



Virginia
Regulatory
Town Hall

Final Regulation Agency Background Document

Agency Name:	Board of Counseling, Department of Health Professions
VAC Chapter Number:	18 VAC 115-30-10 et seq.
Regulation Title:	Regulations Governing the Certification of Substance Abuse Counselors and Substance Abuse Counseling Assistants
Action Title:	Certification requirements for counselors and assistants
Date:	3/12/03

Please refer to the Administrative Process Act (§ 9-6.14:9.1 *et seq.* of the *Code of Virginia*), Executive Order Twenty-Five (98), Executive Order Fifty-Eight (99), and the *Virginia Register Form, Style and Procedure Manual* for more information and other materials required to be submitted in the final regulatory action package.

Summary

Please provide a brief summary of the new regulation, amendments to an existing regulation, or the regulation being repealed. There is no need to state each provision or amendment; instead give a summary of the regulatory action. If applicable, generally describe the existing regulation. Do not restate the regulation or the purpose and intent of the regulation in the summary. Rather, alert the reader to all substantive matters or changes contained in the proposed new regulation, amendments to an existing regulation, or the regulation being repealed. Please briefly and generally summarize any substantive changes made since the proposed action was published.

Amendments to regulations are adopted in order for the Board of Counseling to comply with House Bill 2095 (Chapter 460 of the 2001 Acts of the Assembly to promulgate regulations for certification of substance abuse counselors and assistants). Two new sections of the Code of Virginia (§§ 54.1-3507.1 and 54.1-3507.2) require the Board to establish in regulation a specific number of hours of substance abuse education and supervised experience for both levels of certification. The new regulations must also provide for a certification of examination.

Changes Made Since the Proposed Stage

Please detail any changes, other than strictly editorial changes, made to the text of the proposed regulation since its publication. Please provide citations of the sections of the proposed regulation that have been altered since the proposed stage and a statement of the purpose of each change.

There were no changes made to the text of the proposed regulation since its publication.

Statement of Final Agency Action

Please provide a statement of the final action taken by the agency: including the date the action was taken, the name of the agency taking the action, and the title of the regulation.

On February 28, 2003, the Board of Counseling adopted final amendments to 18 VAC 115-30-10 et seq., Regulations Governing the Governing the Certification of Substance Abuse Counselors and Substance Abuse Counseling Assistants, in order to implement statutory requirements of §§ 54.1-3507.1 and 54.1-3507.2 of the Code of Virginia.

Basis

Please identify the state and/or federal source of legal authority to promulgate the regulation. The discussion of this statutory authority should: 1) describe its scope and the extent to which it is mandatory or discretionary; and 2) include a brief statement relating the content of the statutory authority to the specific regulation. In addition, where applicable, please describe the extent to which proposed changes exceed federal minimum requirements. Full citations of legal authority and, if available, web site addresses for locating the text of the cited authority, shall be provided. If the final text differs from that of the proposed, please state that the Office of the Attorney General has certified that the agency has the statutory authority to promulgate the final regulation and that it comports with applicable state and/or federal law

18 VAC 115-30-10 et seq. was promulgated under the general authority of Title 54.1 of the Code of Virginia.

Chapter 24 establishes the general powers and duties of health regulatory boards including the responsibility to promulgate regulations, levy fees, administer a licensure and renewal program, and discipline regulated professionals.

§ 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 or licensure 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 or licensure. Unless otherwise required by law, examinations shall be administered in writing or shall be a demonstration of manual skills.*
3. *To register, certify or license qualified applicants as practitioners of the particular profession or professions regulated by such board.*
4. *To establish schedules for renewals of registration, certification and licensure.*
5. *To levy and collect fees for application processing, examination, registration, certification or licensure 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 (§ 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 and Chapter 25 of this title.*
7. *To revoke, suspend, restrict, or refuse to issue or renew a registration, certificate or license 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 Intervention Program Committee and to implement, as is necessary, the provisions of Chapter 25.1 (§ 54.1-2515 et seq.) of this title. Each health regulatory board shall appoint one such designee.*
9. *To take appropriate disciplinary action for violations of applicable law and regulations.*
10. *To appoint a special conference committee, composed of not less than two members of a health regulatory board, to act in accordance with § 9-6.14:11 upon receipt of information that a practitioner of the appropriate board may be subject to disciplinary action. The special conference committee may (i) exonerate the practitioner; (ii) reinstate the practitioner; (iii) place the practitioner on probation with such terms as it may deem appropriate; (iv) reprimand the practitioner; (v) modify a previous order; and (vi) impose a monetary penalty pursuant to § 54.1-2401. The order of the special conference committee shall become final thirty 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 thirty-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 § 9-6.14:12, and the action of the committee shall be vacated. This subdivision shall not be construed to affect the authority or procedures of the Boards of Medicine and Nursing pursuant to §§ 54.1-2919 and 54.1-3010.*
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 § 9-6.14:12, 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 § 9-6.14:11 shall serve on a panel conducting formal proceedings pursuant to § 9-6.14:12 to consider the same matter.

12. *To issue inactive licenses and 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 such licenses or certificates.*

The full text of House Bill 2095 (Chapter 460 of the 2001 Acts of the Assembly) may be accessed at <http://leg1.state.va.us/cgi-bin/legp504.exe?011+ful+CHAP0460>.

Purpose

Please provide a statement explaining the need for the new or amended regulation. This statement must include the rationale or justification of the final regulatory action and detail the specific reasons it is essential to protect the health, safety or welfare of citizens. A statement of a general nature is not acceptable, particular rationales must be explicitly discussed. Please include a discussion of the goals of the proposal and the problems the proposal is intended to solve.

The Board of Counseling is charged with issuing certificates and regulating the practice of substance abuse counselors. As the regulating agency, the Board has the duty to protect the public by establishing qualifications and requirements for certification that are necessary to ensure the competence and integrity of certificate holders and by taking disciplinary action for violations of applicable law and regulations. Regulations are the mechanisms by which the Board sets forth qualifications and requirements for certification, and standards of professional conduct that provide the basis for disciplinary action. The Board considers the deficiencies the regulations are intended to address, and utilizes professional expertise, review of requirements of other states and national associations, historical information and public comment to determine optimal requirements that will insure competency of its certificate holders and protect the public health, safety and welfare.

The Board has determined that the regulations are generally clear and easily understandable; however, it must comply with House Bill 2095 (Chapter 460 of the 2001 Acts of the Assembly) to promulgate regulations for certification of substance abuse counselors with a bachelor's degree level of education and substance abuse counseling assistants with a high school or GED degree level of education.

Substance

Please identify and explain the new substantive provisions, the substantive changes to existing sections, or both where appropriate. Please note that a more detailed discussion is required under the statement of the regulatory action's detail.

Chapter 460 of the 2001 Acts specifically sets forth the scope of practice of a certified substance abuse counselor and a certified substance abuse counseling assistant and provides the requirement for supervision of their practice. The Board is required, however, to promulgate regulations to establish adequate education, experience and examination requirements to ensure competency of practitioners and protect the public.

For each of the two levels of certification, the law is specific about the degree requirement: 1) § 54.1-3507.1 states that a certified substance abuse counselor (CSAC) must have a bachelor's degree from a college or university accredited by an accrediting agency recognized by the Board; and 2) § 54.1-3507.2 specifies that a certified substance abuse counseling assistant must have received a high school diploma or its equivalent.

The new substantive provisions as well as the changes to existing sections primarily reflect the addition of a second tier certification level for substance abuse counselors. The new substance provisions are necessary for the creation of the certified substance abuse counseling assistant certification. Language is needed and has been proposed to provide for the prerequisites for certification, and educational requirements for certified substance abuse counseling assistants.

Additionally, existing sections must also be changed to include requirements for substance abuse counseling assistants in sections on examination, renewal of certification, and standards of practice.

Issues

Please provide a statement identifying the issues associated with the final regulatory action. The term "issues" means: 1) the advantages and disadvantages to the public of implementing the new provisions; 2) the 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, please include a sentence to that effect.

1) The primary advantages and disadvantages to the public, such as individual private citizens or business, of implementing the new or amended provisions:

The primary advantage of the new provisions is that qualified individuals who have spent many years in the substance abuse treatment field but who find the attainment of 400 clock hours of training unfeasible now have an avenue to obtain certification.

The primary disadvantage of the new provisions is that the creation of a two-tiered level of certification will result in an increase in the requirements for certification as a substance abuse counselor. A bachelor's degree will now be required for certification as a substance abuse counselor. Additionally, certification as a substance abuse counselor or a substance abuse counseling assistant does not allow for independent practice, activities of these professionals are limited to certain activities under the supervision of a licensed substance abuse counselor and certified substance abuse counselor respectively.

2) The primary advantages and disadvantages to the agency or the Commonwealth:

There are no discernable advantages or disadvantages to the agency of the Commonwealth. The fee structure set in regulation is intended to ensure that costs related to specific activities are borne by the applicants or certificate holders. Agencies of the Commonwealth that offer substance abuse services may benefit from having additional certified providers who have more specific training for their job.

3) Other pertinent matters of interest to the regulated community, government officials, and the public:

Many substance abuse facilities (government and non-profit entities) are exempt from licensure requirements. However, some require certification or licensure of staff. It is expected that these new provisions will have little or no advantageous or disadvantageous effects on these entities.

Public Comment

Please summarize all public comment received during the public comment period and provide the agency response. If no public comment was received, please include a statement indicating that fact.

The Virginia Board of Counseling accepted comments pursuant to a Notice of Public Comment that was published in the Virginia Registrar on December 2, 2002, Volume 19 Issue 6. Comments were accepted through January 31, 2003. A public hearing was held before the Board on January 24, 2003. There were no written, oral or electronic comments received.

Detail of Changes

Please detail any changes, other than strictly editorial changes, that are being proposed. Please detail new substantive provisions, all substantive changes to existing sections, or both where appropriate. This statement should provide a section-by-section description - or crosswalk - of changes implemented by the proposed regulatory action. Include citations to the specific sections of an existing regulation being amended and explain the consequences of the changes.

CHAPTER 30.**REGULATIONS GOVERNING THE CERTIFICATION OF SUBSTANCE ABUSE
COUNSELORS AND SUBSTANCE ABUSE COUNSELOR ASSISTANTS.****PART I.
GENERAL PROVISIONS.****18 VAC 115-30-10. Definitions.**

Amendments are adopted to provide definitions for the proposed certified substance abuse counseling assistant, as well as definitions for substance abuse treatment related terms. It is also proposed to provide a definition for “endorsement” for the purpose of consistency with other professions regulated by the Board. Reference to these terms and definitions in other sections of the regulations will also be amended.

18 VAC 115-30-30. Fees required by the board.

Amendments are adopted to provide fees that consistent with the “Principles for Fee Development” approved for all regulations within the Department. Fees for initial certification and renewal for certified substance abuse counseling assistants have been proposed. These fees are consistent with similar professions regulated under the Board.

18 VAC 115-30-40. Prerequisites for certification by examination for substance abuse counselors.

Amendments apply the requirements of this section only to substance abuse counselors. Additional amendments include: a) deletion of “high school diploma or general education development certificate” requirement and addition of “bachelor’s degree”, as set out by legislation; and b) changing “licensure” in subsection 2g to “certification”, to reflect the current level of licensure.

18 VAC 115-30-45. Prerequisites for certification by endorsement for substance abuse counselors.

Amendments are adopted to apply the requirements of this section only to substance abuse counselors. Amendments are proposed for consistency with other professions regulated by this board that allow for the determination of substantially equivalent examination and licensure.

18 VAC 115-30-50. Educational requirements for substance abuse counselors.

Amendments are adopted to apply the requirements of this section only to substance abuse counselors. Additional amendments include: a) deletion of “high school diploma or general education development certificate” requirement and addition of “bachelor’s degree”, as set out by legislation; b) a change in subsection A.2.b to clarify “acceptable” to the board versus “approved” by the board; c) recommendation to redistribute the 220 hours spent in receiving didactic training from 10 clock hours in six areas to 10 clock hours in eight areas. Only “crisis intervention” was added to increase these requirements to eight, “professional identity” was separated out from a previously existing section; and d) recommendation that requires each applicant to have at least 20 hours in “substance abuse counseling treatment planning and substance abuse research”, and “group counseling.”

18 VAC 115-30-60. Experience requirements for substance abuse counselors.

Amendments are adopted to apply the requirements of this section only to substance abuse counselors. In subsection B.3 the board recommends adding language to require that applicants must document successful completion of their supervised experience on the Verification of Supervision Form at the time of application. Supervised experience obtained prior to January 19, 2000, may be accepted toward certification if this supervised experience met the board's requirements that were in effect at the time the supervision was rendered. The board recommends the following amendments to subsection: a) specify "clinical" as the type of supervisor in C.1; b) add "licensed marriage and family therapist" to list of acceptable licenses necessary for supervision in C.1.a; and c) update the name of the board in C.1.c.

18 VAC 115-30-61. Prerequisites for certification by examination for substance abuse counseling assistants.

Language must be added to provide for the prerequisites for certification by examination for substance abuse counseling assistants. The board was directed by the General Assembly (§54.1-3507.2) to create the CSACA certification. Language in §54.1 – 3507.2 specifies, "the applicant shall also pass an examination, as required by the Board."

18 VAC 115-30-62. Educational requirements for substance abuse counseling assistants.

Language must be added to provide for the educational requirements for substance abuse counseling assistants. The board was directed by the General Assembly (§54.1-3507.2) to create the CSACA certification. The Code sets out three criteria that must be met in order to gain certification thru examination. They are (i) high diploma or GED; (ii) completion of a specific number of hours of didactic training; and (iii) accumulation of a specific number of hours of experience and completed a practicum. In regard to item (ii) the board is proposing 120 hours be spent receiving didactic training in substance abuse counseling in a minimum of 10 clock hours in eight specified areas. And in regard to item (iii), the board proposes 180 hour of experience performing tasks with substance abuse clients while under supervision.

18 VAC 115-30-70. Documentation of supervision.

The Board has repealed this section and moving the requirements to subsection 18 VAC 115-30-60.B.3 (Experience requirements for substance abuse counselors) in that the language only applies to substance abuse counselors.

18 VAC 115-30-90. General examination requirements for substance abuse counselors and substance abuse counseling assistants.

Amendments specify the terms "substance abuse counselors" and "substance abuse counseling assistants".

18 VAC 115-30-110. Annual renewal of certificate.

An amendment is adopted to add "substance abuse counseling assistant" in section "B".

18 VAC 115-30-140. Standards of practice.

Amendments add “certified substance abuse counseling assistants” where necessary to be included in this section.

Family Impact Statement

Please provide an analysis of the regulatory action that assesses the impact on the institution of the family and family stability including the extent to which the regulatory action will: 1) strengthen or erode the authority and rights of parents in the education, nurturing, and supervision of their children; 2) encourage or discourage economic self-sufficiency, self-pride, and the assumption of responsibility for oneself, one’s spouse, and one’s children and/or elderly parents; 3) strengthen or erode the marital commitment; and 4) increase or decrease disposable family income.

Drug and alcohol addiction are diseases that invariably will negatively impact everyone within the family unit. Spousal and child abuse and neglect, criminal activity and financial ruin are problems frequently associated with substance abuse. The effects of physical and emotional abuse on children have been reported extensively, and it is generally accepted that abuse increases the likelihood that a child will one day become an abusive parent, building on a chain of abuse passed down from one generation to the next.

Individuals who receive the education and training in substance abuse that is required for certification are more likely to be successful in counseling the abuser or assisting him in his recovery. To the extent the Board provides regulations that assume minimal competency of practitioners working with persons who have substance abuse problems, the proposed action may strengthen the authority and rights of parents, encourage economic self-sufficiency, strengthen the marital commitment or increase disposable family income.