



Virginia Society for Clinical Social Work
5537 Solaris Drive
Chesterfield Virginia 23832

Legislative Committee Report
July 20, 2019
Joseph G. Lynch LCSW

VBSW UPDATE:

The VBSW held a Board meeting on June 14, 2019. Some of the agenda items and issues discussed were:

A. Consideration of Public Comment on Guidance Document on Conversion Therapy:

- a. The Board received 728 comments:
 - i. 455 comments were in support of the Proposed Guidance Document. Commenters noted that:
 1. Conversion therapy has no scientific basis.
 2. Conversion therapy is not supported by any mental health professional organization.
 3. Conversion therapy has been shown to be ineffective.
 4. Conversion therapy has been shown to be unethical and destructive to individuals and families.
 - ii. 273 comments were in opposition to the Proposed Guidance Documents. Commenters noted that:
 1. Any prohibition of practice is a violation of a social workers Constitutional Rights to Free Speech and Freedom of Religion.
 2. Patients have a right to receive counseling for unwanted sexual feelings.
 3. Parents have a fundamental right to make decisions for their children.
 4. The Virginia General Assembly has failed to pass any legislation that has been put forward to prohibit Conversion Therapy.
- a. The Board had the following choices:
 - i. Retain the Guidance Document as published.
 - ii. Revise the Guidance Document in response to public comment.
 - iii. Withdraw the Guidance Document.

BOARD ACTION:

1. *Joe Walsh moved and it was seconded that the VBSW Retain the Guidance Document as published. After discussion the motion was passed with no votes opposed or abstentions.*
2. *Elaine Yattes noted the process for guidance document approval. A motion was made to follow the process outlined by Elaine.*

B. Board Action on Final Regulations:

Below are the sections of the regulations that change. The words that are in bold, italics and underlined are the new language:

Regulations Governing the Practice of Social Work, Virginia Board of Social Work, Title of Regulations: 18 VAC 140-20-10 et seq., Statutory Authority: §§ 54.1-2400 and Chapter 37 of Title 54.1 of the Code of Virginia Revised Date: September 20, 2018

18VAC140-20-105. Continued competency requirements for renewal of an active license.

A. Licensed clinical social workers shall be required to have completed a minimum of 30 contact hours of continuing education and licensed social workers shall be required to have completed a minimum of 15 contact hours of continuing education prior to licensure renewal in even years. Courses or activities shall be directly related to the practice of social work or another behavioral health field. A minimum of six of those hours for licensed clinical social workers and a minimum of three of those hours for licensed social workers must pertain to ethics or the standards of practice for the behavioral health professions or to laws governing the practice of social work in Virginia. Up to two continuing education hours required for renewal may be satisfied through delivery of social work services, without compensation, to low-income individuals receiving health services through a local health department or a free clinic organized in whole or primarily for the delivery of those services, as verified by the department or clinic. Three hours of volunteer service is required for one hour of continuing education credit.

2. Category II. Individual Professional Activities. A maximum of 10 of the required 30 hours for licensed clinical social workers or a maximum of five of the required 15 hours for licensed social workers may be earned in this category, which shall include one or more of the following:

b. Publication of a professional social work-related book or initial **preparation or presentation** of a social work-related course. (Activity will count for a maximum of 10 hours.)

c. Publication of a professional social work-related article or chapter of a book, or initial **preparation or presentation** of a social work-related in-service training, seminar or workshop. (Activity will count for a maximum of five hours.)

The Board has two options:

1. Adopt as final the amendments with no changes.
2. Amend the Proposed Regulations.

BOARD ACTIONS:

Voted to approve final amendments with no changes:

C. **VBSW regulations to change LSW into LMSW and LBSW:**

- The 2017 Virginia General Assembly passed the law to enable the VBSW to divide the LSW into the LMSW and the LBSW.
- The VBSW adopted regulations to enable the LSW to be divided into the LMSW and LBSW.

The regulations have just been approved by the Governor after over 200 days at his office. Effective after they are published on June 24th in the Virginia Regulatory Town Hall.

C. ASWB presentation:

Focused on two issues:

- Which exam should the LMSW take?
- What does “non-clinical” in the definition mean for Virginia.

ASWB EXAMS			
Associate	Non-social work degree	3	Associate — A few jurisdictions administer the Bachelors Examination to candidates who do not have degrees in social work for an Associate License. A lower passing score is used.
Bachelors	BSW 0-2 yrs experience	36	Bachelors — The examination intended for use by individuals with a baccalaureate degree in social work.
Masters	MSW 0-2 yrs experience	44	Masters — The examination that is intended for individuals who hold an MSW degree, but who <u>do not have post-degree supervision</u> .
Advanced Generalist	MSW 2+ yrs in non-clinical	16	Advanced Generalist — The Advanced Generalist exam is designed for advanced practitioners who do more macro-level, generalist, administrative, or management work. It is one of the two exams intended to be taken by social workers with an MSW or higher degree, plus the required postgraduate supervised experience.
Clinical	MSW 2-5 yrs supervised experience in clinical settings	54	Clinical — The Clinical exam has more emphasis on the provision of direct, micro-level mental health services. It is the second of the two exams (along with the Advanced Generalist) intended to be taken by social workers with an MSW or higher degree, plus the required postgraduate supervision.

The Advanced Generalist and Clinical examinations are considered on par due to the advanced level of practice knowledge and experience expected of someone taking either exam. But they each emphasize different areas of practice as noted in their descriptions.

- ASWB opinion is that the Masters exam is appropriate for both MSW clinical and MSW non-clinical
- Masters exam - 48% of content on assessment and treatment- clinical content.

ASWB believes that an MSW should not be under a perpetual state of “under supervision” ?

Joe’s Comments

Below are the Code of Virginia definitions of “Clinical Social Work” and “Master’s social worker.” Also included is part of the Exemption Statute.

VIRGINIA STATUTES

[§ 54.1-3700. Definitions.](#) 7

"**Clinical social worker**" means a social worker who, by education and experience, is professionally qualified at the autonomous practice level to provide direct diagnostic, preventive and treatment services where functioning is threatened or affected by social and psychological stress or health impairment.

"**Master's social worker**" means a person who engages in the practice of social work and provides non-clinical, generalist services, including staff supervision and management.

[§ 54.1-3701. Exemption from requirements of licensure.](#)**Error! Bookmark not defined.**

"4. Persons employed as salaried employees or volunteers of the federal government, the Commonwealth, a locality, or of any agency established or funded, in whole or part, by any such governmental entity or of a private, nonprofit organization or agency sponsored or funded, in whole or part, by a community-based citizen group or organization."

- VBSW has no jurisdiction over an MSW who is working in an exempt setting and is not registered with the board and does not want to be licensed.
- The VBSW has no regulation that prohibits a LMSW from practicing "clinical social work" in an exempt setting without working toward a LCSW license.

VSCSW Study on LSW- Highlighted Results

- 90% were providing either exclusively clinical services (39%) or a combination of both clinical and non-clinical services (51%).
- 55% of LSW's practice in an exempt setting
- Only 10% were exclusively providing "non-clinical" social work services.

CONCLUSIONS:

- **The inclusion of the words "non-clinical" in the definition of "Master's Social Worker" in the statute does not match the reality of social work practice by LSW's (LMSW's).**
- **The only part of the definition of "Clinical social Work" in the Virginia statute that applies a prohibition on the LMSW that they may not practice at the autonomous level.**

The current situation could lead to a client making a complaint to the VBSW that a LMSW who was practicing in an exempt setting providing clinical social work services was violating the statute in that they were practicing outside their scope of practice as defined in the statute to be "non-clinical" social work.

In my public comments to the VBSW at the June 14th meeting I was trying to address this possibility. After the Board meeting I wrote Jaime Hoyle to let her know that I was wondering if there was a way to create language in regulation or a guidance document (instead of going back to the General Assembly to amend the statute) that would clarify that LMSW's practicing social work in exempt settings were allowed to practice Clinical Social Work in that setting specific situation. If they were no longer in that exempt setting specific situation then they are not allowed to practice Clinical Social Work. That situation specific idea was what I was trying to suggest as a possibility to add to the LMSW regulations. (Later I learned that this could not be accomplished by regulation but needed to amend the statute)

*******INITIATION OF PROPOSING LEGISLATION*******

I have included attachments that ask the question: Should the VSCSW and the GWSCSW seek to initiate legislation to amend Chapter 37 of Title 54- Social Work Law? (See Attachments).

QMHP UPDATE

A. I had sent a letter to Jaime Hoyle on May 5, 2019 (See attached) asking for some clarification regarding the LSW and the QMHP. As of this date I have not received any response. I wrote an email to Jaime on 6/15/19 that include the following comments:

As I think about the LSW-QMHP issue I am reminded that a license is a property right. The combination of the Board of Counseling QMHP regulations and the DMAS reimbursement policies seem to be infringing on the property rights of the LSW. Is there some non-litigious problem-solving process that you can assist me with to have this issue examined?

B. I sent a Virginia FOIA request to the head of DMAS asking for a copy of the regulation that says you have to be registered with the Board of Counseling as a QMHP to receive reimbursement for services provided by a QMHP. They sent me a copy of:

- The Manual for *Community Mental Health Rehabilitative Services*, pages 10-13. This chapter is on “Provider Participation Requirements.” The section on “*Department of Health Professions Registration*” states:

“...Effective January 1, 2019, DMAS and its contractors will deny reimbursement for services rendered by QMHP-A, QMHP-C and QMHP-Trainee (QMHP-E) staff who are not registered with the Board of Counseling...”

C. At the VSCSW Awards Ceremony for Senator Creigh Deeds he answered my question about QMHP’s very clearly: The essence was that the General Assembly will pass any legislation about QMHP’s because there is no money for increasing staffing for mental health services and something is better than nothing at this time.

Respectfully Submitted by:
Joseph G. Lynch LCSW
VSCSW Legislative Vice President

**LEGISLATIVE PROPOSAL
(VERSION 1)**

Proposed Legislation:

To amend Chapter 37 of Title 54.1 of the Code of Virginia.

Specifically:

§ 54.1-3700. Definitions, “Master’s social worker” – remove “non-clinical,” and replace it with “clinical”.

§ 54.1-3705. Specific powers and duties of the Board, (6) remove the word “register” and replace it with the word “license.”

Chapter 37 of Title 54.1 of the Code of Virginia-Social Work

§ 54.1-3700. Definitions.

"Master's social worker" means a person who engages in the practice of social work and provides ~~non-clinical,~~ clinical generalist services, including staff supervision and management.

§ 54.1-3705. Specific powers and duties of the Board.

In addition to the powers granted in § [54.1-2400](#), the Board shall have the following specific powers and duties:

6. To ~~register~~ license persons proposing to obtain supervised post-degree experience in the practice of social work required by the Board for licensure as a clinical social worker.

RATIONALE:

- A. The results of the VSCSW LSW study results showed that 90% of LSW’s are engaged in clinical social work practice (39% were exclusively engaged in clinical social work practice and 51% were engaged in a combination of both clinical and non-clinical social work practice). Thus, the definition in § 54.1-3700. Definitions, “Master’s social worker” is inaccurate and needs to be amended.
- B. The VBSW has always had the authority under § 54.1-2400. *General powers and duties of health regulatory boards* to require persons seeking licensure as an LCSW to “register” their post-degree experience with the Board. § 54.1-3705. Specific powers and duties of the Board (6), needs to say “license” rather than “register.” The reasons for this are:
 - i. In order for the supervisee to be directly under the authority of the VBSW.
 - ii. The VBSW is on record as being committed to move toward the ASWB Model Practice Act. It is consistent with the ASWB Model Practice Act to have a time limited period of supervision and experience to acquire the LCSW. The VBSW would develop regulations to require supervisees to acquire the LMSW during this time period and this license would lead to the LCSW. The LMSW license would expire for those who did not acquire the LCSW within the time period prescribed by the VBSW.
 - iii. Of the jurisdictions using the ASWB Clinical exam for licensure 73% require the supervisee to be licensed.

**LEGISLATIVE PROPOSAL
(VERSION 2)**

Proposed Legislation:

To amend Chapter 37 of Title 54.1 of the Code of Virginia.

Specifically:

§ 54.1-3700. Definitions, “Master’s social worker” – add “clinical” to the definition with the specification that it applies only in exempt settings or while under supervision toward the LCSW.

§ 54.1-3705. Specific powers and duties of the Board, (6) remove the word “register” and replace it with the word “license.”

Chapter 37 of Title 54.1 of the Code of Virginia-Social Work

§ 54.1-3700. Definitions.

"Master's social worker-clinical" means a person who engages in the practice of social work and provides clinical generalist services while meeting a section of § 54.1-3701 or under board approved supervision toward acquiring an LCSW.

“Master's social worker-*non-clinical*” means a person who engages in the practice of social work and provides non-clinical, generalist services, including staff supervision and management.

§ 54.1-3705. Specific powers and duties of the Board.

In addition to the powers granted in § [54.1-2400](#), the Board shall have the following specific powers and duties:

6. To ~~register~~ *license* persons proposing to obtain supervised post-degree experience in the practice of social work required by the Board for licensure as a clinical social worker.

RATIONALE:

- C. The results of the VSCSW LSW study results showed that 90% of LSW’s are engaged in clinical social work practice (39% were exclusively engaged in clinical social work practice and 51% were engaged in a combination of both clinical and non-clinical social work practice). Thus, the definition in § 54.1-3700. Definitions, “Master’s social worker” is inaccurate and needs to be amended.
- D. The VBSW has always had the authority under § 54.1-2400. *General powers and duties of health regulatory boards* to require persons seeking licensure as an LCSW to “register” their post-degree experience with the Board. § 54.1-3705. Specific powers and duties of the Board (6), needs to say “license” rather than “register.” The reasons for this are:
- i. In order for the supervisee to have a license that is directly under the authority of the VBSW.
 - ii. The VBSW is on record as being committed to move toward the ASWB Model Practice Act. It is consistent with the ASWB Model Practice Act to have a time limited period of supervision and experience to acquire the LCSW. The VBSW would develop regulations to require supervisees to acquire the LMSW during this time period and this license would lead to the LCSW. The LMSW license would expire for those who did not acquire the LCSW within the time period prescribed by the VBSW.
 - iii. Of the jurisdictions using the ASWB Clinical exam for licensure 73% require the supervisee to be licensed.