



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

18 VAC 80-20 Board for Hearing Aid Specialists Regulations
Department of Professional and Occupational Regulation
Town Hall Action/Stage: 5709 / 9571
May 27, 2022

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 as of the date of this analysis.¹

Summary of the Proposed Amendments to Regulation

The Board for Hearing Aid Specialists and Opticians (Board) is proposing to 1) require a minimum of nine months of training in the profession prior to taking the hearing aid specialist exam, 2) extend the duration of the temporary permit from 12 months to 18 months, and 3) create an additional pathway to gain sufficient experience to qualify for licensure.

Background

A hearing aid specialist is a licensed professional who provides hearing aid solutions to customers with hearing loss. To do this, hearing aid specialists test the extent of a customer's hearing loss, then adapt and sell a hearing aid product to the consumer. Entry into this profession may start with a temporary permit from the Board until the temporary permit holder obtains proper training and passes the Board's hearing aid specialist examination (exam) to be issued a permanent license. In essence, a temporary permit is a permit to obtain training.

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.

According to the Department of Professional and Occupational Regulation (DPOR), the Board has received complaints from temporary permit holders who are not able to pass the exam. In addition, the Hearing Aid Specialist Training Committee analyzed the cause of the low pass rate on the exam. The committee found that much of the lower pass rates could be tied to individuals obtaining the training permit, then immediately signing up for the exam. This enabled individuals to take the exam with as little as two months of training in the profession. In examining the data, the committee found a direct correlation between the lengths of training under the temporary permit and pass rates on the exam. Individuals with nine months of training or less had below a 30 percent pass rate, and the pass rate for those with six months of training was below 20 percent. Consequently, the Board is proposing to impose a minimum training length of nine months and to extend the maximum length of the training to 18 months to address these concerns.

At the same time, the Board is also proposing to allow individuals to utilize the newly created U.S. Department of Labor approved hearing aid dispensing apprenticeship program.

Estimated Benefits and Costs

Currently, a temporary permit holder can take the exam within certain timeframes as soon as his/her licensed sponsor certifies that the requirements for the scope of training have been met. The timeframes are dictated by the duration of the temporary permit. A temporary permit is issued for a period of 12 months and may be extended once for not longer than six months. Extension beyond 12 months is possible only if the training is not certified to be complete by the sponsor. In other words, once the sponsor certifies that the individual is ready for the exam, there is the implicit assumption that the training is finished and there is no reason to extend the duration of the temporary permit. If the training has not been completed within 12 months, a six month extension is allowed. After a period of 18 months, an extension is no longer possible and the former temporary permit holder must sit for the licensure examination and pass within two years from the initial test date.

There are inherent incentives for the trainee as well as the sponsor to complete the training as soon as possible, take the exam, and become fully licensed. These include the benefit for the trainee of higher earning potential sooner than later, and the benefit for the sponsor of autonomous practice as soon as possible by the trainee. These incentives for taking the exam as

soon as possible appear to be coupled by lack of significant repercussions other than the cost of taking the exam (exam fee², time and travel) if the result is not favorable. The exam is offered four times a year and the trainee is free to take as many exams as possible any time before two years from the initial test date. These incentives and lack of significant repercussions appear to have the unintended consequence of lower pass rates on the exam.

In order to address the unintended consequence of lower pass rates under the current regulatory framework, the Board proposes to introduce a minimum training period of nine months. A longer training period should help improve on average the preparedness of the trainees for unsupervised practice. Also, given the direct correlation the committee found between pass rates and the duration of the training, an improvement in pass rates appears plausible. Improved pass rates would reduce potential financial loss to the trainees (e.g. exam fee) and the impact of having failed a state licensing exam. However, unless the correlation is perfect (i.e. a one to one relationship), which does not appear to be in this case, the possibility cannot be ruled out that there may be one or two³ trainees who would have passed the exam before the proposed nine-month period but who would no longer be allowed to do so.

In addition, the extension of the temporary permit duration to from 12 to 18 months would benefit trainees by eliminating the application procedure to extend the permit if needed. Also, a minimal reduction in staff workload may occur at DPOR due to the reduction in the number of temporary permit extension requests.

Finally, the Board proposes to allow a new pathway to full licensure in addition to the current temporary permit and college degree routes. One of the proposed changes would allow applicants to verify completion of the required training and experience by allowing submission of an apprenticeship completion form from the Virginia Department of Labor and Industry (DOLI) that reflects completion of a registered apprenticeship, including all required related instruction or an equivalent out-of-state registered apprenticeship. According to DPOR, registered apprenticeships offer several advantages over traditional training programs, including that they are paid on-the-job training, recognized by the federal government, and transferrable to any other state with a registered apprenticeship program. Although there is no such

² The exam consists of two parts covering theory (\$260) and practice (\$90) which can be independently taken and passed at different times.

³ Source: DPOR

apprenticeship program currently operating in Virginia, this change would reduce barriers to entry into this profession in Virginia when and if such a program is established and/or when and if DOLI starts issuing equivalency of out-of-state registered apprenticeships. This additional pathway to licensure would likely also promote such programs.

Businesses and Other Entities Affected

According to DPOR, there are approximately 70 applicants for licensure in a given year, the average number of annual applicants for the hearing aid temporary permits is 47, and it is anticipated that once the apprenticeship is implemented, there may be 5-10 registered apprentices every year. No applicants for a temporary permit appear to be disproportionately affected.

The Code of Virginia requires DPB to assess whether an adverse impact may result from the proposed regulation.⁴ 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 DPOR estimates that there would be one or two trainees that could have been able to pass the exam before the proposed minimum nine-month training period. Thus, an adverse impact is indicated on such trainees.

Small Businesses⁵ Affected:⁶

Types and Estimated Number of Small Businesses Affected

According to DPOR most if not all sponsors of temporary permits are small businesses. As mentioned above, 47 applications for temporary permits are received

⁴ 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.

⁵ 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.”

⁶ 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 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.

annually on average. Thus, approximately 47 small businesses may be affected. DPOR estimates only one or two trainees to be adversely affected. Thus, no more than one or two temporary permit sponsors are likely to be adversely affected.

Costs and Other Effects

As discussed above, the proposed minimum duration for training is expected to result in longer training periods for trainees which would also extend the training for sponsors as they can no longer certify the completion of the scope of training before the minimum of nine months proposed. The proposed changes would also eliminate the need to extend the training from 12 to 18 months which in turn would eliminate the application for extension. An adverse impact on one or two trainees who could have passed the exam before the proposed nine-month period and consequently on their sponsors who are most likely to be small businesses is indicated.

Alternative Method that Minimizes Adverse Impact

There are no clear alternative methods that both reduce adverse impact and meet the intended policy goals.

Localities⁷ Affected⁸

The proposed amendments do not introduce costs for local governments and do not disproportionately affect any particular localities.

Projected Impact on Employment

The proposed changes may delay one or two trainees becoming fully licensed and may result in their being underemployed for a while.

Effects on the Use and Value of Private Property

The proposed elimination of temporary permit extension and the application costs associated with such application would reduce compliance costs while one or two temporary permit holders may be delayed in obtaining a full license increasing compliance costs. The net effect on compliance costs and therefore the effect on the asset values of sponsor businesses is not known.

⁷ "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.

⁸ § 2.2-4007.04 defines "particularly affected" as bearing disproportionate material impact.

The proposed amendments do not affect real estate development costs.