

COPY

COMMONWEALTH OF VIRGINIA

THE STATE BOARD OF
BEHAVIORAL SCIENCE

THE STATE BOARD OF
PROFESSIONAL COUNSELORS

Regulations of the Boards

Adopted August 29, 1977
Effective October 19, 1977

Statutes

Chapter 1.1, Title 54
Chapter 24, Title 54

COMMONWEALTH OF VIRGINIA
DEPARTMENT OF PROFESSIONAL AND OCCUPATIONAL REGULATION
2 SOUTH NINTH STREET
RICHMOND, VIRGINIA 23202

DEPARTMENT OF PROFESSIONAL AND
OCCUPATIONAL REGULATION

2 South Ninth Street
P. O. Box 1-X
Richmond, Virginia 23202

COMMONWEALTH OF VIRGINIA
DEPARTMENT OF COMMERCE
2 SOUTH NINTH STREET
RICHMOND, VIRGINIA 23202

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FOREWORD

Contained herein are the regulations of the Virginia Board of Behavioral Science and the Virginia Board of Professional Counselors. The regulations deal with licensing, eligibility standards, and ethical standards of Professional Counselors. This publication supersedes all previous publications of the Boards and the Department relating to the topics herein covered.

On May 19, 1977, a public hearing was held by the Virginia Board of Behavioral Science pursuant to and in accordance with Chapter 1.1:1 of Title 9 and Chapter 1.1 of Title 54 and Chapter 28, Section 54-927 of Title 54, Code of Virginia, 1950, as amended, in the State Capitol Building, House Committee Room number four, Richmond, Virginia. The purpose of the hearing was to present the proposed regulations for the effective administration of the regulatory system to be administered by the Virginia Board of Behavioral Science. The meeting was recorded by a court reporter and presided over by Michael L. Rigsby, Hearing Officer. The time, place and purpose of the meeting had been previously published in accordance with law.

The hearing convened as scheduled at 9:00 a.m. The members of the Board of Behavioral Science were introduced by the hearing officer. All persons present were given an opportunity to be heard on the regulations; however, no one chose to speak either for or against so the hearing officer adjourned the hearing at 9:20 a.m. The proceedings are duly recorded in the formal record of the meeting which has been prepared by the court reporter.

The Board of Behavioral Science approved the regulations after making several very minor, nonsubstantive amendments on July 27, 1977, with a copy filed with the Registrar of Regulations on September 7, 1977 to become effective thirty days thereafter.

On May 19, 1977, a public hearing was held by the Virginia Board of Behavioral Science pursuant to and in accordance with Chapter 1.1:1 of Title 9 and Chapter 1.1 of Title 54 and Chapter 28, Section 54-927 of Title 54, Code of Virginia, 1950, as amended, in the State Capitol Building, House Committee Room number four, Richmond, Virginia. The purpose of the hearing was to present the proposed regulations for the licensure of professional counselors by the Virginia Board of Professional Counselors. The meeting was recorded by a court reporter and presided over by Michael L. Rigsby, Hearing Officer. The time, place, and purpose of the meeting had been previously published in accordance with law.

The hearing convened as scheduled at 10:00 a.m. The members of the Board of Behavioral Science were introduced by the hearing officer. All persons present who wished to speak were given an opportunity to be heard on the regulations in total and also on specific portions of the regulations. There were fourteen speakers who addressed themselves, both favorably and unfavorably, to different portions of the regulations. The names of each of the speakers is recorded in the formal record of the meeting which has been prepared by the court reporter.

After the speakers had been given ample opportunity to present their opinions, the hearing officer announced that the record would be kept open for thirty days in order to allow additional written comments to be submitted to the Board.

The Board of Behavioral Science reviewed all testimony, both written and oral, presented by the hearing and submitted afterwards, at its meeting on June 13, 1977. The decision was made to refer the proposed regulations back to the Virginia Board of Professional Counselors for minor changes in light of testimony given and concerns held by the Board itself. On August 15, 1977, the proposed regulations of the Virginia Board of Professional Counselors as amended, were distributed by mail to all persons who attended the public hearing with an invitation for comment extended to each. Receiving no comments, the Board of Behavioral Science approved the regulations of the Virginia Board of Professional Counselors, as amended, on August 29, 1977, with a copy filed with the Registrar of Regulations on September 19, 1977, to become effective thirty days thereafter.

A transcript of the oral testimony taken at the public hearing and the written proposals received may be examined at the office of the Board, 2 South 9th Street, Second Floor, Richmond, Virginia.

REGULATIONS FOR VIRGINIA BOARD OF BEHAVIORAL SCIENCE

Section I: Introduction.

POR 1.1: Identity of Board of Behavioral Science.

The Virginia Board of Behavioral Science was created by Title 54, Chapter 28 § 54-923 through 54-948 Code of Virginia, 1950, as amended, and derives its authority therefrom and Chapter 1.1, section 54-1.10.

POR 1.2: Regulations.

Pursuant to Section 54-927 of the Code of Virginia the Virginia Board of Behavioral Science hereby establishes and promulgates these regulations for conducting the business and administering the regulatory system of the Board.

Section II: Organization and General Procedural Rules of the Board.

POR 2.1: Officers.

The Board of Behavioral Science shall elect a chairman and vice-chairman from its membership at its annual meeting which shall be the first meeting after the Board is annually reconstituted. The Director of the Virginia Department of Professional and Occupational Regulation shall serve as Secretary to the Board.

POR 2.2: Meetings.

Regular meetings of the Board shall be held at such times and places as it prescribes but there shall be no less than one regular meeting each year, at which meeting candidates approved for licensure or certification by the professional boards shall be so licensed or certified. Special meetings may be held upon call of either the chairman or three members of the Board.

POR 2.3: Quorum.

A quorum of the Board of Behavioral Science shall be a majority of the Board which includes at least one member of each professional board and one citizen member. (§ 54-926 of the Code of Virginia)

POR 2.4: Majority.

A majority vote of those present at each meeting shall constitute the action of the Board.

Section III: General.

POR 3.1: Who is required to obtain a license and/or certificate.

In order to protect the public health, safety, and welfare, any person practicing or offering to practice as a professional counselor, psychologist, school psychologist, social worker, or clinical social worker in this State except such persons as are in an exempt status as defined in Section 54-944, shall be required to submit to the appropriate professional board evidence as prescribed in the regulations of such

board that he/she is qualified to practice and to be licensed or certified as herein provided.

POR 3.2: Who may apply for and be granted a license and/or certificate.

- A. Any person who has had the required training and experience prescribed in the regulations of the applicable professional board to qualify him/her to take the necessary examination(s), may, upon payment of the fee prescribed for the professional board, apply for a license and/or certificate and take the prescribed examinations of such professional board.
- B. The applicable professional board shall be the sole judge of the applicant's qualifications for licensure.

POR 3.3: Grounds for denial of renewal, suspension, or revocation; applications for reinstatement.

The Board may, after a hearing by the appropriate professional board and upon receipt of its recommendation, suspend, fail to renew, or revoke any license and/or certificate if the Board finds that the holder thereof:

1. Has been convicted of a felony since issuance of such license of certificate (§ 54-1.15) or
2. Has employed fraud or deceit in obtaining the license or certificate, or
3. Is determined to be incompetent to render professional services for which he/she is licensed and/or certified, or
4. Has acted negligently or wrongfully in the conduct of his/her profession, or not in conformance with the code of ethics adopted by the Board of Behavioral Science or the applicable professional board or certification committee, or
5. Violates or induces others to violate any provision of Chapter 28 of Title 54, Code of Virginia, any other statute applicable to the practice of the professions herein regulated or any provision of these regulations or the Code of Ethics adopted by the Board of Behavioral Science or the applicable professional board or certification committee.

Application for reinstatement shall be made to the Board which, in its discretion, may, after a hearing, grant such reinstatement. Any person who has had his/her license and/or certificate suspended, not renewed or revoked, may file an original application for such license and/or certificate two years subsequent to the action of the Board.

Section IV: Licensure, Expiration and renewal of license and/or certification.

- A. Every license and/or certificate issued shall expire on the thirtieth day of June of each odd number year. The Secretary shall mail each license holder or certificate holder at least thirty days prior to the first day of June of each odd numbered year, complete instructions together with the application upon which he/she may apply for renewal of the license. The renewal application shall be returned to the Secretary before June 30 of that year accompanied by a check made payable to the Treasurer of Virginia for the amount prescribed in the regulations of the applicable professional board as approved by the Board of Behavioral Science. Failure of a licensee to receive the notice and application to renew from the Secretary shall not excuse him/her from the requirements for the renewal herein contained.
- B. Renewal applications may contain questionnaires on continuing education, in-

specification of practices, and other related professional matters. The continuation of a license is contingent upon the completion of these questionnaires.

- C. If any licensee fails to renew his/her license as above provided within thirty (30) days from the last expiration date shown on his/her valid license, said license shall thereupon automatically become invalid. Provided that the licensee meets all requirements for renewal such license may be renewed at any time within a four-year period from the expiration date of his/her last valid license by paying a penalty fee in the amount of five dollars (\$5.00) and cost of license(s) for years not renewed. Any license holder who fails to renew his/her license for a period of four years or more shall be required to satisfy the applicable professional board that he/she has maintained competency to perform the duties regulated by that professional board.

Section V: Examining and Advisory Committee(s).

POR 5.1: Advisory Committee(s).

- A. The Board of Behavioral Science may establish Advisory Committee(s) hereinafter called Committee(s), for the purpose of rendering assistance where the Board deems it necessary.
- B. Appointment, Composition, and Terms: Each such committee shall consist of at least four members; two of whom shall be appointed by the Board of Behavioral Science, and at least two of whom shall be members of the Board of Behavioral Science. The Administrative Secretary of the Board shall serve as Secretary of each such committee. Committee members shall serve at the pleasure of the Board.
- C. Chairman: The Chairman of each Advisory Committee shall be a member of the Board of Behavioral Science.
- D. Meetings: Meeting shall be called by the Chairman of the Committee.
- E. Duties: Each Committee shall advise the Board of Behavioral Science in the exercise of its powers and the performance of its duties and make appropriate recommendations thereto.
- F. Report to the Board: The Secretary of the Committee(s) shall take the minutes of each meeting and report these to the Board of Behavioral Science.

Section VI: Inspection of Practices.

Pursuant to Section 54-927e, the Board shall ensure that inspections are conducted by each professional board relating to the practice of each practitioner in conducting his/her practice in a competent manner and within the lawful regulations promulgated by the Board of Behavioral Science and the applicable professional board and that results of said inspections shall be regularly reported to the Board of Behavioral Science.

Section VII: Ethical Standards.

POR 7.1: Code of Ethics.

- A. The protection of the public health, safety, and welfare and the best interest of the public shall serve as the primary source of guidance in determining the

appropriate professional conduct of all persons whose activities are regulated by the Board.

- B. No person whose activities are regulated by the Board shall:
1. Engage in professional conduct inimical to the public health, safety, and welfare or the best interest of the public.
 2. Engage in professional conduct designed solely to further the financial interest of such person which is not necessary for diagnostic or therapeutic purposes.
 3. Engage in any professional conduct for which he/she is not qualified by training and/or experience.
 4. Knowingly violate or induce another to violate any provision of Chapter 28 of Title 54, Code of Virginia, any other statute applicable to the practice of the professions regulated by the Board, or any provision of the regulations or Code of Ethics adopted by the Board or by any professional board or certification committee having authority to regulate the conduct of such person.
 5. Perform or attempt to perform professional functions outside the area for which such person is licensed or certified.

**REGULATIONS OF
VIRGINIA BOARD OF BEHAVIORAL SCIENCE
for
VIRGINIA BOARD OF PROFESSIONAL COUNSELORS**

Section I: Classification of Licensure Applicants.

POR 1.1: Applicant for Licensure as a Professional Counselor

Category 1) Reciprocity Applicant.

The written examination(s) may be waived for the applicant certified or licensed in another jurisdiction where it is adjudged by the Board of Professional Counselors that the applicant was so certified or licensed by equivalent procedures.

Category 2) Personnel & Guidance Counselors Previously Certified in Virginia.

An individual certified in Virginia as a Personnel and Guidance Counselor or qualified for certification and who has filed proper application for such certification prior to January 1, 1977, shall be licensed to practice as a Professional Counselor. (See § 54-935)

Category 3) All Other Applicants.

All other applicants for licensure as professional counselor will be duly examined as set forth in POR 3.1., Regulations of the Virginia Board of Professional Counselors.

Section II: Qualifications of Applicants for Examination:

POR 2.1: Character and Professional Integrity.

The applicant must submit endorsement letters from five responsible persons attesting to the character and professional integrity of the applicant.

POR 2.2: Education for Professional Counselors.

- A. Graduate Degree in Counseling: The applicant must have completed 60 semester hours or 90 quarter hours of graduate study which are primarily counseling in nature including a graduate degree in counseling from a college or university approved by a regional accrediting agency or the Virginia State Council of Higher Education, or present other academic training or specialized experience acceptable to the Board of Professional Counselors as equivalent to the graduate degree in counseling, pursuant to 2.2.B.

The graduate course work must include study in the following areas:

1. Theories of human behavior, learning, and personality;
2. Group dynamics, theories, and techniques;
3. Counseling theories and techniques;
4. Understanding abnormal behavior;
5. Professional identity, function, and ethics;
6. Evaluation and appraisal procedures; and
7. Supervised practicum.

Authenticated transcripts must be received from all schools attended.

B. Criteria for Equivalency to Graduate Degree in Counseling:

The equivalent of a graduate degree in counseling shall be a graduate degree in a related discipline offered by an academic unit other than a department of counselor education provided:

1. The aforementioned academic unit is in, or formally connected with, an institution accredited by a regional accrediting association, and
2. At least 60 semester hours or 90 quarter hours of graduate course credits required for the degree have been successfully earned in graduate courses which, in the judgment of the Board of Professional Counselors and the institution granting the degree, are predominantly counseling in content.

C. Post Graduate Degree Training for Professional Counselors:

1. The applicant is required to have had two years of full-time post graduate degree experience in counseling practice, research, or teaching under supervision satisfactory to the Board. If the supervisor is in private practice, he or she shall be licensed and meet the guidelines of the Board. This experience shall include, during its entire duration, a minimum of two hours per week of face to face consultation between supervisor and applicant. A post graduate internship may count as one of the two years of post graduate degree experience.
2. Verification of compliance with this regulation in the form of letters from all supervisors is required.
3. Individuals in the process of obtaining their two years of post graduate degree training may not call themselves a Professional Counselor, solicit clients, bill for their services, or in any way represent themselves as professional counselors.
4. The supervisor of the trainee assumes full responsibility for the activities of the trainee and determines the amount of supervision required.
5. All individuals obtaining their post graduate degree training in Virginia shall be registered with the Board by the supervisor on a registration form provided by the Board.

D. Applications before January 1, 1982. Any person who applies for licensure on or before January 1, 1982, may be examined by the Board if he or she meets the following qualifications:

1. Has at least a master's degree from an accredited institution in counseling or a related field approved by the Board and
2. Has completed two years of full-time supervised experience as set forth in POR 2.2:C.1, or ten (10) years of experience, as a counselor as defined in § 54-932.a. Reports substantiating the ten years of experience will be required from five (5) professional peers in the same profession. These five reports will detail the applicant's experience, evaluative skills, communication effectiveness, and areas of competency. They will also report on the applicant's readiness for unsupervised private practice.

POR 2.3: Education for Professional Counselors Wishing to be Designated as a Specialist.

Licensees may not represent themselves to the public or others as a specialist unless so designated by the Board.

- A. The applicant for specialty designation shall meet all educational requirements for licensure as a Professional Counselor, except where noted, plus any listed additional requirements in the specialty, which may be included within the 60 semester hours or 90 quarter hours required in POR 2.2A. Authenticated transcripts must be received from all schools attended.

B. Marriage and Family Counselor

1. The applicant must meet all requirements for licensure as a professional counselor as set forth in POR 2.2.A., B or D. Within the 60 graduate semester hours or 90 quarter hours required, at least 15 semester hours or 22½ quarter hours respectively shall be in the following areas.
 - a. Dynamics of marriage and family systems.
 - b. Human sexuality.
 - c. Marriage and family counseling theory and techniques.
 - d. Supervised practicum in marriage and family counseling.
2. Post Graduate Degree Training:

Either as a part of or in addition to the two years of full-time post graduate degree experience required for generic licensure as set forth in POR 2.2:C.1, the applicant shall have at least 100 hours of supervision of his or her marriage and family counseling by a licensed or qualified to be licensed professional counselor or other licensed professional satisfactory to the Board.

C. Pastoral Counselors

1. The applicant must meet all requirements for licensure as a professional counselor as set forth in POR 2.2.A, B or D with the graduate degree being either a Masters of Divinity, Masters of Theology, Doctor of Ministry, Doctor of Philosophy, Doctor of Theology, or its equivalent covering the following areas of study:
 - a. Marriage and family counseling
 - b. Theology of pastoral care
 - c. Supervised practicum in clinical pastoral education (A.C.P.E. or A.A.P.C. approved or meet the guidelines of the Board.)
2. Post Graduate Degree Training:
 - a. Either as a part of or in addition to the two years of full-time post graduate degree experience required for generic licensure as set forth in POR 2.2:C.1, the applicant shall have successfully completed an accredited program in pastoral counseling to include at least 100 hours of supervision of his/her pastoral counseling by a licensed or qualified to be licensed professional counselor or other licensed professional satisfactory to the Board.

D. Rehabilitation Counselor

1. The applicant must meet all requirements for licensure as a professional counselor as set forth in POR 2.2.A, B or D. Within the 60 graduate semester hours or 90 quarter hours required, at least 18 semester hours or 27 quarter hours respectively shall be in the following areas:
 - a. Rehabilitation, philosophy, and practice.

- b. Evaluation, including areas of aptitude and achievement tests and work evaluation methods.
- c. Medical, psycho-social, and psychiatric aspects of disability.
- d. Occupational information and job placement techniques.
- e. Supervised practicum in rehabilitation counseling.

2. Post Graduate Degree Training:

Either as a part or or in addition to the two years of full-time post graduate degree experience required for generic licensure as set forth in POR 2.2:C.1, the applicant shall have at least one year of full-time supervision of his/her rehabilitation counseling by a licensed or qualified to be a licensed professional counselor or other licensed professional satisfactory to the Board.

E. *Substance Abuse Counselor*

- 1. The applicant must meet all requirements for licensure as a professional counselor as set forth in POR 2.2.A, B or D. Within the 60 graduate semester hours or 90 quarter hours required, at least 18 semester hours or 27 quarter hours respectively shall be in the following areas:
 - a. Clinical assessment of substance abuse disfunction.
 - b. Substance abuse and human behavior.
 - c. Delivery services to the substance abuser.
 - d. Interdisciplinary principles, methods, and techniques in treatment of the substance abuser.
 - e. Crisis intervention with the substance abuser.
 - f. Practicum in the rehabilitation of the substance abuser.
 - g. Or specialized experience and/or training acceptable to the Board as equivalent to the above course work, (a) through (f).

2. Post Graduate Degree Training:

Either as a part of or in addition to the two years of full-time post graduate degree experience required for generic licensure as set forth in POR 2.2:C.1, the applicant shall have at least one year of full-time supervised experience in substance abuse by a licensed or qualified to be licensed professional counselor or other licensed professional satisfactory to the Board.

F. *Career Counselor*

- 1. The applicant must meet all requirements for licensure as a professional counselor as set forth in POR 2.2.A, B or D. Within the 60 graduate semester hours or 90 quarter hours required, at least 15 semester hours or 22½ quarter hours respectively shall be in the following areas:
 - a. Theories of career development
 - b. Career appraisal techniques
 - c. Information sources for career choices including educational, occupational, and leisure time opportunities.
 - d. Techniques and dynamics of career counseling.
 - e. Supervised practicum in career counseling.

2. Post Graduate Degree Training:

Either as a part of or in addition to the two years of full-time post graduate degree experience required for generic licensure as set forth in POR 2.2:C.1, the applicant shall have at least one year of supervised career counseling by a licensed or qualified to be licensed professional counselor or other licensed professional satisfactory to the Board.

G. *Research Counselor*

1. The applicant seeking the research designation must meet all requirements for licensure as a professional counselor as set forth in POR 2.2.A, B or D and be proficient in a variety of research and diagnostic techniques such as interviews, life histories, tests, case observations and experimental methods dealing with human subjects.
2. The applicant must hold a doctoral degree in counseling or the equivalent thereof in a related discipline acceptable to the Board of Professional Counselors.
3. The applicant must have completed course work in the following areas:
 - a. Fundamentals of research with human subject.
 - b. Research design and experimental methods.
 - c. Supervised experience doing research with human subjects.
 - d. Diagnostic methods including interviewing, case observation and compiling of life histories.
 - e. Dissertation which demonstrates detailed and systematic attempt to discover or confirm through objective investigation the facts pertaining to a specified problem of human behavior.
4. The applicant must have completed a doctoral level internship in addition to the two years of full-time post graduate degree experience required for generic licensure as set forth in POR 2.2:C.

Section III: Examinations.

POR 3.1: Application and Examination Process

A. Waiver of Examination:

1. The written examination may be waived, in whole or part, for an applicant certified or licensed in another jurisdiction where it is adjudged by the Board that the applicant was so certified or licensed by equivalent procedures.
2. Those persons certified as personnel and guidance counselors under Chapter 5.2, Title 54 (§ 54-102.15 et seq.) prior to January 1, 1977, shall be waived from taking the required examinations for licensure as a professional counselor. However, should such person(s) wish to be designated as a specialist(s), they shall produce evidence of the required education and training in the specialty and shall be duly examined as set forth in POR 3.1, Regulations of the Virginia Board of Professional Counselors.

B. Fees:

1. The application fee for licensure as professional counselor shall be \$50.00 and shall not be refundable. The application fee shall accompany the application.

2. The examination fee shall be payable upon notification of Board approval to sit for examination and shall be as follows:
 - a. Licensure as a professional counselor \$75.00
 - b. Specialty designation \$25.00 per specialty
3. A candidate who fails any section(s) of the examination may be reexamined upon payment of the appropriate fee(s) as listed below:
 - Objective Examination \$35.00
 - Specialty Examination \$35.00
 - Oral Examination \$35.00

Section IV: Licensure.

POR 4.1: Temporary Permit.

The Board of Professional Counselors may, as authorized by the Board of Behavioral Science pursuant to §54-948, issue to any person who has been approved to sit for examination a temporary permit to practice counseling in the State. Such a permit shall expire when the results of the next scheduled examination are known.

POR 4.2: Licensure as a Professional Counselor.

A license authorizing the holder to engage in the practice of counseling shall be issued by the Virginia Board of Behavioral Science to each successful candidate for licensure as a Professional Counselor.

POR 4.3: Specialty Designation.

Within the generic license of "Professional Counselor," the Board may register one or more specialty areas of professional practice of licensees (§ 54-931). These specialties will include: marriage-family, pastoral, rehabilitation, substance abuse, career, and research.

POR 4.4: Certificate of Licensure:

1. The certificate of licensure issued to each professional counselor will bear the designation licensed as a Professional Counselor.
2. Directory of licensees. The Board of Professional Counselors shall publish on a biennial basis a directory of its licensees with their specialties, if any, indicated.

POR 4.5: Renewal of License.

A. Fees:

1. The renewal application shall be returned to the Secretary of the Board before June 30 of each odd numbered year accompanied by a check for sixty dollars (\$60.00) made payable to the Treasurer of Virginia.

Section V: Powers and Duties of the Board of Professional Counselors.

POR 5.1: Inspections of Practices.

The Board shall, pursuant to Section 54-927 (e), conduct inspections relating to the practice of each practitioner in conducting his/her practice in a competent manner and within the lawful regulations promulgated by the Board of Behavioral Science and the Board of Professional Counselors and results of said inspections shall be regularly reported to the Virginia Board of Behavioral Science.

REGULATIONS OF VIRGINIA BOARD OF PROFESSIONAL COUNSELORS

Section I: Introduction.

POR 1.1: Identity of Board of Professional Counselors.

The Virginia Board of Professional Counselors exists under and is empowered by Title 54, Chapter 28, Sections 54-932 through 54-935, and Chapter 1.1, Section 54-1.10.

POR 1.2: Regulations.

As provided for in Chapter 28 of Article I, Section 54-929, the Virginia Board of Professional Counselors hereby establishes regulations for conducting the business of the Board, including the acceptance of applications and the administration of examinations for applicants for licensure as professional counselors.

POR 1.3: Definitions.

"The candidate for licensure" herein designates that person who has satisfactorily completed all requirements for licensure, including passing of the examinations where required. Prior thereto, the individual seeking licensure is referred to as "the applicant."

Section II: Organization & General Procedural Rules of the Board.

POR 2.1: Officers.

The Board of Professional Counselors shall elect a chairman and vice-chairman and two persons to serve on the Virginia Board of Behavioral Science from its membership at its annual meeting which shall be the first meeting after the Board is annually reconstituted. The Director of the Virginia Department of Professional and Occupational Regulation shall serve as Secretary to the Board.

POR 2.2: Meetings.

Regular meetings of the Board shall be held at such times and places as it prescribes, and special meetings may be held upon the call of the chairman, but there shall be no less than one regular meeting each year, at which meeting candidates applying for licensing shall be examined and their qualifications determined. If, in the discretion of the Board, more than one examination in any one year is necessary, it may hold such other examinations at such times and places as it may designate.

POR 2.3: Quorum.

Four members of the Board of Professional Counselors present shall constitute a quorum for the transaction of business. All action by the Board requires a majority vote of the total Board.

Section III: Examinations.

POR 3.1: Application and Examination Process.

A. Filing date: All applications must be fully documented thirty (30) days prior to examination date.

B. Notification: The Secretary will notify each applicant in writing as to the time and place of the examination for which he or she has been approved by the Board of Professional Counselors. It shall be the duty of the applicant to confirm to the Secretary, in writing at least one week prior, of his or her intention to sit for the scheduled examination, and should he or she fail to appear, after pledging to do so, shall forfeit the examination fee.

C. Fees:

1. No candidate shall sit for examination who has not paid the required fee.
2. All checks shall be made payable to the Treasurer of Virginia.

D. Description of Examinations:

1. The written examinations shall be administered on the same day in the months of March, September and such other months as are deemed necessary by the Board, and shall consist of:

a. An objective, multiple choice examination consisting of questions constructed, standardized, and distributed by Professional Examination Services. These questions shall cover the following areas:

1. Theories of human behavior, learning, and personality;
2. Group dynamics, theories, and techniques;
3. Counseling theories and techniques;
4. Understanding abnormal behavior;
5. Professional identity, function, and ethics;
6. Evaluation and appraisal procedures;

b. Essay Examination:

This examination shall include essay and/or objective questions on the:

- Applicant's stated area(s) of practice
- Law covering the practice of Professional Counseling
- Regulations of the Board
- Code of Ethics of the Board

2. An oral examination of applicants who have successfully passed the written examination shall take place each May and November. If in the Board's discretion additional oral examinations are necessary in any year, the Board may select one or more other months during which such examinations shall be given. Applicants successfully passing the written examinations shall be notified of the time, date and place of the oral examination and shall be instructed to submit a work sample. The oral Examination shall consist of an interview between the Board or its designees and the applicant for the purpose of:

- a. Acknowledging the applicant's successful passing of the written examination.
- b. Reviewing the applicant's education, training and experience.
- c. Evaluating the applicant's professional, emotional, and social maturity, the extent and nature of the applicant's professional identity, and his/her knowledge of the Code of Ethics and probable ability to successfully apply such Code to his/her professional practice.
- d. Discussing the applicant's work sample.

- e. Probing and evaluating the applicants knowledge of and judgment in professional counseling.
- E. Whenever it becomes evident that an applicant is seeking to be registered as a specialist in an area of professional practice other than that/those specifically delineated by the applicant on his/her original application, the Board, in its discretion, shall have the right to require such applicant to successfully pass such written and/or oral examination(s) in such area of professional practice as the Board may deem appropriate under the circumstances.
- G. Grading:
1. The Board of Professional Counselors shall establish passing scores on the objective examination. Successful candidates must be passed by a majority of the Board on the essay and oral section(s).
 2. In order that all applicants be accorded the same information, no applicant or other individual except the Board and/or its staff will be allowed access to materials relating to the examination.
- H. Notification of Results:
- The Secretary will notify each applicant of his/her success or failure on the examinations. Grades will not be furnished by the Board.
- I. Reexamination:
- Reexamination will be required only on the examination failed. An applicant may be reexamined on any one examination up to two times without re-applying and presenting additional education and experience.
- J. Examining and Advisory Committee(s):
1. The Board of Professional Counselors may establish Examining and Advisory Committee(s), hereinafter called Committee(s), for the purpose of assistance in evaluating candidates for licensure and their specialties.
 2. Appointment, Composition, and Terms:
The Committee(s) shall consist of at least 3 members; 2 of whom shall be appointed by the Board of Professional Counselor, and at least one of whom shall be a member of the Board of Professional Counselors. The Administrative Secretary of the Board of Professional Counselors shall serve as Secretary of the Committee(s). Those appointed by the Board shall be representative of specialty(ies) the Committee(s) is/are examining. Appointed terms shall be at the pleasure of the Board of Professional Counselors.
 3. Chairman: The Chairman of each Examining Committee shall be a member of the Board of Professional Counselors.
 4. Meetings: Meetings shall be called by the Chairman of the Examining Committee(s).
 5. Duties: The Committee(s) shall advise the Board of Professional Counselors with regard to the evaluation of certain applicants and shall, as requested, make appropriate recommendations to the Board as to whether the applicant possesses the necessary qualifications for licensure.
 6. Report to the Board: The Secretary of the Committee(s) shall take the minutes of each meeting and report these to the Board or Professional Counselors.

Section IV: Supportive Services.

POR 4.1:

- A. A licensed Professional Counselor may apply to the Board of Professional Counselors, on a form provided by the Board, for approval the name of an individual to perform certain supportive counseling services under the licensee's direct supervision and responsibility providing that:
1. The person to be registered has either: (a) a bachelors degree that includes at least 30 semester hours in counseling and the behavioral sciences and two years of full-time supervised experience in counseling practice, research, or teaching satisfactory to the Board, or (b) specialized training and course work adjudged by the Board as equivalent to a bachelors degree and eight (8) years of experience acceptable to the Board, and
 2. Each of the following is submitted to the Board with the registration form:
 - (a) The name of the person to be so registered
 - (b) The qualifying academic training of that person
 - (c) The nature of the supportive services to be rendered to the licensee
 - (d) The nature of the training for rendering those supportive services
 - (e) The nature of the licensee's continuing supervision
 - (f) The nature of the registrant's continuing education (to be furnished by the licensee biennially to the Board)
- B. No more than two (2) persons will be registered by the Board to render assistance to any one licensee whether they are employed full or part-time.
- C. The duties of any person approved by the Board to render supportive services shall be restricted to those services approved by the Board based upon information furnished by the licensed Professional Counselor to whom he/she is so registered; and that persons so registered shall be restricted to providing assistance only in those areas where specialized training is documented and that such duties shall be regulated by the guidelines of the Board.
- D. The licensee is responsible for the supportive services rendered by the assistant(s) and must advise the client of the credentials of the person(s) rendering such service.
- E. Failure to observe and comply with the guidelines of the Board implementing this section and/or any parts of this section would subject the licensee to revocation of his/her license and the inadequately supervised assistant to prosecution.

Section V: Ethical Standards.

POR 5.1: Code of Ethics.

Preamble

Professional Counselors believe in the dignity and worth of the individual. They are committed to increasing knowledge of human behavior and understanding of themselves and others. While pursuing these endeavors, they make every reasonable effort to protect the welfare of those who seek their services or of any subject that may be the object of study. They use their skills only for purposes consistent with

these values and do not knowingly permit their misuse by others. While demanding for themselves freedom of inquiry and communication, professional counselors accept the responsibility this freedom confers: competence, objectivity in the application of skills and concern for the best interests of clients, colleagues, and society in general. In the pursuit of these ideals, professional counselors subscribe to the following principles:

PRINCIPLE 1. RESPONSIBILITY

In their commitment to the understanding of human behavior, professional counselors value objectivity and integrity, and in providing services they maintain the highest standards. They accept responsibility for the consequences of their work and make every effort to insure that their services are used appropriately.

- a. Professional counselors accept the ultimate responsibility for selecting appropriate areas for investigation and the methods relevant to minimize the possibility that their finding will be misleading. They provide thorough discussion of the limitations of their data and alternative hypotheses, especially where their work touches on social policy or might be misconstrued to the detriment of specific age, sex, ethnic, socio-economic, or other social categories. In publishing reports of their work, they never discard observations that may modify the interpretation of results. Professional counselors take credit only for the work they have actually done. In pursuing research, professional counselors ascertain that their efforts will not lead to changes in individuals or organizations unless such changes are part of the agreement at the time of obtaining informed consent. Professional counselors clarify in advance the expectations for sharing and utilizing research data. They avoid dual relationships which may limit objectivity, whether theoretical, political, or monetary, so that interference with data, subjects, and milieu is kept to a minimum.
- b. As employees of an institution or agency, professional counselors have the responsibility of remaining alert to institutional pressures which may distort reports of counseling findings or use them in ways counter to the promotion of human welfare.
- c. When serving as members of governmental or other organizational bodies, professional counselors remain accountable as individuals to the Code of Ethics of the Virginia Board of Professional Counselors.
- d. As teachers, professional counselors recognize their primary obligation to help others acquire knowledge and skill. They maintain high standards of scholarship and objectivity by presenting counseling information fully and accurately, and by giving appropriate recognition to alternative viewpoints.
- e. As practitioners, professional counselors know that they bear a heavy social responsibility because their recommendations and professional actions may alter the lives of others. They, therefore, remain fully cognizant of their impact and alert to personal, social, organizational, financial or political situations or pressures which might lead to misuse of their influence.
- f. Professional counselors provide reasonable and timely feedback to employees, trainees, supervisees, students and others whose work they may evaluate.

PRINCIPLE 2. COMPETENCE

The maintenance of high standards of professional competence is a responsibility shared by all professional counselors in the interest of the public and the profession as a whole. Professional counselors recognize the boundaries of their competence and the limitations of their techniques and only provide services, use

techniques, or offer opinions as professionals that meet recognized standards. Throughout their careers, professional counselors maintain knowledge of professional information related to the services they render.

- a. Professional counselors accurately represent their competence, education, training and experience.
- b. As teachers, professional counselors perform their duties based on careful preparation so that their instruction is accurate, up-to-date, and scholarly.
- c. Professional counselors recognize the need for continuing training to prepare themselves to serve persons of all ages and cultural backgrounds. They are open to new procedures and sensitive to differences between groups of people and changes in expectations and values over time.
- d. Professional counselors with the responsibility for decisions involving individuals or policies based on test results should have an understanding of counseling or educational measurement, validation problems and other test research. Test users should know and understand the literature relevant to the tests used and testing problems with which they deal.
- e. Professional counselors/practitioners recognize that their effectiveness depends in part upon their ability to maintain sound interpersonal relations, that temporary or more enduring aberrations on their part may interfere with their abilities or distort their appraisals of others. Therefore, they refrain from undertaking any activity in which their personal problems are likely to lead to inadequate professional services or harm to a client; or, if they are already engaged in such activity when they become aware of their personal problems, they would seek competent professional assistance to determine whether they should suspend or terminate services to one or all of their clients.

PRINCIPLE 3. MORAL AND LEGAL STANDARDS

Professional counselors' moral, ethical and legal standards of behavior are a personal matter to the same degree as they are for any other citizen, except as these may compromise the fulfillment of their professional responsibilities, or reduce the trust in counseling or counselors held by the general public. Regarding their own behavior, professional counselors should be aware of the prevailing community standards and of the possible impact upon the quality of professional services provided by their conformance to or deviation from these standards. Professional counselors should also be aware of the possible impact of their public behavior upon the ability of colleagues to perform their professional duties.

- a. To protect public confidence in the profession of counseling, professional counselors will avoid public behavior that is clearly in violation of accepted moral and legal standards.
- b. To protect students, counselors/teachers will be aware of the diverse backgrounds of students and, when dealing with topics that may give offense, will see that the material is treated objectively, that it is clearly relevant to the course, and that it is treated in a manner for which the student is prepared.
- c. Providers of counseling services conform to the statutes relating to such services as established by the Commonwealth of Virginia and the Virginia Board of Professional Counselors.
- d. As employees, professional counselors refuse to participate in employer's practices which are inconsistent with the moral and legal standards established by federal or state legislation regarding the treatment of employees or of the public. In particular and for example, professional counselors will not condone

practices which result in illegal or otherwise unjustifiable discrimination on the basis of race, sex, religion or national origin in hiring, promotion or training.

- e. In providing counseling services to clients, professional counselors avoid any action that will violate or diminish the legal and civil rights of clients or of others who may be affected by the action.

PRINCIPLE 4. PUBLIC STATEMENTS

Professional counselors in their professional roles may be expected or required to make public statements providing counseling information, professional opinions, or supply information about the availability of counseling products and services. In making such statements, professional counselors take full account of the limits and uncertainties of present counseling knowledge and techniques. They represent, as objectively as possible, their professional qualifications, affiliations, and functions, as well as those of the institutions or organizations with which the statements may be associated. All public statements, announcements of services, and promotional activities should serve the purpose of providing sufficient information to aid the consumer public in making informed judgments and choices on matters that concern it.

- a. When announcing professional services, professional counselors limit the information to: name, highest relevant degree conferred, certification or licensure, address, telephone number, office hours, cost of services, and a brief explanation of the types of services rendered. Such statements will be descriptive of services offered but not evaluative as to their quality or uniqueness. They will not contain testimonials by quotation or by implication. They will not claim uniqueness of skills or methods beyond those available to others in the profession unless determined by acceptable and public scientific evidence.
- b. In announcing the availability of counseling services or products professional counselors will not display their affiliations with organizations or agencies in a manner that implies the sponsorship or certification of the organization or agency. They will not name their employer or professional associations unless the services are in fact to be provided by or under the responsible, direct supervision and continuing control of such organizations or agencies.
- c. Professional counselors associated with the development or promotion of counseling devices, books, or other products offered for commercial sale will make every effort to insure that announcements and advertisement are presented in a professional and factually informative manner without unsupported claims of superiority over devices, books and products of similar purpose. Claims of superiority must be supported by scientifically acceptable evidence or by willingness to aid and encourage independent professional scrutiny or scientific test.
- d. Professional counselors engaged in radio, television or other public media activities will not participate in commercial announcements recommending to the general public the purchase or use of any proprietary or single-source product or service.
- e. Professional counselors who describe counseling or the services of professional counselors to the general public accept the obligation to present the material fairly and accurately, avoiding misrepresentation through sensationalism, exaggeration or superficiality. Professional counselors will be guided by the primary obligation to aid the public in forming their own informed judgments, opinions and choices.
- f. As teachers, professional counselors ensure that statements in catalogs and course outlines are accurate, particularly in terms of subject matter to be covered, bases for grading, and nature of classroom experiences. As practitioners

providing private services, professional counselors avoid improper, direct solicitation of clients and the conflict of interest inherent therein.

- g. Professional counselors accept the obligation to correct others who may represent their professional qualifications or associations with products or services in a manner incompatible with these guidelines.

PRINCIPLE 5. CONFIDENTIALITY

Professional counselors have a primary obligation to safeguard information about individuals obtained in the course of teaching, practice, or research. Personal information is communicated to others only with the person's written consent or in those circumstances where there is clear and imminent danger to the client, to other or to society. Disclosures of counseling information are restricted to what is necessary, relevant, and verifiable.

- a. All materials in the official record shall be shared with the client who shall have the right to decide what information may be shared with anyone beyond the immediate provider of service and to be informed of the implications of the materials to be shared.
- b. The anonymity of clients served in public and other agencies is preserved, if at all possible, by withholding names and personal identifying data. If external conditions require reporting such information, the client shall be so informed.
- c. Information received in confidence by one agency or person shall not be forwarded to another person or agency without the client's written permission.
- d. Service providers have a responsibility to insure the accuracy and to indicate the validity of data shared with their parties.
- e. Case reports presented in classes, professional meetings, or in publications shall be so disguised that no identification is possible unless the client or responsible authority has read the report and agreed in writing to its presentation or publication.
- f. Counseling reports and records are maintained under conditions of security and provisions are made for their destruction when they have outlived their usefulness. Professional counselors insure that privacy and confidentiality are maintained by all persons in the employ or volunteer services of the agency or office, including clerical staff, students, volunteers, and community aides.
- g. Professional Counselors who ask that an individual reveal personal information in the course of interviewing, testing, or evaluation, or who allow such information to be divulged, do so only after making certain that the person or authorized representative is fully aware of the purposes of the interview, testing or evaluation and of the ways in which the information will be used.
- h. Sessions with clients are taped or otherwise recorded only with their written permission or the written permission of a responsible guardian. Even with guardian written consent one should not record a session against the expressed wishes of a client.
- i. Where a child or adolescent is the primary client, the interests of the minor shall be paramount.
- j. In work with families, the rights of each family member should be safeguarded. The provider of service also has the responsibility to discuss the contents of the record with the parent and/or child, as appropriate, and to keep separate those parts which should remain the property of each family member.

PRINCIPLE 6. WELFARE OF THE CONSUMER

Professional counselors respect the integrity and protect the welfare of the people and groups with whom they work. When there is a conflict of interest between the client and the professional counselors employing institution the professional counselors clarify the nature and direction of their loyalties and responsibilities and keep all parties informed of their commitments. Professional counselors fully inform consumers as to the purpose and nature of any evaluative, treatment, educational or training procedure, and they freely acknowledge that clients, students, or subjects have freedom of choice with regard to participation.

- a. Professional counselors are continually cognizant both of their own needs and of their inherently powerful position "vis-a-vis" clients, in order to avoid exploiting the client's trust and dependency. Professional counselors make every effort to avoid dual relationships with clients and/or relationships which might impair their professional judgment or increase the risk of client exploitation. Examples of such dual relationships include treating an employee or supervisee, treating a close friend or family relative, and sexual relationships with clients.
- b. Where professional counselors work with members of an organization goes beyond reasonable conditions of employment, professional counselors recognize possible conflicts of interests that may arise. When such conflicts occur, professional counselors clarify the nature of the conflict and inform all parties of the nature and directions of the loyalties and responsibilities involved.
- c. When acting as supervisors, trainers, or employers, professional counselors accord recipients informed choice, confidentiality, and protection from physical and mental harm.
- d. Financial arrangements in professional practice are in accord with professional standards that safeguard the best interests of the client and that are clearly understood by the client in advance of billing. This may best be done by the use of a contract. Professional counselors are responsible for assisting clients in finding needed services in those instances where payment of the usual fee would be a hardship. No commission or rebate or other form of remuneration may be given or received for referral of clients for professional services, whether by an individual or by an agency.
- e. Professional counselors are responsible for making their services readily accessible to clients in a manner that facilitates the client's ability to make an informed choice when selecting a service provider. This responsibility includes a clear written description of what the client may expect in the way of tests, reports, billing, therapeutic regime and schedules.
- f. Professional counselors who find that their services are not beneficial to the client have the responsibility to make this known to the responsible persons.
- g. Professional counselors are accountable to the parties who refer and support counseling services and to the general public and are cognizant of the indirect or long-range effects of their intervention.
- h. The professional counselor attempts to terminate a private service or consulting relationship when it is reasonably clear to the professional counselor that the consumer is not benefitting from it. If a consumer is receiving services from another mental health professional, professional counselors do not offer their services directly to the consumer without informing the professional persons already involved in order to avoid confusion and conflict for the consumer.

PRINCIPLE 7. PROFESSIONAL RELATIONSHIPS

Professional counselors act with due regard to the needs and feelings of their colleagues in counseling and other professions. Professional counselors respect the prerogatives and obligations of the institutions or organizations with which they are associated.

- a. Professional counselors understand the areas of competence of related professions and make full use of other professional, technical, and administrative resources which best serve the interests of consumers. The absence of formal relationships with other professional workers does not relieve professional counselors from the responsibility of securing for their clients the best possible professional service; indeed, this circumstance presents a challenge to the professional competence of professional counselors, requiring special sensitivity to problems outside their areas of training, and foresight, diligence, and tact in obtaining the professional assistance needed by clients.
- b. Professional counselors know and take into account the traditions and practices of other professional groups with which they work and cooperate fully with members of such groups when research, services, and other functions are shared or in working for the benefit of public welfare.
- c. Professional counselors strive to provide positive conditions for those they employ and that they spell out clearly the conditions of such employment. They encourage their employees to engage in activities that facilitate their further professional development.
- d. Professional counselors respect the viability, reputation, and the proprietary right of organizations which they serve. Professional counselors show due regard for the interests of their present or prospective employers. In those instances where they are critical of programs or policies, they attempt to effect change by constructive action within the organization.
- e. In the pursuit of research, professional counselors give sponsoring agencies, host institutions, and publication channels the same respect and opportunity for giving informed consent that they accord to individual research participants. They are aware of their obligation to future research workers and insure that host institutions are given feedback information and proper acknowledgment.
- f. Credit is assigned to those who have contributed to a publication, in proportion to their contribution.
- g. When a professional counselor violates ethical standards, professional counselors who know first-hand of such activities should, if possible, attempt to rectify the situation. Failing an informal solution, professional counselors should bring such unethical activities to the attention of the Virginia Board of Professional Counselors.

PRINCIPLE 8. UTILIZATION OF ASSESSMENT TECHNIQUES

In the development, publication, and utilization of counseling assessment techniques, professional counselors follow relevant standards. Individuals examined, or their legal guardians, have the right to know the results, the interpretations made, and where appropriate, the particulars on which final judgment was based. Test users should take precautions to protect test security but not at the expense of an individual's right to understand the basis for decisions that adversely affect that individual or that individual's dependents.

- a. The client has the right to have and the provider has the responsibility to give explanations of test results in language the client can understand.

- b. When a test is published or otherwise made available for operational use, it should be accompanied by a manual (or other published or readily available information) that makes every reasonable effort to describe fully the development of the test, the rationale, specifications followed in writing items or selecting observations, and procedures and results of item analysis or other research. The test, the manual, the record forms and other accompanying material should help users make correct interpretations of the test results and should warn against common misuses. The test manual should state explicitly the purposes and applications for which the test is recommended and identify any special qualifications required to administer the test and to interpret it properly. Evidence of validity and reliability, along with other relevant research data, should be presented in support of any claims made.
- c. Norms presented in test manuals should refer to defined and clearly described populations. These populations should be the groups with whom users of the test will ordinarily wish to compare the persons tested. Test users should consider the possibility of bias in tests or in test items. When indicated, there should be an investigation of possible differences in validity for ethnic, sex, or other subsamples that can be identified when the test is given.
- d. Professional counselors who have the responsibility for decisions about individuals or policies that are based on test results should have a thorough understanding of counseling or educational measurement and of validation and other test research.
- e. Professional counselors should develop procedures for systematically eliminating from data files test score information that has, because of the lapse of time, become obsolete.
- f. Any individual or organization offering test scoring and interpretation services must be able to demonstrate that their programs are based on appropriate research to establish the validity of the programs and procedures used in arriving at interpretations. The public offering of an automated test interpretation service will be considered as a professional-to-professional consultation. In this the formal responsibility of the consultant is to the consultee but his/her ultimate and overriding responsibility is to the client.
- g. Counseling services for the purpose of diagnosis, treatment, or personalized advice are provided only in the context of a professional relationship, and are not given by means of public lectures or demonstrations, newspaper or magazine articles, radio or television programs, mail, or similar media. The preparation of personnel reports and recommendations based on test data secured solely by mail is unethical unless such appraisals are an integral part of a continuing client relationship with a company, as a result of which the consulting professional counselor has intimate knowledge of the client's personal situation and can be assured thereby that his written appraisals will be adequate to the purpose and will be properly interpreted by the client. These reports must not be embellished with such detailed analyses of the subject's personality traits as would be appropriate only after intensive interviews with the subject.

PRINCIPLE 9. PURSUIT OF RESEARCH ACTIVITIES

The decision to undertake research should rest upon a considered judgment by the individual professional counselor about how best to contribute to counseling and to human welfare. Professional counselors carry out their investigations with respect for the people who participate and with concern for their dignity and welfare.

- a. In planning a study the investigator has the personal responsibility to make a careful evaluation of its ethical acceptability, taking into account the following

principles for research with human beings. To the extent that this appraisal, weighing scientific and humane values, suggests a deviation from any principle, the investigator incurs an increasingly serious obligation to seek ethical advice and to observe more stringent safeguards to protect the rights of the human research participants.

- b. Professional counselors know and take into account the traditions and practices of other professional groups with which they work and cooperate fully with members of such groups when research, services, and other functions are shared or in working for the benefit of public welfare.
- c. Ethical practice requires the investigator to inform the participant of all features of the research that reasonably might be expected to influence willingness to participate, and to explain all other aspects of the research about which the participant inquires. Failure to make full disclosure gives added emphasis to the investigators abiding responsibility to protect the welfare and dignity of the research participant.
- d. Openness and honesty are essential characteristics of the relationship between investigator and research participant. When the methodological requirements of a study necessitate concealment or deception, the investigator is required to insure as soon as possible the participant's understanding of the reasons for this action and to restore the quality of the relationship with the investigator.
- e. In the pursuit of research, professional counselors give sponsoring agencies, host institutions, and publication channels the same respect and opportunity for giving informed consent that they accord to individual research participants. They are aware of their obligation to future research workers and insure that host institutions are given feedback information and proper acknowledgment.
- f. Credit is assigned to those who have contributed to a publication, in proportion to their contribution.
- g. The ethical investigator protects participants from physical and mental discomfort, harm and danger. If the risk of such consequences exists, the investigator is required to inform the participant of that fact, secure consent before proceeding, and take all possible measures to minimize distress. A research procedure may not be used if it is likely to cause serious and lasting harm to participants.
- h. After the data are collected, ethical practice requires the investigator to provide the participant with a full clarification of the nature of the study and to remove any misconceptions that may have arisen. Where scientific or humane values justify delaying or withholding information, the investigator acquires a special responsibility to assure that there are no damaging consequences for the participants.
- i. Where research procedures may result in undesirable consequences for the participant, the investigator has the responsibility to detect and remove or correct these consequences, including, where relevant, long-term aftereffects.
- j. Information obtained about the research participants during the course of an investigation is confidential. When the possibility exists that others may obtain access to such information, ethical research practice requires that the possibility, together with the plans for protecting confidentiality, be explained to the participants as a part of the procedure for obtaining informed consent.

POR 5.2: Continuing Responsibility.

The issuance of the license permits the professional counselor to function only within those areas of specialty as designated to the Board of Professional Coun-

sors at the time of examination. This does not relieve the licensee of his/her continuing ethical responsibility to limit his/her practice of counseling to his/her range of competence, and continually up date his/her skills.

Section VI: Powers and Duties of the Board of Professional Counselors.

POR 6.1: Evaluations of Mental and/or Emotional Competence.

The Virginia Board of Professional Counselors may, at its discretion, establish an advisory committee to evaluate the mental and/or emotional competence of any licensee or applicant for licensure when such competence is in issue before the Board. Nothing herein is to be construed to make any recommendations of the examining committee binding upon the Board.

POR 6.2: Suspension or Revocation of License; Application for Reinstatement.

The Virginia Board of Professional Counselors, after procedure in accordance with Chapter 28 (§ 54-927 (g) of Title 54, and Chapter 1.1:1 (§ 9-6.14:1 et seq) of Title 9 may recommend suspension to the Board of Behavioral Science of any license issued by it or may recommend revocation or denial of renewal of any such license, if the holder:

1. Has been convicted of a felony since issuance of such license, or
 2. Has been found by the Board of Professional Counselors to have employed fraud or deceit in obtaining the license, or
 3. Is, through the use or misuse of drugs and/or alcohol, a danger to himself/herself or the public, or
 4. Has acted negligently or wrongfully in the conduct of his/her profession or not in conformance with the code of ethics adopted by the Board of Professional Counselors, or
 5. Has been found performing functions outside the Board certified area of his/her competency, or
 6. Is mentally, emotionally, or physically incompetent to practice his/her profession with safety to his/her clients or the public.
- Application for reinstatement may be made to the Board of Behavioral Science.

POR 6.3: Practice of Counseling by Unlicensed Persons Prohibited.

It shall be unlawful for any person to practice or to offer to practice the profession of counseling unless such person has been duly licensed or is exempt from licensure under the provision of § 54-944 of the Code of Virginia (1950), as amended.

Title 54.

CHAPTER 1.1

Regulation of Professions and Occupations

Sec.		Sec.	
54-1.3.	Legislative findings; policy of Commonwealth.	54-1.7.	Powers and duties of Commission.
54-1.4.	Definitions.	54-1.8.	Degrees of regulation.
54-1.5.	Virginia Commission for Professional and Occupational Regulation created; membership.	54-1.9.	Composition of regulatory boards.
54-1.6.	Compensation and expenses of Commission members.	54-1.10.	Powers and duties of regulatory boards.
		54-1.11.	Compensation and expenses of board members.
		54-1.12.	Appeals and reviews.
		54-1.13.	(Repealed.)
		54-1.14.	Unlawful acts; prosecution.

§54-1.3. Legislative findings; policy of Commonwealth.—The Virginia General Assembly finds that the right of every person to engage in any lawful profession, trade or occupation of his choice is clearly protected by both the Constitution of the United States and the Constitution of the Commonwealth of Virginia. The Commonwealth cannot abridge such rights except as a reasonable exercise of its police powers when it is clearly found that such abridgment is necessary for the preservation of the health, safety and welfare of the public.

It is hereby declared to be the policy of the Commonwealth of Virginia that no regulation shall be imposed upon any profession or occupation except for the exclusive purpose of protecting the public interest when:

(a) Their unregulated practice can harm or endanger the health, safety and welfare of the public and when the potential for such harm is recognizable and not remote or dependent upon tenuous argument.

(b) Their practice has inherent within it qualities peculiar to it that distinguish it from ordinary work and labor.

(c) Their practice requires specialized skill or training and the public needs, and will benefit by, assurances of initial and continuing professional and occupational ability.

(d) The public is not effectively protected by other means. (1974, c. 534.)

§54-1.4. Definitions.—As used in this chapter the following words and terms shall have the following meanings, unless the context clearly indicates otherwise:

(a) "*Certification*" means the process whereby the Commission, Department or any regulatory board on behalf of the Commonwealth issues a certificate to any person certifying that he has minimum skills properly to engage in his profession or occupation and that it knows of no character defect that would make him a bad practitioner of the same.

(b) "*Commission*" means the Virginia Commission for Professional and Occupational Regulation.

(c) "*Department*" means the Department of Professional and Occupational Regulation.

(d) "*Inspection*" means a method of regulation whereby a State agency periodically examines the activities and premises of practitioners of an occupation or profession in order to ascertain if the practitioner involved is carrying out his profession or occupation in a fashion consistent with the public safety, health and welfare.

(e) "Licensing" means a method of regulation whereby the practice of the profession or occupation licensed is unlawful without the issuance of a license.

(f) "Registration" means a method of regulation whereby any practitioner of a profession or occupation may be required to submit information concerning the location, nature and operation of his practice.

(g) "Regulatory board" means any board or commission established by approval of the General Assembly or referenced in §54-864, the Virginia Collection Agency Board and the Board for Commercial Driver Training Schools. (1974, c. 534.)

§54-1.5. Virginia Commission for Professional and Occupational Regulation created; membership.—There is hereby created the Virginia Commission for Professional and Occupational Regulation, which shall consist of seven members. Three members shall be citizen members. Each citizen member shall be appointed by the Governor for a term of four years, except, of the initial appointments, one shall be for a term of two years, one shall be for a term of four years. Appointments to fill vacancies shall be for the remainder of the unexpired term. No citizen member shall serve for more than two consecutive terms.

The remainder of the members shall be ex officio members with full rights of membership as follows: the Director of the Department of Professional and Occupational Regulation, who shall serve as chairman; the Commissioner of Agriculture and Commerce; the Commissioner of Health; the Commissioner of Labor and Industry; or, except in the case of the Director of Professional and Occupational Regulation who shall serve in person, a permanent representative appointed by any such Commission or Director from his staff. (1974, c. 534.)

§54-1.6. Compensation and expenses of Commission members.—Citizen members of the Commission shall receive compensation at the rate of thirty-five dollars per day for each day they are engaged in the performance of official duties. All members shall be entitled to reimbursement for actual and necessary expenses incurred by them in the performance of their duties. (1974, c. 534.)

§54-1.7. Powers and duties of Commission.—(a) The Commission shall evaluate constantly each profession and occupation in the Commonwealth not regulated by other provisions of this title within the criteria established in this chapter for consideration of whether or not each such profession or occupation should be regulated and if so the degree of regulation that should be imposed. Whenever it determines that the public interest requires that a profession or occupation which is not then regulated by law should be regulated, the Commission shall recommend to the General Assembly next convened for approval a regulatory system accompanied by comprehensive rules and regulations necessary to conduct the degree of regulation required.

(b) Upon the regulation of a profession or occupation as hereinabove set forth, the Commission shall have the following powers and duties:

(1) To promulgate supplemental rules and regulations necessary to effectuate the purposes and intent of this chapter.

(2) To establish regulatory boards to administer the system of regulation, rules and regulations that the Commission recommended and the General Assembly approved.

(3) To report annually to the Governor and General Assembly of its proceedings.

The General Assembly reserves the right to review and modify, in whole or in part, any rule or regulation promulgated by the Commission. (1974, c. 534.)

§54-1.8. Degrees of regulation.—(1) Whenever the Commission determines that a particular profession or occupation should be regulated, or that a different degree of regulation should be imposed on such profession or occupation not otherwise regulated by law, it shall consider the following degrees of regulation in the order that they appear below. The Commission shall regulate only within the degree, or degrees, of regulation that it finds necessary to fulfill the need for regulation and only upon approval by the General Assembly.

(a) *Private civil actions and criminal prosecutions.*—Whenever the Commission finds that existing common law and statutory causes of civil action or criminal prohibitions are not sufficient to eradicate existing harm or prevent potential harm, it may first consider the recommendation of statutory change to provide more strict causes for civil action and criminal prosecution.

(b) *Inspection and injunction.*—Whenever the Commission finds that current inspection and injunction procedures are not sufficient to eradicate existing harm, it may promulgate rules consistent with the intent of this chapter to impose more adequate inspection procedures and to specify procedures whereby the appropriate regulatory board may enjoin an activity which is detrimental to the public well-being, it may consider recommending to an appropriate agency of the Commonwealth that such procedures be strengthened or it may recommend statutory changes in order to grant to an appropriate State agency the power to impose sufficient inspection and injunction procedures.

(c) *Registration.*—Whenever the Commission finds it necessary to determine the impact sustained by the public from the operation of a profession or occupation, it may implement a system of registration.

(d) *Certification.*—Whenever the public interest might well be protected by the Commission's granting a designation of professional competence in order that persons may have a substantial basis for relying on the services of a practitioner, then it may implement a system of certification.

(e) *Licensing.*—Whenever it is apparent to the Commission that adequate regulation cannot be achieved by other means than licensing, it may establish licensing procedures for any particular profession or occupation.

(2) In determining the proper degree of regulation, if any, the Commission shall determine the following:

(a) Whether the practitioner performs a service for individuals involving a hazard to the public health, safety or welfare, if unregulated.

(b) The view of a substantial portion of the people who do not practice the particular profession, trade or occupation.

(c) The number of states which have regulatory provisions similar to those proposed.

(d) Whether there is sufficient demand for the service for which there is no substitute not likewise regulated and this service is required by a substantial portion of the population.

(e) Whether the profession, trade or occupation requires high standards of public responsibility, character and performance of each individual engaged in the profession, trade or occupation, as evidenced by established and published codes of ethics.

(f) Whether the profession, trade or occupation requires such skill that the public generally is not qualified to select a competent practitioner without some assurance that he has met minimum qualifications.

(g) Whether the professional, trade or occupational associations do not adequately protect the public from incompetent, unscrupulous or irresponsible members of the profession, trade or occupation.

(h) Whether current laws which pertain to public health, safety and welfare generally are ineffective or inadequate.

(i) Whether the characteristics of the profession, trade or occupation make it impractical or impossible to prohibit those practices of the profession, trade or occupation which are detrimental to the public health, safety and welfare.

(j) Whether the practitioner performs a service for others which may have a detrimental effect on third parties relying on the expert knowledge of the practitioner. (1974, c. 534.)

§54-1.9. Composition of regulatory boards.—A regulatory board established to administer a system of certification or licensing as provided in §§54-1.7 and 54-1.8, unless otherwise specified by law, shall be of such size, not to be fewer than five, as the Commission may determine. Two members of each such board shall be citizen members and the remainder of the members shall be practitioners of the profession or occupation which is being regulated. Terms of the members shall be staggered to ensure a continuing body. All appointments to and removals from regulatory boards shall be made by the Governor. (1974, c. 534.)

§54-1.10. Powers and duties of regulatory boards.—The powers and duties of regulatory boards shall be as follows:

(a) To establish the qualifications of applicants for certification or licensing by any such board provided that all such qualifications shall be necessary to ensure either competence or integrity to engage in such profession or occupation.

(b) To examine the qualifications of each applicant for certification or licensing within its particular regulatory system to include preparation, administration and grading of examinations.

(c) To certify or license qualified applicants as practitioners of the particular profession or occupation regulated by such board.

(d) To levy and collect fees for certification or licensing and renewal thereof that are sufficient to cover all expenses for the administration and operation of the appropriate regulatory system and a proper proportion of all expenses for the administration and operation of both the Department and the Commission.

(e) To promulgate rules and regulations necessary effectively to administer the regulatory system administered by such regulatory board and not in conflict with the purposes and intent of this chapter.

(f) To ensure that inspections are conducted relating to the practice of each practitioner certified or licensed by such board to ensure that such practitioner is conducting his practice in a competent manner and within the lawful rules and regulations promulgated by such board.

(g) To revoke, suspend or fail to renew a certificate or license which it has authority to issue for just causes as are enumerated in appropriate rules and regulations of any such board.

(h) To receive complaints concerning the conduct of any person whose activities are regulated by the board and take appropriate disciplinary action if warranted.

(i) To promulgate canons of ethics under which the professional activities of persons regulated shall be conducted.

The General Assembly reserves the right to review and modify, in whole or in part, any rule or regulation promulgated by any regulatory board. (1974, c. 534.)

§54-1.11. Compensation and expenses of board members.—Members of all regulatory boards shall be entitled to compensation at the rate of thirty-five dollars per day for each day they are actually engaged in their official duties and shall be entitled to—reimbursement of actual and necessary expenses incurred by them during the performance of their official duties. (1974, c. 534.)

§54-1.12. Appeals and reviews.—Any person who has been aggrieved by any action of the Commission or any regulatory board shall be entitled to all requests for reviews of such actions and appeals from such actions as are provided in the General Administrative Agencies Act. (1974, c. 534.)

§54-1.13. Repealed by Acts 1975, c. 67.

Cross reference.—For present section covering the subject matter of the repealed section, see §54-1.14.

§54-1.14. Unlawful acts; prosecution; proceedings in equity.—(1) It shall be unlawful for any person, partnership, corporation or other entity to engage in any of the following acts:

A. Practicing a profession or occupation, for the practice of which a license is required by law or rule of a regulatory board, without holding the requisite valid license.

B. Making use of any designation provided by law or rule to denote a standard of professional or occupational competence without being duly certified or licensed by the appropriate regulatory board.

C. Making use of any title, words, letters or abbreviations which may reasonably be confused with a designation provided by law or rule to denote a standard of professional or occupational competence without being duly certified or licensed by the appropriate regulatory board.

D. Performing any act or function, the performance of which is restricted by law or rule to those holding a professional or occupational license or certification, without being duly certified or licensed by the appropriate regulatory board or failing to register as a practitioner of a profession or occupation as required by law or rule.

E. Materially misrepresenting facts in an application for licensing, certification or registration.

F. Willfully refusing to furnish a regulatory board information of records required or requested pursuant to law or rule.

G. Violating any law or regulation governing the practice of any profession or occupation regulated pursuant to this chapter.

H. (Repealed.)

Any person, partnership, corporation or other entity who engages in any unlawful act enumerated in this section shall be guilty of a Class 3 misdemeanor.

It shall be the duty of the attorney for the Commonwealth of the locus in which such act occurs or is engaged in to prosecute the same.

(2) In addition to the provisions of the subsection (1) or any other existing remedy at law, the Department may institute proceedings in equity to enjoin any

person, partnership, corporation or any other entity from engaging in any unlawful act enumerated in this section. Such proceedings shall be brought in the name of the Commonwealth on the relation of the Department in the circuit court of the city or county in which the unlawful act occurred or in which the defendant resides. The Commonwealth on the relation of the Department shall not be compelled to allege or prove that an adequate remedy at law does not exist. (1975, c. 67; 1976, c. 651.)

Cross reference.—As to punishment for class 3 misdemeanors, see §18.2-11.

The 1976 amendment designated the provisions of this section as subsection (1), and in that subsection, inserted "for any person, partnership, corporation or other entity" in the introductory paragraph and "of a regulatory board" in subdivision A, and deleted subdivision H, which read "Violating any

rule promulgated by the Commission, Department, or a regulatory board." The amendment also added the present second paragraph of subsection (1), substituted "such act occurs or is engaged in" for "a violation of this section occurs" in the present third paragraph of that subsection, and added subsection (2).

Chapter 24

Department of Professional and Occupational Regulation

Sec.		Sec.	
54-860.	Establishment of Department of Professional and Occupational Regulation.	54-872.1.	Hearing officers; duties; appointment; qualifications.
54-861.	Definitions.	54-872.2.	Presiding officer; participation of agency in hearing; disqualification of hearing officer or agency member.
54-862.	Director, appointment.	54-872.3.	Request for selection of hearing officer to preside over agency hearing, etc.
54-863.	Bond of Director.	54-872.4.	Authority of Department investigative staff.
54-864.	Administration; certain powers and duties of Director with respect to boards.	54-872.5.	Disclosure of official records.
54-865.	Certain duties of Director with respect to nine boards.		
54-866.	Transfer of funds and accounts.		
54-867.	Departmental expenses.		
54-868 to 54-871.	(Repealed.)		

§54-860. Establishment of Department of Professional and Occupational Regulation.—There is hereby created and established a Department of Professional and Occupational Regulation. (R. P. 1948, §54-860; 1974, c. 534.)

The 1974 amendment substituted "Regulation" for "Registration."

§54-861. Definitions.—As used in this chapter, "Department" means the Department of Professional and Occupational Regulation. "Director" means the Director of the Department of Professional and Occupational Regulation. "Board" means any of the boards, commissions or agencies designated in §§54-864 and 54-865. (R.P. 1948, §54-861; 1966, c. 29; 1970, cc. 217, 771; 1974, c. 534.)

The 1974 amendment substituted "Regulation" for "Registration" at the end of the first and second sentences.

§54-862. Director; appointment.—The Department shall be under the direction and supervision of a Director who shall be appointed by the Governor subject to confirmation by the General Assembly if in session when such appointment is made, and if not in session, then at its next succeeding session. Said Director shall be appointed for a term of four years. Appointments to fill vacancies shall be for the unexpired term. Said Director shall receive as compensation for his services such amounts as shall be appropriated for that purpose (R. P. 1948, §54-862.)

§54-863. Bond of Director.—The Director shall, before entering upon the discharge of his duties, give bond payable to the Commonwealth of Virginia, in form approved by the Attorney General, in such penalty as shall be fixed, from time to time, by the Governor, with some surety or guaranty company authorized to do business in this State as security conditioned upon the faithful discharge of his duties; the premium required for said bond shall be paid out of the administrative fund appropriated to said Department, and the bond shall be filed with and preserved by the Comptroller. (R. P. 1948, §54-863.)

§54-864. Administration; certain powers and duties of Director with respect to boards.—It shall be the duty of the Director to perform the administrative duties of the following boards and agencies of the Commonwealth: (1) the State Board of Accountancy; (2) the State Board of Architects, Professional Engineers and Land Surveyors; (3) (Repealed); (4) the State Board for the Certification of Librarians; (5) the Board of Examiners of Mines, created by Chapter 150 of the Acts of the General Assembly of nineteen hundred forty; (6) the Board of Commissioners to Examine Pilots; (7) the Virginia Real Estate Commission; (8) the Board of Veterinary Examiners; (9) the Board of Barber Examiners; (10) the

Virginia State Board of Opticians; (11) the Virginia State Board of Registered Professional Hairdressers; (12) (Repealed); (13) the Virginia Board of Hearing Aid Dealers and Fitters; (14) Board for Certification of Operators of Water and Wastewater Works; (15) the State Board of Sanitarian Examiners; (16) the State Board of Examiners for Nursing Home Administrators; (17) the Virginia Board of Examiners for Audiology and Speech Pathology; and (18) the Virginia Board of Behavioral Science.

Each of the boards designated in this section and §54-865 is hereby transferred to the Department of Professional and Occupational Regulation, and each shall be a separate board within said Department. All of the administrative functions of the boards designated in this section shall be under the direction and supervision of the Director, and it shall be the duty of the members of each of the several boards designated in this section to cooperate with the Director to the end that his powers of direction and supervision of the administrative functions of each board shall not be impaired.

In the performance and discharge of his duties hereunder with respect to the boards designated in this section only, the Director shall (1) be the secretary of each board; (2) maintain all records for each board; (3) collect and account for all fees prescribed to be paid into each board and account for and deposit the moneys so collected into a special fund from which the expenses of the Commission, regulatory boards and Department shall be paid; (4) make and file annually with the Governor a consolidated report with respect to each board; (5) employ such personnel and assistance as may be required for the operation of said boards; (6) enforce all regulations promulgated by said boards; (7) exercise such other powers as may be necessary to function as the sole administrative officer and director of each of said boards; and (8) perform such additional administrative functions as may be prescribed by the Virginia Commission for Professional and Occupational Regulation. (R. P. 1948, §54-864; 1950, p. 468; 1966, cc. 29, 153, 657; 1970, cc. 217, 768, 771, 775; 1972, c. 181; 1974, c. 534; 1976, c. 608.)

The 1976 amendment, effective Jan. 1, 1977, deleted "the Virginia Board of Psychologists Examiners" and "the Virginia Board for Registration of Social Workers"

from the list of boards and agencies of the Commonwealth in the first paragraph and added "the Virginia Board of Behavioral Science" to that list.

§54-865. Certain duties of Director with respect to nine boards.—It shall be the duty of the Director to receive, account for and deposit the moneys turned over to him by the following boards: (1) The State Boxing and Wrestling Commission; (2) The Virginia State Board of Dental Examiners; (3) The State Dry Cleaners Board; (4) The Board of Medical Examiners of the State of Virginia; (5) The State Board of Examiners of Nurses; (6) The Virginia State Board of Examiners in Optometry; (7) The State Board of Pharmacy; (8) The State Registration Board for Contractors; (9) The State Board of Embalmers and Funeral Directors of Virginia.

The Director shall perform such other duties for the nine boards designated in this section as may be requested of him by the said nine boards, but said Director shall not exercise any authority or powers with respect to any of the functions of said boards with regard to the selection, employment or tenure of the personnel required in the operation of said boards, nor shall said Director exercise any authority over said nine boards with respect to the enforcement of any rules or regulations promulgated by said nine boards, nor in any other respects whatsoever. All administrative and enforcement powers now vested by law in each of the said nine boards designated in this section are reserved to said boards.

Each of the nine boards designated in this section shall turn over to the Director all moneys collected by the several boards. (R. P. 1948, §54-865; 1950, p. 469.)

§54-866. Transfer of funds and accounts.—All funds and accounts of each of the Boards not enumerated in §54-865 are hereby transferred to the Department. (R. P. 1948, §54-866; 1950, p. 470.)

§54-867. Departmental expenses.—The compensation of the Director and the employees within the Department, including the compensation of the members of each board, shall be paid out of the total funds collected on account of the services performed by those certain boards not enumerated in §54-865, and such compensation shall be charged to the accounts of the respective boards in such proportion as the Director of the Budget shall prescribe, and in furtherance of the accomplishment of this function the Director shall maintain a separate account for each board showing the moneys collected on its behalf and the expenses allocated to each board. (R. P. 1948, §54-867; 1950, p. 470; 1966, cc. 29, 153; 1970, cc. 217, 771.)

§54-868: Repealed by Acts 1974, c. 534.

Code Commission note.—Acts 1974, c. 534, cl. 3, provides: "Every regulatory board existing on the effective date of this act (July 1, 1974) shall adopt the Code provisions repealed by this act, as applicable, as rules or regulations and in so doing shall not be bound by the provisions of the General Administrative Agencies Act. Such rules and regulations shall omit any citizenship requirements whether or not provided in the Code sections herein repealed but shall be

identical in all other respects. Any board desiring to promulgate a new rule or regulation, other than those specifically provided for above, or to amend or modify any rules or regulations after the effective date of this act shall be bound by all of the provisions of the General Administrative Agencies Act."

For the General Administrative Agencies Act, see §9-6.1 et seq.

§54-869 to 54-871: Repealed by Acts 1976, c. 651.

Cross reference.—As to the authority of the Department of Professional and Occupational Regulation to institute proceedings in equity to enjoin persons, partnerships,

corporations, or any other entities from engaging in unlawful acts enumerated in §54-1.14, see §54-1.14 (2).

§54-872. Clerks of courts to report convictions to Department.—It shall be the duty of the clerk of the circuit court wherein any conviction is had of a criminal violation of any statute which the Department is empowered to enforce to report the same to the Department, which shall thereupon annul any certificate or license held by the person so convicted or enjoined. (1952, c. 450; 1974, c. 534.)

§54-872.1. Hearing officers; duties; appointment; qualifications.—Notwithstanding any provision of law to the contrary, all hearings of boards shall be conducted by hearing officers. When the occasion arises for a hearing to be conducted by any board the Director shall select a person whose name appears on a list of hearing officers, each of whom shall have been admitted to practice law in this State for at least two years immediately preceding his appointment. This list shall be prepared by and kept in the office of the Executive Secretary of the Supreme Court. (1974, c. 318; 1975, c. 643.)

The 1975 amendment substituted "Executive Secretary of the Supreme Court" for "Attorney General" at the end of the section.

§54-872.2. Presiding officer; participation of agency in hearing; disqualification of hearing officers or agency member.—(c) A hearing officer or board member shall voluntarily disqualify himself and withdraw from any case in which he cannot accord a fair and impartial hearing or consideration. Any party may request the disqualification of any hearing officer or board member by filing an affidavit, prior to the taking of evidence at a hearing, stating with particularity the grounds upon which it is claimed that a fair and impartial hearing cannot be accorded. Where the request concerns a board member the issue shall be determined by the other members of the board. Where the request concerns the hearing officer the issue shall be determined by the Executive Secretary of the Supreme Court if the board itself hears the case with the hearing officer. (1974, c. 318; 1975, c. 643.)

The 1975 amendment substituted "Executive Secretary of the Supreme Court" for "Attorney General" in the last sentence of subsection (c).

Only part of section set out.—As the rest of the section was not changed by the amendment, only subsection (c) is set out.

§54-872.3. Request for selection of hearing officer to preside over agency hearing, etc.—Any agency of State government may request that the Director select a hearing officer to preside over any hearing which may be conducted by such agency, take evidence for such agency or officiate at any proceeding called under the authority of such agency.

The provisions of §§54-872.1 and 54-872.2 shall apply mutatis mutandis in the application of this section. (1976, cc. 254, 335.)

Code Commission note.—Acts 1976, cc. 254 and 335, added identical sections numbered §54-872.3.

§54-872.4. Authority of Department investigative staff.—The investigative staff of the Department is hereby authorized upon the direction of the Director to administer oaths or affirmations, serve and execute any process issued by any court under the provisions of §54-1.14 and serve and execute any papers or process issued by any regulatory board referenced in §54-864 or the Director, under authority of law. (1976, cc. 254, 335.)

Code Commission note.—Acts 1976, cc. 254 and 335 added identical sections numbered §54-872.4.

§54-872.5. Disclosure of official records.—Official records of the Department or any board named in this title shall be subject to the disclosure provisions of the Virginia Freedom of Information Act, except for the following:

A. Examination questions, papers, booklets and answer sheets at the discretion of the regulatory board administering or causing to be administered such examinations.

B. Applications for admission to examinations or for licensure and scoring records maintained by any board or the Department on individual licensees or applicants; except that such material may be made available during normal working hours for copying at his expense by the individual who is the subject thereof at the office of the Department or the offices of any board, whichever of these may have possession of the material.

C. Records of active investigations being conducted by the Department or any board. (1976, cc. 254, 335.)

Code Commission note.—Acts 1976, cc. 254 and 335 both added sections numbered 54-872.5. The sections are identical except that the word "scoring" appears near the

beginning of subdivision B in c. 335, and not in c. 254. The section is set out above as it appears in c. 335.