



Virginia Department of Planning and Budget **Economic Impact Analysis**

18 VAC 30-21 Regulations Governing Audiology and Speech-Language Pathology
Department of Health Professions
Town Hall Action/Stage: 5876/9476
December 29, 2021

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 (Code) and Executive Order 14 (as amended, July 16, 2018). The analysis presented below represents DPB's best estimate of these economic impacts.¹

Summary of the Proposed Amendments to Regulation

The Board of Audiology and Speech-Language Pathology (Board) proposes to amend the regulation as follows: (i) eliminate the requirement to post a license in every location, (ii) require a report from the National Practitioner Data Bank for initial licensure and for reinstatement of licenses that have been lapsed for five or more years, (iii) add a pathway for licensure in audiology based on one's graduate degree and passing a qualifying examination conducted by an accredited body recognized by the Board, and (iv) make other clarifying changes to ensure understanding and compliance of the regulation.

Background

Pursuant to a periodic review of the regulation,² the Board proposes to make a number of changes that would clarify and update the requirements for initial licensure, license renewal and

¹ Code § 2.2-4007.04 requires that such economic impact analyses determine the public benefits and costs of the proposed amendments. Further the analysis should include but not be limited to: (1) the projected number of businesses or other entities to whom the proposed regulatory action would apply, (2) the identity of any localities and types of businesses or other entities particularly affected, (3) the projected number of persons and employment positions to be affected, (4) the projected costs to affected businesses or entities to implement or comply with the regulation, and (5) the impact on the use and value of private property.

² See <https://townhall.virginia.gov/L/ViewPReview.cfm?PRid=1956>.

reinstatement, continuing education, recordkeeping, and unprofessional conduct. The most substantive changes are summarized below.

1. In section 20, *Required licenses*, the current requirement that a licensee shall “post his license in a place conspicuous to the public in each facility in which the licensee is employed” would be removed. The Department of Health Professions (DHP) reports that any verification as to whether a license is current must be done online and that a hard copy of the initial license is not informative as to its currency. Further, audiologists and speech language pathologists may work in multiple locations within the facilities that employ them, making it impractical to post a license in a “conspicuous place.” Thus, this requirement would be removed. A more general requirement that “licensees shall provide a copy of their license upon request” would be maintained in this section.
2. In section 50, *Application requirements*, applicants would be required to submit a current report from the U.S. Department of Health and Human Services National Practitioner Data Bank (NPDB).³ DHP reports that an NPDB report is being added to the requirements for all applicants for health profession licensure in order to be sure there are no indications that an applicant might present a risk to public health and safety and no grounds for denial of licensure. This requirement would also be added to section 110, which contains requirements for reactivating an inactive license, and to section 120, which contains requirements for reinstating a lapsed license. In sections 110 and 120, the NPDB report would only be required for applicants whose licenses have been inactive or lapsed for five or more years.
3. In section 50, *Application requirements*, the regulation currently requires, “If licensed or certified in another United States jurisdiction, verification of the status of the license or certification from each jurisdiction in which licensure or certification is held.” The proposed change would add “or has ever been held” so that an applicant who had been licensed in another jurisdiction would have to provide verification of that license even if it was no longer active.⁴ As with the NPDB report, this

³ See <https://www.npdb.hrsa.gov/>.

⁴ This change is related to the NPDB report requirement in that the NPDB report includes any disciplinary actions that may have been taken in other states. Having applicants verify licenses/certifications held in other states provides a way for the Board to cross-reference the report.

- requirement would also be added to sections 110 and 120, specifically for applicants whose licenses have been inactive or lapsed for at least five years.
4. In section 60, *Qualifications for Initial Licensure*, the proposed changes would list the requirements for audiologists separately from the requirements for speech pathologists, and add an option for audiology license applicants.

Specifically, audiologists can currently be licensed based on (i) a current and unrestricted Certificate of Clinical Competence issued by the American Speech-Language and Hearing Association (ASHA) or the American Board of Audiology (ABA) or other accrediting body recognized by the Board, and (ii) documentation of having passed a qualifying examination from an accrediting body recognized by the Board. The Board seeks to add a third option whereby an applicant for licensure in audiology who has graduated from an accredited audiology program and passed the national examination could be licensed prior to or without ASHA or ABA certification.⁵

Applicants for licensure in speech-language pathology would need a current and unrestricted Certificate of Clinical Competence issued by ASHA; DHP has clarified that this requirement is identical to current practice, since ASHA is the only accrediting body for speech-language pathology. The requirements for school speech-pathology licensure would remain the same.

5. In section 80, *Qualifications for Licensure by Endorsement*, the Board proposes to expand the time period for qualifying for licensure by endorsement from within 12 months to within 24 months of graduation to allow more time for out-of-state applicants to become employed in Virginia. All other requirements would remain the same.
6. In section 90, *Continuing education requirements for renewal of an active license*, the Board seeks to delete the allowance for a licensee to carry over up to ten contact hours of continuing education in excess of the number required for renewal. The

⁵ DHP states that both types of certification (ABA and ASHA) require practice experience. However, audiology students in an accredited program acquire supervised practical experience within their degree program, so they can be licensed based on their degree and passage of the examination. The certification indicating practical experience is not essential for those applicants. See page 8 of the Agency Background Document (ABD) at https://townhall.virginia.gov/l/GetFile.cfm?File=18\5876\9476\AgencyStatement_DHP_9476_v2.pdf.

- Board reports that the current language about the carry-over is too confusing, and the current continuing education requirement of ten hours per year is not burdensome since they can be accrued in-service or online. This section would also be amended to delete the mandate for a periodic audit; this change is intended to give the Board some flexibility since it has not audited during the past two years during the pandemic.
7. Recordkeeping requirements that are currently part of section 160, *Unprofessional Conduct*, would be moved to a new section 141, *Recordkeeping*. The recordkeeping requirements would not be changed in any way. Sections 50, 80, 110, and 120, which contain license application requirements, state that licenses may be denied to an applicant or licensee who has been determined to have committed and act in violation of section 160. Thus, moving the recordkeeping requirements to a separate section preserves those requirements while ensuring that any violations cannot be treated as grounds for disciplinary action or license refusal in the same way that violating the other stipulations of section 160 would warrant.

Estimated Benefits and Costs

The NPDB report requirement would create new costs for all new applicants, as well as those seeking to reinstate or activate a license after five years of letting it lapse or be inactive. DHP reports that it costs \$4.00 for an applicant to request their NPDB report, which is unlikely to prevent anyone from seeking licensure, including reinstatement.⁶ Individuals who have been licensed in other U.S. jurisdictions may face new costs if they have to verify old licenses that are no longer active from multiple jurisdictions. However, requiring the NPDB report protects potential employers and clients of audiologists and speech-language pathologists by allowing greater transparency and oversight across jurisdictions regarding prior disciplinary actions.

The proposed amendment to allow audiologists who have graduated from an accredited program and passed the national examination to obtain licenses would benefit those individuals by saving them the monetary and time costs of pursuing further certification by ASHA or ABA. This change is expected to “expedite the license application process for a few individuals each year.”⁷

⁶ See ABD, page 5.

⁷ See ABD, page 5.

The proposed amendments to the requirements for licensure by endorsement would benefit individuals who graduate from audiology or speech pathology programs in other states, obtain licenses there, and subsequently move to Virginia. These graduates would have an additional year to find jobs in Virginia and pursue licensure by endorsement, even though the other requirements (certification by ASHA or ABA, taking the national exam) would be the same as if they were applying for an initial license.

Businesses and Other Entities Affected

DHP reports that there are currently 528 licensed audiologists, 4,272 licensed speech-language pathologists, and 318 school speech-language pathologists. However, most of the proposed amendments affect future applicants for licenses. Current license holders would only be affected if (a) they seek to re-activate an inactive license or reinstate a lapsed license after five or more years since they last had an active license, or (b) if they were carrying over up to ten hours of continuing education credits from the previous year and had to do more continuing education to make up the difference. Future applicants would face costs associated with the NPDB report; some of them would benefit from the new pathway to licensure for audiologists.

The Code of Virginia requires DPB to assess whether an adverse impact may result from the proposed regulation.⁸ An adverse impact is indicated if there is any increase in net cost or reduction in net revenue for any entity, even if the benefits exceed the costs for all entities combined. As noted above, the proposal to require NPDB reports from license applicants would create new costs for them. Thus, an adverse impact is indicated.

Small Businesses⁹ Affected:¹⁰

The proposed amendments do not appear to adversely affect small businesses. Some audiologists and speech-language pathologists may be employed by small businesses, or self-

⁸ Pursuant to Code § 2.2-4007.04(D): In the event this economic impact analysis reveals that the proposed regulation would have an adverse economic impact on businesses or would impose a significant adverse economic impact on a locality, business, or entity particularly affected, the Department of Planning and Budget shall advise the Joint Commission on Administrative Rules, the House Committee on Appropriations, and the Senate Committee on Finance. Statute does not define “adverse impact,” state whether only Virginia entities should be considered, nor indicate whether an adverse impact results from regulatory requirements mandated by legislation.

⁹ Pursuant to § 2.2-4007.04 of the Code of Virginia, small business is defined as “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.”

¹⁰ If the proposed regulatory action may have an adverse effect on small businesses, Code § 2.2-4007.04 requires that such economic impact analyses include: (1) an identification and estimate of the number of small businesses subject to the proposed regulation, (2) the projected reporting, recordkeeping, and other administrative costs

employed. However, the proposed amendments do not appear to create new costs for them. Thus, an adverse economic impact¹¹ on small businesses is not indicated.

Localities¹² Affected¹³

The proposed amendments do not introduce costs for local governments. No locality would be disproportionately affected by the proposed changes. Consequently, an adverse economic impact¹⁴ is not indicated for any localities.

Projected Impact on Employment

The proposed amendments do not appear to affect total employment. Although new applicants for licenses would face new costs associated with requesting and submitting the NPDB report, these costs are expected to be modest relative to the other application fees and unlikely to affect the number of individuals seeking licensure as audiologists or speech pathologists in Virginia.

Effects on the Use and Value of Private Property

The proposed amendments would not affect the use or value of private property. The proposed amendments do not affect real estate development 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, (3) a statement of the probable effect of the proposed regulation on affected small businesses, and (4) a description of any less intrusive or less costly alternative methods of achieving the purpose of the proposed regulation. Additionally, pursuant to Code § 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 shall be notified.

¹¹ Adverse impact is indicated if there is any increase in net cost or reduction in net revenue for any entity, even if the benefits exceed the costs for all entities combined.

¹² “Locality” can refer to either local governments or the locations in the Commonwealth where the activities relevant to the regulatory change are most likely to occur.

¹³ § 2.2-4007.04 defines “particularly affected” as bearing disproportionate material impact.

¹⁴ Adverse impact is indicated if there is any increase in net cost or reduction in net revenue for any entity, even if the benefits exceed the costs for all entities combined.