

Commonwealth of Virginia



REGULATIONS

GOVERNING THE PRACTICE OF

PROFESSIONAL COUNSELING

VIRGINIA BOARD OF COUNSELING

Title of Regulations: 18 VAC 115-20-10 et seq.

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

Revised Date: July 3, 2014

9960 Mayland Drive
Henrico, VA 23233

Phone: (804) 367-4610
FAX: (804) 527-4435
email: coun@dhp.virginia.gov

TABLE OF CONTENTS

TABLE OF CONTENTS.....	2
Part I. General Provisions.....	3
18VAC115-20-10. Definitions.....	3
18VAC115-20-20. Fees required by the board.	3
18VAC115-20-30. (Repealed.)	5
18VAC115-20-35. Sex offender treatment provider certification.	5
Part II. Requirements for Licensure.	5
18VAC115-20-40. Prerequisites for licensure by examination.	5
18VAC115-20-45. Prerequisites for licensure by endorsement.....	6
18VAC115-20-49. Degree program requirements.	7
18VAC115-20-50. (Expired.)	7
18VAC115-20-51. Coursework requirements.	7
18VAC115-20-52. Residency.	8
18VAC115-20-60. (Repealed.)	10
Part III. Examinations.	10
18VAC115-20-70. General examination requirements; schedules; time limits.	10
18VAC115-20-80. (Repealed.)	10
18VAC115-20-90. (Repealed.)	10
Part IV. Licensure Renewal; Reinstatement.....	11
18VAC115-20-100. Annual renewal of licensure.....	11
18VAC115-20-105. Continued competency requirements for renewal of a license.	11
18VAC115-20-106. Continuing competency activity criteria.	11
18 VAC 115-20-107. Documenting compliance with continuing competency requirements.	13
18VAC115-20-110. Late renewal; reinstatement.	14
Part V. Standards of Practice; Unprofessional Conduct; Disciplinary Actions; Reinstatement.	15
18VAC115-20-130. Standards of practice.	15
18VAC115-20-140. Grounds for revocation, suspension, probation, reprimand, censure, or denial of license.	17
18 VAC115-20-150. Reinstatement following disciplinary action.....	18

Part I. General Provisions.

18VAC115-20-10. Definitions.

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

"Appraisal activities"

"Board"

"Counseling"

"Counseling treatment intervention"

"Professional counselor"

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

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

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

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

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

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

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

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

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

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

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

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

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

"Residency" means a post-graduate, supervised, clinical experience registered with the board.

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

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

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

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

Active annual license renewal	\$105
Inactive annual license renewal	\$55
Initial licensure by examination: Application processing and initial licensure	\$140
Initial licensure by endorsement: Application processing and initial licensure	\$140
Registration of supervision	\$50
Add or change supervisor	\$25
Duplicate license	\$5
Verification of licensure to another jurisdiction	\$25
Late renewal	\$35
Reinstatement of a lapsed license	\$165
Replacement of or additional wall certificate	\$15

Returned check	\$35
Reinstatement following revocation or suspension	\$500

B. All fees are nonrefundable.

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

18VAC115-20-30. (Repealed.)

18VAC115-20-35. Sex offender treatment provider certification.

Anyone licensed by the board who is seeking certification as a sex offender treatment provider shall adhere to the Regulations Governing the Certification of Sex Offender Treatment Providers, 18VAC125-30-10 et seq.

Part II. Requirements for Licensure.

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

Every applicant for licensure by examination by the board shall:

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

2. Submit the following to the board:

a. A completed application;

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

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

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

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

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

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

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

1. A completed application;
2. The application processing fee and initial licensure fee as prescribed in 18VAC115-20-20;
3. Verification of all mental health or health professional licenses or certificates ever held in any other jurisdiction. In order to qualify for endorsement the applicant shall have no unresolved action against a license or certificate. The board will consider history of disciplinary action on a case-by-case basis;
4. Documentation of having completed education and experience requirements as specified in subsection B of this section;
5. Verification of a passing score on an examination required for counseling licensure in the jurisdiction in which licensure was obtained; and
6. An affidavit of having read and understood the regulations and laws governing the practice of professional counseling in Virginia.

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

1. Educational requirements consistent with those specified in [18VAC115-20-49](#) and [18VAC115-20-51](#) and experience requirements consistent with those specified in [18VAC115-20-52](#); or
2. If an applicant does not have educational and experience credentials consistent with those required by this chapter, he shall provide:
 - a. Documentation of education and supervised experience that met the requirements of the jurisdiction in which he was initially licensed as verified by an official transcript and a certified copy of the original application materials; and
 - b. Evidence of post-licensure clinical practice in counseling, as defined in § 54.1-3500 of the Code of Virginia, for 24 of the last 60 months immediately preceding his licensure

application in Virginia. Clinical practice shall mean the rendering of direct clinical counseling services or clinical supervision of counseling services.

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.

18VAC115-20-49. Degree program requirements.

A. The applicant shall have completed a graduate degree from a program that prepares individuals to practice counseling and counseling treatment intervention, as defined in §54.1-3500 of the Code of Virginia, which is offered by a college or university accredited by a regional accrediting agency and which meets the following criteria:

1. There must be a sequence of academic study with the expressed intent to prepare counselors as documented by the institution;
2. There must be an identifiable counselor training faculty and an identifiable body of students who complete that sequence of academic study; and
3. The academic unit must have clear authority and primary responsibility for the core and specialty areas.

18VAC115-20-50. (Expired.)

18VAC115-20-51. Coursework requirements.

A. The applicant shall have successfully completed 60 semester hours or 90 quarter hours of graduate study in the following core coursework with a minimum of three semester hours or 4.0 quarter hours in each of subdivisions 1 through 12 of this subsection:

1. Professional counseling identity, function and ethics;
2. Theories of counseling and psychotherapy;
3. Counseling and psychotherapy techniques;
4. Human growth and development;
5. Group counseling and psychotherapy, theories and techniques;
6. Career counseling and development theories and techniques;
7. Appraisal, evaluation and diagnostic procedures;
8. Abnormal behavior and psychopathology;
9. Multicultural counseling, theories and techniques;

10. Research;

11. Diagnosis and treatment of addictive disorders;

12. Marriage and family systems theory; and

13. Supervised internship of at least 600 hours to include 240 hours of face-to-face client contact.

B. If 60 graduate hours in counseling were completed prior to April 12, 2000, the board may accept those hours if they meet the regulations in effect at the time the 60 hours were completed.

18VAC115-20-52. Residency.

A. Registration. Applicants who render counseling services shall:

1. With their supervisor, register their supervisory contract on the appropriate forms for board approval before starting to practice under supervision;

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

3. Pay the registration fee.

B. Residency requirements.

1. The applicant for licensure shall have completed a 3,400-hour supervised residency in the role of a professional counselor working with various populations, clinical problems and theoretical approaches in the following areas:

a. Assessment and diagnosis using psychotherapy techniques;

b. Appraisal, evaluation and diagnostic procedures;

c. Treatment planning and implementation;

d. Case management and recordkeeping;

e. Professional counselor identity and function; and

f. Professional ethics and standards of practice.

2. The residency shall include a minimum of 200 hours of face-to-face supervision between supervisor and resident in the consultation and review of clinical counseling services provided by the resident. Supervision shall occur at a minimum of one hour and a maximum of four hours per 40 hours of work experience during the period of the residency. For the purpose of meeting the 200-hour supervision requirement, face-to-face may include the use of secured technology that

maintains client confidentiality and provides real-time, visual contact between the supervisor and the resident.

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

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

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

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

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

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

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

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

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

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

3. Shall hold an active, unrestricted license as a professional counselor, marriage and family therapist, substance abuse treatment practitioner, school psychologist, clinical psychologist, clinical social worker, or psychiatrist in the jurisdiction where the supervision is being provided. At least 100 hours of the supervision shall be rendered by a licensed professional counselor.

D. Supervisory responsibilities.

1. Supervision by any individual whose relationship to the resident compromises the objectivity of the supervisor is prohibited.
2. The supervisor of a resident shall assume full responsibility for the clinical activities of that resident specified within the supervisory contract for the duration of the residency.
3. The supervisor shall complete evaluation forms to be given to the resident at the end of each three-month period.
4. The supervisor shall report the total hours of residency and shall evaluate the applicant's competency in the six areas stated in subdivision B 1 of this section.
5. The supervisor shall provide supervision as defined in 18VAC115-20-10.

18VAC115-20-60. (Repealed.)

Part III. Examinations.

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

A. Every applicant for initial licensure by examination by the board as a professional counselor shall pass a written examination as prescribed by the board.

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

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

1. The initial approval to sit for the examination shall then become invalid; and
2. In order to be considered for the examination later, the applicant shall file a new application with the board.

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

E. A candidate for examination or an applicant shall not provide clinical counseling services unless he is under supervision approved by the board.

18VAC115-20-80. (Repealed.)

18VAC115-20-90. (Repealed.)

Part IV. Licensure Renewal; Reinstatement.

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

- A. All licensees shall renew licenses on or before June 30 of each year.
- B. Every license holder who intends to continue an active practice shall submit to the board on or before June 30 of each year:
 - 1. A completed form for renewal of the license on which the licensee attests to compliance with the continuing competency requirements prescribed in this chapter; and
 - 2. The renewal fee prescribed in 18VAC115-20-20.
- C. A licensee who wishes to place his license in an inactive status may do so upon payment of the inactive renewal fee as established in 18VAC115-20-20. No person shall practice counseling in Virginia unless he holds a current active license. A licensee who has placed himself in inactive status may become active by fulfilling the reactivation requirements set forth in 18VAC115-20-110.C.
- D. Licensees shall notify the board of a change in the address of record or the public address, if different from the address of record within 60 days. Failure to receive a renewal notice from the board shall not relieve the license holder from the renewal requirement.
- E. Practice with an expired license is prohibited and may constitute grounds for disciplinary action.

18VAC115-20-105. Continued competency requirements for renewal of a license.

- A. After July 1, 2004, licensed professional counselors shall be required to have completed a minimum of 20 hours of continuing competency for each annual licensure renewal. A minimum of two of these hours shall be in courses that emphasize the ethics, standards of practice or laws governing behavioral science professions in Virginia.
- B. The board may grant an extension for good cause of up to one year for the completion of continuing competency requirements upon written request from the licensee prior to the renewal date. Such extension shall not relieve the licensee of the continuing competency requirement.
- C. The board may grant an exemption for all or part of the continuing competency requirements due to circumstances beyond the control of the licensee such as temporary disability, mandatory military service, or officially declared disasters.
- D. Those individuals dually licensed by this board will not be required to obtain continuing competency for each license. Dually licensed individuals will only be required to provide the hours set out in subsection A of this section or subsection A of 18 VAC 115-50-95 in the Regulations Governing the Practice of Marriage and Family Therapy, or subsection A of 18 VAC 115-60-115 in the Regulations Governing the Practice of Licensed Substance Abuse Treatment Providers.

18VAC115-20-106. Continuing competency activity criteria.

A. Continuing competency activities must focus on increasing knowledge or skills in one or more of the following areas:

1. Ethics, standards of practice or laws governing behavioral science professions;
2. Counseling theory;
3. Human growth and development;
4. Social and cultural foundations;
5. The helping relationship;
6. Group dynamics, processing and counseling;
7. Lifestyle and career development;
8. Appraisal of individuals;
9. Research and evaluation;
10. Professional orientation;
11. Clinical supervision;
12. Marriage and family therapy; or
13. Addictions.

B. Approved hours of continuing competency activity shall be one of the following types:

1. Formally organized learning activities or home study. Activities may be counted at their full hour value. Hours shall be obtained from one or a combination of the following board-approved mental health related activities:

a. Regionally accredited university or college level academic courses in a behavioral health discipline.

b. Continuing education programs offered by universities or colleges.

c. Workshops, seminars, conferences, or courses in the behavioral health field offered by federal, state or local governmental agencies or licensed health facilities and licensed hospitals.

d. Workshops, seminars conferences or courses in the behavioral health field offered by an individual or organization that has been certified or approved by one of the following:

- (1) The International Association of Marriage and Family Counselors and its state affiliates.
- (2) The American Association for Marriage and Family Therapy 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, The Association for Addiction Professionals 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.
- (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.
- (12) The American Association of Pastoral Counselors.

2. Individual professional activities.

a. Publication/presentation/new program development

(1) Publication of articles. Activity will count for a maximum of eight hours. Publication activities are limited to articles in refereed journals or a chapter in an edited book.

(2) Publication of books. Activity will count for a maximum of 18 hours.

(3) Presentations. Activity will count for a maximum of eight hours. The same presentations may be used only once in a two-year period. Only actual presentation time may be counted.

(4) New program development. Activity will count for a maximum of eight hours.)New program development includes a new course, seminar, or workshop. New courses shall be graduate or undergraduate level college or university courses.

b. Dissertation. Activity will count for a maximum of 18 hours. Dissertation credit may only be counted once.

c. Clinical supervision/consultation. Activity will count for a maximum of 10 hours. Continuing competency can only be granted for clinical supervision/consultation received on a regular basis with a set agenda. Continuing competency cannot be granted for supervision provided to others.

d. Leadership. Activity will count for a maximum of eight hours. The following leadership positions are acceptable for continuing competency credit: officer of state or national counseling organization; editor and/or reviewer of professional counseling journals; member of state counseling licensure/certification board; member of a national counselor certification board; member of a national ethics disciplinary review committee rendering licenses; active member of a counseling committee producing a substantial written product; chair of a major counseling conference or convention; or other leadership positions with justifiable professional learning experiences. The leadership positions must take place for a minimum of one year after the date of first licensure.

e. Practice related programs. Activity will count up to a maximum of eight hours. The board may allow up to eight contact hours of continuing competency as long as the regulant submits proof of attendance plus a written justification of how the activity assists him in his direct service of his clients. Examples include: language courses, software training, and medical topics, etc.

18 VAC 115-20-107. Documenting compliance with continuing competency requirements.

A. All licensees are required to maintain original documentation for a period of two years following renewal.

B. After the end of each renewal period, the board may conduct a random audit of licensees to verify compliance with the requirement for that renewal period.

C. Upon request, a licensee shall provide documentation as follows:

1. To document completion of formal organized learning activities the licensee shall provide:

- a. Official transcripts showing credit hours earned; or
 - b. Certificates of participation.
2. Documentation of home study shall be made by identification of the source material studied, summary of content, and a signed affidavit attesting to completion of the home study.
3. Documentation of individual professional activities shall be by one of the following:
- a. Certificates of participation;
 - b. Proof of presentations made;
 - c. Reprints of publications;
 - d. Letters from educational institutions or agencies approving continuing education programs;
 - e. Official notification from the association that sponsored the item writing workshop or continuing education program; or
 - f. Documentation of attendance at formal staffing by a signed affidavit on a form provided by the board.
- D. Continuing competency hours required by a disciplinary order shall not be used to satisfy renewal requirements.

18VAC115-20-110. Late renewal; reinstatement.

- A. A person whose license has expired may renew it within one year after its expiration date by paying the late fee prescribed in 18VAC115-20-20 as well as the license renewal fee prescribed for the year the license was not renewed and providing evidence of having met all applicable continuing competency requirements.
- B. A person who fails to renew a license after one year or more and wishes to resume practice shall apply for reinstatement, pay the reinstatement fee for a lapsed license, submit verification of any mental health license he holds or has held in another jurisdiction, if applicable, and provide evidence of having met all applicable continuing competency requirements not to exceed a maximum of 80 hours. The board may require the applicant for reinstatement to submit evidence regarding the continued ability to perform the functions within the scope of practice of the license.
- C. A person wishing to reactivate an inactive license shall submit (i) the renewal fee for active licensure minus any fee already paid for inactive licensure renewal; (ii) documentation of continued competency hours equal to the number of years the license has been inactive not to exceed a maximum of 80 hours; and (iii) verification of any mental health license he holds or has held in another jurisdiction, if applicable. The board may require the applicant for reactivation to submit evidence regarding the continued ability to perform the functions within the scope of practice of the license.

Part V. Standards of Practice; Unprofessional Conduct; Disciplinary Actions; Reinstatement.

18VAC115-20-130. Standards of practice.

A. The protection of the public health, safety, and welfare and the best interest of the public shall be the primary guide in determining the appropriate professional conduct of all persons whose activities are regulated by the board. Regardless of the delivery method, whether in person, by phone or electronically, these standards shall apply to the practice of counseling.

B. Persons licensed by the board shall:

1. Practice in a manner that is in the best interest of the public and does not endanger the public health, safety, or welfare;
2. Practice only within the boundaries of their competence, based on their education, training, supervised experience and appropriate professional experience and represent their education training and experience accurately to clients;
3. Stay abreast of new counseling information, concepts, applications and practices which are necessary to providing appropriate, effective professional services;
4. Be able to justify all services rendered to clients as necessary and appropriate for diagnostic or therapeutic purposes;
5. Document the need for and steps taken to terminate a counseling relationship when it becomes clear that the client is not benefiting from the relationship. Document the assistance provided in making appropriate arrangements for the continuation of treatment for clients, when necessary, following termination of a counseling relationship;
6. Make appropriate arrangements for continuation of services, when necessary, during interruptions such as vacations, unavailability, relocation, illness, and disability;
7. Disclose to clients all experimental methods of treatment and inform clients of the risks and benefits of any such treatment. Ensure that the welfare of the clients is in no way compromised in any experimentation or research involving those clients;
8. Neither accept nor give commissions, rebates, or other forms of remuneration for referral of clients for professional services;
9. Inform clients of the purposes, goals, techniques, procedures, limitations, potential risks, and benefits of services to be performed, the limitations of confidentiality, and other pertinent information when counseling is initiated, and throughout the counseling process as necessary. Provide clients with accurate information regarding the implications of diagnosis, the intended use of tests and reports, fees, and billing arrangements;
10. Select tests for use with clients that are valid, reliable and appropriate and carefully interpret the performance of individuals not represented in standardized norms;

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

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

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

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

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

2. Maintain client records securely, inform all employees of the requirements of confidentiality and provide for the destruction of records which are no longer useful in a manner that ensures client confidentiality;

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

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

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

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

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

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

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

1. Avoid dual relationships with clients that could impair professional judgment or increase the risk of harm to clients. (Examples of such relationships include, but are not limited to, familial, social, financial, business, bartering, or close personal relationships with clients.) Counselors shall take appropriate professional precautions when a dual relationship cannot be avoided, such as informed

consent, consultation, supervision, and documentation to ensure that judgment is not impaired and no exploitation occurs;

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

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

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

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

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

18VAC115-20-140. Grounds for revocation, suspension, probation, reprimand, censure, or denial of license.

A. Action by the board to revoke, suspend, deny issuance or renewal of a license, or take disciplinary action may be taken in accordance with the following:

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 professional counseling, or any provision of this chapter;

2. Procurement of a license, including submission of an application or supervisory forms, by fraud or misrepresentation;

3. Conducting one's practice in such a manner 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 counseling with reasonable skill and safety to clients by reason of illness, abusive use of alcohol, drugs, narcotics, chemicals, or other type of material or result of any mental or physical condition;
4. Intentional or negligent conduct that causes or is likely to cause injury to a client or clients;
5. Performance of functions outside the demonstrable areas of competency;
6. Failure to comply with continued competency requirements set forth in this chapter; or
7. Violating or abetting another person in the violation of any provision of any statute applicable to the practice of counseling, or any part or portion of this chapter; or
8. Performance of an act likely to deceive, defraud, or harm the public.

B. Following the revocation or suspension of a license, the licensee may petition the board for reinstatement upon good cause shown or as a result of substantial new evidence having been obtained that would alter the determination reached.

18 VAC115-20-150. Reinstatement following disciplinary action.

A. Any person whose license has been suspended or who has been denied reinstatement by board order, having met the terms of the order, may submit a new application and fee for reinstatement of licensure.

B. The board in its discretion may, after an administrative proceeding, grant the reinstatement sought in subsection A of this section.