

VIRGINIA BOARD OF COUNSELING BYLAWS

ARTICLE I: AUTHORIZATION

A. Statutory Authority

The Virginia Board of Counseling (“Board”) is established and operates pursuant to §§ 54.1-2400 and 54.1-3500, et seq., of the *Code of Virginia*. Regulations promulgated by the Virginia Board of Counseling may be found in 18VAC115-20-10 et seq., Regulations Governing the Practice of Professional Counseling; 18 VAC 115-30-10 et seq., “Regulations Governing the Certification of Substance Abuse Counselors and Substance Abuse Counseling Assistants”; 18VAC115-40-10 et seq., “Regulations Governing the Certification of Rehabilitation Providers”; 18VAC115-50-10 et seq., “Regulations Governing the Practice of Marriage and Family Therapy”; 18VAC115-60-10 et seq., “Regulations Governing the Practice of Substance Abuse Treatment Practitioners”, 18VAC115-80-10 et seq., “Emergency Regulations Governing the Practice of Qualified Mental Health Professionals (QMHP), and 18VAC115-70-10 et seq., “Emergency Regulations Governing the Practice of Registered Peer Recovery Specialists”.

B. Duties

The Virginia Board of Counseling is charged with promulgating and enforcing regulations governing the licensure and practice of professional counselors, marriage and family therapists, and substance abuse treatment practitioners, and the certification and practice of substance abuse counselors and rehabilitation providers in the Commonwealth of Virginia, and the registration of qualified mental health professionals and registered peer recovery specialists. This includes, but is not limited to: setting fees; creating requirements for and issuing licenses, certificates, or registrations; setting standards of practice; and implementing a system of disciplinary action.

C. Mission

To ensure the delivery of safe and competent patient care by licensing health professionals, enforcing standards of practice, and providing information to healthcare practitioners and the public.

ARTICLE II: THE BOARD

A. Membership

1. The Board shall consist of twelve (12) members, appointed by the Governor as follows:
 - a. Ten (10) professionals licensed in Virginia, who shall represent the various specialties recognized in the profession. The licensed professionals shall be
 - i. Six (6) licensed professional counselors
 - ii. Three (3) licensed marriage and family therapists, and

- iii. One (1) licensed substance abuse treatment practitioner
 - b. Two (2) shall be citizen members.
2. The terms of the members of the Board shall be four (4) years.
3. Members of the Board of Counseling holding a voting office in any related professional association or one that takes a policy position on the regulations of the Board shall abstain from voting on issues where there may be a conflict of interest present.

B. Officers

1. The Chairperson or designee shall preserve order and conduct all proceedings according to parliamentary rules, the Virginia Freedom of Information Act, and the Administrative Process Act. Roberts Rules of Order will guide parliamentary procedure for the meetings. Except where specifically provided otherwise by the law or as otherwise ordered by the Board, the Chairperson shall appoint all committees, and shall sign as Chairperson to the certificates authorized to be signed by the Chairperson.
2. The Vice-Chairperson shall act as Chairperson in the absence of the Chairperson and assume the duties of Chairperson in the event of an unexpired term.
3. In the absences of the Chairperson and Vice-Chairperson, the Chairperson shall appoint another board member to preside at the meeting and/or formal administrative hearing.

C. Duties of Members

1. Each member shall participate in all matters before the Board.
2. Members shall attend all regular and special meetings of the Board unless prevented by illness or similar unavoidable cause. In the event of two (2) consecutive unexcused absences at any meeting of the Board or its committees, the Chairperson shall make a recommendation to the Director of the Department of Health Professions for referral to the Secretary of Health and Human Resources and Secretary of the Commonwealth.
3. The Governor may remove any Board member for cause, and the Governor shall be sole judge of the sufficiency of the cause for removal pursuant to § 2.2-108.

D. Election of Officers

1. All officers shall be elected for a term of two (2) years and may serve no more than two (2) consecutive terms.

2. The election of officers shall occur at the first scheduled Board meeting following July 1 of each odd year, and elected officers shall assume their duties at the end of the meeting.
 - a. Officers shall be elected at a meeting of the Board with a quorum present.
 - b. The Chairperson shall ask for nominations from the floor by office.
 - c. Voting shall be by voice unless otherwise decided by a vote of the members present. The results shall be recorded in the minutes.
 - d. A simple majority shall prevail with the current Chairperson casting a vote only to break a tie.
 - e. Special elections to fill an unexpired term shall be held in the event of a vacancy of an officer at the subsequent Board meeting following the occurrence of an office being vacated.
 - f. The election shall occur in the following order: Chairperson, Vice-Chairperson.

E. Meetings

1. The full Board shall meet quarterly, unless a meeting is not required to conduct Board business.
2. Order of Business at Meetings:
 - a. Adoption of Agenda
 - b. Period of Public Comment
 - c. Approval of Minutes of preceding regular Board meeting and any called meeting since the last regular meeting of the Board.
 - d. Reports of Officers and staff
 - e. Reports of Committees
 - f. Election of Officers (as needed)
 - g. Unfinished Business
 - h. New Business
3. The order of business may be changed at any meeting by a majority vote.

ARTICLE III: COMMITTEES

A. Duties and Frequency of Meetings.

1. Members appointed to a committee shall faithfully perform the duties assigned to the committee.
2. All standing committees shall meet as necessary to conduct the business of the Board.

B. Standing Committees

Standing committees of the Board shall consist of the following:

Regulatory/Legislative Committee
Special Conference Committee
Credentials Committee
Any other Standing Committees created by the Board.

1. Regulatory/Legislative Committee

- a. The Chairperson of the Committee shall be appointed by the Chairperson of the Board.
- b. The Regulatory/Legislative Committee shall consist of at least two (2) Board members appointed by the Chairperson of the Committee
- c. The Committee shall consider all questions bearing upon state legislation and regulation governing the professions regulated by the Board.
- d. The Committee shall recommend to the Board changes in law and regulations as it may deem advisable and, at the direction of the Board, shall take such steps as may further the desire of the Board in matters of legislation and regulation.
- e. The Chairperson of the Committee shall submit proposed changes in applicable laws and regulations in writing to the Board prior to any scheduled meeting.

2. Special Conference Committee

- a. The Special Conference Committee shall:
 - i. consist of two (2) Board members.
 - ii. conduct informal conferences pursuant to §§ 2.2-4019, 2.2-4021, and 54.1-2400 of the Code of Virginia as necessary to adjudicate cases in a timely manner in accordance with the agency standards for case resolution.

- iii. hold informal conferences at the request of the applicant or licensee to determine if Board requirements have been met.
 - b. The Chairperson of the Board shall designate another board member as an alternate on this committee in the event one of the standing committee members becomes ill or is unable to attend a scheduled conference date.
 - c. Should the caseload increase to the level that additional special conference committees are needed, the Chairperson of the Board may appoint additional committees.
- 3. Credentials Committee
 - a. The Credentials Committee shall consist of at least two (2) Board members appointed by the Chairperson of the Board, with the Chairperson of the Committee to be appointed by the Chairperson of the Board.
 - b. The members of the committee shall review non-routine licensure applications to determine the credentials of the applicant and the applicability of the statutes and regulations.
 - c. The Committee member who conducted the initial review shall provide guidance to staff on action to be taken.
 - d. The Credentials Committee shall not be required to meet collectively to conduct initial reviews.

ARTICLE IV: GENERAL DELEGATION OF AUTHORITY

The Board delegates the following functions:

1. The Executive Director shall be the custodian of all Board records. He/she shall preserve a correct list of all applicants and licensees, shall manage the correspondence of the Board, and shall perform all such other duties as naturally pertain to this position.
2. The Board delegates to Board staff the authority to issue and renew licenses or certificates and to approve supervision applications for which regulatory and statutory qualifications have been met. If there is basis, upon which the Board could refuse to issue or renew the license or certification or to deny the supervision application, the Executive Director may only issue a license, certificate, or registration upon consultation with a member of the Credentials Committee, or in accordance with delegated authority provided in a guidance document of the Board.
3. The Board delegates to the Executive Director the authority to develop and approve any and all forms used in the daily operations of Board business, to include, but not be limited to, licensure, certification, and registration applications, renewal forms, and documents used in the disciplinary process.

4. The Board delegates to the Executive Director the authority to grant an accommodation of additional testing time or other requests for accommodation to candidates for Board-required examinations pursuant to the Americans with Disabilities Act, provided the candidate provide documentation that supports such an accommodation.
5. The Board delegates to the Executive Director authority to grant an extension for good cause of up to one (1) year for the completion of continuing education requirements upon written request from the licensee or certificate holder prior to the renewal date.
6. The Board delegates to the Executive Director authority to grant an exemption for all or part of the continuing education requirements due to circumstances beyond the control of the licensee or certificate holder, such as temporary disability, mandatory military service, or officially declared disasters.
7. The Board delegates to the Executive Director the authority to reinstate a license or certificate when the reinstatement is due to the lapse of the license or certificate rather than a disciplinary action and there is no basis upon which the Board could refuse to reinstate.
8. The Board delegates to the Executive Director the authority to sign as entered any Order or Consent Order resulting from the disciplinary process or other administrative proceeding.
9. The Board delegates to the Executive Director the authority to enter a Pre-Hearing Consent Order for Indefinite Suspension or revocation of a license, certificate, or registration.
10. The Board delegates to the Executive Director, who may consult with a Special Conference Committee member, the authority to provide guidance to the agency's Enforcement Division in situations wherein a complaint is of questionable jurisdiction and an investigation may not be necessary.
11. The Board delegates authority to the Executive Director to close non-jurisdictional cases and fee dispute cases without review by a Board member.
12. The Board delegates to the Executive Director the authority to determine if there is probable cause to initiate proceedings or action on behalf of the Board of Counseling, including the authority to close a case if staff determines probable cause does not exist, the conduct does not rise to the level of disciplinary action by the Board, or the Board does not have jurisdiction.
13. The Board delegates to the Executive Director the authority to review alleged violations of law or regulations with a Special Conference Committee member to make a determination as to whether probable cause exists to proceed with possible disciplinary action.

14. The Board delegates to the Executive Director the authority to assign the determination of probable cause for disciplinary action to a board member, or the staff counseling review coordinator in consultation with board staff, who may offer a confidential consent agreement, offer a pre-hearing consent order, cause the scheduling of an informal conference, request additional information, or close the case.
15. In accordance with established Board guidance documents, the Board delegates to the Executive Director the determination of probable cause, for the purpose of offering a confidential consent agreement, a pre-hearing consent order, or for scheduling an informal conference.
16. The Board delegates to the Executive Director the selection of the agency subordinate who is deemed appropriately qualified to conduct a proceeding based on the qualifications of the subordinate and the type of case being convened.
17. The Board delegates to the Executive Director the convening of a quorum of the Board by telephone conference call, for the purpose of considering the summary suspension of a license or for the purpose of considering settlement proposals.
18. The Board delegates to the Chairperson, the authority to represent the Board in instances where Board “consultation” or “review” may be requested where a vote of the Board is not required and a meeting is not feasible.
19. The Board delegates authority to the Executive Director to issue an Advisory Letter to the person who is the subject of a complaint pursuant to Virginia Code § 54.1-2400.2(F), when it is determined that a probable cause review indicates a disciplinary proceeding will not be instituted.
20. The Board delegates authority to the Executive Director to delegate tasks to the Deputy Executive Director, as necessary.

ARTICLE V: AMENDMENTS

Proposed amendments to these bylaws shall be presented in writing to all Board members, the Executive Director of the Board, and the Board’s legal counsel prior to any scheduled Board meeting. Amendments to the bylaws shall become effective with a favorable vote of at least two-thirds of the members present at that regular meeting.

Adopted: June 3, 2005

Revised: November 5, 2013; January 27, 2017; November 3, 2017; May 18, 2018