



DEPARTMENT OF VETERANS AFFAIRS

Notice of Request for Information on the Department of Veterans Affairs

Marriage and Family Therapist Standard of Practice

AGENCY: Department of Veterans Affairs.

ACTION: Request for information.

SUMMARY: The Department of Veterans Affairs (VA) is requesting information to assist in developing a national standard of practice for VA Marriage and Family Therapists. VA seeks comments on various topics to help inform VA's development of this national standard of practice.

DATES: Comments must be received on or before [INSERT DATE 60 DAYS AFTER PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: Comments must be submitted through <https://www.regulations.gov>

Except as provided below, comments received before the close of the comment period will be available at <https://www.regulations.gov/> for public viewing, inspection, copying, including any personally identifiable or confidential business information that is included in a comment. We post the comments received before the close of the comment period on the following website as soon as possible after they have been received:

<https://www.regulations.gov/>. VA will not post on <https://www.regulations.gov/> public comments that make threats to individuals or institutions or suggest that the commenter will take actions to harm the individual. VA encourages individuals not to submit duplicative comments. We will post acceptable comments from multiple unique commenters even if the content is identical or nearly identical to other comments. Any public comment received after the comment period's closing date will not be considered.

FOR FURTHER INFORMATION CONTACT: Ethan Kalett, Office of Regulations, Appeals and Policy (10BRAP), Veterans Health Administration, Department of Veterans Affairs, 810 Vermont Avenue, NW, Washington, DC 20420, 202-461-0500. This is not a toll-free number.

SUPPLEMENTARY INFORMATION:

Authority

Chapters 73 and 74 of 38 U.S.C. and 38 U.S.C. 303 authorize the Secretary to regulate VA health care professions to make certain that VA's health care system provides safe and effective health care by qualified health care professionals to ensure the well-being of those veterans who have borne the battle.

On November 12, 2020, VA published an interim final rule confirming that VA health care professionals may practice their health care profession consistent with the scope and requirements of their VA employment, notwithstanding any State license, registration, certification, or other State requirements that unduly interfere with their practice. 38 CFR 17.419; 85 FR 71838. Specifically, this rulemaking confirmed VA's current practice of allowing VA health care professionals to deliver health care services in a State other than the health care professional's State of licensure, registration, certification, or other State requirement, thereby enhancing beneficiaries' access to critical VA health care services. The rulemaking also confirmed VA's authority to establish national standards of practice for its health care professionals, which would standardize a health care professional's practice in all VA medical facilities, regardless of conflicting State laws, rules, regulations, or other State requirements.

The rulemaking explained that a national standard of practice describes the tasks and duties that a VA health care professional practicing in the health care profession

may perform and may be permitted to undertake. Having a national standard of practice means that individuals from the same VA health care profession may provide the same type of tasks and duties regardless of the State where they are located or the State license, registration, certification, or other State requirement they hold. We emphasized in the rulemaking and reiterate here that VA will determine, on an individual basis, that a health care professional has the proper education, training, and skills to perform the tasks and duties detailed in the national standard of practice, and that they will only be able to perform such tasks and duties after they have been incorporated into the individual's privileges, scope of practice, or functional statement. The rulemaking explicitly did not create any such national standards and directed that all national standards of practice would be subsequently created via policy.

Preemption of State Requirements

The national standard of practice will preempt any State laws, rules, regulations, or requirements that both are and are not listed in the national standard as conflicting, but that do conflict with the tasks and duties as authorized in VA's national standard of practice. In the event that a State changes their requirements and places new limitations on the tasks and duties it allows in a manner that would be inconsistent with what is authorized under the national standard of practice, the national standard of practice will preempt such limitations and authorize the VA health care professional to continue to practice consistent with the tasks and duties outlined in the national standard of practice.

In cases where a VA health care professional's license, registration, certification, or other State requirement allows a practice that is not included in a national standard of practice, the individual may continue that practice so long as it is permissible by Federal

law and VA policy, is not explicitly prohibited by the national standard of practice and is approved by the VA medical facility.

Need for National Standards of Practice

It is critical that VA, the Nation's largest integrated health care system, develops national standards of practice to ensure, first, that beneficiaries receive the same high-quality care regardless of where they enter the system and, second, that VA health care professionals can efficiently meet the needs of beneficiaries when practicing within the scope of their VA employment. National standards are designed to increase beneficiaries' access to safe and effective health care, thereby improving health outcomes. The importance of this initiative has been underscored by the coronavirus disease 2019 (COVID-19) pandemic. The increased need for mobility in VA's workforce, including through VA's Disaster Emergency Medical Personnel System, highlighted the importance of creating uniform national standards of practice to better support VA health care professionals who practice across State lines. Creating national standards of practice also promotes interoperability of medical data between VA and the Department of Defense (DoD), providing a complete picture of a veteran's health information and improving VA's delivery of health care to the Nation's veterans. DoD has historically standardized practice for certain health care professionals, and VA has closely partnered with DoD to learn from their experience.

Process to Develop National Standards of Practice

As authorized by 38 CFR 17.419, VA is developing national standards of practice via policy. There is one overarching directive to describe Veterans Health Administration

(VHA) policy on national standards of practice. The directive is accessible on the VHA Publications website at <https://vaww.va.gov/vhapublications/> (internal) and <https://www.va.gov/vhapublications/> (external). As each individual national standard of practice is finalized, it is published as an appendix to the directive and accessible at the same websites.

To develop these national standards, VA is using a robust, interactive process that adheres to the requirements of Executive Order (EO) 13132 to preempt conflicting State laws, rules, regulations, or other requirements. The process includes consultation with internal and external stakeholders, including State licensing boards, VA employees, professional associations, Veterans Service Organizations, labor partners, and others. For each VA occupation, a workgroup comprised of VA health care professionals in the identified occupation conducts research to identify internal best practices that may not be authorized under every State license, certification, or registration, but would enhance the practice and efficiency of the profession throughout VA. If a best practice is identified that is not currently authorized by every State, the workgroup determines what education, training, and skills are required to perform such tasks and duties. The workgroup then drafts a proposed VA national standard of practice using the data gathered during the research and incorporates internal stakeholder feedback into the standard. The workgroup may consult with internal or external stakeholders at any point throughout the process.

The proposed national standard of practice is then internally reviewed, to include by an interdisciplinary VA workgroup consisting of representatives from Quality Management, VA medical facility Chief of Staff, Academic Affiliates, Veterans Integrated Services Network (VISN) Chief Nursing Officer, Ethics, Workforce Management and Consulting, Surgery, Credentialing and Privileging, VISN Chief Medical Officer, and Electronic Health Record Modernization.

Externally, VA hosts listening sessions for members of the public, professional associations, and VA employees to provide comments on the variance between State practice acts for specific occupations and what should be included in the national standard of practice for that occupation. The listening session for Marriage and Family Therapists was held on September 21, 2023. At the listening session, there was one presenter who represented the American Association of Marriage and Family Therapy. The presenter supported the Marriage and Family Therapy national standard of practice and urged VA to allow all providers to practice to the full extent of their license and education. The presenter stated that maximizing utilization of provider skills would make access to care more efficient and would lower costs. VA appreciates the thoughtful presentation and considers the information presented at the listening session when drafting the proposed VA national standard of practice.

VA has developed a robust process to engage with partners, members of the public, States, and employees on the proposed national standard of practice. VA provides the proposed national standard of practice to our DoD partners as an opportunity to flag inconsistencies with DoD standards. VA also engages with labor partners informally as part of a pre-decisional collaboration. Consistent with EO 13132, VA sends a letter to each State board and certifying organization or registration organization, as appropriate, which includes the proposed national standard and offers the recipient an opportunity to discuss the national standard with VA. After the State boards, certifying organizations, or registration organizations have received notification, the proposed national standard of practice is posted in the Federal Register for 60 days to obtain feedback from the public, professional associations, and any other interested parties. At the same time, the proposed national standard is posted to an internal VA site to obtain feedback from VA employees. Responses received through all vehicles—from State boards, professional associations, unions, VA employees, and any other

individual or organization who provides comments via the Federal Register—will be reviewed. VA will make appropriate revisions in light of the comments, including those that present evidence-based practice and alternatives that help VA meet our mission and goals. VA will publish a collective response to all comments at <https://www.va.gov/standardsofpractice/>.

After the national standard of practice is finalized, approved, and published in VHA policy, VA will implement the tasks and duties authorized by that national standard of practice. Any tasks or duties included in the national standard will be properly incorporated into individual health care professionals' privileges, scope of practice, or functional statement once it has been determined by their VA medical facility that the individual has the proper education, training, and skills to perform the task or duty. Implementation of the national standard of practice may be phased in across all VA medical facilities, with limited exemptions for health care professionals as needed.

Format for the Proposed National Standard for Marriage and Family Therapist

The format for the proposed national standards of practice when there are State licenses is as follows. The first paragraph provides general information about the profession and what the health care professionals can do. For this national standard, Marriage and Family Therapists are licensed professionals who provide psychotherapy to couples, families, individuals, and groups. We reiterate that the proposed standard of practice does not contain an exhaustive list of every task and duty that each VA health care professional can perform. Rather, it is designed to highlight generally what tasks and duties the health care professionals perform and how they will be able to practice within VA notwithstanding their State license, certification, registration, or other State requirements.

The second paragraph references the education and State license, or other requirement, needed to practice this profession at VA. Qualification standards for employment of health care professionals by VA are outlined in VA Handbook 5005, Staffing, dated November 8, 2023. VA follows the requirements outlined in the VA qualification standards even if the requirements conflict with or differ from a State requirement. National standards of practice do not affect those requirements. For Marriage and Family Therapists, VA qualification standards require an active, current, full, and unrestricted State license.

The second paragraph also notes whether the national standard of practice explicitly excludes individuals who practice under “grandfathering” provisions. Qualification standards may include provisions to permit employees who met all requirements prior to revisions to the qualification standards to maintain employment at VA even if they no longer meet the new qualification standards. This practice is referred to as grandfathering. Marriage and Family Therapists have grandfathering provisions included within its qualification standards, and VA proposes to have those individuals be authorized to follow the Marriage and Family Therapist national standard of practice. Therefore, there would be no notation regarding grandfathered employees in the national standard of practice as they would be required to adhere to the same standard as any other VA Marriage and Family Therapist who meets the current qualification standards.

The third paragraph describes what tasks and duties the profession will be able to perform within the scope of their VA employment. It includes whether the profession can practice all duties covered by their State license. For Marriage and Family Therapists, VA reviewed State license requirements and found no variance in how VA Marriage and Family Therapists practice in any State.

This national standard of practice does not address training because it will not authorize VA Marriage and Family Therapists to perform any tasks or duties not already authorized under their State license.

Following public and VA employee comments and revisions, each national standard of practice that is published into policy will also include the date for recertification of the standard of practice and a point of contact for questions or concerns.

Proposed National Standard of Practice for Marriage and Family Therapist

1. Marriage and Family Therapists provide psychotherapy to couples, families, individuals, and groups. These professionals are licensed to diagnose and treat mental health disorders such as depression, post-traumatic stress disorder, anxiety, and other mental health disorders. Marriage and Family Therapists have specialized training in family systems theory and are well qualified to treat relationships issues, including marriage or couples counseling, and child-parent challenges.

2. Marriage and Family Therapists in the Department of Veterans Affairs (VA) possess the education and license required by VA qualification standards. See VA Handbook 5005, Staffing, Part II, Appendix G44, dated April 18, 2018.

3. VA Marriage and Family Therapists can practice all duties covered by their license. VA reviewed license requirements for this occupation in February 2024 and confirmed there is no variance in how VA Marriage and Family Therapists practice in any State.

Request for Information:

1. Is VA's assessment of what States allow and do not allow accurate?

2. Are there any other areas of variance between State licenses, certification, or registration that VA should preempt that are not listed?
3. Is there anything else you would like to share with us about this VA national standard of practice?

Signing Authority:

Denis McDonough, Secretary of Veterans Affairs, approved and signed this document on April 5, 2024, and authorized the undersigned to sign and submit the document to the Office of the Federal Register for publication electronically as an official document of the Department of Veterans Affairs.

Luvenia Potts,

Regulation Development Coordinator,

Office of Regulation Policy & Management,

Office of General Counsel,

Department of Veterans Affairs.