



Economic Impact Analysis Virginia Department of Planning and Budget

18 VAC 80-20 – Hearing Aid Specialists Regulations
Department of Professional and Occupational Regulation
January 4, 2015

Summary of the Proposed Amendments to Regulation

The Board of Hearing Aid Specialists and Opticians (Board) proposes to amend its Hearing Aid Specialists Regulations to: 1) make them conform to definitions and other language in the Code of Virginia, 2) add several frequencies to the standard air conduction test standard frequencies, 3) clarify that temporary permit holders are subject to Board discipline, 4) consolidate the initial licensure and licensure by reciprocity fees and 5) remove the examination fee (and other language pertaining to that fee) from the schedule of fees and insert language that allows the examination fee to be set outside the regulation by agreement between the Department of Professional and Occupational Regulation (DPOR) and the exam vendor so long as the vendor is chosen through rules set in the Virginia Public Procurement Act.

Result of Analysis

Benefits will likely outweigh costs for several of these regulatory changes. For at least one regulatory change, costs will likely outweigh benefits.

Estimated Economic Impact

Currently, this regulation contains definitions and other language that differs from the language contained in controlling legislation. The Board now proposes to amend the definitions for “licensee” and “hearing aid specialist” as well as add language requiring the disclosure of non-refundable fees (which may not be a percentage of the purchase price of a hearing aid) so that regulatory language conforms to relevant language in the Code of Virginia (COV). Since the language in the COV is already legally controlling, no entity is likely to incur costs on account of

these changes. To the extent that conforming regulatory language to the COV will eliminate the chance of confusion, interested parties will benefit from the added clarity these changes bring.

Currently, this regulation specifies that licensees and temporary permit holders must conduct air conduction tests at standard frequencies of 500, 1,000, 2,000 and 4,000 Hertz. Board staff reports that technology has improved for hearing tests and so the Board now proposes to add 6,000 and 8,000 Hertz to the list of required standard frequencies. Board staff also reports that this change reflects an already established and universally used standard in the hearing aid industry so they do not expect any affected entity to have to buy any new equipment or incur any additional costs on account of this change.

Current regulatory language does not allow the Board to discipline temporary permit holders for wrongdoing but would instead require the Board to wait until permit holders got their licenses in order to discipline them. The Board now proposes to add temporary permit holders to the list of entities who are subject to Board discipline. This change will likely benefit the public as it will better protect them from temporary permit holders who are providing poor or fraudulent services or who have committed a crime that would preclude them from being licensed in the Commonwealth.

Currently, this regulation has a separate fee that individuals seeking licensure by reciprocity must pay. This fee is \$140 and includes the cost of taking the licensure examination (\$110). The Board proposes to eliminate the separate fee for licensure by reciprocity and require all applicants for initial licensure to pay the same fee. The fee for initial licensure is currently set at \$30 and does not include the examination fee. Although on its face, this change is cost neutral for affected entities, the Board is seeking to increase the initial licensure fee to \$85 in a separate action (<http://townhall.virginia.gov/L/ViewStage.cfm?stageid=7104>). The two actions analyzed together indicate that individuals seeking licensure by reciprocity will likely have to pay more than the currently do to become licensed. Assuming the higher initial licensure fee is promulgated, individuals seeking licensure by reciprocity will pay higher fees in all instances where the examination fee is greater than \$55. Analysis of fee increases for this Board can be found at the link provided above.

The Board also proposes to eliminate the explicit examination and re-examination fees from this regulation and instead set these fees administratively based on the cost of private

examination services contracted under the rules of the Virginia Public Procurement Act. This change would give the Board greater flexibility to set and change fees without having to go through the regulatory process but the general public and licensees would be adversely impacted in that their ability to receive notice of fee increases (and their ability to make public comment to try to affect Board decisions) will be greatly reduced or even eliminated. This change will increase uncertainty for these groups and will also likely lead to higher costs for licensees which may then be passed on to members of the public who use hearing aid services.

Businesses and Entities Affected

This proposed regulation will affect all current and future hearing aid specialist licensees. Board staff reports that there are currently 668 hearing aid specialists who are licensed in the Commonwealth.

Localities Particularly Affected

No localities will likely be disproportionately affected by this proposed regulatory change.

Projected Impact on Employment

Likely increased licensure fees will likely lead to at least a marginal decrease in the number of individuals who are employed as hearing aid specialists.

Effects on the Use and Value of Private Property

To the extent that professional licenses are private property of value to licensees, increasing the cost of licenses will commensurately decrease their value.

Small Businesses: Costs and Other Effects

To the extent that increasing licensure fees leads to a decrease in the number of individuals licensed as hearing aid specialists, the cost of hiring the services of the remaining, smaller pool of licensees may marginally increase for the small businesses that hire them.

Small Businesses: Alternative Method that Minimizes Adverse Impact

The Board could likely mitigate adverse impacts for licensees and the public by leaving fees structured as they currently are.

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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