



Virginia  
Regulatory  
Town Hall

## Final Regulation Agency Background Document

<b>Agency Name:</b>	Board of Audiology and Speech-Language Pathology
<b>VAC Chapter Number:</b>	18 VAC 30-20-10 et seq.
<b>Regulation Title:</b>	Regulations Governing the Practice of Audiology and Speech-Language Pathology
<b>Action Title:</b>	Periodic review
<b>Date:</b>	

Please refer to the Administrative Process Act (§ 9-6.14:9.1 *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*Please provide a brief summary of the new regulation, amendments to an existing regulation, or the regulation being repealed.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or changes contained in the proposed new regulation, amendments to an existing regulation, or the regulation being repealed.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.*

Regulations are promulgated to provide educational and examination requirements for the licensure of audiologists and speech-language pathologists. Provisions also establish requirements for renewal or reinstatement of a license, fees to support the regulatory and disciplinary activities of the board, standards for supervision of unlicensed assistants, and criteria for unprofessional conduct.

The Board has adopted amendments to address certain issues related to initial licensure, supervision of unlicensed assistants, and unprofessional conduct.

## Changes Made Since the Proposed Stage

*Please detail any changes, other than strictly editorial changes, made to the text of the proposed regulation since its publication. Please provide citations of the sections of the proposed regulation that have been altered since the proposed stage and a statement of the purpose of each change.*

Changes to clarify the regulation were made in the following section:

### **18 VAC 30-20-170. Requirements for licensure.**

A (1) Since the American Board of Audiology issues a certification that is different from the Certificate of Clinical Competence issued by ASHA, the Board modified the language to distinguish the two.

A (2) An amendment was added to clarify that the one of the past three years of active practice must be preceding the date of application.

B (1) The word “degree” was added after “master’s.”

B (2) Changes were made to make the language identical to that in A (2) since the two subsections are intended to have the same 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.*

The Board of Audiology and Speech-Language Pathology adopted final amendments to 18 VAC 30-20-10 et seq., Regulations Governing the Practice of Audiology and Speech-Language Pathology on March 22, 2003.

## 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*

18 VAC 30-20-10 et seq. Regulations Governing the Practice of Audiology and Speech-Language Pathology was promulgated under the general authority of Title 54.1 of the Code of Virginia.

Chapter 24 establishes the general powers and duties of health regulatory boards including the responsibility to promulgate regulations, levy fees, administer a licensure and renewal program, and discipline regulated professionals.

*§ 54.1-2400. General powers and duties of health regulatory boards.--The general powers and duties of health regulatory boards shall be:*

- 1. To establish the qualifications for registration, certification or licensure in accordance with the applicable law which are necessary to ensure competence and integrity to engage in the regulated professions.*
- 2. To examine or cause to be examined applicants for certification or licensure. Unless otherwise required by law, examinations shall be administered in writing or shall be a demonstration of manual skills.*
- 3. To register, certify or license qualified applicants as practitioners of the particular profession or professions regulated by such board.*
- 4. To establish schedules for renewals of registration, certification and licensure.*
- 5. To levy and collect fees for application processing, examination, registration, certification or licensure and renewal that are sufficient to cover all expenses for the administration and operation of the Department of Health Professions, the Board of Health Professions and the health regulatory boards.*
- 6. To promulgate regulations in accordance with the Administrative Process Act (§ 9-6.14:1 et seq.) which are reasonable and necessary to administer effectively the regulatory system. Such regulations shall not conflict with the purposes and intent of this chapter or of Chapter 1 and Chapter 25 of this title.*
- 7. To revoke, suspend, restrict, or refuse to issue or renew a registration, certificate or license which such board has authority to issue for causes enumerated in applicable law and regulations.*
- 8. To appoint designees from their membership or immediate staff to coordinate with the Intervention Program Committee and to implement, as is necessary, the provisions of Chapter 25.1 (§ 54.1-2515 et seq.) of this title. Each health regulatory board shall appoint one such designee.*
- 9. To take appropriate disciplinary action for violations of applicable law and regulations.*
- 10. To appoint a special conference committee, composed of not less than two members of a health regulatory board, to act in accordance with § 9-6.14:11 upon receipt of information that a practitioner of the appropriate board may be subject to disciplinary action. The special conference committee may (i) exonerate the practitioner; (ii) reinstate the practitioner; (iii) place the practitioner on probation with such terms as it may deem appropriate; (iv) reprimand the practitioner; (v) modify a previous order; and (vi) impose a monetary penalty pursuant to § 54.1-2401. The order of the special conference committee shall*

*become final thirty days after service of the order unless a written request to the board for a hearing is received within such time. If service of the decision to a party is accomplished by mail, three days shall be added to the thirty-day period. Upon receiving a timely written request for a hearing, the board or a panel of the board shall then proceed with a hearing as provided in § 9-6.14:12, and the action of the committee shall be vacated. This subdivision shall not be construed to affect the authority or procedures of the Boards of Medicine and Nursing pursuant to §§ 54.1-2919 and 54.1-3010.*

*11. To convene, at their discretion, a panel consisting of at least five board members or, if a quorum of the board is less than five members, consisting of a quorum of the members to conduct formal proceedings pursuant to § 9-6.14:12, decide the case, and issue a final agency case decision. Any decision rendered by majority vote of such panel shall have the same effect as if made by the full board and shall be subject to court review in accordance with the Administrative Process Act. No member who participates in an informal proceeding conducted in accordance with § 9-6.14:11 shall serve on a panel conducting formal proceedings pursuant to § 9-6.14:12 to consider the same matter.*

*12. To issue inactive licenses and certificates and promulgate regulations to carry out such purpose. Such regulations shall include, but not be limited to, the qualifications, renewal fees, and conditions for reactivation of such licenses or certificates.*

Authority for the licensure of audiologists and speech-language pathologists may be found in Chapter 26 of Title 54.1 of the Code of Virginia.

<http://leg1.state.va.us/000/lst/h3916603.HTM>

The office of the Attorney General has certified that the agency has the statutory authority to promulgate the proposed regulation 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.*

The purpose of the amended regulation is to revise certain prerequisites for licensure that may be unnecessarily restrictive and adopt requirements that are reasonable and essential to protect the public health, safety and welfare. The intent of the changes is to eliminate barriers to licensure, such as the requirement that an applicant who passed the qualifying examination more than 3 years ago be engaged in active practice for the 24 months immediately preceding application. The amendments will also update the unprofessional conduct section to ensure that practitioner can use electronic communication in the follow-up with a patient or another practitioner.

## 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.*

The board is recommending amendments to its regulations for the licensure of audiologists and speech-language pathologists in order to update the accrediting bodies that certify competency in one of the professions, to enable the Board to license students in a doctoral program who have the equivalency of a master's degree, to allow follow-up on patients by electronic communication, and to address concerns about the adequacy of supervision for unlicensed assistants. Other amendments are recommended for greater clarity for the regulated entities.

## 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.*

The primary advantage to the public of implementing the amended regulations is the elimination of barriers to licensure that might discourage some persons from seeking licensure as an audiologist or speech-language pathologist. At a time when the number of persons in need of care is increasing, the Board is attempting to eliminate or reduce the regulatory burden. Amendments will allow an applicant who passed the examination more than 3 years ago to demonstrate competency by practice for one of the past three years, rather than the current requirement of 24 consecutive months. In addition, an amendment will enable the practitioner to communicate with or about his patient by electronic communication, whereas only written communication is presently allowed.

There are no disadvantages to the public as all amendments are intended to provide the training and education necessary to ensure that practitioners are knowledgeable and experienced in the care and treatment of consumers.

There are no disadvantages to the agency; the amended regulation does not impose a new responsibility on the Board and does not involve additional cost or staff time. There may be an advantage to the Commonwealth if the amended regulations have the intended result of encouraging more persons to seek licensure.

## 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.*

Proposed regulations were published in the Virginia Register of Regulations on December 2, 2002. A Public Hearing before the Board was held on December 11, 2002, at which time there were no public comments on the proposed regulations. Public comment was requested for a 60-day period ending January 31, 2003; during that period, comments were received from three individuals as follows:

The Department Chair and Professor at James Madison University objected to amendments to section 170 to include the American Board of Audiology (ABA) as a credentialing body for education in audiology. According to his statement, requirements for ABA certification have not been developed by a detailed task analysis nor tested by validation studies. It does not provide a measure of program quality and has no minimum number of supervisory activities required for a clinical fellowship. Finally, ABA certification is not recognized by the U. S. Department of Education.

The Director for Student Services with the Virginia Department of Education also wrote to object to the inclusion of ABA certification to qualify an applicant for licensure in audiology. Federal Medicaid regulations require audiologists to have completed their Certificate of Clinical Competency from the American Speech and Language Association; they do not recognize ABA certification. If Virginia licensure is based on ABA certification, it might jeopardize Medicaid reimbursement in public schools and other settings.

A Professor at James Madison University wrote to support the amendment to section 170 B that will allow applicants who have an equivalent of a master's degree to be licensed; it will help JMU students at the present time. However, she supports granting only a temporary license prior to receipt of a doctoral degree. Both the American Academy of Audiology and the American Speech Language Hearing Association are recommending a doctoral degree in the future (AAA by 2007 and ASHA by 2012). This regulation will place Virginia out-of-step with national credentialing bodies, so the Board should move toward full licensure only with a doctoral degree. She supported making a doctoral degree in Audiology the minimum requirement but providing for a provisional license for those with a master's degree.

### **Board response:**

The Board examined and compared the requirements for obtaining and maintaining certification by the American Board of Audiology (ABA) and by the American Speech-Language-Hearing Association (ASHA). Both require a master's or doctoral degree, 600 on the Praxis II examination, 300 to 375 hours of clinical practicum as a part of the degree program, and recertification every 3 years with 30 to 45 hours of CE. The differences between the two credentials appeared to be minimal, so the Board determined that it would adopt the proposed regulation to accept the ABA credential as well as ASHA for initial licensure. The objection based on Medicaid funding was considered but was not a factor in determining competency to practice.

In response to the comment proposing a doctoral degree with provisional licensure in Audiology for those with a master's degree, the Board has determined that such a requirement would be overly burdensome at this time, since the national standard remains a master's degree until at least 2007. The Board does not have statutory authority to issue a provisional license, so such a change would necessitate a change in the Code of Virginia.

## 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 following amendments are adopted for 18 VAC 30-20-10 et seq.:

### **18 VAC 30-20-10. Definitions.**

The Board has modified the definition of "supervision" to clarify that the responsibilities of a licensee in delegating and supervising tasks to an unlicensed person includes documentation of such supervision.

### **18 VAC 30-20-150. Renewal.**

Since 1998, when the renewal schedule was changed from annual to biennial, the Board has been renewing licenses every even year. There has been an error in the regulation, which states that renewal occurs every odd year; a correction is necessary to make the regulation consistent with the established schedule.

### **18 VAC 30-20-170. Requirements for licensure.**

- An additional accrediting body, the American Board of Audiology, is recognized for credentialing candidates for licensure consistent with professional standards and with the authority of the Board to approve accrediting bodies
- In subsection B, the requirement for either completion of the qualifying examination within the past three years or employment for 24 consecutive months preceding application is amended to only require active practice for one of the past three years to remove any unnecessary barrier to licensure. A similar provision in subsection A, which applies to persons who have completed their Certificate of Clinical Competency, is amended for consistency.

### **18 VAC 30-20-240. Supervisory responsibilities.**

To ensure that an audiologist or speech-language pathologist is providing supervision for the activities of an unlicensed assistant, the amendment would add the word "documented" to

supervision. That would ensure that there has been some documentation that supervision, whether by a chart review or some other means, has actually occurred.

**18 VAC 30-20-280. Unprofessional conduct.**

Current rules prohibit diagnosis or treatment solely by written correspondence. The intent of the rule is to prohibit a diagnosis on a patient who has not actually be examined or evaluated by the licensee. Since technology would now open the possibility of making a diagnosis solely by correspondence via the Internet, the language of the prohibition needs to be clarified to cover situations other than "written correspondence." The amended language would need to ensure that a follow-up could occur by telecommunications and that a licensee would be allowed to provide consultation on the patient of another licensee.

### 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.*

The agency has reviewed the proposed regulation in relation to its impact on the institution of the family and family stability. There would be no effect of the proposal on the authority and rights of parents, economic self-sufficiency, and the marital commitment or on disposable family income.