

**BOARD OF AUDIOLOGY AND SPEECH-LANGUAGE PATHOLOGY
LEGISLATIVE/REGULATORY REVIEW COMMITTEE
MEETING MINUTES
FEBRUARY 3, 2011**

TIME AND PLACE: The Board of Audiology and Speech-Language Pathology's (Board) Legislative/Regulatory Review Committee (Committee) meeting was called to order at 10:34 a.m. on Thursday, February 3, 2011, at the Department of Health Professions (DHP), Perimeter Center, 9960 Mayland Drive, 2nd Floor, Board Room 3, Henrico, Virginia.

PRESIDING OFFICER: A. Tucker Gleason, Ph.D., CCC-A

MEMBERS PRESENT: Lillian Beasley Beahm, Au.D., CCC-A
George T. Hashisaki, M.D.
Ikeita Cantú Hinojosa, JD, MSW, LBSW

MEMBERS NOT PRESENT: Ronald Spencer, RN

STAFF PRESENT: Leslie L. Knachel, Executive Director
Amy Marschean, Sr. Assistant Attorney General, Board Counsel
Elaine Yeatts, Senior Policy Analyst
Carol Stamey, Operations Manager
Asia Williams, Administrative Assistant

OTHERS PRESENT: Wanda L. Pritekel, MA, CCC-SLP
Laura Purcell Verdun, MA, CCC-SLP

QUORUM: With four members of the board present, a quorum was established.

ORDERING OF AGENDA: Ms. Pritekel moved to approve the ordering of the agenda. The motion was seconded and carried.

PUBLIC COMMENT: Public comment was not provided.

DISCUSSION/ACTION ITEMS: **Proposed Amendments to the Regulations**
A draft of recommended changes and reorganization of the regulations was presented at the October 7, 2010, board meeting at which time the Notice of Intended Regulatory Action (NOIRA) to amend the regulations was approved. The draft of the recommended changes is incorporated into the minutes as Attachment 1. Ms. Yeatts indicated that the discussion on the recommended changes was not completed and additional information was needed before proceeding with the NOIRA. Ms. Yeatts suggested that the Committee break the regulations into the following three sections: licensure requirements, continuing education requirements and standards of practice. Ms. Yeatts recommended that the Board begin its review in the section of the regulations pertaining to standards of practice since the licensure

requirements had been reviewed and discussed at the last full Board meeting. The Committee made the following recommendations for inclusion in the NOIRA.

Standards of Practice

18VAC130-21-140.A. Supervision of unlicensed assistants. The Committee recommended adding language 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 Committee requested that a guidance document be drafted to reference the statutory exemption of the Code of Virginia (Code), §54.1-2601, to explain that students are allowed to perform services constituting a part of supervised course of study.

18VAC130-21-160. Unprofessional conduct. The Committee recommended adding language to address patient confidentiality, records retention, professional boundaries, advertising and disciplinary action taken by another professional regulatory agency.

Renewal and Continuing Competency (CE)

18VAC30-21-110. Continuing competency requirements for renewal of an active license. The Committee agreed to the reduction in the number of required CE hours; elimination of Type 1 and Type 2 designated CE; carry over of CE to the next renewal period; and struck the acceptance of American Speech-Language Hearing Association (ASHA) or American Board of Audiology certification since the certification process does not verify completion of CE.

The Committee requested that Ms. Knachel consult ASHA regarding its tracking of continuing education.

Requirements for Licensure

Upon review of the requirements for licensure, the Committee expressed its concern regarding speech-language pathologists not being required to complete a Clinical Fellowship Year (CFY). Prior to proposing revisions to the licensure requirements, the Committee requested that Ms. Knachel explore the number of states currently requiring a CFY for discussion at the next meeting. Ms. Yeatts informed the Committee that it may wish to meet in May to discuss a Code modification prior to addressing a CFY requirement in the regulations.

General Provisions

18VAC30-2-10. Definitions. Ms. Yeatts inquired of the Committee as to whether the term “client” or “patient” should be used in the regulations. The Committee requested that the term “client” be used throughout the regulations and included in the definitions.

18VAC30-21-20. Required licenses; posting of licenses. The Committee recommended adding that the licensee may post or have a copy of their license to accommodate those who travel between facilities.

18VAC30-21-30. Records; accuracy of information. The Committee recommended proposed language requiring a licensee to furnish legal proof to the Board evidencing a name change.

Based upon the recommendations discussed at the Board's October 7, 2010, meeting and the Legislative/Regulatory Review Committee's recommendations today, Ms. Yeatts will draft a document identifying the expected changes.

NEW BUSINESS:

No new business was presented.

ADJOURNMENT:

With the conclusion of board business, Dr. Gleason adjourned the meeting at 12:34 p.m.

A. Tucker Gleason, Ph.D., CCC-A
Chair

Leslie L. Knachel, M.P.H
Executive Director

Date

Date

Project 2607 - none

BOARD OF AUDIOLOGY AND SPEECH-LANGUAGE PATHOLOGY

Reorganization of chapter

CHAPTER 21

REGULATIONS GOVERNING AUDIOLOGY AND SPEECH-LANGUAGE PATHOLOGY

Part I. General Provisions.

18VAC30-21-10. Definitions.

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.

B. The following words when used in this chapter shall have the following meanings unless the context clearly indicates otherwise:

"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 licensure. Active practice may include supervisory, administrative, educational or consultative activities or responsibilities for the delivery of such services.

"ASHA" means the American Speech-Language-Hearing Association.

"Contact hour" means 60 minutes of time spent in continuing learning activities.

"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.

"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.

18VAC30-21-20. Required licenses; posting of licenses.

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.

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. {DISCUSS}

18VAC30-21-30. Records; accuracy of information.

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.

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.

C. All notices required by law and by 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.

18VAC30-21-40. Fees required.

A. The following fees shall be paid as applicable for licensure:

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|--|--------------|
| <u>1. Application for audiology or speech-language pathology license</u> | <u>\$135</u> |
| <u>2. Application for school speech-language pathology license</u> | <u>\$70</u> |
| <u>3. Verification of licensure requests from other states</u> | <u>\$25</u> |

<u>4. Annual renewal of audiology or speech-language pathology license</u>	<u>\$75</u>
<u>5. Late renewal of audiology or speech-language pathology license</u>	<u>\$25</u>
<u>6. Annual renewal of school speech-language pathology license</u>	<u>\$40</u>
<u>7. Late renewal of school speech-language pathology license</u>	<u>\$15</u>
<u>8. Reinstatement of audiology or speech-language pathology license</u>	<u>\$160</u>
<u>9. Reinstatement of school speech-language pathology license</u>	<u>\$85</u>
<u>10. Reinstatement after suspension or revocation</u>	<u>\$500</u>
<u>11. Duplicate wall certificates</u>	<u>\$25</u>
<u>12. Duplicate license</u>	<u>\$15</u>
<u>13. Returned check</u>	<u>\$35</u>
<u>14. Inactive license renewal for audiology or speech-language pathology</u>	<u>\$40</u>
<u>15. Inactive license renewal for school speech-language pathology</u>	<u>\$20</u>
<u>16. Application for provisional license in audiology</u>	<u>\$50</u>
<u>17. Renewal of provisional license in audiology</u>	<u>\$25</u>

B. Fees shall be made payable to the Treasurer of Virginia and shall not be refunded once submitted.

Part II. Requirements for Licensure.

18VAC30-21-50. Application requirements.

A. A person seeking licensure as an audiologist, a speech-language pathologist, or a school speech-language pathologist shall submit:

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.

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.**

18VAC30-21-60. Qualifications for initial licensure in audiology.

A. The board may grant a license to an applicant for licensure in audiology who:

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. If the examination was not passed within three years preceding the date of applying for licensure, the applicant shall provide evidence of active practice in audiology for one of the past three years immediately preceding application.

18VAC30-21-70. Provisional licensure in audiology.

A. 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 qualify for a provisional license, he shall submit a completed application and fee with documentation that he:

1. Is currently enrolled in a doctoral program in audiology at 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 successfully completed all the didactic coursework required for the doctoral degree as documented by the audiology program; and

3. 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.

B. An applicant may be issued a provisional licensure in order to qualify for license by endorsement, reinstatement of a lapsed licensure or reactivation of an inactive license. To qualify for such a provisional license, he shall submit a completed application and fee with documentation that he:

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.

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.

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 patient care tasks to which he has been assigned.

E. Licensed audiologists providing supervision shall:

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;**

4. Document the frequency and nature of the supervision of provisional licensees;

4. Be 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

5. Monitor clinical performance and intervene if necessary for the safety and protection of the patients.

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.

18VAC30-21-80. Qualifications for licensure in speech-language pathology.

A. The board may grant a license to an applicant for licensure as a speech-language pathologist who:

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; and

2. 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 or has been engaged in active practice as a speech-language pathologist for one of the past three consecutive years preceding the date of application.

B. The board may grant a license to an applicant as a school speech-language pathologist who:

1. Holds a master's degree in speech-language-pathology; and

2. Holds an endorsement in speech-language pathology from the Virginia Department of Education.

18VAC30-21-90. Qualifications for licensure by endorsement.

A. An applicant for licensure in audiology or speech-language pathology who has been licensed in another jurisdiction in the United States may apply for licensure in Virginia by submission of:

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 18VAC30-20-280.

6. Documentation of:

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 who audiology or speech-language pathology program is accredited by the Council on Academic Accreditation of ASHA or an

equivalent body and passage of a qualifying examination from an accrediting body recognized by the board; and

B. An applicant for licensure by endorsement shall provide evidence of active practice in another U. S. jurisdiction for at least three of the past five years. 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. An applicant for licensure in speech-language pathology who does not meet the requirement for active practice may qualify by provision of evidence of current competency acceptable to the board. NOTE: Active practice would no longer be a substitute for having CCC's or graduate degree and passage of examination.

Part III. Renewal and Continuing Competency.

18VAC30-21-100. Renewal requirements.

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.

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.

18VAC30-21-110. Continuing competency requirements for renewal of an active license.

A. In order to renew an active license, a licensee shall;

1. Hold current certification from the American Speech-Language Hearing Association or the American Academy of Audiology; or

2. Complete at least 10 contact hours of continuing learning activities in the year immediately preceding renewal.

B. 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.

C. 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:

1. The Speech-Language Hearing Association of Virginia or similar state speech-language hearing association of another state;

2. The American Academy of Audiology;

3. The American Speech-Language Hearing Association;

4. The Accreditation Council on Continuing Medical Education of the American Medical Association offering Category I continuing medical education;.

5. Local, state or federal government agencies;

6. Colleges and universities;

7. International Association of Continuing Education and Training; or

8. Health care organizations accredited by the Joint Commission on Accreditation of Healthcare Organizations (JCAHO).

NOTE: Elimination of board approval for continuing education courses and of Type 1 and Type 2 hours.

D. 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.

E. A licensee shall be exempt from the continuing competency requirements for the first renewal following the date of initial licensure in Virginia.

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.

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.

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 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.

I. Failure to comply with these requirements may subject the licensee to disciplinary action by the board.

Part IV. Reactivation and reinstatement.

18VAC30-21-120. Inactive licensure; reactivation.

A. 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.

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 continued competency hours equal to the requirement for the number of years in which the license has been inactive, not to exceed 30 contact hours.](#)

C. A licensee who does not reactivate within five years as prescribed by subsection A of this section shall either:

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 years.

D. An applicant for reactivation in audiology who does not meet one of the requirements of subsection B 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](#).

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](#).

18VAC30-21-130. Reinstatement of a lapsed license.

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 30 hours, obtained during the time the license in Virginia was lapsed.](#)

B. A licensee who does not reinstate within five years as prescribed by subsection A of this section shall either:

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 jurisdiction in the United States and evidence of active practice for at least three of the past five years.

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 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.

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.

Part V. Standards of practice.

18VAC30-21-140. Supervision of unlicensed assistants.

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.

B. 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.

18VAC30-21-150. Prohibited conduct.

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.

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.

18VAC30-21-160. Unprofessional conduct.

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:

1. Guarantee of the results of any speech, voice, language, or hearing consultative or therapeutic procedure or exploitation of patients by accepting them for treatment when benefit cannot reasonably be expected to occur, or by continuing treatment unnecessarily;

2. Diagnosis or treatment of speech, voice, language, and hearing disorders solely by written correspondence, provided this shall not preclude:

a. Follow-up by written correspondence or electronic communication concerning individuals previously seen; or

b. Providing patients with general information of an educational nature;

3. Failure to comply with provisions of § 32.1-127.1:03 of the Code of Virginia related to the confidentiality and disclosure of patient records or related to provision of patient records to another practitioner or to the patient or his personal representative;

4. Engaging or attempting to engage in a relationship with a patient that constitutes a professional boundary violation in which the practitioner uses his professional position to take advantage of the vulnerability of a patient or his family, including but not limited to sexual misconduct with a patient or a member of his family or other conduct that results or could result in personal gain at the expense of the patient;

5. Incompetence or negligence in the practice of the profession;

6. Failure to comply with applicable state and federal statutes or regulations specifying the consultations and examinations required prior to the fitting of a new or replacement prosthetic aid for any communicatively impaired person;

7. 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;

8. 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;

9. Conviction of a felony or a misdemeanor involving moral turpitude;

10. Failure to comply with federal, state, or local laws and regulations governing the practice of audiology or speech-language pathology;

11. Publishing or causing to be published in any manner an advertisement relating to his professional practice which is false, deceptive or misleading;

12. Inability to practice with skill and safety;

13. False statements or representations or fraud or deceit in obtaining admission to the practice, or fraud or deceit in the practice of audiology or speech-language pathology;

14. Aiding and abetting unlicensed activity; or

15. 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 state, the District of Columbia, a United States possession or territory, or a foreign jurisdiction.

18VAC30-21-170. Criteria for delegation to an agency subordinate.

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.

B. Criteria for delegation. Cases that may not be delegated to an agency subordinate include, but are not limited to, those that involve:

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.

C. Criteria for an agency subordinate.

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.