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

Agency name	Board of Psychology, Department of Health Professions
Virginia Administrative Code (VAC) citation	18VA125-30-10 et seq.
Regulation title	Regulations Governing the Certification of Sex Offender Treatment Providers
Action title	Experience requirement for certification; continuing education
Document preparation date	4/2/07

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

Purpose

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

The Board's intent is to respond to a petition for rulemaking which requested fewer supervised hours in experience required for persons who already hold a license as a clinical psychologist and are attempting to qualify for certification as a sex offender treatment provider. The Board recommended that the regulations be amended to allow a lower number of supervised hours for licensed persons who are able to document experience in working with the sex offender population within the past five years. The Board also recommends that certified sex offender treatment providers be required to have at least six hours of continuing education focused on the treatment of that population for annual renewal.

Legal basis

Please identify the state and/or federal legal authority to promulgate this proposed regulation, including (1) the most relevant law and/or regulation, including Code of Virginia citation and General Assembly chapter number(s), if applicable, and (2) promulgating entity, i.e., agency, board, or person. Describe the legal authority and the extent to which the authority is mandatory or discretionary.

Regulations are promulgated under the general authority of Chapter 24 of Title 54.1 of the Code of Virginia. Section 54.1-2400, which provides the Board of Psychology the authority to promulgate regulations to administer the regulatory system:

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

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

...

6. To promulgate regulations in accordance with the Administrative Process Act (§ 9-6.14:1 et seq.) which are reasonable and necessary to administer effectively the regulatory system. Such regulations shall not conflict with the purposes and intent of this chapter or of Chapter 1 (§ [54.1-100](#) et seq.) and Chapter 25 (§ [54.1-2500](#) et seq.) of this title. ...

The specific statutory mandate for the Board to establish requirements for mandatory certification of sex offender treatment providers is found in § 54.1-3605:

§ 54.1-3605. Powers and duties of the Board.

In addition to the powers granted in other provisions of this title, the Board shall have the following specific powers and duties:

1. To cooperate with and maintain a close liaison with other professional boards and the community to ensure that regulatory systems stay abreast of community and professional needs.

2. To conduct inspections to ensure that licensees conduct their practices in a competent manner and in conformance with the relevant regulations.

3. To designate specialties within the profession.

4. To issue a temporary license for such periods as the Board may prescribe to practice psychology to persons who are engaged in a residency or pursuant to subdivision 7 of § 54.1-3601.

5. To promulgate regulations for the voluntary certification of licensees as sex offender treatment providers.

6. To administer the mandatory certification of sex offender treatment providers for those professionals who are otherwise exempt from licensure under subdivision 4 of §§ 54.1-3501, 54.1-3601 or § 54.1-3701 and to promulgate regulations governing such mandatory certification. The regulations shall include provisions for fees for application processing, certification qualifications, certification issuance and renewal and disciplinary action.

7. To promulgate regulations establishing the requirements for licensure of clinical psychologists that shall include appropriate emphasis in the diagnosis and treatment of persons with moderate and severe mental disorders.

Substance

Please detail any changes that will be proposed. For new regulations, include a summary of the proposed regulatory action. Where provisions of an existing regulation are being amended, explain how the existing regulation will be changed. Include the specific reasons why the agency has determined that

the proposed regulatory action is essential to protect the health, safety, or welfare of citizens. Delineate any potential issues that may need to be addressed as the regulation is developed.

An Ad Hoc Committee appointed by the Board reviewed the petition for rulemaking to amend the regulations to ease the supervision requirement for licensed individuals attempting to become certified as sex offender treatment providers (SOTP) to allow some of the licensure experience to be used to satisfy supervised practice requirements for the certification.

The Committee recommended that the Board adopt a Notice of Intended Regulatory Action to:

- Allow licensed professionals to count toward requirements for certification as a SOTP up to 200 hours of face-to-face treatment to sex offenders and 100 hours of face-to-face supervision in working with the sex offender population within the past five years by a licensed professional who will attest that he provided supervision only for those sex offender treatment services which he is qualified to render.
- Require that certified SOTPs complete six hours of continuing competency related to sex offender treatment each renewal year. The six hours required to satisfy the CE requirement for SOTP certification may be hours that are also counted toward completion of a CE requirement for another license, provided the hours are clearly directed at the diagnosis and treatment of the sex offender population.

Given that the sex offender population is potentially more dangerous to the health and safety of the public than the usual client or patient under the care of a mental health provider, the Board has determined that additional education and training is essential for public protection. However, a licensed mental health provider whose training and practice has included work with that population could be credited with some of the hours of supervised experience required for the additional certification. In addition, the demands of treating sex offenders and the expansion of knowledge in the field were considered in review of this regulation, and the Board concluded that some requirement for continuing education was necessary.

Alternatives

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

The Board considered its response to a petition for rulemaking to allow credit for supervised hours in working with the sex offender treatment population. It held discussion about the subject of the petition but felt it was lacking the necessary expertise to determine whether the regulation should be amended accordingly. While immediate action on the petition was denied, the Board voted to appoint an ad hoc committee, chaired by a Board member, to review the supervision regulations for certification. Members of the committee included persons who hold certification as sex offender treatment providers, including one former board member who assisted in the development of the original regulations. The Committee recommended the issuance of a Notice

of Intended Regulatory Action on the subjects of supervised experience and continuing education.

Family impact

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

There is no potential impact of the proposed regulatory action on the institution of the family and family stability.