



Economic Impact Analysis Virginia Department of Planning and Budget

18 VAC 30-20 – Regulations Governing the Practice of Audiology and Speech-Language Pathology
Department Health Professions
April 24, 2015

Summary of the Proposed Amendments to Regulation

Pursuant to Chapter 661 of the 2014 Acts of the Assembly, the Board of Audiology and Speech-Language Pathology proposes to amend its regulation to clarify rules for supervising unlicensed assistants and to set education and/or experience requirements that assistants must have in order for licensed speech-language pathologists to be able to hire or supervise them.

Result of Analysis

Benefits may outweigh costs for some of these proposed regulatory changes. For one regulatory change, there is insufficient information to ascertain whether benefits will outweigh costs. For one regulatory change, costs likely outweigh benefits.

Estimated Economic Impact

Current regulation requires licensed audiologists and licensed speech-language pathologists to provide documented supervision to their unlicensed assistants. Licensed audiologists and licensed speech-language pathologists are currently responsible for ensuring that assistants do not perform tasks that would constitute the practice of audiology or speech-language pathology¹ and must also ensure that assistants only perform tasks for which they have been trained.

¹ Assistants may not 1) hold themselves out as being an audiologist or speech-language pathologist, 2) perform any tests or evaluations, 3) perform procedures that require professional clinical skills, 4) interpret results of tests or evaluations or provide interpretive information on client status or services, 5) participate in conferences or meetings without the presence of their supervisor or 5) write, develop or modify client treatment plans.

In 2014, the General Assembly passed legislation which reads *“A person who has met the qualifications prescribed by the Board may practice as an assistant speech-language pathologist and may perform duties not otherwise restricted to the practice of a speech-language pathologist under the supervision of a speech-language pathologist.”*

Pursuant to this legislation, the Board now proposes to amend its regulation 1) so that rules for audiologists and speech-language pathologists are separate (with rules for audiologist supervision of assistants remaining unchanged), 2) to clarify the rules for supervision of assistants, 3) to specify which duties a speech-language pathologist assistant can perform and which would constitute the practice of speech-language pathology and 4) to set education requirements for those assistants. Most of the amendments that will clarify the rules for supervision and the duties that assistants may perform are not new but instead will formally delineate current practice in this regulation. Board staff reports, for instance, that the requirement for speech-language pathologists to provide on-site supervision of at least two assistant lead client sessions every 30 days and to directly provide at least one client session every 30 days is reported to be current practice in the field and is also required for CMS (Centers for Medicare and Medicaid Services) reimbursement for services. Clarifying changes such as these are unlikely to increase costs for any affected entity but will provide the benefit of greater understanding for the rules of supervision and provision of client services. Benefits will outweigh costs for these clarifying changes.

The Board newly proposes to limit the number of assistants that a speech-language pathologist may supervise at any time to two. Board staff reports that this limit is being imposed at the request of the Virginia Department of Education (VDOE) and of the speech-language pathologists that provided comment on the proposed regulation. To the extent that some speech-language pathologists may be currently supervising more than two assistants without compromising patient care, this change will likely adversely affect them as it will limit the number of clients they may serve. There is insufficient information available, however, to ascertain whether any benefits to clients that may accrue on account of speech-language pathologists being limited to two assistants will outweigh any adverse impacts to the speech-language pathologists themselves.

Board staff reports that the Board convened a Regulatory Advisory Panel (RAP) committee to provide subject matter expertise in developing the proposed regulation. This committee agreed that the responsibility for the training of assistants and for their practice belongs to the supervising speech-language pathologist. Board staff reports that the committee considered just requiring that assistants complete documented training with a licensed speech-language pathologist in topics that would allow them to complete assigned duties competently but that the committee was advised by the Board's assigned Assistant Attorney General (AAG) that the proposed regulation must include requirements for formal education. By count, 6 of the 15 comments received at the NOIRA stage of this action suggested that assistants be required to have a bachelor's degree (one suggested that they be required to complete education specific to speech-language disorders). With that feedback the Board now proposes to require that assistants who are supervised by speech-language pathologists either 1) have been employed as an assistant in a U.S. jurisdiction at some time in the five years preceding the effective date of this proposed regulation OR 2) have a bachelor's or associate's degree in any field and documented training by a speech-language pathologist. Board staff reports that the Board is not proposing formal education specifically in speech-language pathology because there are no associate's or bachelor's level programs in this field in the Commonwealth.

These education requirements will likely cost new assistant speech-language pathologists entering the field after this proposed regulation becomes effective at least \$20,000 for a two year associate's degree to many more tens of thousands of dollars for a bachelor's degree at a traditional four year university. These greatly increased costs to enter the field will likely limit the number of individuals able to work as assistant speech-language pathologists. This, in turn, will likely increase costs for local school districts and healthcare institutions that hire the majority of speech-language pathologists that will be competing to hire from a smaller pool of approved assistants. Speech language pathologists who work in private practice will also see increased costs, or a decreased client capacity with fewer assistants. These education requirements will also put future assistants at a competitive disadvantage when compared to assistants now working as they will have paid much more to enter the field which will not be as remunerative for them once they account for the financial outlay of required formal education. It is also likely hard to justify this education requirement when 1) there is likely little nexus between requiring just any degree and competent practice as an assistant and 2) there is no

suggestion that current assistants are practicing incompetently with training from their supervising speech-language pathologist. Without some evidence that current assistant practice is suffering from issues that formal education would specifically address, all affected entities, including clients, would likely benefit from amending the proposed regulation to eliminate the requirement for formal higher education. Costs likely outweigh benefits for this proposed change.

Businesses and Entities Affected

Board staff reports that this proposed regulation will affect all speech-language pathologists in the Commonwealth as well as any assistants that they supervise. The Board currently licenses 3,662 speech-language pathologists but Board staff does not know how many individuals are employed as speech-language pathologist assistants. According to the Department of Health Profession's Healthcare Workforce Data Center, as of 2013 approximately 14% of speech-language pathologists worked in private practice and so would likely qualify as small businesses. All other speech-language pathologists work for either large health care institutions or school systems.

Localities Particularly Affected

New education requirements for speech-language pathologist assistants will require a bachelors or associates degree of assistants hired for the first time to do this job after the effective date of this proposed regulation. Local school systems that have not been requiring this level of education in the assistants that they hire will likely have a smaller pool of individuals to hire from and may have to pay more to secure the services of these individuals.

Projected Impact on Employment

This regulatory action will likely decrease the number of individuals who may be hired as speech-language pathologists.

Effects on the Use and Value of Private Property

To the extent that this regulatory action raises the cost of hiring speech-language pathology assistants, private practice speech-language pathologists as well as large health institutions may either choose to hire fewer assistants (thus somewhat limiting the number of

clients they may serve) or may have to cover increased salary costs. Both of these responses to increased costs would tend to slightly decrease profits.

Small Businesses: Costs and Other Effects

Private practice speech-language pathologists may experience increased employment costs for hiring assistants once assistants are required to have a bachelors or associates degree.

Small Businesses: Alternative Method that Minimizes Adverse Impact

Absent some evidence that current speech-language pathologist assistants are practicing in ways that would raise competency issues that are best addressed by the formal education requirements in this proposed regulation, speech-language pathologists, their assistants and their clients will likely benefit from eliminating those requirements and allowing speech-language pathologists to provide training in the specific tasks that they plan to assign their assistants.

Real Estate Development Costs

This regulatory action will likely have no effect on real estate development costs in the Commonwealth.

Legal Mandate

General: The Department of Planning and Budget (DPB) has analyzed the economic impact of this proposed regulation in accordance with § 2.2-4007.04 of the Code of Virginia and Executive Order Number 17 (2014). Section 2.2-4007.04 requires that such economic impact analyses determine the public benefits and costs of the proposed amendments. Further the report should include but not be limited to:

- the projected number of businesses or other entities to whom the proposed regulation would apply,
- the identity of any localities and types of businesses or other entities particularly affected,
- the projected number of persons and employment positions to be affected,
- the projected costs to affected businesses or entities to implement or comply with the regulation, and
- the impact on the use and value of private property.

Small Businesses: If the proposed regulation will have an adverse effect on small businesses, § 2.2-4007.04 requires that such economic impact analyses include:

- an identification and estimate of the number of small businesses subject to the proposed regulation,

- the projected reporting, recordkeeping, and other administrative costs required for small businesses to comply with the proposed regulation, including the type of professional skills necessary for preparing required reports and other documents,
- a statement of the probable effect of the proposed regulation on affected small businesses, and
- a description of any less intrusive or less costly alternative methods of achieving the purpose of the proposed regulation.

Additionally, pursuant to § 2.2-4007.1, if there is a finding that a proposed regulation may have an adverse impact on small business, the Joint Commission on Administrative Rules (JCAR) is notified at the time the proposed regulation is submitted to the *Virginia Register of Regulations* for publication. This analysis shall represent DPB's best estimate for the purposes of public review and comment on the proposed regulation.

AMH

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