



Proposed Regulation Agency Background Document

Agency name	Board of Audiology & Speech-Language Pathology, Department of Health Professions
Virginia Administrative Code (VAC) citation	18 VAC 30-20
Regulation title	Regulations Governing the Practice of Audiology & Speech-Language Pathology
Action title	Requirements for provisional licensure
Document preparation date	12/6/06

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), Executive Orders 21 (2002) and 58 (1999), and the *Virginia Register Form, Style, and Procedure Manual*.

Brief summary

In a short paragraph, please summarize all substantive changes that are being proposed in this regulatory action.

The Board of Audiology & Speech-Language Pathology is replacing emergency regulations required to comply with amendments to Chapter 26 of Title 54.1 and the second enactment clause of HB354 passed by the 2006 General Assembly, which required: *“That the Board of Audiology & Speech-Language Pathology shall promulgate regulations to implement provisions of this act within 280 days of its enactment..”*

The amended regulations will: 1) establish requirements and fees for provisional licensure in audiology for applicants who have met the educational and examination qualifications in order to complete their clinical fellowship year, and 2) set out the requirements for supervision of persons practicing with a provisional license.

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. ...*

The legal authority to license and regulate audiologists and to issue provisional licenses may be found in the amended Chapter 26 of Title 54.1 of the Code of Virginia.

<http://leg1.state.va.us/cgi-bin/legp504.exe?061+ful+CHAP0097>

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 and the problems the proposal is intended to solve.

By the year 2007, all graduate programs in audiology will be transformed into doctoral programs, as the master's degree programs fade. Currently, graduate programs in Audiology are transitioning into the doctoral program in which a student graduates with a Bachelor of Arts or Bachelor of Science degree and proceeds to a doctoral program. Formerly, the student would first obtain a master's degree before proceeding to a doctoral degree. The new transitional program requires a supervised post-graduate clinical experience. It is the general requirement within the profession to have all the students work under supervision during the post-graduate clinical experience. Our neighboring states- North Carolina, West Virginia, Maryland, and Kentucky provide some type of temporary, limited or provisional licensure for these students. The establishment of a provisional license allows students who have completed all of the requirements of a master's degree or an equivalent number of hours to practice audiology, yet they are supervised to ensure the needed training by a licensed audiologist to protect the consuming public prior to the issuance of the doctoral or terminal degree. The intent of the regulatory action is to comply with the requirements of Chapter 97 to implement provisional licensure in audiology.

Substance

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

The amended regulations will: 1) establish the application fee of \$50 for provisional licensure; 2) set the requirements for granting a provisional license in audiology to include the educational equivalent of a master’s degree and passage of a qualifying examination; 3) set a 12-month expiration date for the provisional license; and 4) set out the requirements for supervision and monitoring of persons practicing with a provisional license.

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 so indicate.

- 1) The primary advantage to the public of having a provisional license in audiology is the accountable for the practice of such an individual in the care and treatment rendered to the public. While a provisional licensee must practice under the supervision of a preceptor, the provisional licensee is held responsible for the safe performance of those direct patient care tasks to which he has been assigned. There are no disadvantages; the Board will not be issuing a full license to an individual who is completing a clinical fellowship within the doctoral program, but the provisional license will enable a person to work in audiology while gaining practical experience.
- 2) There are no disadvantages to the agency or the Commonwealth.
- 3) There is no other pertinent matter of interest related to this action.

Economic impact

Please identify the anticipated economic impact of the proposed regulation.

<p>Projected cost to the state to implement and enforce the proposed regulation, including (a) fund source / fund detail, and (b) a delineation of one-time versus on-going expenditures</p>	<p>a) 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 for necessary functions of regulation; b) The agency will incur some one-time costs (less than \$1,000) for mailings to the Public Participation Guidelines</p>
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	mailing lists, conducting a public hearing, and sending notice of final regulations to regulated entities. Every effort will be made to incorporate those into anticipated mailings and Board meetings already scheduled. There are no additional costs to the agency for conducting informal fact-finding by a subordinate.
Projected cost of the regulation on localities	None
Description of the individuals, businesses or other entities likely to be affected by the regulation	The entities that are likely to be affected by these regulations would be audiologists and speech-language pathologists regulated by the Board.
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.	Since the effective date of emergency regulations (9/1/06), there have been 2 provisional licenses issued. No small businesses are affected.
All projected costs of the regulation for affected individuals, businesses, or other entities. Please be specific. Be sure to include the projected reporting, recordkeeping, and other administrative costs required for compliance by small businesses.	The cost of a provisional license is \$50, but with that license, an individual can be employed to work as an audiologist under supervision.

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.

There are no alternatives to the adoption of regulations; it was required by the second enactment clause of HB354. The alternative to provisional licensure would be to grant a full license prior to completion of the doctoral program to allow students to obtain clinical experience, but that is opposed by the educational programs and is not in the best interest of patient safety since those individuals would have full licensure for independent practice without any period of supervised experience.

Public comment

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

The Notice of Intended Regulatory Action was published on September 4, 2006 with comment received until October 4, 2006. There was one comment received. The commenter objected to changes in section 170 in the emergency regulation which amended the requirement for full licensure to obtaining the master's degree or its equivalent, passage of the qualifying

examination and completion of the clinical fellowship year. The Board would issue a provisional license to anyone who had completed the educational and examination qualifications to allow practice during the clinical fellowship. The Board determined that the intent of the legislation was to use the provisional license only for those who were enrolled in a doctoral program and had completed the coursework equivalent to a master’s degree but not yet been awarded a degree. In the adoption of the proposed regulation, the Board has retained the previous regulation, which allows full licensure for someone who has been awarded a master’s degree and passed the examination. They will not be required to complete a clinical fellowship or obtain practical experience in order to obtain a license for independent practice.

Family impact

Please assess the impact of the proposed regulatory action on the institution of the family and family stability.

There is no impact of the proposed regulatory action on the institution of the family and family stability.

Detail of changes

Please detail all changes that are being proposed and the consequences of the proposed changes. Detail all new provisions and/or all changes to existing sections.

If the proposed regulation is intended to replace an emergency regulation, please list separately (1) all changes between the pre-emergency regulation and the proposed regulation, and (2) only changes made since the publication of the emergency regulation.

The proposed regulations replace emergency regulations currently in effect.

Current section number	Current requirement	Proposed change and rationale
80	Establishes the fees for applications and renewal	Addition of a \$50 fee for an application for provisional licensure in audiology and a \$25 fee for renewal of the license. <i>Review of credentials, processing and issuing a license will be functions required for this new activity. Board staff may need to consult with a committee of the board to determine eligibility if there are questions about credentials, especially the educational equivalency of a master’s degree. Therefore, the \$50 fee is considered minimal for a licensure application. Likewise, the \$25 fee for renewal is necessary to cover the ongoing costs for provisional licensees.</i>
170	Sets the requirements for licensure for audiologists,	Subsection B currently allows an applicant to obtain a license in audiology by having a master’s degree or its equivalent and passing the examination. With the passage of HB 354, the Board now has authority to issue provisional licenses to persons seeking licensure in audiology who have the equivalent of a master’s degree and need a license in order

	<p>speech-language pathologists, and school speech-language pathologists</p>	<p>to practice in a clinical fellowship. Therefore, subsection B is amended to only apply to persons who have a master’s or doctoral degree. Persons without the doctoral in audiology but coursework equivalent to a master’s degree will be able to obtain a provisional license.</p> <p><i>With provisional licensure, audiology students can engage in their professional under supervision with greater protection for public health and safety by oversight and, if necessary, intervention by a supervisor.</i></p> <p>Change from the emergency regulation: <i>In response to comment objecting to changes in section 170 in the emergency regulation which amended the requirement for full licensure to obtaining the master’s or doctoral degree, passage of the qualifying examination and completion of the clinical fellowship year. Under the emergency regulations, the Board may issue a provisional license to anyone who had completed the educational and examination qualifications to allow practice during the clinical fellowship. The Board determined that the intent of the legislation was to use the provisional license only for those who were enrolled in a doctoral program and had completed the coursework equivalent to a master’s degree, but not yet been awarded a degree. In the adoption of the proposed regulation, the Board has retained the previous regulation, which allows full licensure for someone who has been awarded a master’s degree and passed the examination. They will not be required to complete a clinical fellowship or obtain practical experience in order to obtain a license for independent practice.</i></p>
<p>New 171</p>	<p>n/a</p>	<p>Subsection A sets out the requirements for a provisional license to include:</p> <p>A completed application and fee, and documentation that the applicant:</p> <ol style="list-style-type: none"> 1. Holds the equivalent of a master's degree as documented by the doctoral program at a college or university whose audiology program is regionally accredited by the American Speech-Language-Hearing Association or an equivalent accrediting body; and 2. Has passed a qualifying examination from an accrediting body recognized by the board within three years preceding the date of applying for provisional licensure in Virginia. <p><i>If a student holding a provisional license later applies for full licensure, he will only need to submit evidence of being awarded the doctoral degree and his credential issued by ASHA or ABA, indicating that he has completed his clinical fellowship year (CFY).</i></p> <p>Subsection B sets the duration of the license at one year, which is the amount of time required for a professional credential.</p>

	<p><i>Completion of the CFY can actually take 12 to 18 months, so the provisional license can automatically be renewed for an additional 12 months. Renewal beyond that will necessitate an appeal to a committee of the board and evidence that the applicant has good cause for needing additional time to complete the clinical fellowship. The Board wants to ensure that individuals do not become “permanent fellows” working indefinitely with a provisional license.</i></p> <p>Subsection C sets out the responsibility of the provisional licensee to only practice under the supervision of a licensed audiologist in order to obtain the clinical experience required for licensure and to be responsible and accountable for the safe performance of those direct patient care tasks to which he has been assigned.</p> <p><i>This provision is necessary to clearly state that a provisional licensee is accountable for his actions in patient care and can only practice with supervision. A provisional licensee practices under this chapter in which the Board has the authority in section 280 to refuse to issue a license or to take disciplinary action for a variety of conduct considered unprofessional – such as inability to practice with skill and safety or incompetence or negligence in the practice of the profession</i></p> <p>Subsection D sets out the responsibilities of licensed audiologists who are providing supervision to include:</p> <ol style="list-style-type: none"> 1. Documenting the frequency and nature of the supervision of provisional licensees; 2. Being responsible and accountable for the assignment of patients and tasks based on their assessment and evaluation of the provisional licensee’s knowledge and skills; and 3. Monitoring clinical performance and intervening if necessary for the safety and protection of the patients. <p><i>While subsection C establishes that the provisional licensee is responsible for the direct patient care tasks to which he has been assigned, the supervisor is responsible for evaluating the knowledge and skills of the provisional person and assigning tasks accordingly. The supervisor must also document the supervision, monitor patient care and, if necessary, intervene for the protection of patients. Responsibilities for a supervisor are consistent with standards set by the credentials bodies and with those in other professions, such as nursing.</i></p> <p>Subsection E specifies that 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><i>It is important for the health and safety of patients that they know that the licensure of their treating practitioner. Disclosure can be accomplished by a variety of means – verbally by the supervisor or provisional licensee, by use of a title on a name tag or by a consent form the patient signs..</i></p>
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		<i>Misrepresentation of one's professional credentials could be grounds for disciplinary action or for refusal to issue a full license.</i>
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