC115-30-70. through 18VAC115-30-100. [Repealed]

Part III Renewal and Reinstatement

18VAC115-30-110. Annual renewal of certificate.

A. Every certificate issued by the board shall expire on June 30 of each year.

B. Along with the renewal form, the certified substance abuse counselor or certified substance abuse counseling assistant shall submit the renewal fee prescribed in 18VAC115-30-30 and shall attest to completion of continuing education as required by 18VAC115-30-111.

18VAC115-30-111. Continuing education requirements.

A. Certified substance abuse counselors shall be required to have completed a minimum of 10 contact hours of continuing education in substance abuse and certified substance abuse counseling assistants shall be required to have completed a minimum of five contact hours of continuing education in substance abuse prior to renewal each year.

1. Continuing education hours shall be offered by an approved provider listed in 18VAC115-30-50 A or 18VAC115-30-62 A, and the course content shall be consistent with 18VAC115-30-50 B or 18VAC115-30-62 B.

2. Attestation of completion of continuing education is not required for the first renewal following initial certification in Virginia.

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

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

D. All certificate holders are required to maintain original documentation, including official transcripts showing credit hours earned or certificates of participation, for a period of three years following renewal.

E. The board may conduct an audit of certificate holders to verify compliance with the requirement for a renewal period. Upon request, a certificate holder shall provide documentation of credit hours or participation.

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

18VAC115-30-120. Reinstatement.

A. A person whose certificate has expired may renew it within one year after its expiration date by paying the late renewal fee prescribed in 18VAC115-30-30 and the certification fee prescribed for the year the certificate was not renewed.

B. A person who fails to renew a certificate after one year or more shall:

1. Apply for reinstatement;
2. Pay the reinstatement fee for a lapsed certificate;
3. Submit verification of any other health or mental health license or certificate ever held in another jurisdiction;
4. Submit a current report from the U.S. Department of Health and Human Services National Practitioner Data Bank; and
5. Submit evidence of a minimum of 20 hours of substance abuse education that is consistent with course content specified in 18VAC115-30-50 B for substance abuse counselors and in

18VAC115-30-62 for substance abuse counseling assistants to demonstrate the continued ability to perform the functions within the scope of practice of the certificate. Courses shall be offered or approved by a provider listed in 18VAC115-30-50 A or 18VAC115-30-62 A.

18VAC115-30-130. [Repealed]

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.

18VAC115-30-150. Grounds for disciplinary action, denial of initial certification, or denial of renewal of certification.

In accordance with subdivision 7 of § 54.1-2400 and § 54.1-2401 of the Code of Virginia, the board may revoke, suspend, restrict, impose a monetary penalty, or decline to issue or renew a certificate based upon the following conduct:

1. Conviction of a felony or of a misdemeanor involving moral turpitude, or violation of or aid to another in violating any provision of Chapter 35 (§ 54.1-3500 et seq.) of Title 54.1 of the Code of Virginia, any other statute applicable to the practice of substance abuse counseling, or any provision of this chapter;
2. Procuring a certificate, including submission of an application or supervisory forms, by fraud or misrepresentation;
3. Conducting one's practice in such a manner so as to make it a danger to the health and welfare of one's clients or to the public; or if one is unable to practice substance abuse counseling with reasonable skill and safety to clients by reason of illness, abusive use of alcohol, drugs, narcotics, chemicals, or any other type of material or as a result of any mental or physical condition;
4. Violating or abetting another person in the violation of any provision of any statute applicable to the practice of substance abuse counseling or any regulation in this chapter;

5. Performance of functions outside the board-certified area of competency in accordance with regulations set forth in this chapter and §§ 54.1-3507.1 and 54.1-3507.2 of the Code of Virginia;
6. Performance of an act likely to deceive, defraud, or harm the public;
7. Intentional or negligent conduct that causes or is likely to cause injury to a client;
8. Failure to cooperate with an employee of the Department of Health Professions in the conduct of an investigation;
9. Failure to report evidence of child abuse or neglect as required in § 63.2-1509 of the Code of Virginia or elder abuse or neglect as required in § 63.2-1606 of the Code of Virginia; or
10. Action taken against a health or mental health license, certification, registration, or application in Virginia or another jurisdiction.

18VAC115-30-160. Reinstatement following disciplinary action.

- A. Any person whose certificate has been suspended or denied renewal by the board under the provisions of 18VAC115-30-150 may, two years subsequent to such board action, submit a new application for reinstatement of certification. Any person whose certificate has been revoked by the board under the provisions of 18VAC115-30-150 may, three years subsequent to such board action, submit a new application to the board for certification to the board.
- B. The board in its discretion may, after a hearing, grant the reinstatement sought in subsection A of this section.
- C. The applicant for reinstatement, if approved, shall be certified upon payment of the appropriate fee applicable at the time of reinstatement.