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Fast-Track Regulation Agency Background Document

Agency name	Board of Audiology & Speech-Language Pathology
Virginia Administrative Code (VAC) citation(s)	18VAC30-21
Regulation title(s)	Regulations Governing the Practice of Audiology & Speech-Language Pathology
Action title	Licensure by endorsement
Date this document prepared	8/8/19

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), Executive Order 14 (as amended, July 16, 2018), the Regulations for Filing and Publishing Agency Regulations (1 VAC7-10), and the *Virginia Register Form, Style, and Procedure Manual for Publication of Virginia Regulations*.

Brief Summary

Please provide a brief summary (preferably no more than 2 or 3 paragraphs) of this regulatory change (i.e., new regulation, amendments to an existing regulation, or repeal of an existing regulation). Alert the reader to all substantive matters. If applicable, generally describe the existing regulation.

An amendment is proposed to allow the Board to grant licensure by endorsement for an applicant who graduated from an accredited program in audiology or speech-language pathology within 12 months immediately preceding application. Such applicant may be issued a license without evidence of active practice, if he/she holds a current and unrestricted Certificate of Clinical Competence in the area in which he/she seeks licensure issued by ASHA or certification issued by the American Board of Audiology or any other accrediting body recognized by the board.

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

Statement of Final Agency Action

Please provide a statement of the final action taken by the agency including: 1) the date the action was taken; 2) the name of the agency taking the action; and 3) the title of the regulation.

On July 30, 2019, the Board of Audiology & Speech-Language Pathology amended 18VAC30-21-10 et seq., Regulations Governing the Practice of Audiology & Speech-Language Pathology.

Mandate and Impetus

Please identify the mandate for this regulatory change, and any other impetus that specifically prompted its initiation (e.g., new or modified mandate, petition for rulemaking, periodic review, board decision, etc.). For purposes of executive branch review, "mandate" has the same meaning as defined in Executive Order 14 (as amended, July 16, 2018), "a directive from the General Assembly, the federal government, or a court that requires that a regulation be promulgated, amended, or repealed in whole or part."

As required by Virginia Code § 2.2-4012.1, please also explain why this rulemaking is expected to be noncontroversial and therefore appropriate for the fast-track process.

The impetus for this action is to address an issue that has arisen with a few applicants for licensure by endorsement. The Board is amending regulation to eliminate an unnecessary barrier to licensure by some recent graduates.

Legal Basis

Please identify (1) the agency or other promulgating entity, and (2) the state and/or federal legal authority for the regulatory change, including the most relevant citations to the Code of Virginia or Acts of Assembly chapter number(s), if applicable. Your citation must include a specific provision, if any, authorizing the promulgating entity to regulate this specific subject or program, as well as a reference to the agency or promulgating entity's overall regulatory authority.

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 regulatory change, including a description of: (1) the rationale or justification, (2) the specific reasons the regulatory change is essential to protect the health, safety or welfare of citizens, and (3) the goals of the regulatory change and the problems it's intended to solve.

The purpose of the regulatory change is to alleviate the path to licensure by endorsement for some applicants who have met the current and restricted certification requirement but have less than 12 months of practice prior to application. Such applicants are recent graduates in audiology or speech-language pathology who became licensed in another state but are now relocating to Virginia. Since they have completed their education and examination within the past 12 months, it is not necessary to have active practice to ensure current competency for the health and safety of patients or clients in Virginia, and the Board should be able to grant them a full license without requiring six months of provisional licensure.

Substance

Please briefly identify and explain the new substantive provisions, the substantive changes to existing sections, or both. A more detailed discussion is provided in the "Detail of Changes" section below.

Section 80 is amended to allow the Board to grant licensure by endorsement for an applicant who graduated from an accredited program in audiology or speech-language pathology within 12 months immediately preceding application. Such applicant may be issued a license without evidence of active practice, if he/she holds a current and unrestricted Certificate of Clinical Competence in the area in which he/she seeks licensure issued by ASHA or certification issued by the American Board of Audiology or any other accrediting body recognized by the board.

Issues

Please identify the issues associated with the regulatory change, 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 there are no disadvantages to the public or the Commonwealth, include a specific statement to that effect.

- 1) The primary advantage of this change is a less burdensome pathway to licensure for recent graduates who may want to locate their practice in Virginia. There are no disadvantages to the public;
- 2) There are no advantages and disadvantages to the agency or the Commonwealth; and

3) The Director of the Department of Health Professions has reviewed the proposal and performed a competitive impact analysis. The Board is authorized under 54.1-2400 to “promulgate regulations in accordance with the Administrative Process Act (§ 2.2-4000 et seq.) which are reasonable and necessary to administer effectively the regulatory system.” There is no restraint on competition as a result of promulgating this regulation. This regulatory action is less restrictive and increases access to professional licensure.

Requirements More Restrictive than Federal

Please identify and describe any requirement of the regulatory change which is more restrictive than applicable federal requirements. Include a specific citation for each applicable federal requirement, and a rationale for the need for the more restrictive requirements. If there are no applicable federal requirements, or no requirements that exceed applicable federal requirements, include a specific statement to that effect.

There are no applicable federal requirements.

Agencies, Localities, and Other Entities Particularly Affected

Please identify any other state agencies, localities, or other entities particularly affected by the regulatory change. “Particularly affected” are those that are likely to bear any identified disproportionate material impact which would not be experienced by other agencies, localities, or entities. “Locality” can refer to either local governments or the locations in the Commonwealth where the activities relevant to the regulation or regulatory change are most likely to occur. If no agency, locality, or entity is particularly affected, include a specific statement to that effect.

Other State Agencies Particularly Affected - None

Localities Particularly Affected - None

Other Entities Particularly Affected - None

Economic Impact

Pursuant to § 2.2-4007.04 of the Code of Virginia, please identify all specific economic impacts (costs and/or benefits), anticipated to result from the regulatory change. When describing a particular economic impact, specify which new requirement or change in requirement creates the anticipated economic impact. Please keep in mind that this is change versus the status quo.

Impact on State Agencies

<p><i>For your agency:</i> projected costs, savings, fees or revenues resulting from the regulatory change, including: a) fund source / fund detail; b) delineation of one-time versus on-going expenditures; and</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</p>
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c) whether any costs or revenue loss can be absorbed within existing resources	regulation. All notifications will be done electronically.
<i>For other state agencies:</i> projected costs, savings, fees or revenues resulting from the regulatory change, including a delineation of one-time versus on-going expenditures.	No impact
<i>For all agencies:</i> Benefits the regulatory change is designed to produce.	There is no benefit.

Impact on Localities

Projected costs, savings, fees or revenues resulting from the regulatory change.	No costs
Benefits the regulatory change is designed to produce.	The benefit may accrue to local school boards who will be able to hire speech-language pathologists who are fully licensed by endorsement

Impact on Other Entities

Description of the individuals, businesses, or other entities likely to be affected by the regulatory change. If no other entities will be affected, include a specific statement to that effect.	Applicants for licensure as audiologists and speech-language pathologists
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: a) is independently owned and operated and; b) employs fewer than 500 full-time employees or has gross annual sales of less than \$6 million.	There is no estimate of the number who may be affected; the Board has had less than 10 applicants who would have benefitted from the amended regulation.
All projected costs for affected individuals, businesses, or other entities resulting from the regulatory change. Please be specific and include all costs including, but not limited to: a) projected reporting, recordkeeping, and other administrative costs required for compliance by small businesses; b) specify any costs related to the development of real estate for commercial or residential purposes that are a consequence of the regulatory change; c) fees; d) purchases of equipment or services; and e) time required to comply with the requirements.	There will be less cost for an applicant who is able to qualify for full licensure and employment rather than having to spend six months in a provisional status under the supervision of a licensee.
Benefits the regulatory change is designed to produce.	The change may increase access to licensure for some applicants.

Alternatives

Please describe any viable alternatives to the regulatory change that were considered, and the rationale used by the agency to select the least burdensome or intrusive alternative that meets the essential purpose of the regulatory change. 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 regulatory change.

To address a burdensome requirement for licensure by endorsement, an amendment to section 80 is necessary. There are no alternatives considered; this action is less intrusive and a less costly alternative.

Regulatory Flexibility Analysis

Pursuant to § 2.2-4007.1B of the Code of Virginia, 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) establishing less stringent compliance or reporting requirements; 2) establishing less stringent schedules or deadlines for compliance or reporting requirements; 3) consolidation or simplification of compliance or reporting requirements; 4) establishing 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 regulatory change.

There are no other methods to accomplish the objective.

Public Participation

If an objection to the use of the fast-track process is received within the 30-day public comment period from 10 or more persons, any member of the applicable standing committee of either house of the General Assembly or of the Joint Commission on Administrative Rules, the agency shall: 1) file notice of the objections with the Registrar of Regulations for publication in the Virginia Register; and 2) proceed with the normal promulgation process with the initial publication of the fast-track regulation serving as the Notice of Intended Regulatory Action.

Detail of Changes

Please list all regulatory changes and the consequences of the changes. Explain the new requirements and what they mean rather than merely quoting the text of the regulation.

Current section number	Current requirement	Change, intent, rationale, and likely impact of new requirements
80	Sets out requirements for licensure by endorsement, including a requirement for active practice for at least one of the past three years or practice as a	Section 80 is amended to allow the Board to grant licensure by endorsement for an applicant who graduated from an accredited program in audiology or speech-language pathology within 12 months immediately preceding application. Such applicant may be issued a license without evidence of active practice, if he/she holds a current and unrestricted

	<p>provisional licensee for six months.</p>	<p>Certificate of Clinical Competence in the area in which he/she seeks licensure issued by ASHA or certification issued by the American Board of Audiology or any other accrediting body recognized by the board.</p> <p><i>The proposal addresses an unnecessary barrier to licensure by allowing persons who have recently graduated from professional schools and have attained the certification required for licensure to be licensed by endorsement. In order to have a Certificate of Clinical Competence or other recognized certification, someone has to pass the national examination and have a clinical fellowship year. Therefore, there is sufficient evidence of current competency to practice.</i></p> <p><i>The purpose of the requirement for one year of active practice or six months as a provisional licensee is to ensure current clinical competency. The amended regulation is consistent with that intent. "Active practice" is defined as 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, research, or consultative activities or responsibilities for the delivery of such services.</i></p>
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