



Virginia  
Regulatory  
Town Hall

## Final Regulation Agency Background Document

<b>Agency Name:</b>	Board of Audiology & Speech-Language Pathology / Department of Health Professions
<b>VAC Chapter Number:</b>	18 VAC 30-20-10 et seq.
<b>Regulation Title:</b>	Regulations Governing the Practice of Audiology & Speech-Language
<b>Action Title:</b>	Increase in fees
<b>Date:</b>	May 20, 2004

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*Please provide a brief summary of the new regulation, amendments to an existing regulation, or the regulation being repealed.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or changes contained in the proposed new regulation, amendments to an existing regulation, or the regulation being repealed.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.*

The Board of Audiology and Speech-Language Pathology has adopted an increase in the renewal and related fees for licensees and amended policies for late renewal and reinstatement for consistency with other professions and with established fee principles for all boards. In addition, the renewal cycle has changed from a biennial to an annual renewal.

### 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.*

There were no changes made to the proposed regulation in the final adoption.

### 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.*

On May 20, 2004, 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, in order to increase certain fees as necessary for compliance with § 54.1-113 of the Code of Virginia.

### 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*

**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. Excerpts of:

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

- 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.*

The statutory authority for licensure and regulation of audiologists and speech-language pathologists is found in Chapter 26 of Title 54.1 of the Code of Virginia:

<http://leg1.state.va.us/000/lst/h3703288.HTM>

**The proposed regulation is mandated by § 54.1-113:**

*§ 54.1-113. Regulatory boards to adjust fees.--Following the close of any biennium, when the account for any regulatory board within the Department of Professional and Occupational Regulation or the Department of Health Professions maintained under § 54.1-308 or § 54.1-2505 shows expenses allocated to it for the past biennium to be more than ten percent greater or less than moneys collected on behalf of the board, it shall revise the fees levied by it for certification or licensure and renewal thereof so that the fees are sufficient but not excessive to cover expenses.*

The Office of the Attorney General has certified that the Board 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 regulatory action is to address the need of the Board of Audiology & Speech-Language Pathology to generate sufficient income to cover expenses for essential functions of the approving applicants for licensure to ensure minimal competency in the professions and for the investigation of complaints against licensees and adjudication of disciplinary cases as required to protect public health and safety in the Commonwealth.

In the analysis of the funding under the current fee structure, a deficit of \$80,387 for the '00-'02 biennium has been reported. The total budget for FY03, including direct and allocated expenditures was \$184,722, but revenues were only \$173,840. That combined with the carry-over debt of the Board resulted in a deficit of (\$91,269) by June 30, 2003. Since licensees of the Board renew biennially in even years, there will not be another renewal date until December 2004, so the estimated income for the Board for FY04 is only \$17,035. Expenditures for FY04 are estimated to be \$165,000, resulting in an estimated deficit by June 30, 2004 of (\$239,234). Through March 31, 2004, the cash balance for the Board was (\$188,693), so the Board will clearly end this fiscal year with a substantial deficit.

§ 54.1-113 of the *Code of Virginia* requires that at the end of each biennium, an analysis of revenues and expenditures of each regulatory board shall be performed. It is necessary that each board have sufficient revenue to cover its expenditures. By the close of the 2000-2002 biennium, the Board of Audiology & Speech-Language Pathology had a deficit, and it is projected that the Board will continue to have a larger deficit through the next two biennia. Since the fees from licensees have fallen short of the operating expenses for the Board, a fee increase is essential.

In addition, the Board proposes to add a fee for approval of a continuing education provider. The process for approving a CE provider entails submission of an application with documentation on the courses, instructors and objectives. Each application must be reviewed by staff for completeness, and staff time is often taken with securing follow-up information. Application packages must be copied and provided to members of the continuing education committee for their review and approval. Those members are entitled to per diem for the time spent in review. If there is no

agreement among members of the committee or if the provider disputes the decision of the committee, a special conference committee must be convened to hear the case. That would necessitate expenditures related to bringing board members to Richmond or hearing the case in venue.

In order to have adequate funding for the operation of the Board by the end of fiscal year 2004-05, it is necessary to promulgate amendments to regulations at the earliest possible date.

## 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 substantive change is an increase in renewal fees for licensees and a change from a biennial renewal to an annual renewal. Renewal of licensure increases from \$60 biennially to \$75 annually for licensed audiologists and speech-language pathologists and for school speech-language pathologists, it increases from \$60 biennially to \$40 annually.

Other fees that are built on the basis of the renewal fees are increased accordingly, including the application fee, the late fee, and the reinstatement fee. Fees for inactive licensees are typically set at one-half the active fee, so those are also increased. Miscellaneous fees are set to recover actual cost, so the fee for duplicate wall certificate increases from \$15 to \$25. There is a new fee established for board approval of a continuing education sponsor set at \$200.

Rules are changed to require reinstatement after one renewal cycle, which would now be one year. In order to reinstate, documentation of continuing education is required for the number of years in which the license has been lapsed, not to exceed 4 years. After 4 years, a person must reapply and meet the qualifications in effect at the time of the application. It also adds a provision to allow the Board to deny reinstatement to anyone who is determined to have committed an act in violation of law or regulation.

## 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.*

There are no advantages or disadvantages to the public, which is not directly impacted by an increase in fees for audiologists and speech-language pathologists. An additional \$45 per year in the cost of maintaining a license is unlikely to have any effect on the supply of licensees in Virginia nor is it likely to result in an increase in provider services.

The primary advantage to the agency, the Board of Audiology and Speech-Language Pathology, is that increased revenue from fees will offset the deficits that have accumulated over the past three fiscal years. Without an increase, the Board would be faced with severe curtailment of its primary functions of licensing, renewing and disciplining practitioners. There are no disadvantages to the agency or the Commonwealth.

**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 January 12, 2004 with a public comment requested for a 60-day period ending March 13, 2004. A Public Hearing before the Board was held on February 19, 2004; there was no comment received. One written comment was received as follows:

Dr. Danny Gnewikow, audiologist, objected to the change to an annual renewal, as it will necessitate additional paperwork for persons who must provide a copy of a current license for credentialing. He also opposed the change to an annual time frame for acquiring CE credits, which reduces the flexibility of the licensees.

**Board response:** Regulations for continuing education have not been amended; a licensee will still be required to attest to having obtained 30 contact hours of continuing learning activities every two years. Therefore, while the licensee will renew every year, he will only be asked to attest to CE compliance with the 30-hour requirement every two years (likely in even years). With on-line renewal, the Board does not believe annual renewal of licensure will be burdensome for licensees.

**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.*

Current section number	Current requirement & Proposed change	Rationale
80	Application fee for fully licensed persons increases from \$100 to \$135; application fee for school speech-language pathologists increases from \$50 to \$70.  Renewal of licensure goes from biennial to annual and increases	Funding from fees has failed to keep up with expenditures in the past two biennia. In the '00-'02 biennium, the Board had \$190,815 in revenue and expenses of \$335,455. Cash balance by June 30, 2002 was (\$80,387). Since revenue from renewal of active licenses represents approximately 80% of the total and most other fees are based on the renewal fee, that fee was set to generate income sufficient to eliminate the deficit and meet expenditures in the next two fiscal years. To lessen the impact of the fee increase and facilitate annual budgets, the Board

	<p>from \$60 to \$75 for fully licensed and \$40 for school s-l-p.</p> <p>Late fee set at \$25 for audiologists and s-l-p; \$15 for school s-l-p.</p> <p>Reinstatement fee for audiologists and s-l-p set at \$135 and \$70 for school s-l-p.</p> <p>Fee for duplicate wall certificate increases from \$15 to \$25.</p> <p>Inactive renewal fees increase from \$30 to \$40 for fully licensed and set at \$20 for school s-l-p.</p> <p>Approval of a continuing education sponsor set at \$200.</p>	<p>elected to change from a biennial to an annual renewal.</p> <p>According to the Fee Principles proposed by the agency and accepted by the Executive Branch for setting fees, the application fee should include the cost of a renewal (\$75) (initial license is valid through one renewal cycle), submission and review of application (\$30), and issuance of a license and wall certificate (\$30).</p> <p>Also, the Fee Principles state that a profession with a limited scope of practice, such as the school speech-language pathologist, should pay fees less than those of fully licensed persons who are audiologists or speech-language pathologists. Therefore, their fees for applications, renewal or late payments are set at ½ the amount of fully licensed individuals. Likewise, the Principles state that an inactive licensee should pay approximately ½ the renewal fee of an active licensee.</p> <p>The late fee is set at approximately 1/3 of the renewal fee, and reinstatement should include the late fee, the renewal fee, and the cost of reviewing and processing a reinstatement application. The fee should be approximately the same as an initial application. In current regulation, the reinstatement fee is actually the late fee (\$20) based on the current renewal fee of \$60.</p> <p>The process for approving a CE provider entails submission of an application with documentation on the courses, instructors and objectives. Each application must be reviewed by staff for completeness, and staff time is often taken with securing follow-up information. Application packages must be copied and provided to members of the continuing education committee for their review and approval. Those members are entitled to per diem for the time spent in review. If there is no agreement among members of the committee or if the provider disputes the decision of the committee, a special conference committee must be convened to hear the case. That would necessitate expenditures related to bringing board members to Richmond or hearing the case in venue. \$200 is a minimal fee to offset expenditures related to this activity.</p>
150	<p>Renewal schedule amended from biennial to annual; rules set for renewal of a lapsed license within one year of expiration</p>	<p>The rationale for the annual renewal is related to the percentage of increase in the fee to lessen the impact for licensee. Current regulation states that anyone who fails to renew has an invalid license; proposed regulations provide that a license is lapsed after the expiration date and practice with a lapsed license may subject the licensee to disciplinary action. The Fee Principles recommend consistency in board policies to permit late renewals for one renewal cycle and reinstatement thereafter. Regulations have been amended to adopt such a policy.</p>
160	<p>Reinstatement is required after one renewal cycle, which would be one year. Documentation of continuing education is required for the number of years in which the license has been lapsed, not to exceed 4 years. After 4 years, a person must reapply and meet the qualifications in effect at the time of the application. It also</p>	<p>The revised regulation allows reinstatement of licensure lapsed beyond one year by payment of the fee, submission of an application and documentation of acquiring CE for the period in which the license was lapsed, not to exceed four years. Currently, if a licensee does not reinstate within two years, he has to reapply for licensure; the amended regulation changes that to four years and authorizes the Board to deny reinstatement if an applicant has committed a violation.</p>

	adds a provision to allow the Board to deny reinstatement to anyone who is determined to have committed an act in violation of law or regulation.	
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**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.*

In its preliminary analysis of the proposed regulatory action, the agency has determined that there is no potential impact on the institution of the family and family stability. There will be a modest impact on family income as renewal of licensure will increase from approximately \$30 per year to \$75.