



Virginia  
Regulatory  
Town Hall

## Final Regulation Agency Background Document

<b>Agency Name:</b>	Board for Hearing Aid Specialists - 41
<b>VAC Chapter Number:</b>	20
<b>Regulation Title:</b>	Board for Hearing Aid Specialists Regulations
<b>Action Title:</b>	Amendment
<b>Date:</b>	March 19, 2003

Please refer to the Administrative Process Act (§ 2.2-4000 *et seq.* of the *Code of Virginia*), Executive Order Twenty-Five (98), Executive Order Fifty-Eight (99) , and the *Virginia Register Form, Style and Procedure Manual* for more information and other materials required to be submitted in the final regulatory action package.

### Summary

*Please provide a brief summary of the new regulation, amendments to an existing regulation, or the regulation being repealed. There is no need to state each provision or amendment; instead give a summary of the regulatory action. If applicable, generally describe the existing regulation. Do not restate the regulation or the purpose and intent of the regulation in the summary. Rather, alert the reader to all substantive matters or changes contained in the proposed new regulation, amendments to an existing regulation, or the regulation being repealed. Please briefly and generally summarize any substantive changes made since the proposed action was published.*

The Board for Hearing Aid Specialists is recommending that 18 VAC 80-20-10 *et seq.* to amend existing regulations governing the licensure of hearing aid specialists to clarify definitions, requirements for licensure, modify the procedures and provisions regarding renewal, and reinstatement, and standards of practice and conduct, and ensure that the board is meeting its statutory mandate to ensure minimal competence of all licensees without burdensome requirements.

## Statement of Final Agency Action

*Please provide a statement of the final action taken by the agency: including the date the action was taken, the name of the agency taking the action, and the title of the regulation.*

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On December 9, 2002, the Board for Hearing Aid Specialists adopted final amendments to 18 VAC 80-20-10 et seq., Board for Hearing Aid Specialists Regulations.

## Basis

*Please identify the state and/or federal source of legal authority to promulgate the regulation. The discussion of this statutory authority should: 1) describe its scope and the extent to which it is mandatory or discretionary; and 2) include a brief statement relating the content of the statutory authority to the specific regulation. In addition, where applicable, please describe the extent to which proposed changes exceed federal minimum requirements. Full citations of legal authority and, if available, web site addresses for locating the text of the cited authority, shall be provided. If the final text differs from that of the proposed, please state that the Office of the Attorney General has certified that the agency has the statutory authority to promulgate the final regulation and that it comports with applicable state and/or federal law.*

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Regulations are promulgated under the general authority of Chapter 2 of Title 54.1 of the Code of Virginia. Section 54.1-201(5) provides the Board the authority to promulgate regulations to administer the regulatory system:

### **§ 54.1-201. Powers and duties of regulatory boards.**

The powers and duties of regulatory boards shall be as follows:

5. To promulgate regulations in accordance with the Administrative Process Act (§ 2.2-4000 et seq.) necessary to assure continued competency, to prevent deceptive or misleading practices by practitioners and to effectively administer the regulatory system administered by the regulatory board.

<http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+54.1-210>

The Office of the Attorney General has certified that the agency has the statutory authority to promulgate the proposed regulations and that it comports with applicable state and/or federal law.

## Purpose

*Please provide a statement explaining the need for the new or amended regulation. This statement must include the rationale or justification of the final regulatory action and detail the specific reasons it is essential to protect the health, safety or welfare of citizens. A statement of a general nature is not*

*acceptable, particular rationales must be explicitly discussed. Please include a discussion of the goals of the proposal and the problems the proposal is intended to solve.*

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The intent of the proposed regulatory action is to amend existing regulations governing the licensure and practice of hearing aid specialists. The purpose of the proposed amendments is to clarify entry requirements for licensure, modify the procedures and provisions regarding renewal, and reinstatement, and standards of practice and conduct.

The intent is to protect the health, safety, and welfare of the citizens of the Commonwealth by providing that the standards of practice and conduct meet all current laws and statutes and the Board is meeting its statutory mandate to ensure minimal competence of all licensees without burdensome requirements.

### Substance

*Please identify and explain the new substantive provisions, the substantive changes to existing sections, or both where appropriate. Please note that a more detailed discussion is required under the statement of the regulatory action's detail.*

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The proposed regulatory action will amend and clarify definitions; clarify the basic qualifications and entry level requirements for licensure by simplifying the language; clarify the qualifications for a temporary permit; change the examination requirements to only require retaking failed sections; remove language allowing delay or withholding of services by the Department relating to non-compliance with consent and final orders. Language is being proposed that will require the disclosure of felony or misdemeanor convictions on applications for licensure that is consistent with other board regulations of the Department. The proposed regulatory action will also make less restrictive certain requirements pertaining to electronic audiometer calibration and purchase agreements.

### Issues

*Please provide a statement identifying the issues associated with the final regulatory action. The term "issues" means: 1) the advantages and disadvantages to the public of implementing the new provisions; 2) the advantages and disadvantages to the agency or the Commonwealth; and 3) other pertinent matters of interest to the regulated community, government officials, and the public. If there are no disadvantages to the public or the Commonwealth, please include a sentence to that effect.*

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The proposed regulatory action is an advantage to the public in that it will provide clear and effective regulations to ensure competency and integrity by practitioners of hearing aid specialists. There are no disadvantages to the public or the Commonwealth with regards to the amending of the regulations governing the licensure and practice of hearing aid specialists.

## Statement of Changes Made Since the Proposed Stage

*Please highlight any changes, other than strictly editorial changes, made to the text of the proposed regulation since its publication.*

The Board made changes from Proposed Hearing Aid Specialists Regulations based on Governor Warner's initiative to implement electronic technology for efficiency and service in government, the Department of Planning and Budget's Economic Impact Analysis, public comment, and text correction. These changes are:

1 & 2. To assist Governor Warner's initiative to implement electronic technology for efficiency and service in government:

Section 18 VAC 80-20-10 the definition for 'Affidavit' was deleted.

~~["Affidavit" means a written statement of facts, made voluntarily, and confirmed by the oath or affirmation of the party making it, taken before a notary or other person having the authority to administer such oath or affirmation.]~~

Section 18 VAC 80-20-30(A)(4)(a). the word 'affidavit' was deleted and word 'statement' was added.

a. An affidavit statement on a form provided by the board signed by the licensed sponsor certifying that the requirements have been met; or

3. In response to public comment that children would be best served by retaining in regulations the requirement for evaluation by an otolaryngologist before initial fitting:

§ 18 VAC 80-20-230. Fitting and sale of hearing aids for children was revised:

~~[Any person engaging in the fitting and sale of hearing aids for a child under 18 years of age shall:]~~

1. [Any person engaging in the fitting and sale of hearing aids for a child under 18 years of age shall ascertain whether such child has been examined by an otolaryngologist or licensed physician for recommendation] within six months prior to fitting[. ; and]
2. No child [under 18 years of age] shall be [initially] fitted ~~without such recommendation~~ with a hearing aid [or hearing aids] unless the licensed hearing aid specialist has been presented with a written statement signed by [an the otolaryngologist licensed physician] stating the child's hearing loss has been medically evaluated and the child may be considered a candidate for a hearing aid. The medical evaluation must have taken place within the preceding 6 months.

[3. No child under 18 years of age shall be subsequently fitted with a hearing aid or hearing aids unless the licensed hearing aid specialist has been presented with a written statement signed by a licensed physician stating the child's hearing loss has been medically evaluated and the child may be considered a candidate for a hearing aid. The medical evaluation must have taken place within the preceding 6 months.]

4. In response to the Department of Planning and Budget’s Economic Impact Analysis and public comment that retaining the requirement that hearing aid specialists check for tinnitus and if found refer the person to a licensed physician would provide continued protection to the citizens of Virginia and that there is no conflict with federal law:

18 VAC 80-20-250(4)(h) Tinnitus as a primary symptom was retained.

[h. Tinnitus as a primary symptom.]

5. In response to the Department of Planning and Budget’s Economic Impact Analysis’s concern that language be added clarifying that post-fitting test are required:

18 VAC 80-20-250(6) Post fitting testing shall be made and recorded with type of test, method of presentation and the test results was added

6. Text correction to bring language in compliance with assignment of expiration date in 18 VAC 80-20-160.A that states when a license is reinstated, the license shall be assigned the expiration date two years from the previous expiration date of the license.

18 VAC 80-20-140.3 ~~Twelve months~~ [Three Two years] after the expiration date on the license, reinstatement is no longer possible. To resume practice as a hearing aid specialist, the former licensee must apply as a new applicant for licensure, meeting all educational, examination, and experience requirements as listed in the regulations current at the time of reapplication.

**Public Comment**

*Please summarize all public comment received during the public comment period and provide the agency response. If no public comment was received, please include a statement indicating that fact.*

Joshua P. Oppenheim, M.D.  
President  
Virginia Society of Otolaryngology-Head and Neck Surgery  
Ear, Nose & Throat Specialists of Northern Virginia, p.c

Opposed to change that would remove requirement that a child be required to see an otolaryngologist prior to being fitted with a hearing aid because of the need for special expertise. Otolaryngologist or audiologist is needed for non-specialized physicians and hearing aid specialists do not have knowledge. FDA notes need for audiologists. State recognizes need by

requiring newborn hearing screening. Provided letter of support from Secretary-Treasurer, Virginia Chapter, American Academy of Pediatrics.

Opposed to change to remove requirement of referral with tinnitus as a primary symptom for cause may be missed and other symptoms may exist.

Board has made revisions without expertise of Otolaryngologist on Board.

Afraid that Board is practicing medicine without license.

**Board Response:**

To retain ‘Otolaryngologist’ and consider adding ‘Audiologist’ in 18 VAC 80-20-230.1.

Based on Board action consider need to change language in 18 VAC 80-20-230.2.

To retain 18 VAC 80-20-250.4.h which would keep tinnitus as a primary symptom.

Board meeting minutes indicate that the Otolaryngologist Board Member attended meetings during the development and adoption of proposed regulations.

Concurs that deletion of 18 VAC 80-20-250.4.h does not authorize practice of medicine and unlicensed activity should be pursued by Virginia Board for Medicine.

George Hashisaki  
Faculty  
University of Virginia Health System

Opposed to change that would remove requirement that a child be required to see an otolaryngologist prior to being fitted with a hearing aid for otolaryngologists are the most qualified physicians to evaluate hearing loss in children and the children will not be well served medically by the proposed change.

Opposed to change to remove requirement of referral with tinnitus as a primary symptom for other symptoms may exist.

Opposed to repeal of licensure without examination to licensed and ABO-eligible otolaryngologists based on education received and expertise demonstrated.

**Board Response:**

To retain ‘Otolaryngologist’ and consider adding ‘Audiologist’ in 18 VAC 80-20-230.1.

Based on Board action consider need to change language in 18 VAC 80-20-230.2.

To retain 18 VAC 80-20-250.4.h which would keep tinnitus as a primary symptom.

Notify that 18 VAC 80-20-60 was repealed due to duplication of Section 54.1-1501.A of the Code of Virginia.

Fred T. Shaia, M.D.  
Virginia Commonwealth University  
Balance & Ear Center

Opposed to change that would remove requirement that a child be required to see an otolaryngologist prior to being fitted with a hearing aid because of the complex issues that require in depth history, physical and lab testing to determine cause and appropriate treatment. State recognizes need by requiring newborn hearing screening.

Board Response:

To retain 'Otolaryngologist' and consider adding 'Audiologist' in 18 VAC 80-20-230.1.

Based on Board action consider need to change language in 18 VAC 80-20-230.2.

Cameron A. Kress Gillespie, MD, FACS, NBC-HIS  
The Gillespie Clinic

Opposed to change that would remove requirement that a child be required to see an otolaryngologist prior to being fitted with a hearing aid because of related medical issues of children.

Opposed to change to remove requirement of referral with tinnitus as a primary symptom for it indicates that a medical specialty evaluation would be appropriate.

Board has made revisions without expertise of Otolaryngologist on Board.

**Board Response:**

To retain 'Otolaryngologist' and consider adding 'Audiologist' in 18 VAC 80-20-230.1.

Based on Board action consider need to change language in 18 VAC 80-20-230.2.

To retain 18 VAC 80-20-250.4.h which would keep tinnitus as a primary symptom.

Board meeting minutes indicate that the Otolaryngologist Board Member attended meetings during the development and adoption of proposed regulations.

Laurence J. DiNardo, M.D., F.A.C.S., AAO-HNS Board of Governors Representative for the State of Virginia  
American Academy of Otolaryngology – Head and Neck Surgery

Opposed to change that would remove requirement that a child be required to see an otolaryngologist prior to being fitted with a hearing aid because of the need for special expertise to ensure appropriate care. FDA notes need for otolaryngologist. Noted opposition to change by Virginia Chapter of the American Academy of Pediatrics.

Opposed to change to remove requirement of referral with tinnitus as a primary symptom for executive review has determined there is no direct conflict with federal law and provides greater protection..

Board has made revisions without expertise of Otolaryngologist on Board.

Opposed to repeal of licensure without examination to licensed and ABO-eligible otolaryngologists based on education received and expertise demonstrated. Repeal is effort to play gatekeeper role.

**Board Response:**

To retain ‘Otolaryngologist’ and consider adding ‘Audiologist’ in 18 VAC 80-20-230.1.

Based on Board action consider need to change language in 18 VAC 80-20-230.2.

To retain 18 VAC 80-20-250.4.h which would keep tinnitus as a primary symptom.

Board meeting minutes indicate that the Otolaryngologist Board Member attended meetings during the development and adoption of proposed regulations.

Notify that 18 VAC 80-20-60 was repealed due to duplication of Section 54.1-1501.A of the Code of Virginia.

Craig S. Derkay, MD  
Professor, Otolaryngology & Pediatrics  
Eastern Virginia Medical School  
Director, Pediatric Otolaryngology  
Children’s Hospital of the King’s Daughters

Opposed to the proposed changes to the rules and regulations of the Board of Hearing Aid Specialists and in particular the change in VAC–80-20-230. Essential for safety of child for Otolaryngologists or Audiologist not non-specialized physician to see child before a hearing aid fitting. Board has made revisions to rules without expertise of Otolaryngologist on Board. State recognizes need by requiring newborn hearing screening.



**Board Response:**

To retain 'Otolaryngologist' and consider adding 'Audiologist' in 18 VAC 80-20-230.1  
Board meeting minutes indicate that the Otolaryngologist Board Member attended meetings during the development and adoption of proposed regulations.

Geoffrey T. Harter, M.D.  
Roanoke Ear, Nose and Throat Clinic, Inc.

Opposed to change that would remove requirement that a child be required to see an otolaryngologist prior to being fitted with a hearing aid. Specialized expertise needed for evaluation and treatment that non-otolaryngologists (any licensed physician) and hearing aid specialists do not have expertise or training. Appropriate evaluation is most important to maximize the benefit of any treatment.

Opposed to change that would remove tinnitus as a primary symptom that requires referral in that he questions how this would improve care of patient.

Encourages appointment of otolaryngologist to board.

**Board Response:**

To retain 'Otolaryngologist' and consider adding 'Audiologist' in 18 VAC 80-20-230.1

Based on Board action consider need to change language in 18 VAC 80-20-230.2.

To retain 18 VAC 80-20-250.4.h which would keep tinnitus as a primary symptom.

Concurs with the need for appointment and notify that Richard E. Linde, M.D. has been appointed by Governor Mark Warner as the Otolaryngologist member on the Board.

Robert M. Boucher, M.D.  
Robert M. Boucher, M.D., P.C.

Opposed to change that would remove requirement that a child be required to see an otolaryngologist prior to being fitted with a hearing aid for since there is no requirement to see an audiologist there would be the chance that the child would not see anyone with adequate training. Non-specialized physicians do not have adequate training and are not fully informed on alternatives.

Opposed to change to remove requirement of referral with tinnitus as a primary symptom for other symptoms may exist and hearing aid dealer is not adequately trained to perform evaluations.

Actions were taken while no otolaryngologist was on Board and changes are self-serving to hearing aid dealers.

**Board Response:**

To retain 'Otolaryngologist' and consider adding 'Audiologist' in 18 VAC 80-20-230.1.

Based on Board action consider need to change language in 18 VAC 80-20-230.2.

To retain 18 VAC 80-20-250.4.h which would keep tinnitus as a primary symptom.

Board meeting minutes indicate that the Otolaryngologist Board Member attended meetings during the development and adoption of proposed regulations.

Eligenia M. G. Gray, M.D. F.A.C.S.  
Ear, Nose & Throat Associates of Tidewater, Inc.

Opposed to rewrite to allow a child to be fitted for a hearing aid without see an otolaryngologist for the result would be a 'Band-Aid' of a hearing aid without a proper evaluation that would identify the cause of the hearing loss.

Opposed to change to remove requirement of referral with tinnitus as a primary symptom for result would be patients being inappropriately covered up with hearing aids until other symptoms develop.

Ridiculous that board could make rules and regulations without otolaryngologist on board. Need to reverse new regulations and appoint otolaryngologist member.

**Board Response:**

To retain 'Otolaryngologist' and consider adding 'Audiologist' in 18 VAC 80-20-230.1.

Based on Board action consider need to change language in 18 VAC 80-20-230.2.

To retain 18 VAC 80-20-250.4.h which would keep tinnitus as a primary symptom.

Board meeting minutes indicate that the Otolaryngologist Board Member attended meetings during the development and adoption of proposed regulations.

Concurs with the need for appointment and notify that Richard E. Linde, M.D. has been appointed by Governor Mark Warner as the Otolaryngologist member on the Board.

John C. Mason, M.D.  
Assistant Professor,

Division of Otolaryngology/Neurotology  
Department of Otolaryngology Head and Neck Surgery  
University of Virginia Health System

Opposed to change that would remove requirement that a child be required to see an otolaryngologist prior to being fitted with a hearing aid for there is no medical background to support motion and the possibility of determining the cause. The otolaryngologist is essential for coordinating investigational techniques and rehabilitative therapy.

Opposed to change to remove requirement of referral with tinnitus as a primary symptom for tinnitus may be a sign for other underlying pathology requiring a work up and evaluation by an otolaryngologist that hearing aid dealers is not trained in.

**Board Response:**

To retain 'Otolaryngologist' and consider adding 'Audiologist' in 18 VAC 80-20-230.1

Based on Board action consider need to change language in 18 VAC 80-20-230.2.

To retain 18 VAC 80-20-250.4.h which would keep tinnitus as a primary symptom.

Michael Armstrong, Jr., M.D.  
Advanced Otolaryngology, P.C.

Opposed to removal of requirement that children with hearing loss be evaluated by a physician before purchasing hearing aids for hearing aid specialists do not have qualifications to diagnose causes and whereas a qualified physician can diagnose some congenital abnormalities, most pediatricians and family physicians are uncomfortable evaluating sensorineural hearing loss in children. State recognizes need by requiring newborn hearing screening.

**Board Response:**

To retain 'Otolaryngologist' and consider adding 'Audiologist' in 18 VAC 80-20-230.1

Based on Board action consider need to change language in 18 VAC 80-20-230.2.

Peter A. Johnson, M.D.  
Catherine S. Smith, M.D.  
Matthew E. Karen, M.D.  
Ingrid C. Iwanow, M.D.  
John R. Owen, M.A., CCC-A/SLP FAAA  
Ear, Nose & Throat Consultants of Winchester, Inc.

Opposed to change that would remove requirement that a child be required to see an otolaryngologist prior to being fitted with a hearing aid for the result may be that the child would not see any medical person with adequate training. Any licensed physician does not have training to be the only consulting physician and the knowledge necessary is not found among primary care pediatric physicians.

Opposed to change to remove requirement of referral with tinnitus as a primary symptom for it may cause another medical condition to be missed and would be covered up with a hearing aid.

**Board Response:**

To retain ‘Otolaryngologist’ and consider adding ‘Audiologist’ in 18 VAC 80-20-230.1

Based on Board action consider need to change language in 18 VAC 80-20-230.2.

To retain 18 VAC 80-20-250.4.h which would keep tinnitus as a primary symptom.

Richard E. Gardner, M.D.  
Ear, Nose & Throat Specialists of Northern Virginia, p.c.

Opposed to change that would remove requirement that a child be required to see an otolaryngologist prior to being fitted with a hearing aid because of the need for special training. Changes would be disservice to Virginia’s population.

**Board Response:**

To retain ‘Otolaryngologist’ and consider adding ‘Audiologist’ in 18 VAC 80-20-230.1.

Based on Board action consider need to change language in 18 VAC 80-20-230.2.

Edward D. Marion, M.D.  
Ear, Nose & Throat Specialists of Northern Virginia, p.c.

Opposed to change to remove requirement of referral with tinnitus as a primary symptom in order for identification of underlying medical conditions that require treatment. Hearing aid specialists and audiologists do not have sufficient knowledge or abilities to diagnose and treat these major medical conditions.

Urges appointment of otolaryngologist to Board.

**Board Response:**

To retain 18 VAC 80-20-250.4.h which would keep tinnitus as a primary symptom.

Concurs with the need for appointment and notify that Richard E. Linde, M.D. has been appointed by Governor Mark Warner as the Otolaryngologist member on the Board.

Leslie C. Ellwood, MD, FAAP

Opposed to change that would remove requirement that a child be required to see an otolaryngologist prior to being fitted with a hearing aid because it would severely lessen the quality of physician oversight in Virginia. Pediatricians and Family Practice Physicians do not training or practice experience in assessing audiometric assessments for an infant or child.

**Board Response:**

To retain 'Otolaryngologist' and consider adding 'Audiologist' in 18 VAC 80-20-230.1.

Based on Board action consider need to change language in 18 VAC 80-20-230.2.

Ryan S. Viner  
Associate Director, Political Affairs  
The Medical Society of Virginia

Board has made revisions without expertise of Otolaryngologist on Board.

Opposed to change that would remove requirement that a child be required to see an otolaryngologist prior to being fitted with a hearing aid because it is an attempt to dilute role of otolaryngologists in hearing aid care and is contrary to FDA guidelines. Regulations should at a minimum be in accordance with FDA guidelines and state evaluation be performed by a licensed physician, preferably an otolaryngologist.

Opposed to change to remove requirement of referral with tinnitus as a primary symptom for investigation of cause and underlying conditions.

Board has made revisions without expertise of Otolaryngologist on Board.

**Board Response:**

Board meeting minutes indicate that the Otolaryngologist Board Member attended meetings during the development and adoption of proposed regulations.

To retain 'Otolaryngologist' and consider adding 'Audiologist' in 18 VAC 80-20-230.1.

Based on Board action consider need to change language in 18 VAC 80-20-230.2.

To retain 18 VAC 80-20-250.4.h which would keep tinnitus as a primary symptom.

David R. Nielsen, MD  
Executive Vice President  
American Academy of Otolaryngology-Head and Neck Surgery

Opposed to change that would remove requirement that a child be required to see an otolaryngologist prior to being fitted with a hearing aid because heightened special concerns regarding children and is contrary to FDA guidelines. Noted opposition to change by Virginia Chapter of the American Academy of Pediatrics. Regulations should at a minimum be in accordance with FDA guidelines and state evaluation be performed by a licensed physician, preferably an otolaryngologist.

Opposed to change to remove requirement of referral with tinnitus as a primary symptom for executive review has determined there is no direct conflict with federal law and provides greater protection. Without referral, patients would be at risk of not receiving appropriate care.

Opposed to repeal of licensure without examination to licensed and ABO-eligible otolaryngologists based on education received and expertise demonstrated. Repeal is effort to play gatekeeper role.

Board has conducted business without expertise of Otolaryngologist on Board.

**Board Response:**

To retain 'Otolaryngologist' and consider adding 'Audiologist' in 18 VAC 80-20-230.1.

Based on Board action consider need to change language in 18 VAC 80-20-230.2.

To retain 18 VAC 80-20-250.4.h which would keep tinnitus as a primary symptom.

Board meeting minutes indicate that the Otolaryngologist Board Member attended meetings during the development and adoption of proposed regulations.

Notify that 18 VAC 80-20-60 was repealed due to duplication of Section 54.1-1501.A of the Code of Virginia.

Cheryl D. McGinnis  
Executive Director

Rachel D. Wray  
Director of Advocacy and Support  
American Tinnitus Association

Opposed to change to remove requirement of referral with tinnitus as a primary symptom for a thorough medical assessment, investigation of cause, and appropriate treatment of underlying conditions may not occur.

**Board Response:**

To retain 18 VAC 80-20-250.4.h which would keep tinnitus as a primary symptom.

Danny W. Gnewikow, Ph.D., Audiologist, CCC  
Audiology Hearing Aid Associates

Supports the repeal of pertaining to license for physician for details of the academic and practicum portion of the hearing aid examination should be demonstrated by all hearing aid specialists license applicants.

States current language concerning fees is confusing and needs clarification.

**Board Response:**

Notify that 18 VAC 80-20-60 was repealed due to duplication of Section 54.1-1501.A of the Code of Virginia.

The Board will review the regulations as they pertain to language in the fee section.

### Detail of Changes

*Please detail any changes, other than strictly editorial changes, that are being proposed. Please detail new substantive provisions, all substantive changes to existing sections, or both where appropriate. This statement should provide a section-by-section description - or crosswalk - of changes implemented by the proposed regulatory action. Include citations to the specific sections of an existing regulation being amended and explain the consequences of the changes.*

The board proposes the following:

**18 VAC 80-20-10** - The board proposes to clarify the definition of "Audiologist" by citing § 54.1-2600 of the Code of Virginia. The board also proposes to clarify the definition of "Reciprocity", "Board", and "Department", and to delete the definition of "Affidavit" and "Otolologist".

**18 VAC 80-20-30** - The board proposes to clarify the basic qualifications and entry requirements for licensure by simplifying the language. The board will include language to require disclosure of convictions of any crime, and specify what types of conviction documentation are admissible as evidence. The language inclusion makes the board consistent with other DPOR boards.

**18 VAC 80-20-40** - The board proposes to clarify qualifications for a temporary permit. Language will be included to specify the reasons for which the board will extend a temporary

permit, to require disclosure of disciplinary actions; this disclosure is consistent with 18 VAC 80-20-30 and to specify certification requirements as well as duties of licensed sponsors of temporary permit holders.

**18 VAC 80-20-60** – Repeal for language repetitive of § 54.1-1501.A. of the Code of Virginia.

**18 VAC 80-20-70** – The board proposes to clarify Department responsibility concerning dishonored check fee and will remove language from the fee chart for this is a Department function and should not be included in board regulations. Language concerning due date was remove for clarity for language was confusing. There is no anticipated fiscal impact.

**18 VAC 80-20-80** - The board proposes to change examination requirements to only require retaking those examination sections that were failed.

**18 VAC 80-20-120** – The board proposes for clarity to add reference language. The board proposes to remove language which allows for the delaying or withholding of services provided by the department in the event of failure or timely payment of monetary payments or fees assessed by a consent or final order.

**18 VAC 80-20-140** - The board proposes to allow a regulant to reinstate his license for a period of two years following the license expiration. Currently, a licensee may reinstate only for a period of twelve months following expiration of the license. The board proposes for clarity to add reference language.

**18 VAC 80-20-150** - The board proposes to remove language which allows for the delaying or withholding of services provided by the department in the event of failure or timely payments of monetary payments or fees assessed by a consent or final order.

**18 VAC 80-20-160** - The board proposes to include language, which will provide reinstated licenses with the same expiration date as all licenses, which were renewed on schedule.

**18 VAC 80-20-170** - Repeal for language repetitive of 18 VAC 80-20-270. Grounds for discipline. of the board's regulations.

**18 VAC 80-20-180** - The board proposes to include language specifying that the license must be visibly displayed at "each physical site of employment," and that a photocopy of the license is "acceptable" if one practices at more than one site.

**18 VAC 80-20-200** - The board proposes this section to pertain to repair and/or service, to remove "sale" from this section as it only pertains to repair and/or service and add "equipment"



to items being repaired or service and language requiring that documentation provided to each purchaser be signed by the licensee or designee. Language will be removed which required the marking of "not new, sold or rented hearing aids".

**18 VAC 80-20-210** - The board proposes to clarify language pertaining to the principal place of business, as well as the purchaser and/or prospective purchaser.

**18 VAC 80-20-220** - The board proposes to clarify the information to be included on the purchase agreement versus dictating the actual purchase agreement language.

**18 VAC 80-20-230** - The board proposes to clarify what documentation from a otolaryngologist or physician must be presented before a child under 18 years of age may be fitted with a hearing aid.

**18 VAC 80-20-240** - The board proposes to include language specifying what documentation is required should an adult client decline the recommendation to obtain a written statement signed by a licensed physician stating that the patient's hearing loss has been medically evaluated within the preceding six months and that the patient may be a candidate for a hearing aid. The new language will also reference section 18 VAC 80-20-220.

**18 VAC 80-20-250** - The board proposes to make this section less restrictive by eliminating the requirement for speech tests to be performed after fittings, but to provide continued protection to the citizens of the Commonwealth clarified that post-fitting tests are required.

**18 VAC 80-20-260** - The board proposes to make this section less restrictive by removing the requirement to send certified copies of electronic audiometer calibration statements to the board annually. New language will require that the statements be maintained for three years by the regulant and shall be made available to the department upon request.

**18 VAC 80-20-270** - The board proposes to include language to require disclosure of convictions of any crime, and specify what types of conviction documentation are admissible as evidence. The language inclusion makes the board consistent with other DPOR boards.

### Family Impact Statement

*Please provide an analysis of the regulatory action that assesses the impact on the institution of the family and family stability including the extent to which the regulatory action will: 1) strengthen or erode the authority and rights of parents in the education, nurturing, and supervision of their children; 2) encourage or discourage economic self-sufficiency, self-pride, and the assumption of responsibility for oneself, one's spouse, and one's children and/or elderly parents; 3) strengthen or erode the marital commitment; and 4) increase or decrease disposable family income.*

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An analysis of the proposed regulatory action assesses that there should be no potential impact on the institution of the family and family stability in that it should not strengthen or erode the authority and rights of parents in the education, nurturing, and supervision of their children; should not encourage or discourage economic self-sufficiency, self-pride, and the assumption of responsibility for oneself, one's spouse, and one's children and/or elderly parents; should not strengthen or erode the marital commitment; and may not increase or decrease disposable family income.