



Proposed Regulation Agency Background Document

Agency name	Board of Audiology & Speech-Language Pathology; Department of Health Professions
Virginia Administrative Code (VAC) citation	18VAC30-20-10 set seq.
Regulation title	Regulations Governing the Practice of Audiology & Speech-Language Pathology
Action title	Periodic review – replacement of chapter
Date this document prepared	7/8/11

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), Executive Orders 14 (2010) and 58 (1999), and the *Virginia Register Form, Style, and Procedure Manual*.

Brief summary

In a short paragraph, please summarize all substantive provisions of new regulations or changes to existing regulations that are being proposed in this regulatory action.

The Board has repealed Chapter 20 and adopted a revised set of regulations in Chapter 21 to reorganize sections and provisions more logically and with more clarity. Revisions to current regulations include: 1) a change in continuing competency requirements from 30 hours within two years to 10 hours annually, offered by an approved sponsor or provider; 2) a required attestation by an applicant that he has read and will comply with the laws and regulations governing practice; 3) elimination of barriers to provisional licensure in audiology; and 4) more explicit rules for patient confidentiality, maintenance of records and violations of professional boundaries.

Acronyms and Definitions

Please define all acronyms used in the Agency Background Document. Also, please define any technical terms that are used in the document that are not also defined in the "Definition" section of the regulations.

ASHA = American Speech-Language-Hearing Association

FEES = Fiberoptic endoscopic evaluation of swallowing

SHAV= Speech-Language-Hearing Association of Virginia

SLP=Speech-Language Pathologist

Legal basis

Please identify the state and/or federal legal authority to promulgate this proposed regulation, including (1) the most relevant law and/or regulation, including Code of Virginia citation and General Assembly chapter number(s), if applicable, and (2) promulgating entity, i.e., the agency, board or person. Describe the legal authority and the extent to which the authority is mandatory or discretionary.

18VAC30-20-10 et seq. Regulations Governing the Practice of Audiology & Speech-Language Pathology are promulgated under the general authority of Chapter 24 of Title 54.1 of the Code of Virginia. Section 54.1-2400 (6) provides the Board of Audiology & Speech-Language Pathology the authority to promulgate regulations to administer the regulatory system:

§ 54.1-2400 -General powers and duties of health regulatory boards

The general powers and duties of health regulatory boards shall be:

- ...
- 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 (§ [54.1-100](#) et seq.) and Chapter 25 (§ [54.1-2500](#) et seq.) of this title. ...*

Purpose

Please explain the need for the new or amended regulation by (1) detailing the specific reasons why this regulatory action is essential to protect the health, safety, or welfare of citizens, and (2) discussing the goals of the proposal, the environmental benefits, and the problems the proposal is intended to solve.

In order to arrange the regulations governing the practice of audiology and speech-language pathology in a more understandable, logical manner, the Board repealed the current chapter and promulgated a replacement chapter. By doing so, the qualifications for each profession can be set out separately, and the regulations relating to provisional licensure in audiology can be set out in one section.

Substantively, the qualifications for licensure will not change, but the continuing education requirements are modified to reflect annual renewals and to eliminate the Type 1 and Type 2

categories. Rather than 30 hours every two years, the Board proposes a requirement of 10 hours every year with the ability to transfer or credit excess hours to the next renewal year.

Additionally, the grounds for unprofessional conduct are expanded to include problematic conduct for which the Board currently has no grounds for disciplinary action.

Consistent with the Board's responsibility to protect the health and safety of the public, it proposes additional grounds for disciplinary action for causes such as revocation, suspension or restriction by another regulatory board, failure to comply with laws on patient confidentiality and provision of records, and actions that would constitute a professional boundary.

Substance

Please briefly identify and explain new substantive provisions (for new regulations), substantive changes to existing sections or both where appropriate. (More detail about all provisions or changes is requested in the "Detail of changes" section.)

As stated above, Chapter 20 will be repealed to allow a clearer, more logical reorganization of regulations. In the major parts of regulations, the following changes will be considered:

General Provisions:

- New definitions for words and terms used in revised regulations will be added, such as "active practice" and "ASHA"; terms no longer used will be eliminated, such as "Type 1" and "Type 2." For consistency the term "client", rather than "patient" will be used throughout the regulations and included in the definitions.
- The requirement for posting a license will be amended to allow licensees to carry copies of their licenses to accommodate those who travel between facilities.
- A requirement for furnishing legal proof to the Board evidencing a name change will be added.
- There are no changes proposed in the application or renewal fees. Some administrative fees will be increased to reflect current costs and for consistency within the Department.

Requirements for Licensure

- General application requirements for both professions will be set out in one section.
- Requirements for licensure as an audiologist or as a speech-language pathologist will be placed in separate sections for greater clarity.
- All requirements relating to provisional licensure, whether issued to obtain clinical experience for initial licensure or to practice for a period under supervision to qualify for licensure by endorsement, reactivation or reinstatement, will be placed in one section rather than scattered throughout the chapter.

- Requirements for licensure by endorsement will be modified to require current certification by the American Speech-Language-Hearing Association (ASHA) or evidence of a graduate degree and passage of an examination. Currently, an applicant can qualify by documentation of a current license and active practice for three of the past five years.

Renewal and Continuing Competency (CE)

- Proposal for a reduction in the number of required CE hours from 30 hour every two years to 10 hours per year; the 10 hours would have to be verifiable by a recognizable sponsor, educational institution or organization.
- Elimination of Type 1 and Type 2 designated CE
- Addition of ability to carryover up to 10 hours of CE to the next renewal period.

Reactivation and Reinstatement

Requirements from other sections of the current regulations would be inserted in this Part; there are no substantive changes recommended.

Standards of Practice

- The Board has recommended adding language on supervisory responsibilities that the practitioner is not prohibited from delegating to an unlicensed assistant such activities or functions as are nondiscretionary and do not require the exercise of professional judgment for their performance.
- The Board has recommended adding language to address patient confidentiality, records retention, professional boundaries, advertising and disciplinary action taken by another professional regulatory agency.

Issues

Please identify the issues associated with the proposed regulatory action, including:

- 1) the primary advantages and disadvantages to the public, such as individual private citizens or businesses, of implementing the new or amended provisions;*
- 2) the primary 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 the regulatory action poses no disadvantages to the public or the Commonwealth, please indicate.

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- 1) The primary advantage to the public is clearer, more explicit rules for client confidentiality and records, professional boundaries and delegation of tasks to unlicensed assistants. In addition, greater clarity in licensure and renewal requirements

will encourage compliance with regulations to the benefit of licensees and the clients they serve. There are no disadvantages.

- 2) There are no advantages or disadvantages to the agency or the Commonwealth, except the logical order of the revised regulation and more clarity in the rules may reduce the number of questions to staff and problems with non-compliance.
- 3) There are no other pertinent matters.

Requirements more restrictive than federal

Please identify and describe any requirements of the proposal, which are more restrictive than applicable federal requirements. Include a rationale for the more restrictive requirements. If there are no applicable federal requirements or no requirements that exceed applicable federal requirements, include a statement to that effect.

There are no applicable federal requirements.

Localities particularly affected

Please identify any locality particularly affected by the proposed regulation. Locality particularly affected means any locality which bears any identified disproportionate material impact which would not be experienced by other localities.

There are no localities affected.

Public participation

Please include a statement that in addition to any other comments on the proposal, the agency is seeking comments on the costs and benefits of the proposal and the impacts of the regulated community.

In addition to any other comments, the board/agency is seeking comments on the costs and benefits of the proposal and the potential impacts of this regulatory proposal. Also, the agency/board is seeking information on impacts on small businesses as defined in § 2.2-4007.1 of the Code of Virginia. Information may include 1) projected reporting, recordkeeping and other administrative costs, 2) probable effect of the regulation on affected small businesses, and 3) description of less intrusive or costly alternative methods of achieving the purpose of the regulation.

Anyone wishing to submit written comments may do so via the Regulatory Townhall website, www.townhall.virginia.gov, or by mail to Elaine Yeatts at Department of Health Professions, 9960 Mayland Drive, Suite 300, Richmond, VA 23233 or elaine.yeatts@dhp.virginia.gov or by fax to (804) 527-4434. Written comments must include the name and address of the commenter. In order to be considered comments must be received by the last date of the public comment period.

A public hearing will be held and notice of the public hearing may appear on the Virginia Regulatory Town Hall website (www.townhall.virginia.gov) and the Commonwealth Calendar. Both oral and written comments may be submitted at that time.

Economic impact

Please identify the anticipated economic impact of the proposed new regulations or amendments to the existing regulation. When describing a particular economic impact, please specify which new requirement or change in requirements create the anticipated economic impact.

<p>Projected cost to the state to implement and enforce the proposed regulation, including (a) fund source, and (b) a delineation of one-time versus on-going expenditures.</p>	<p>As a special fund agency, the Board must generate sufficient revenue to cover its expenditures from non-general funds, specifically the renewal and application fees it charges to practitioners or entities for necessary functions of regulation. There would be a one-time expense of less than \$500 for promulgation of the amended rule. All notifications will be done electronically to minimize the cost. There are no on-going expenditures.</p>
<p>Projected cost of the <i>new regulations or changes to existing regulations</i> on localities.</p>	<p>None</p>
<p>Description of the individuals, businesses or other entities likely to be affected by the <i>new regulations or changes to existing regulations</i>.</p>	<p>Audiologists and Speech-language pathologists</p>
<p>Agency’s best estimate of the number of such entities that will be affected. Please include an estimate of the number of small businesses affected. Small business means a business entity, including its affiliates, that (i) is independently owned and operated and (ii) employs fewer than 500 full-time employees or has gross annual sales of less than \$6 million.</p>	<p>There are 2870 speech-language pathologists; 456 audiologists; and 98 school speech pathologists. Since there are no data kept on practice sites for these professions, there is no information on the number of small businesses. Speech-language pathologists are generally employed by health care institutions or school systems. Audiologists are generally employed by health care systems or physician practices or have independent practice.</p>
<p>All projected costs of the <i>new regulations or changes to existing regulations</i> for affected individuals, businesses, or other entities. Please be specific and include all costs. Be sure to include the projected reporting, recordkeeping, and other administrative costs required for compliance by small businesses. Specify any costs related to the development of real estate for commercial or residential purposes that are a consequence of the proposed regulatory changes or new regulations.</p>	<p>There are no projected costs for changes to the existing regulations.</p>
<p>Beneficial impact the regulation is designed to produce.</p>	<p>The beneficial impact is greater protection for patient records, appropriate delegation of tasks to unlicensed persons and less confusion about continuing competency requirements.</p>

Alternatives

Please describe any viable alternatives to the proposal considered and the rationale used by the agency to select the least burdensome or intrusive alternative that meets the essential purpose of the action. Also, include discussion of less intrusive or less costly alternatives for small businesses, as defined in §2.2-4007.1 of the Code of Virginia, of achieving the purpose of the regulation.

Upon review of the requirements for licensure, the Board has expressed its concern that speech-language pathologists are not required to complete a Clinical Fellowship Year (CFY). They can be fully licensed upon completion of the educational requirements and passage of the examination without any supervised experience in treating clients.

To address similar concerns for audiologists, the Board recommended in 2006 legislation for a provisional license in audiology to allow a person who has met the educational and examination to obtain supervised experience or a CFY. At that time, it was not deemed necessary to have a similar proposal for speech-language pathologists.

The current Board is concerned that speech-language pathologists (SLP's) are being licensed without supervised experience and has requested that staff explore the number of states currently requiring a CFY for (SLP's) as well as audiologists. In order to allow SLP's to practice during the clinical fellowship year, it would be necessary to introduce legislation to expand language in § 54.1-2604 for provisional licensure to include SLP's.

Additionally, the Board has noted in its review that dual licensure by the Board of Education and this Board for school speech-language pathologists may be duplicative and not be necessary. In most states, there is now a single license issued by the health regulatory board that oversees the licensure and practice of SLP's. Currently in Virginia, the Code (§ 54.1-2603) requires a person seeking licensure from this Board as a school speech-language pathologist to first hold a license with an endorsement in speech-language pathology from the Board of Education, so introduction of legislation would be necessary to eliminate the duplication. There has been some preliminary discussion with the Department of Education, and the concept of a single license will be explored further.

Regulatory flexibility analysis

Please describe the agency's analysis of alternative regulatory methods, consistent with health, safety, environmental, and economic welfare, that will accomplish the objectives of applicable law while minimizing the adverse impact on small business. Alternative regulatory methods include, at a minimum: 1) the establishment of less stringent compliance or reporting requirements; 2) the establishment of less stringent schedules or deadlines for compliance or reporting requirements; 3) the consolidation or simplification of compliance or reporting requirements; 4) the establishment of performance standards for small businesses to replace design or operational standards required in the proposed regulation; and 5) the exemption of small businesses from all or any part of the requirements contained in the proposed regulation.

There are no alternative methods consistent with health, safety and welfare that will accomplish the objective.

Public comment

Please summarize all comments received during the public comment period following the publication of the NOIRA, and provide the agency response.

A Notice of Periodic Review was published on July 5, 2010 with comment requested until August 4, 2010; no comment was received.

A Notice of Intended Regulatory Action was published on April 11, 2011 with comment requested until May 11, 2011; no comment was received.

Family impact

Please assess the impact of the proposed regulatory action on the institution of the family and family stability including to what extent 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.

There is no impact on the family.

Detail of changes

Chapter 20 is being repealed and replaced by Chapter 21 in order to reorganize regulations in a more logical manner.

Section number	Proposed requirements	Other regulations and law that apply	Intent and likely impact of proposed requirements
10	<p>A. The words and terms "audiologist," "board," "practice of audiology," "practice of speech-language pathology," "speech-language disorders," and "speech-language pathologist" when used in this chapter shall have the meanings ascribed to them in § 54.1-2600 of the Code of Virginia.</p> <p>B. The following words when used in this chapter shall have the following meanings unless the context clearly indicates otherwise:</p> <p>“Active practice” means a minimum of 160 hours of professional practice as an audiologist or speech-language pathologist for each 12-month period immediately preceding application for</p>	<p>Definitions are currently found in Section 10 of Chapter 20.</p> <p>Terms newly defined are <i>active practice</i>, <i>ASHA</i>, and <i>client</i>.</p> <p>Terms no longer defined in Chapter 21 are: Type 1 and Type 2.</p>	<p>New terms in the revised regulations are defined for clarity in usage.</p> <p>Terms that are not defined are not used in the revised regulations.</p>

	<p>licensure. Active practice may include supervisory, administrative, educational, research or consultative activities or responsibilities for the delivery of such services.</p> <p>“ASHA” means the American Speech-Language-Hearing Association.</p> <p>“Client” means a patient or person receiving services in audiology or speech-language pathology.</p> <p>"Contact hour" means 60 minutes of time spent in continuing learning activities.</p> <p>"School speech-language pathologist" means a person licensed pursuant to § 54.1-2603 of the Code of Virginia to provide speech-language pathology services solely in public school divisions.</p> <p>"Supervision" means that the audiologist or speech-language pathologist is responsible for the entire service being rendered or activity being performed, is available for consultation, and is providing regular monitoring and documentation of clinical activities and competencies of the person being supervised.</p>		
20	<p>A. There shall be separate licenses for the practices of audiology and speech-language pathology. It is prohibited for any person to practice as an audiologist or a speech-language pathologist unless the person has been issued the appropriate license.</p> <p>B. A licensee shall post his license in a place conspicuous to the public in each facility in which the licensee is employed and holds himself out to practice; or if not practical to post the license, the licensee shall provide a copy of his license upon request.</p>	<p>Subsection A is currently found in section 45 of Chapter 20</p> <p>Subsection B is currently found in section 50 of Chapter 20</p>	<p>There is no new impact on licensees, as this section is a restatement of current rule.</p> <p>Additional language in subsection B allows someone to provide a copy of his license upon request if it is not practical to post his license in the facility where he is working. That change is far more reasonable for licensees who work in large health care facilities or who rotate among a number of work settings.</p>
30	<p>A. All changes of name, address of record or public address, if different from the address of record, shall be furnished to the board within 30 days after the change occurs.</p> <p>B. A licensee who has changed his name shall submit as legal proof to the board a copy of the marriage certificate or court order evidencing the change. A duplicate license shall be issued by the board upon receipt of such evidence and the required fee.</p> <p>C. All notices required by law and by</p>	<p>Subsection A is currently subsection A of section 70 in Chapter 20.</p> <p>Subsection B is a new requirement.</p> <p>Subsection C is currently subsection C of section 70 in Chapter 20.</p>	<p>Subsection B is current policy for evidence of a name change and issuance of a new license, but it has not been stated in regulation for this board as it is for other boards.</p>

	<p>this chapter to be mailed by the board to any registrant or licensee shall be validly given when mailed to the latest address of record on file with the board.</p>		
40	<p>Subsection A establishes the fees that shall be paid as applicable for licensure.</p> <p>Subsection B states: Fees shall be made payable to the Treasurer of Virginia and shall not be refunded once submitted</p>	<p>All fees in subsection A are identical to current fees set forth in section 80, except:</p> <p>Verification from other states is \$20; proposed fee is \$25 Reinstatement of audiology or speech-language license is currently \$135; proposed fee is \$160 Reinstatement of school speech-language is currently \$70; proposed is \$85 Duplicate license is currently \$5; proposed is \$15</p> <p>Requirement is subsection B is identical to subsection B of section 80 in current regulation.</p>	<p>The increase in administrative fees for verification and duplicate licenses brings the fees consistent with other boards within the \$25 department and consistent with the Fee Principles (1999) which requires that such fees be sufficient to cover the cost of the service provided.</p> <p>The increase in the reinstatement fee reflects the current total cost - \$135 plus the late fee of \$25. Having the late fee included in the reinstatement fee is less confusing to applicants.</p>
50	<p>A. A person seeking licensure as an audiologist, a speech-language pathologist, or a school speech-language pathologist shall submit:</p> <ol style="list-style-type: none"> 1. A completed and signed application; 2. The applicable fee prescribed in 18VAC30-21-40; 3. Documentation as required by the board to determine if the applicant has met the qualifications for licensure specified in 18VAC30-21-60 for audiology or 18VAC30-21-80 for speech-language pathology; and 4. An attestation that the applicant has read, understands and will comply with the statutes and regulations governing the practice of audiology or speech-language pathology. <p>B. An incomplete application package shall be retained by the board for a period of one year from the date the application is received by the board. If an application is not completed within the year, an applicant shall reapply and pay a new application fee.</p>	<p>Subsection A (##1-3) are currently found in subsection A of section 180.</p> <p>#4 is a new requirement for an attestation that the applicant is familiar with the laws and regulations governing practice</p> <p>Subsection B is found in subsection B of section 180, but the one-year period is more explicitly stated to begin on the date the application is received by the board. The proposed regulation also states the current policy of the board to require a new application and fee after the one-year retention period.</p>	<p>There are no new application requirements, except the attestation on laws and regulations. Other health profession boards either require an attestation or a passage of a jurisprudence examination. The Board did not want to impose a new burden and cost for applicants by requiring an examination.</p> <p>Subsection B clarifies current policy for retention of applications and is consistent with departmental policies on retention of documentation.</p>

<p>60</p>	<p>The board may grant a license to an applicant for licensure in audiology who:</p> <ol style="list-style-type: none"> 1. Holds a current and unrestricted Certificate of Clinical Competence in audiology issued by the American Speech-Language-Hearing Association, certification issued by the American Board of Audiology or any other accrediting body recognized by the board. Verification of currency shall be in the form of a certified letter from a recognized accrediting body issued within six months prior to licensure; and 2. Has passed the qualifying examination from an accrediting body recognized by the board within the three years preceding application. If the examination was not passed within three years preceding the date of applying for licensure, the applicant shall provide: <ol style="list-style-type: none"> a. Evidence of active practice in audiology for one of the past three years immediately preceding application; b. Practice for six months with a provisional license under supervision; or c. Retake the licensure examination. 	<p>The requirements in section 60 are currently in subsection A of section 170.</p> <p>The alternative for passage of the examination within 3 years immediately preceding application is currently “actively engaged in the respective profession” one of the past 3 years.</p> <p>In the proposed regulations, two additional options are available: 1) practice for 6 months with a provisional license in Va. or 2) retake the Praxis examination.</p> <p>The requirement for active practice is now defined in section 10 so there is a consistent standard for the applicant and the Board.</p>	<p>There are no new requirements for licensure in audiology, but there are additional options for meeting the requirement for passage of the examination within 3 years or active practice for one of the past 3 years. The intent is to remove any unnecessary barriers to licensure while ensuring minimal competency to practice.</p>
<p>70</p>	<p>A. Provisional license to qualify for initial licensure. An applicant may be issued a provisional license in order to obtain clinical experience required for certification by the American Speech-Language-Hearing Association, the American Board of Audiology or any other accrediting body recognized by the board. To obtain a provisional license in order to qualify for initial licensure, the applicant shall submit a completed application and fee with documentation that he:</p> <ol style="list-style-type: none"> 1. Has successfully completed all the didactic coursework required for the doctoral degree as documented by a college or university whose audiology program is accredited by the Council on Academic Accreditation of the American Speech-Language-Hearing Association or an equivalent accrediting body; 2. Has read, understands and will comply with the statutes and regulations governing the practice of audiology; and 3. Has passed a qualifying 	<p>Provisions of subsection A are currently found in subsection A of section 171, but two barriers to a provisional license have been eliminated.</p> <p>Currently, an applicant for a provisional license to qualify for initial licensure must be “currently enrolled in a doctoral program.” Additionally, an applicant must have passed the exam within the past 3 years. That prohibits someone who has the degree and credential but did not pass the examination within the past 3 years from obtaining a provisional license to qualify for initial licensure by 6 months of practice under</p>	<p>The deletion of two requirements for provisional licensure will enable a few applicants to qualify who are ineligible under the current regulations.</p>

<p>examination from an accrediting body recognized by the board.</p> <p>B. Provisional license to qualify for endorsement or re-entry into practice. An applicant may be issued a provisional licensure in order to qualify for licensure by endorsement pursuant to subdivision 7 of 18VAC30-21-90, reactivation of an inactive license pursuant to subsection D of 18VAC30-21-120 or reinstatement of a lapsed license pursuant to subsection C of 18VAC30-21-130. To obtain a provisional license in order to qualify for licensure by endorsement or for re-entry to practice, he shall submit a completed application and fee with documentation that he:</p> <ol style="list-style-type: none"> 1. Holds a master's degree or its equivalent as determined by the board or a doctoral degree from a college or university whose audiology program is accredited by the Council on Academic Accreditation of the American Speech-Language-Hearing Association or an equivalent accrediting body; and 2. Passed a qualifying examination from an accrediting body recognized by the board at the time of initial licensure. <p>C. All provisional licenses shall expire 18 months from the date of issuance and may be renewed for an additional six months by payment of a renewal fee. Renewal of a provisional license beyond 24 months shall be for good cause shown as determined by a committee of the board.</p> <p>D. The holder of a provisional license in audiology shall only practice under the supervision of a licensed audiologist and shall be responsible and accountable for the safe performance of those direct client care tasks to which he has been assigned.</p> <p>E. Licensed audiologists providing supervision shall:</p> <ol style="list-style-type: none"> 1. Notify the board of the intent to provide supervision for a provisional licensee; 2. Have at least three years of active practice as an audiologist prior to acting as a supervisor; 3. Document the frequency and nature of the supervision of provisional licensees; 4. Be responsible and accountable 	<p>supervision – <u>so those requirements were deleted in the proposed regulations.</u></p> <p>Provisions of subsection B are currently found in subsection C of section 160 (reinstatement) and subsection C of section 185 (endorsement). A provisional license for an audiologist seeking reactivation of an inactive license is currently not available.</p> <p>Provisions of subsection C are currently found in subsection B of section 171.</p> <p>Provisions of subsection D are currently found in subsection C of section 171.</p> <p>Provisions of subsection E are currently found in subsection D of section 171 with the addition of #2, requiring that the supervisor of a</p>	<p>The requirement for 3 years of experience to supervise a provisional licensee is necessary to ensure sufficient clinical experience by the supervisor to monitor performance and be accountable for appropriate assignment of tasks and patients.</p>
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	<p>for the assignment of clients and tasks based on their assessment and evaluation of the provisional licensee's knowledge and skills; and</p> <p>5. Monitor clinical performance and intervene if necessary for the safety and protection of the clients.</p> <p>F. The identity of a provisional licensee shall be disclosed to the client prior to treatment and shall be made a part of the client's file.</p>	<p>provisional licensee have at least 3 years of active practice.</p> <p>Provisions of subsection F are currently found in subsection E of section 171.</p>	
<p>80</p>	<p>A. The board may grant a license to an applicant for licensure as a speech-language pathologist who:</p> <p>1. Holds a master's degree or its equivalent as determined by the board or a doctoral degree from a college or university whose speech-language program is accredited by the Council on Academic Accreditation of the American Speech-Language-Hearing Association or an equivalent accrediting body; or</p> <p>2. Holds a current and unrestricted Certificate of Clinical Competence in speech-language pathology issued by the American Speech-Language-Hearing Association or any other accrediting body recognized by the board as verified by a certified letter from the recognized accrediting body issued within six months prior to licensure; and</p> <p>3. Has passed a qualifying examination from an accrediting body recognized by the board within three years preceding the date of applying for licensure in Virginia. If the examination was not passed within three years preceding the date of applying for licensure, the applicant shall provide:</p> <p>a. Evidence of active practice in speech-language pathology for one of the past three years immediately preceding application; or</p> <p>b. Retake the licensure examination.</p> <p>B. The board may grant a license to an applicant as a school speech-language pathologist who:</p> <p>1. Holds a master's degree in</p>	<p>Subsection A is taken from subsections A and B of section 170 in the current regulation.</p> <p>Subsection B is identical to subsection C of section 170 in current regulations.</p>	<p>There are no new or different requirements for licensure for speech-language pathologists.</p>

	<p>speech-language-pathology; and 2. Holds an endorsement in speech-language pathology from the Virginia Department of Education.</p>		
<p>90</p>	<p>An applicant for licensure in audiology or speech-language pathology who has been licensed in another U. S. jurisdiction may apply for licensure in Virginia by submission of:</p> <ol style="list-style-type: none"> 1. A completed application and payment of the application fee; 2. Documentation of a current, unrestricted license in another U. S. jurisdiction, or if lapsed, evidence of eligibility for reinstatement; 3. An attestation that the applicant has read, understands and will comply with the statutes and regulations governing the practice of audiology or speech-language pathology; 4. Submission of documentation of 10 continuing competency hours for each year in which he has been licensed in the other jurisdiction, not to exceed 30 hours; 5. Documentation that no disciplinary action is pending or unresolved against his license in another jurisdiction. The board reserves the right to deny a request for licensure to any applicant who has been determined to have committed an act in violation of 18VAC30-21-160. 6. Documentation of: <ol style="list-style-type: none"> a. A current and unrestricted Certificate of Clinical Competence in the area in which he seeks licensure issued by the American Speech-Language-Hearing Association, certification issued by the American Board of Audiology or any other accrediting body recognized by the board. Verification of currency shall be in the form of a certified letter from a recognized accrediting body; or b. A graduate degree from a college or university whose audiology or speech-language pathology program is accredited by the Council or Academic Accreditation of ASHA or an equivalent body and passage of a qualifying 	<p>Requirements for licensure by endorsement in section 90 are taken from section 185 in current regulations.</p> <p>The differences are:</p> <p>#2 - Current regulations require a “<i>current license</i>” in another jurisdiction <i>in the U.S.</i>; proposed regulations allow the license to be lapsed but eligible for reinstatement and in another U. S. jurisdiction.</p> <p>#3 – All applicants for licensure, by examination or endorsement, will be required to attest to an understanding of laws and regulations governing the profession.</p> <p>#4 – Current regulations require documentation of 15 hours of CE for each year the applicant has been licensed for a maximum of 60 hours; proposed regulations require 10 hours for each year for a maximum of 30 hours.</p> <p>#5 – Current regulations specify that the applicant must provide evidence that no disciplinary has been taken or is pending; proposed regulations specify that no action is pending or unresolved.</p> <p>#6 – Current regulations allow an applicant to be licensed solely by evidence of active practice; proposed regulations require</p>	<p>#2 - The proposed regulations will allow someone who has allowed a license in another jurisdiction to lapse to be licensed by endorsement without having to meet requirements for initial licensure, if the licensee is eligible for reinstatement. Current regulations restrict licensure by endorsement to a licensee of another state in the U.S.; proposed regulations will include U. S. territories.</p> <p>#3 – The attestation is used by boards that do not require a jurisprudence examination.</p> <p>#4 – Ten hours per year is consistent with the proposed requirement for renewal of an active license in Virginia. Current and proposed regulations require evidence of active practice for 3 of the past 5 years, so the equivalent of 3 years of CE is more reasonable.</p> <p>#5 – An applicant may have had a previous disciplinary action for a minor violation that would not constitute grounds for denial in Virginia (i.e., failure to obtain required CE). The proposed regulation is less restrictive and more reasonable.</p> <p>#6 – The Board has determined that evidence of education and examination is necessary to ensure that minimum competency to practice in Virginia can be assured. Current certification from ASHA or AAA would provide such evidence because those</p>

	<p>examination from an accrediting body recognized by the board; and</p> <p>7. Evidence of active practice in another U. S. jurisdiction for at least three of the past five years.</p> <p>a. An applicant for licensure in audiology who does not meet the requirement for active practice may qualify by practice for six months with a provisional license in accordance with 18VAC30-21-70 and by receiving a recommendation for licensure by his supervisor.</p> <p>b. An applicant for licensure in speech-language pathology who does not meet the requirement for active practice shall meet the requirements of 18VAC30-21-80.</p>	<p>evidence of current professional certification or a graduate degree in your profession.</p> <p>#7 is taken from subsection C of section 185 in current regulations. Since the law does not authorize issuance of a provisional license to a speech-language pathologist, the applicant who does not have active practice for three years must qualify for initial licensure.</p>	<p>credentialing bodies require graduate degrees and passage of an examination for issuance of certification. If the applicant has not maintained current certification, he can provide a transcript and exam scores to verify qualification.</p>
<p>100</p>	<p>A. A person who desires to renew his license shall, not later than December 31 of each year, submit the renewal notice and applicable renewal fee. A licensee who fails to renew his license by the expiration date shall have a lapsed license, and practice with a lapsed license may constitute grounds for disciplinary action by the board.</p> <p>B. A person who fails to renew his license by the expiration date may renew at any time within one year of expiration by submission of a renewal notice, the renewal fee and late fee, and statement of compliance with continuing education requirements.</p>	<p>Provisions of section 100 are identical to those currently found in section 150.</p>	
<p>110</p>	<p>A. In order to renew an active license, a licensee shall complete at least 10 contact hours of continuing learning activities in the year immediately preceding renewal. Continuing learning hours in excess of the number required for renewal may be transferred or credited to the next renewal year for a total of not more than 10 hours.</p> <p>B. Continuing learning activities shall be activities, programs or courses related to speech-language pathology or audiology, depending on the license held, and offered or approved by one of the following accredited sponsors or organizations sanctioned by the profession:</p> <p>1. The Speech-Language Hearing</p>	<p>Continuing competency (CC) requirements for renewal of licensure are currently found in section 300.</p> <p>Currently, regulations require 30 hours within 2 years preceding licensure; proposed regulations will require 10 hours in the year preceding annual renewal and eliminate "Type 2 hours." A licensee will be able to carry over up to 10 hours and have them credited to the following year.</p>	<p>When renewal was changed from biennial to annual in 2004, the section on CC was not amended, so the requirement remained 30 hours within 2 years preceding renewal. The difference between the CC requirement and the renewal of license has been confusing, so the annual time frame has been made consistent.</p> <p>Maintenance of ASHA certification requires 30 hours of verifiable, approved continuing education</p>

<p>Association of Virginia or similar state speech-language hearing association of another state;</p> <p>2. The American Academy of Audiology;</p> <p>3. The American Speech-Language Hearing Association;</p> <p>4. The Accreditation Council on Continuing Medical Education of the American Medical Association offering Category I continuing medical education;</p> <p>5. Local, state or federal government agencies;</p> <p>6. Colleges and universities;</p> <p>7. International Association of Continuing Education and Training; or</p> <p>8. Health care organizations accredited by the Joint Commission on Accreditation of Healthcare Organizations (JCAHO).</p> <p>C. If the licensee is dually licensed by this board as an audiologist and speech-language pathologist, a total of no more than 15 continuing learning hours are required for renewal of both licenses with a minimum of 7.5 contact hours in each profession.</p> <p>E. A licensee shall be exempt from the continuing competency requirements for the first renewal following the date of initial licensure by examination in Virginia.</p> <p>F. The licensee shall retain his records on the completed form with all supporting documentation for a period of three years following the renewal of an active license. Supporting documentation shall include the title of the course, the name of the sponsoring organization, the date of the course and the number of hours credited.</p> <p>G. The board shall periodically conduct an audit for compliance with continuing competency requirements. Licensees selected for an audit conducted by the board shall complete the Continued Competency Activity and Assessment Form and provide all supporting documentation within 30 days of receiving notification of the audit.</p> <p>H. The board may grant an extension of the deadline for continuing competency requirements, for up to one year, for good cause shown upon a</p>	<p>Subsection B, which listed the approved sponsors or providers is almost identical to the listing in section 300 of current regulations; in proposed regulations, a sponsor approved by the Board has been eliminated.</p> <p>Subsection C is similar to subsection B of section 300 in current regulations in that there is credit allowed for someone who is dually licensed. Rather than 10 hours for each profession, the licensee is required to obtain 15 hours with a minimum of half the hours directed to each profession.</p> <p>Subsection E is similar to subsection C in current regulations, but the incorrect reference to <i>biennial</i> renewal is eliminated.</p> <p>Subsection F is similar to subsection D in current regulations, but the retention period is changed from <i>4 years to 3 years</i>. Additionally, “supporting documentation” is further specified so licensees will know what information</p>	<p>every 3 years; so the Board believes it is less burdensome to licensees to require 10 hours per year for annual renewal. The Board has also eliminated credit for Type 2 hours, which are not offered by an approved sponsor or provider and are not verifiable. To allow for credit for lengthy and in-depth CE coursework, a licensee will be allowed to carry-over up to 10 hours to the next renewal cycle.</p> <p>The elimination of board-approved sponsors will not have an impact because the board has not approved CE providers and there are no such sponsors or providers.</p>
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	<p>written request from the licensee prior to the renewal date. The board may grant an exemption for all or part of the requirements for circumstances beyond the control of the licensee, such as temporary disability, mandatory military service, or officially declared disasters.</p> <p>I. Failure to comply with these requirements may subject the licensee to disciplinary action by the board.</p>	<p>must be retained in the event they are audited.</p> <p>Subsection G is similar to subsection E in current regulations; proposed regulations specify that the board will conduct a periodic audit for compliance.</p> <p>Subsection H is taken from subsections G and H in current regulation in section 300.</p> <p>Subsection I is identical to subsection F in current regulations.</p>	
<p>120</p>	<p>A. speech-language pathologist or audiologist who holds a current, unrestricted license in Virginia may, upon a request on the renewal application and submission of the required fee, be issued an inactive license. The holder of an inactive license shall not be required to maintain continuing competency requirements and shall not be entitled to perform any act requiring a license to practice speech-language pathology or audiology in Virginia.</p> <p>B. A licensee whose license has been inactive and who requests reactivation of an active license shall file an application, pay the difference between the inactive and active renewal fees for the current year, and provide documentation of current ASHA certification or of having completed 10 continued competency hours equal to the requirement for the number of years in which the license has been inactive, not to exceed 40 contact hours.</p> <p>C. A licensee who does not reactivate within five years shall meet the requirements of subsection B of this section and shall either:</p> <ol style="list-style-type: none"> 1. Meet the requirements for initial licensure as prescribed by 18VAC30-21-60 for an audiologist or 18VAC30-21-80 for a speech-language pathologist; or 2. Provide documentation of a current license in another jurisdiction in the United States and evidence of active practice for at least three of the past five 	<p>Rules for an inactive license in subsection A are identical to section 310 in current regulations.</p> <p>Subsection B is the same as subsection A of section 320 in current rules, except an applicant for reactivation may submit documentation of current ASHA certification as evidence of continued competency.</p> <p>Rules in subsection C for reactivation of a license inactive for five or more years are new in proposed regulation.</p>	<p>If a licensee has maintained ASHA certification, that is evidence that he has completed at least 10 hours of CE each year in which his license has been inactive.</p> <p>Whether a licensee has taken an inactive status or allowed his license to lapse, he was not authorized to practice in Virginia. After five years, the Board needs some additional evidence of competency to return to active practice. If the licensee has continued to practice in another state for at least 3 or the 5 years, that can suffice as evidence of continued competency or he can provide evidence that he meets the</p>

	<p>years.</p> <p>D. An applicant for reactivation in audiology who does not meet one of the requirements of subsection C of this section may qualify for reactivation of licensure by practice under supervision with a provisional license for six months and a recommendation for reinstatement by his supervisor. The board may issue a provisional license to an applicant who can provide evidence of having met the applicable qualifications prescribed in subsection B of 18VAC30-21-70. Provisional licensure shall be practiced under the supervision of a licensed audiologist and in accordance with 18VAC30-21-70.</p> <p>E. The board reserves the right to deny a request for reactivation to any licensee who has been determined to have committed an act in violation of 18VAC30-21-160.</p>	<p>Subsection D allows for a six-month period of provisional licensee for an audiologist seeking to reactivate who does not have active practice for 3 of the past 5 years.</p> <p>Subsection E is identical to subsection B in section 320 in current regulations.</p>	<p>requirements for initial licensure.</p> <p>Subsection D is the same as current regulations for reinstatement of a license lapsed for 5 or more years.</p>
<p>130</p>	<p>A. When a license has not been renewed within one year of the expiration date, a person may apply to reinstate his license by submission of a reinstatement application, payment of the reinstatement fee, and submission of documentation of current ASHA certification or at least 10 continuing competency hours for each year the license has been lapsed, not to exceed 40 hours, obtained during the time the license in Virginia was lapsed.</p> <p>B. A licensee who does not reinstate within five years shall meet the requirements of subsection A of this section and shall either:</p> <ol style="list-style-type: none"> 1. Reinstate by meeting the requirements for initial licensure as prescribed by 18VAC30-21-60 for an audiologist or 18VAC30-21-80 for a speech-language pathologist; or 2. Provide documentation of a current license in another U. S. jurisdiction and evidence of active practice for at least three of the past five years. <p>C. An applicant for reinstatement in audiology who does not meet one of the requirements of subsection B of this section may qualify for reinstatement by practice under supervision with a provisional license for six months and a recommendation for reinstatement by his</p>	<p>Rules for reinstatement of a lapsed license in subsection A are identical to section 160 in current regulations; except the CC requirement is 10 hours for each year the license was lapsed, with a maximum of 40 hours, rather than 15 hours with a maximum of 60 hours. Additionally, the applicant may use current ASHA certification as evidence of competency.</p> <p>Subsection B is identical to current rules and policy for reinstatement of a license lapsed five or more years.</p> <p>Subsection C is the same as subsection C of section 160 in current rules.</p>	

	<p>supervisor. The board may issue a provisional license to an applicant who can provide evidence of having met the applicable qualifications prescribed in subsection B of 18VAC30-21-70. Provisional licensure shall be practiced under the supervision of a licensed audiologist and in accordance with 18VAC30-21-70.</p> <p>D. If the licensee holds licensure in any other state or jurisdiction, he shall provide evidence that no disciplinary action is unresolved or is pending. The board reserves the right to deny a request for reinstatement to any licensee who has been determined to have committed an act in violation of 18VAC30-21-160.</p>	<p>Subsection D is taken from subsection D of section 160, except current regulations say evidence that no disciplinary action “has been taken” and proposed rules say “no disciplinary action is unresolved.”</p>	
<p>140</p>	<p>A. A licensed audiologist and speech-language pathologist shall provide documented supervision to unlicensed assistants, shall be held fully responsible for their performance and activities, and shall ensure that they perform only those activities which do not constitute the practice of audiology or speech-language pathology and which are commensurate with their level of training.</p> <p>B. A licensee may delegate to an unlicensed assistant such activities or functions that are non-discretionary and do not require the exercise of professional judgment for their performance.</p> <p>C. The identity of the unlicensed assistant shall be disclosed to the client prior to treatment and shall be made a part of the client's file.</p>	<p>Subsection A on supervision of unlicensed assistants is identical to subsection A of section 240 in current regulations.</p> <p>Subsection B is new in the proposed regulations.</p> <p>Subsection C is identical to subsection B of section 240 in current regulations.</p>	<p>The Board frequently has questions about what may be delegated to an unlicensed assistant. It does not believe regulations should attempt to state a laundry list of duties and tasks, but it does need to specify the types of activities and functions that may be appropriately delegated. Language in subsection B is identical to provisions in other health professional regulations on delegation (See § 54.1-2901 #6).</p>
<p>141</p>	<p>A. For the purposes of this section, an endoscopic procedure shall mean a flexible endoscopic evaluation of swallowing limited to the use of flexible endoscopes to observe, collect data, and measure the parameters of swallowing for the purposes of functional assessment and therapy planning.</p> <p>B. A speech-language pathologist who performs an endoscopic procedure shall meet the following qualifications:</p> <ol style="list-style-type: none"> 1. Completion of a course or 	<p>All of section 141 was proposed prior to the periodic review and will be identical in the new chapter.</p>	<p>Since there are other endoscopic procedures that may not be within the scope of practice for an SLP, for the purposes of this section, an endoscopic procedure is defined in subsection A.</p> <p>Subsection B sets out the qualifications necessary for an SLP to safely perform FEES. Section 300 references approved providers</p>

<p>courses or an educational program offered by a provider approved in 18VAC30-20-300 that includes at least 12 hours on endoscopic procedures;</p> <p>2. Successful performance of at least 25 flexible endoscopic procedures under the immediate and direct supervision of a board-certified otolaryngologist or another speech-language pathologist who has successfully performed at least 50 flexible endoscopic procedures beyond the 25 required for initial qualification and has been approved in writing by a board-certified otolaryngologist to provide that supervision; and</p> <p>3. Current certification in Basic Life Support (BLS).</p> <p>C. The speech-language pathologist who qualifies to perform an endoscopic procedure, pursuant to subsection B, shall maintain documentation of course completion and written verification from the supervising otolaryngologist or speech-language pathologist of successful completion of flexible endoscopic procedures.</p> <p>D. An endoscopic procedure shall only be performed by a speech-language pathologist on referral from an otolaryngologist or other qualified physician.</p> <p>E. A speech-language pathologist shall only perform an endoscopic procedure in a facility that has protocols in place for emergency medical backup. A flexible endoscopic evaluation of swallowing shall only be performed by a speech-language pathologist in either:</p> <p>1. A licensed hospital or nursing home under the general supervision of a physician who is readily available in the event of an emergency, including physical presence in the facility or available by telephone; or</p> <p>2. A physician's office at which the physician is on premises and available to provide on-site supervision.</p> <p>F. The speech-language pathologist shall promptly report any observed abnormality or adverse reaction to the referring physician and/or an appropriate medical specialist. The speech-language pathologist shall provide a report of an endoscopic procedure to the referring physician in a timely manner and, if</p>		<p>of continuing education, which may include all related professional organizations/associations, health care organizations accredited by the Joint Commission on Accreditation of Healthcare Organizations, colleges and universities, and providers of Category 1 continuing medical education. Consequently, there are numerous resources available for an SLP who is not already qualified to perform endoscopic procedures to become qualified if it is necessary for his/her practice.</p> <p>To ensure that an SLP has the skills and training to perform the procedure, the qualifications include performance of at least 25 under supervision. An otolaryngologist may supervise the practical experience requirement. If an SLP has performed at least 50 procedures over and above the 25 required for initial qualification and been approved in writing by a board-certified otolaryngologist, the SLP may supervise training in FEES.</p> <p>The requirement for Basic Life Support is essential to ensure the SLP has emergency care skills necessary to handle an adverse reaction or problem that might develop.</p> <p>Subsection C requires that the SLP who qualifies to perform an endoscopic procedure to maintain documentation.</p> <p>Since the Board will not certify SLP's in an endoscopic procedure, it is necessary for the licensee to maintain documentation of meeting the education and training requirement, so if there is ever a complaint filed, there will be evidence of compliance.</p> <p>Subsection D provides that an endoscopic procedure shall only be performed by a speech-language pathologist on referral from an otolaryngologist or other qualified physician. The SLP is performing an evaluative test, but the need for</p>
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	<p>requested, shall ensure access to a visual recording for viewing.</p> <p>G. A speech-language pathologist is not authorized to possess or administer prescription drugs except as provided in § 54.1-3408 B of the Code of Virginia.</p> <p>H. A speech-language pathologist who has been performing flexible endoscopic evaluations of swallowing prior to (insert effective date of regulation) may continue to perform such evaluations provided he has written verification from a board-certified otolaryngologist that he has the appropriate training, knowledge and skills to safely perform such evaluations.</p>		<p>that evaluation and the medical diagnosis resulting from the evaluation can only be determined by a qualified physician, usually an otolaryngologist.</p> <p>Subsection E states that a speech-language pathologist shall only perform an endoscopic procedure in a facility that has protocols in place for emergency medical backup. While serious complications or adverse reactions are relatively low for FEES examinations, it is necessary to have medical backup available in case a problem develops. The only appropriate settings for an SLP to do an endoscopic evaluation would be a licensed hospital or nursing home (where the physician would be readily available in person or by phone and where there would be other licensed health care practitioners available) or in a physician office at which the physician is on site and available to the patient.</p> <p>Subsection F requires that “the speech-language pathologist shall promptly report any observed abnormality or adverse reaction to the referring physician and/or an appropriate medical specialist. The purpose of a FEES procedure is solely to address the swallowing function, not to make a medical diagnosis. Therefore, if there are clinical indications for further evaluation, the physician needs to be promptly notified. A visual recording of the FEES procedure is not always necessary for the physician’s report but should be available in case there is a need to see for himself what the SLP observed.</p> <p>Subsection G clarifies that a speech-language pathologist is not authorized to possess or administer prescription drugs except as provided in § 54.1-3408 B of the Code of Virginia.</p>
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			Subsection H provides that if a speech-language pathologist has been performing flexible endoscopic evaluations of swallowing prior to the effective date of regulation, he or she may continue to perform such evaluations provided he or she has written verification from a board-certified otolaryngologist that he has the appropriate training, knowledge and skills to safely perform such evaluations.
150	<p>A. No person unless otherwise licensed to do so, shall prepare, order, dispense, alter or repair hearing aids or parts of or attachments to hearing aids for consideration. However, audiologists licensed under this chapter may make earmold impressions and prepare and alter earmolds for clinical use and research.</p> <p>B. No person licensed as a school speech-language pathologist shall conduct the practice of speech-language pathology outside the scope of the public school setting.</p>	The prohibited conduct set out in section 150 is identical to language in section 230 of current regulations.	
160	<p>The board may refuse to issue a license to any applicant, suspend a license for a stated period of time or indefinitely, reprimand a licensee or place his license on probation with such terms and conditions and for such time as it may designate, impose a monetary penalty, or revoke a license for any of the following causes:</p> <p>1. Guarantee of the results of any speech, voice, language, or hearing consultative or therapeutic procedure or exploitation of clients by accepting them for treatment when benefit cannot reasonably be expected to occur, or by continuing treatment unnecessarily;</p> <p>2. Diagnosis or treatment of speech, voice, language, and hearing disorders solely by written correspondence, provided this shall not preclude:</p> <p>a. Follow-up by written correspondence or electronic communication concerning individuals previously seen; or</p> <p>b. Providing clients with general information of an educational nature;</p>	<p>Provisions on unprofessional conduct are similar to those in section 280 of current regulations, with a few additions:</p> <p>#1 is taken from ## 1 and 4 in current regulation.</p> <p>#2 is identical to #2 in current regulation.</p>	

<p>3. Failure to comply with provisions of § 32.1-127.1:03 of the Code of Virginia related to the confidentiality and disclosure of client records or related to provision of client records to another practitioner or to the client or his personal representative;</p> <p>4. Failure to properly manage and keep timely, accurate, legible and complete client records to include the following:</p> <p>a. For licensees who are employed by a health care institution, school system or other entity, in which the individual practitioner does not own or maintain his own records, failure to maintain client records in accordance with the policies and procedures of the employing entity; or</p> <p>b. For licensees who are self-employed or employed by an entity in which the individual practitioner does own and is responsible for client records, failure to maintain a client record for:</p> <p>(1) A minimum of six years following the last client encounter with the following exceptions; or</p> <p>(2) For records of a minor child, until the child reaches the age of 18 or becomes emancipated, with a minimum time for record retention of six years from the last client encounter regardless of the age of the child; or</p> <p>c. Records that have previously been transferred to another practitioner or health care provider or provided to the client or his personal representative are not required to be maintained for such periods;</p> <p>5. Engaging or attempting to engage in a relationship with a client that constitutes a professional boundary violation in which the practitioner uses his professional position to take advantage of the vulnerability of a client or his family, including but not limited to sexual misconduct with a client or a member of his family or other conduct that results or could result in personal gain at the expense of the client;</p> <p>6. Incompetence or negligence in the practice of the profession;</p> <p>7. Failure to comply with applicable state and federal statutes or regulations specifying the consultations and examinations required prior to the fitting</p>	<p>#3 is similar to provisions in current #3 in section 280, but is more explicit about patient records by citing § 32.1-127.1:03.</p> <p>#4 is new language.</p> <p>#5 Provisions on professional boundaries are new in proposed regulations.</p> <p>## 6 through 11 are found in current regulations in section 280 as ## 5 through 10</p>	<p>Failure to comply with disclosure requirements for patient records is currently not a citable violation. Practitioners licensed by this board may be cited for a violation of law governing the practice but adherence to law on client records is not specified as unprofessional conduct.</p> <p>Likewise, there are currently no rules for maintenance of patient/client records, so practitioners are uncertain about their responsibilities. The proposed rules are identical to those for professions licensed under the Board of Medicine.</p> <p>#5 – While the Board does not often encounter professional boundary issues with these professions, there should be provisions that would allow a citable violation if the facts of a case warrant disciplinary action. The language adopted is similar to provisions in regulations for dentistry, nursing and other professions.</p>
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	<p>of a new or replacement prosthetic aid for any communicatively impaired person;</p> <p>8. Failure to refer a client to an appropriate health care practitioner when there is evidence of an impairment for which assessment, evaluation, care or treatment might be necessary;</p> <p>9. Failure to supervise persons who assist them in the practice of speech-language pathology and audiology as well as failure to disclose the use and identity of unlicensed assistants;</p> <p>10. Conviction of a felony or a misdemeanor involving moral turpitude;</p> <p>11. Failure to comply with federal, state, or local laws and regulations governing the practice of audiology or speech-language pathology;</p> <p>12. Publishing or causing to be published in any manner an advertisement relating to his professional practice which is false, deceptive or misleading;</p> <p>13. Inability to practice with skill and safety;</p> <p>14. Fraud, deceit or misrepresentation in submission of an application for licensure or renewal of licensure, in the submission of supervisory forms, or in the practice of audiology or speech-language pathology;</p> <p>15. Aiding and abetting unlicensed activity; or</p> <p>16. Revocation, suspension, restriction or any other discipline of a license or certificate to practice or surrender of license or certificate while investigation or administrative proceedings are pending in another regulatory agency in Virginia, another U. S. jurisdiction or a foreign jurisdiction.</p>	<p>#12, relating specifically to advertisement is new.</p> <p>#13 is identical to #12 in current section 280.</p> <p>#14 is a combination of ##13 and 14 in current regulation, but is more specific about misrepresentation of one’s professional credentials to include submission of applications or supervisory forms.</p> <p>#15 is identical to #15 in current section 280.</p> <p>#16 is similar to #16 in current section 280, except another regulatory agency is included.</p>	<p>While #12 is new for this chapter, it is commonly cited as unprofessional conduct in regulations for other professions. Currently, the Board has a prohibition on “making material misrepresentation,” but nothing that specifically addresses false, misleading or deceptive advertising.</p> <p>In #16, another regulatory agency was included because the Board recently was notified of the revocation of a hearing aid license and could not specifically use that revocation to discipline the license of the audiologist. A similar situation could arise in which a teaching license of a speech-language pathologist could be revoked for cause by the Department of Education, and the Board would need to cite that action to revoke the practitioner license.</p>
170	Criteria for delegation to an agency	All of section 170 is	

	<p>subordinate.</p> <p>A. Decision to delegate. In accordance with § 54.1-2400 (10) of the Code of Virginia, the board may delegate an informal fact-finding proceeding to an agency subordinate upon determination that probable cause exists that a practitioner may be subject to a disciplinary action.</p> <p>B. Criteria for delegation. Cases that may not be delegated to an agency subordinate include, but are not limited to, those that involve:</p> <ol style="list-style-type: none"> 1. Intentional or negligent conduct that causes or is likely to cause injury to a patient; 2. Mandatory suspension resulting from action by another jurisdiction or a felony conviction; 3. Impairment with an inability to practice with skill and safety; 4. Sexual misconduct; 5. Unauthorized practice. <p>C. Criteria for an agency subordinate.</p> <ol style="list-style-type: none"> 1. An agency subordinate authorized by the board to conduct an informal fact-finding proceeding may include board members and professional staff or other persons deemed knowledgeable by virtue of their training and experience in administrative proceedings involving the regulation and discipline of health professionals. 2. The executive director shall maintain a list of appropriately qualified persons to whom an informal fact-finding proceeding may be delegated. 3. The board may delegate to the executive director the selection of the agency subordinate who is deemed appropriately qualified to conduct a proceeding based on the qualifications of the subordinate and the type of case being heard. 	<p>identical to section 290 in current regulations.</p>	
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