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Final Regulation Agency Background Document

Agency name	Board of Counseling, Department of Health Professions
Virginia Administrative Code (VAC) Chapter citation(s)	18VAC115-90
VAC Chapter title(s)	Regulations Governing the Practice of Art Therapy
Action title	New chapter for licensure
Date this document prepared	April 25, 2025

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), Executive Order 19 (2022) (EO 19), any instructions or procedures issued by the Office of Regulatory Management (ORM) or the Department of Planning and Budget (DPB) pursuant to EO 19, the Regulations for Filing and Publishing Agency Regulations (1 VAC 7-10), and the *Form and Style Requirements for the Virginia Register of Regulations and Virginia Administrative Code*.

Brief Summary

Provide a brief summary (preferably no more than 2 or 3 paragraphs) of this regulatory change (i.e., new regulation, amendments to an existing regulation, or repeal of an existing regulation). Alert the reader to all substantive matters. If applicable, generally describe the existing regulation.

Pursuant to [Chapter 301 of the 2020 Acts of Assembly](#), the Board of Counseling has promulgated a new regulatory chapter for the licensure of art therapists. The 2020 legislation specified the credentials required for licensure as an art therapist or art therapy associate in the Commonwealth and directed the Board to promulgate regulations to set forth requirements for licensure, provide for appropriate fees, and include requirements for renewal and continuing education. The legislation further directed the Board to consider requirements for registration as a Registered Art Therapist and certification as a Board Certified Art Therapist with the Art Therapy Credentials Board when promulgating regulations. The Board followed these directives and included additional requirements related to reinstatement, supervision of persons in training, and standards of practice which are similar to other licensed behavioral health professions.

Acronyms and Definitions

Define all acronyms used in this form, and any technical terms that are not also defined in the "Definitions" section of the regulation.

ATCB = Art Therapy Credentials Board
ATR-BC = Board Certified Art Therapist
ATR-P = Provisional Registered Art Therapist

Statement of Final Agency Action

Provide a statement of the final action taken by the agency including: 1) the date the action was taken; 2) the name of the agency taking the action; and 3) the title of the regulation.

On April 25, 2025, the Board of Counseling adopted final amendments to the Regulations Governing the Practice of Art Therapy.

Mandate and Impetus

List all changes to the information reported on the Agency Background Document submitted for the previous stage regarding the mandate for this regulatory change, and any other impetus that specifically prompted its initiation. If there are no changes to previously reported information, include a specific statement to that effect.

The mandate for this action comes from [Chapter 301 of the 2020 Acts of Assembly](#), which required the Board license art therapists and art therapy associates.

Legal Basis

Identify (1) the promulgating agency, and (2) the state and/or federal legal authority for the regulatory change, including the most relevant citations to the Code of Virginia and Acts of Assembly chapter number(s), if applicable. Your citation must include a specific provision, if any, authorizing the promulgating agency to regulate this specific subject or program, as well as a reference to the agency's overall regulatory authority.

Regulations of the Board of Counseling are promulgated under the general authority of Chapter 24 of Title 54.1 of the Code of Virginia. Virginia Code § 54.1-2400(6) specifically states that the general powers and duties of health regulatory boards shall be "[t]o 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."

Virginia Code § 54.1-3516 directs the Board of Counseling to regulate the practice of art therapy and provide licensure to art therapists and art therapy associates.

Purpose

Explain the need for the regulatory change, including a description of: (1) the rationale or justification, (2) the specific reasons the regulatory change is essential to protect the health, safety, or welfare of citizens, and (3) the goals of the regulatory change and the problems it is intended to solve.

The rationale for this action is the licensure of art therapists and art therapy associates. This regulatory change is essential to protect the health, safety, and welfare of citizens because the General Assembly determined that this profession required licensure in the Commonwealth. The goals of this regulatory change are to license art therapists and art therapy associates as directed in statute and the problems the change is intended to solve are current lack of licensure of art therapists and art therapy associates.

Substance

Briefly identify and explain the new substantive provisions, the substantive changes to existing sections, or both. A more detailed discussion is provided in the "Detail of Changes" section below.

The Board of Counseling has promulgated a new regulatory chapter for the licensure of art therapists pursuant to [Chapter 301 of the 2020 Acts of Assembly](#). The new regulations specify the requirements to obtain licensure as an art therapist or art therapy associate, establish fees for licensure and renewal, establish requirements for renewal, and include provisions governing reinstatement and standards of practice.

Issues

Identify the issues associated with the regulatory change, including: 1) the primary advantages and disadvantages to the public, such as individual private citizens or businesses, of implementing the new or amended provisions; 2) the primary advantages and disadvantages to the agency or the Commonwealth; and 3) other pertinent matters of interest to the regulated community, government officials, and the public. If there are no disadvantages to the public or the Commonwealth, include a specific statement to that effect.

- 1) The primary advantages to the public are an increase in available behavioral health providers in the Commonwealth to provide services. There are no disadvantages to the public.
- 2) There are no primary advantages or disadvantages to the agency or the Commonwealth.
- 3) The Director of the Department of Health Professions has reviewed the proposal and performed a competitive impact analysis. Any restraint on competition as a result of promulgating these regulations is a foreseeable, inherent, and ordinary result of the statutory obligation of the Board to protect the safety and health of citizens of the Commonwealth. The Board is authorized under § 54.1-2400 "[t]o promulgate regulations in accordance with the Administrative Process Act (§ 2.2-4000 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 promulgated regulations do not conflict with the purpose or intent of Chapters 1 or 25 of Title 54.1.

Requirements More Restrictive than Federal

List all changes to the information reported on the Agency Background Document submitted for the previous stage regarding any requirement of the regulatory change which is more restrictive than applicable federal requirements. If there are no changes to previously reported information, include a specific statement to that effect.

There are no applicable federal requirements.

Agencies, Localities, and Other Entities Particularly Affected

List all changes to the information reported on the Agency Background Document submitted for the previous stage regarding any other state agencies, localities, or other entities that are particularly affected by the regulatory change. If there are no changes to previously reported information, include a specific statement to that effect.

Other State Agencies Particularly Affected – none

Localities Particularly Affected – none

Other Entities Particularly Affected – none

Public Comment

Summarize all comments received during the public comment period following the publication of the previous stage, and provide the agency’s response. Include all comments submitted: including those received on Town Hall, in a public hearing, or submitted directly to the agency. If no comment was received, enter a specific statement to that effect.

Commenter	Comment	Agency response
87 commenters via Town Hall	Offer general support for the action	The Board thanks you for your support.
Miki Goerdts via Town Hall	Include ASWB and NSWA as qualified providers for continuing education	The Board is removing the portion of the regulations that state what CE will be approved from the final regulations and will be placing that information in a guidance document. The Board can consider these providers and others when it creates and approves the guidance document content.
Two commenters via Town Hall	Requested the licensure of art therapists be expedited	The Board understands your frustration with the length of time these regulations have been under review and are taking steps within their control to help ensure art therapists will be licensed in the near future.
Jennifer August via Town Hall	<p>Feels the proposed regulations set the appropriate standard for an art therapist license but “defeat the purpose of licensure through confounded standards that defer to unqualified practitioners, ‘certifying’ agencies, and ‘training’ programs.”</p> <p>Lists six points specifically: 1) The proposed regulations improperly accommodate licensees who do not maintain the ATR-BC credential and are not subject to the ATCB Code of Ethics</p>	<p>The Board understands the desire to ensure the highest standards and practices of the national association, and the Board feels these regulations meet that standard. The actions and requirements the Board may impose are limited by the jurisdiction conferred by the Virginia Code, which guides what the Board is permitted to require in regulation and what it may not require. Actions like barring an applicant from acquiring a license for a criminal conviction is not within the scope of the Board’s authority. Additionally, requirements in Code do not need to be restated in regulation, such as the requirement that “no person shall engage in the practice of art therapy or hold himself out or otherwise represent himself as an art</p>

	<ul style="list-style-type: none"> 2) Licensure requirements are mutually incongruent 3) Art Therapy Master's Degree should be required for licensure 4) Disagrees with art therapy being considered a modality 5) ATCB standards should be implemented in supervisor requirements 6) CE requirements allow substandard training 	<p>therapist...unless he is licensed by the Board.” (Va. Code § 54.1-3516). The Board believes the standard of requirements offered in the regulations supports the Board’s mission and purpose and imposing higher and stricter requirements from what was proposed is not necessary to ensure competency in the art therapy profession. The Virginia Advisory Board for Art Therapy has acknowledged that not all practitioners will maintain this credential, and the advisory board felt it would unnecessarily constrict practice in the Commonwealth. The Board is appreciative of your commentary in helping to shape the regulatory framework for the practice of art therapy in Virginia.</p>
Two commenters via Town Hall	Requests continuing education be identical to ATCB	The agency must operate on an annual renewal of licensure for appropriate maintenance of operating costs. ATCB requires continuing education over a five-year renewal period. Although the Board has considered the national organization's requirements, it cannot match those requirements due to the mismatch in renewal timelines.
“Virginia citizen” via Town Hall	Questions “where is the family” and states that “if it doesn’t include family and/or guardians then forget it.”	The Board believes this was a misplaced comment as it does not make sense with respect to this regulatory action.

Detail of Changes Made Since the Previous Stage

*List all changes made to the text since the previous stage was published in the Virginia Register of Regulations and the rationale for the changes. For example, describe the intent of the language and the expected impact. Describe the difference between existing requirement(s) and/or agency practice(s) and what is being proposed in this regulatory change. Explain the new requirements and what they mean rather than merely quoting the text of the regulation. * Put an asterisk next to any substantive changes.*

New chapter-section number, if applicable	New requirement from previous stage	Updated new requirement since previous stage	Change, intent, rationale, and likely impact of updated requirements
90-20	90-20 sets forth the fees required by the Board.	There are no new requirements from the previous stage.	The listing for licensure as an art therapist and art therapy associate are amended to reduce extraneous wording. There is no change in the fee structure or requirements.
90-30; 90-40	At the proposed stage, 90-30 set forth “prerequisites” for licensure and 90-40 set forth	There are no new requirements from the previous stage.	Sections 90-30 and 90-40 are reorganized to include all requirements for licensure in 90-30 and to address licensure by endorsement in 90-40. Splitting the two provisions into “prerequisites”

	<p>“requirements” for licensure, which covered licensure by examination and licensure by endorsement.</p>		<p>and “requirements” was confusing to the public and staff and did not make sense from a licensure standpoint.</p> <p>Additionally, the requirements for licensure as an art therapy associate are clearly delineated in 90-30. The requirements are currently spread out or implied in the requirements for licensure generally.</p> <p>There are no new requirements in 90-30; requirements are instead moved from other locations and clearly stated. New 90-30 A 3 was previously 90-40 A. New 90-30 A 5 was previously 90-60 A. New 90-30 C 3 has been moved from 90-40 C. New 90-30 C 1, 2, 4, and 5 are copied from 90-30 A, which now applies only to licensure for art therapists. In the published proposed regulations the language applied to both art therapists and art therapy associates.</p> <p>The Board removed what had been a requirement in 90-40 B 2 to attest to having read and understood the laws and regulations governing practice in Virginia. This requirement serves no purpose aside from creation of an additional requirement for licensees. Licensees are required to understand and abide my laws and regulations in the Commonwealth that govern their licensure.</p>
90-50	<p>Provides limitation to the practice of art therapy associates.</p>	<p>There are no new requirements from the previous stage.</p>	<p>The caption for this section in the proposed action was “Requirements for practice as an art therapy associate.” That caption does not adequately describe the substantive information in the section. The Board amended the caption to “Limitation on practice as an art therapy associate,” which more accurately explains the section.</p>
90-60	<p>Provides general information regarding licensure.</p>	<p>There are no new requirements from the previous stage.</p>	<p>This section as published at the proposed stage included a caption which covered general examination requirements, schedules, and time limits. The section itself addressed one licensure requirement for art</p>

			<p>therapists, with the remainder of the section dedicated to the limitations of the license as an art therapy associate.</p> <p>The Board moved the single reference to the examination requirement for licensed art therapists to 90-30 A 5. The Board amended the caption to remove the reference to examination requirements and the vague “schedules.” The Board amended what will now be subsection A to clarify that it refers to art therapy associates and to remove the requirement to pass the examination, as that will be required for licensure as an art therapist in 90-30 A.</p>
90-70	Provides requirements for renewal of licensure.	There are no new requirements from the proposed stage.	<p>The Board amended the caption to this section to indicate that the section also pertains to addresses of record on file with the Board.</p> <p>The Board deleted subsection 90-70 C. The validity of a license as an art therapy associate is provided in Virginia Code § 54.1-3516(C). It does not need to be repeated in this renewal section since a license as an art therapy associate cannot be renewed. The license can be <i>extended</i>, and section 90-60 addresses the process for that extension.</p>
90-80	Lists continuing competency requirements and acceptable providers of continuing education.	There are no new requirements from the proposed stage.	<p>The Board has amended the language of 90-80 to allow easier verification of continuing education at renewal for those licensees that maintain certification as an ATR-BC. The amendments in new subsection A will allow an individual with a current ATR-BC credential to indicate that at renewal and be deemed compliant with the Board’s continuing education requirements.</p> <p>The Board eliminated subsection F, which exempted first year licensees from completing the continuing education requirement. This change aligns the continuing education requirements more closely with the national organization, which does not require annual continuing education.</p>

<p>90-90</p>	<p>Covered approval of art therapy continuing education and listed approved sponsors.</p>	<p>There are no new requirements from the proposed stage.</p>	<p>The Board deleted section 90-90. The Board does not approve continuing education as is implied in subsection A; therefore, that subsection is not needed. The Boards of DHP have begun listing approved sponsors of continuing education in guidance documents due to the relative ease of amending those lists when new providers are requested. Such a list should not be put into a new chapter for licensure. The Board will adopt a guidance document with this same list of providers upon the approval of this chapter for licensure.</p>
<p>90-100</p>	<p>Contains documentation for continuing competency requirements.</p>	<p>There are no new requirements from the proposed stage.</p>	<p>The Board amended subsection A to use active voice and to remove the requirement to retain “original” documentation of continuing education courses. Use of the term “original” is confusing and unnecessary in the digital age when many certificates of completion are provided electronically and are no less valid than a paper document with a “wet” signature.</p> <p>The Board deleted subsection D. This provision is not necessary in regulation. Any disciplinary order which contains a requirement to complete continuing education states that the disciplinary continuing education cannot be used to satisfy renewal requirements. The inclusion of this language in regulation is redundant.</p>
<p>90-110</p>	<p>Provides requirements for late renewal and reinstatement of a license.</p>	<p>There are no new requirements from the proposed stage.</p>	<p>The Board amended subsections A, B, and C to incorporate the ability of a licensee to provide evidence of current certification as an ATR-BC for renewal to satisfy continuing education requirements.</p>
<p>90-130</p>	<p>Provides grounds for revocation, suspension, denial of licensure, and other disciplinary actions.</p>	<p>There are no new requirements from the proposed stage.</p>	<p>The Board reworded subsection A to provide a more clear statement of the Board’s ability to act. The current wording is not consistent with other disciplinary regulations and appears disjointed. The amended language matches language in a similar regulatory section for the licensure of music therapists.</p>

			Additionally, the Board deleted subsection B. Reinstatement is addressed in the following regulatory section (90-140) and in statute (Virginia Code §§ 54.1-2408.2 and 54.1-2409). An individual’s ability to apply for reinstatement cannot be limited in this way by requiring “good cause” or “substantial new evidence . . . that would alter the determination reached.”
90-140	Addresses reinstatement following disciplinary action.	There are no new requirements from the proposed stage.	<p>The Board deleted subsections A and B. These subsections from the proposed stage impermissibly limit applications for reinstatement (subsection A) and make unneeded, redundant statements (subsection B).</p> <p>The Board has adopted language from the otherwise identical section in the music therapy licensure regulations.</p>

Detail of All Changes Proposed in this Regulatory Action

*List all changes proposed in this action and the rationale for the changes. For example, describe the intent of the language and the expected impact. Describe the difference between existing requirement(s) and/or agency practice(s) and what is being proposed in this regulatory change. Explain the new requirements and what they mean rather than merely quoting the text of the regulation. * Put an asterisk next to any substantive changes.*

New chapter-section number, if applicable	Current requirements in VAC	Change, intent, rationale, and likely impact of updated requirements
90-10	No current requirements as this is a new chapter for licensure.	This section contains definitions for use with the new licensure categories of art therapist and art therapy associate.
90-20	No current requirements as this is a new chapter for licensure.	This section sets forth the fees the Board must collect from the licensure of art therapists and art therapy associates to fund Board operations as specified in Virginia Code § 54.1-113.
90-30	No current requirements as this is a new chapter for licensure.	This section, amended (see table above), lists requirements for licensure as an art therapist or art therapy associate. The requirements for an art therapist include a completed application, provision of the required fee, evidence of a current, active certification in good standing as an ATR-BC, evidence of passage of the national examination in art therapy, verification of any other mental health or professional license, certification, or registration, and a report from the

		<p>NPDB. The requirements (in subsection C) for an art therapy associate include a completed application, provision of the required fee, evidence of a current registration as an ATR-P, verification of any other mental health or professional license, certification, or registration, and a report from the NPDB.</p> <p>Subsection B states that the applicant cannot have any unresolved disciplinary action in another jurisdiction.</p>
90-40	No current requirements as this is a new chapter for licensure.	<p>This section, amended from the proposed stage as described above, lists requirements for licensure by endorsement as an art therapist. The endorsement requirements include verification of a current, unrestricted art therapy license issued by another jurisdiction of the United States (or a license eligible for reinstatement if lapsed) and either (1) a current ATR-BC certification or (2) evidence of passage of the national examination and evidence of autonomous, clinical practice for 24 of the last 60 months prior to application.</p>
90-50	No current requirements as this is a new chapter for licensure.	<p>This section sets forth limitations on practice as an art therapy associate. An art therapy associate is similar to a resident in counseling and may not practice autonomously. An art therapy associate holds a provisional credential from the ATCB (registration as an ATR-P) which indicates completion of graduate level education in art therapy. Similar to a resident in counseling, an art therapy associate must disclose the associate's status to clients and practice under supervision.</p>
90-60	No current requirements as this is a new chapter for licensure.	<p>The Board amended section 60 from the proposed stage as detailed on the chart above. The section now applies only to art therapy associates and includes the requirement that an art therapy associate become registered as an ATR-BC within five years of issuance of the associate license.</p> <p>The section also provides for extension of the five year associate license upon provision of information and certain evidence to the Board that an extension is needed and the associate's plan for obtaining an ATR-BC.</p>
90-70	No current requirements as this is a new chapter for licensure.	<p>The Board has amended this section from the proposed stage as described in the chart above.</p> <p>This section sets forth the renewal requirements for an art therapy licensee. The section further lists the requirement to update the Board upon a change of address of record and states that</p>

		practice upon an expired license is not permitted and may result in disciplinary action.
90-80	No current requirements as this is a new chapter for licensure.	<p>The Board amended subsection 90-80 A as described above to provide a less-burdensome option for renewal for licensees that maintain the ATR-BC certification.</p> <p>This section overall contains continued competency requirements and describes how the Board handles requests for extension or exemption. The section additionally permits individuals holding more than one license to obtain 20 hours to count towards renewal, except at least 10 hours must be specifically related to continuing education and permits provision of volunteer services to count toward continuing education requirements.</p>
90-90	No current requirements as this is a new chapter for licensure.	The Board deleted this section from the action as described in the table above.
90-100	No current requirements as this is a new chapter for licensure.	<p>The Board amended this section from the proposed stage as described in the table above.</p> <p>This section provides requirements for maintenance of records regarding continuing education and describes potential audits of information by the Board.</p>
90-110	No current requirements as this is a new chapter for licensure.	<p>The Board amended this section from the proposed stage as described in the table above.</p> <p>This section details the requirements to reinstate a license, obtain a late renewal of a license, or reactivate an inactive license.</p>
90-120	No current requirements as this is a new chapter for licensure.	This section details standards of practice which are shared across the behavioral health professions regulated by the Board of Counseling. Those include licensed professional counselors (18VAC115-20-130), licensed marriage and family therapists (18VAC115-50-110), and licensed substance abuse treatment providers (18VAC115-60-130).
90-130	No current requirements as this is a new chapter for licensure.	
90-140	No current requirements as this is a new chapter for licensure.	