



Virginia  
Regulatory  
Town Hall

## Proposed Regulation Agency Background Document

<b>Agency Name:</b>	Board of Audiology and Speech-Language Pathology, Department of Health Professions
<b>VAC Chapter Number:</b>	18 VAC 30-20-10 et seq.
<b>Regulation Title:</b>	Regulations Governing the Practice of Audiology and Speech- language Pathology
<b>Action Title:</b>	Evidence of continued competency
<b>Date:</b>	3/4/00

This information is required pursuant to the Administrative Process Act (§ 9-6.14:9.1 *et seq.* of the *Code of Virginia*), Executive Order Twenty-Five (98), Executive Order Fifty-Eight (99), and the *Virginia Register Form, Style and Procedure Manual*. Please refer to these sources for more information and other materials required to be submitted in the regulatory review package.

### Summary

*Please provide a brief summary of the proposed new regulation, proposed amendments to an existing regulation, or the regulation proposed to be repealed. There is no need to state each provision or amendment or restate the purpose and intent of the regulation; instead give a summary of the regulatory action and alert the reader to all substantive matters or changes. If applicable, generally describe the existing regulation.*

The Board of Audiology and Speech-Language Pathology proposes amendments to its regulations to provide continued competency requirements for renewal of an active license to practice. For each biennial renewal, the licensee shall be required to complete 30 hours of continuing learning activities, at least 15 of which must be provided by an accredited sponsor as approved by the board through its regulations. A maximum of 15 hours may be in non-accredited activities that the learner considers beneficial to his practice. In addition, amended regulations establish an inactive license and set the renewal fee and requirements for reactivation of such a license.

## Basis

*Please identify the state and/or federal source of legal authority to promulgate the regulation. The discussion of this statutory authority should: 1) describe its scope and the extent to which it is mandatory or discretionary; and 2) include a brief statement relating the content of the statutory authority to the specific regulation. In addition, where applicable, please describe the extent to which proposed changes exceed federal minimum requirements. Full citations of legal authority and, if available, web site addresses for locating the text of the cited authority must be provided. Please state that the Office of the Attorney General has certified that the agency has the statutory authority to promulgate the proposed regulation and that it comports with applicable state and/or federal law.*

**18 VAC 30-20-10 et seq.: Regulations Governing the Practice of Audiology and Speech-Language Pathology** was promulgated under the general authority of Title 54.1 of the Code of Virginia.

Chapter 24 establishes the general powers and duties of health regulatory boards including the responsibility to establish qualifications for licensure, to set fees and schedules for renewal, to establish requirements for an inactive license and to promulgate regulations, in accordance with the Administrative Process Act, which are reasonable and necessary to effectively 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:*

- 1. To establish the qualifications for registration, certification or licensure in accordance with the applicable law which are necessary to ensure competence and integrity to engage in the regulated professions.*
- 2. To examine or cause to be examined applicants for certification or licensure. Unless otherwise required by law, examinations shall be administered in writing or shall be a demonstration of manual skills.*
- 3. To register, certify or license qualified applicants as practitioners of the particular profession or professions regulated by such board.*
- 4. To establish schedules for renewals of registration, certification and licensure.*
- 5. To levy and collect fees for application processing, examination, registration, certification or licensure and renewal that are sufficient to cover all expenses for the administration and operation of the Department of Health Professions, the Board of Health Professions and the health regulatory boards.*
- 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 and Chapter 25 of this title.*
- 7. To revoke, suspend, restrict, or refuse to issue or renew a registration, certificate or license which such board has authority to issue for causes enumerated in applicable law and regulations.*
  - 8. To appoint designees from their membership or immediate staff to coordinate with the Intervention Program Committee and to implement, as is necessary, the provisions of Chapter 25.1 (§ 54.1-2515 et seq.) of this title. Each health regulatory board shall appoint one such designee.*
  - 9. To take appropriate disciplinary action for violations of applicable law and regulations.*
  - 10. To appoint a special conference committee, composed of not less than two members of a health regulatory board, to act in accordance with § 9-6.14:11 upon receipt of information that a practitioner of the appropriate board may be subject to disciplinary action. The special conference committee may (i) exonerate the practitioner; (ii) reinstate the practitioner; (iii) place the practitioner on probation with such terms as it may deem appropriate; (iv) reprimand the practitioner; (v) modify a previous order; and (vi) impose a monetary penalty pursuant to § 54.1-2401. The order of the special conference committee shall become final thirty days after service of the order unless a written request to the board for a hearing is received within such time. If service of the decision to a party is accomplished by mail, three days shall be added to the thirty-day period. Upon receiving a timely written request for a hearing, the board or a panel of the board shall then proceed with a hearing as provided in § 9-6.14:12, and the action of the committee shall be vacated. This subdivision shall not be construed to affect the authority or procedures of the Boards of Medicine and Nursing pursuant to §§ 54.1-2919 and 54.1-3010.*
  - 11. To convene, at their discretion, a panel consisting of at least five board members or, if a quorum of the board is less than five members, consisting of a quorum of the members to conduct formal proceedings pursuant to § 9-6.14:12, decide the case, and issue a final agency case decision. Any decision rendered by majority vote of such panel shall have the same effect as if made by the full board and shall be subject to court review in accordance with the Administrative Process Act. No member who participates in an informal proceeding conducted in accordance with § 9-6.14:11 shall serve on a panel conducting formal proceedings pursuant to § 9-6.14:12 to consider the same matter.*
  - 12. To issue inactive licenses and certificates and promulgate regulations to carry out such purpose. Such regulations shall include, but not be limited to, the qualifications, renewal fees, and conditions for reactivation of such licenses or certificates.*

In addition to § 54.1-2400 (cited above), the Board is also authorized by § 54.1-103 to specify additional training or conditions for practitioners seeking renewal of licenses.

***§ 54.1-103. Additional training of regulated persons; reciprocity; endorsement.***

*A. The regulatory boards within the Department of Professional and Occupational Regulation and the Department of Health Professions may promulgate regulations specifying additional training or conditions for individuals seeking certification or licensure, or for the renewal of certificates or licenses.*

## Purpose

*Please provide a statement explaining the need for the new or amended regulation. This statement must include the rationale or justification of the proposed regulatory action and detail the specific reasons it is essential to protect the health, safety or welfare of citizens. A statement of a general nature is not acceptable, particular rationales must be explicitly discussed. Please include a discussion of the goals of the proposal and the problems the proposal is intended to solve.*

At a strategic planning retreat in 1998, the Board adopted a Mission Statement which says: “The Mission of the Board of Audiology and Speech-Language Pathology is to protect the health, safety and welfare of the consumer by licensing qualified individuals and by working to assure the quality of care, enforce compliance with regulations and statutes governing the practice, and promote the integrity of the professions.” Among the obstacles to its achieving its mission, the Board identified: no standard for continuing competency of practitioners; changing technology and the need for the Board to be able to respond; the demand for a reduced level of care to the lowest common denominator; and a trend toward multi-skilling.

The Code of Virginia specifically authorizes the Board to establish requirements for relicensure which will assure the continuing competency of the practitioners it licenses. As the practices of audiology and speech-language pathology have evolved and changed, the minimal competencies that were evidenced by completion of requirements for initial licensure may no longer be adequate.

In the professions of audiology and speech-language pathology, the knowledge base has continued to grow, but the growth in utilization of technology has been even more dramatic. Educational programs have been modified to accommodate changes in practice and to incorporate newer technology, but some who currently hold licensure are not keeping up with those changes and may not be offering the consumers of the Commonwealth the most competent and safest care. While no definitive numbers are available, it is estimated by members of the Board that only about half of its licensees regularly obtain hours of continuing education. That estimate was borne out by a 1997 survey of licensees in which approximately half of the respondents indicated that some continuing education requirement for licensure would have a financial impact. While only 607 licensees out of approximately 2068 responded, that is statistically a good sampling of the population.

In addition, the economic demands of third-party payers have led to an increased use of assistive personnel in the practices of audiology and speech-language pathology. With such usage, there are

new demands on the licensed professionals to make evaluative judgements on which tests and procedures can be safely delegated to these unlicensed, unregulated persons. There is a need for continuing education in the delegation of tasks to such persons who are treating consumers with disabilities who are being rehabilitated from disease or injury.

Therefore, the Board now finds that it is essential to establish some evidence of continuing education as a condition for renewal of licensure in order to assure the public of the continuing competency and safety of its practitioners.

For some practitioners who are now retired or are practicing out of state but who wish to retain their Virginia license, the necessity of acquiring continuing education would result in an unnecessary burden and expense. The Department sought legislation, which was included in the Governor's legislative package for the 1998 General Assembly, to authorize the establishment of an inactive license. Therefore, the Board is authorized to develop and propose regulations for inactive licensure to include a fee for such a license and any remedial education or professional activity it deems necessary to assure that the practitioner is prepared to return to active practice with minimal safety and skill.

In the development of amendments to these regulations, the Board has used the "Principles for Fee Development" adopted by the Department in 1999 to be applied across all professions and all boards. In doing so, it became necessary to lower several of the miscellaneous fees charged for a specific purpose - specifically the fees providing a duplicate wall certificate or license and for reinstatement of an expired license.

## Substance

*Please identify and explain the new substantive provisions, the substantive changes to existing sections, or both where appropriate. Please note that a more detailed discussion is required under the statement providing detail of the regulatory action's changes.*

Amendments to regulations have been proposed to establish a requirement for 30 hours per biennium in activities or educational courses as an indication of continuing competency. Regulations state that a minimum of 15 hours must be Type 1, or activities offered by an accredited sponsor as approved by board regulation; no more than 15 of the hours may be Type 2 activities which may or may not be offered by accredited sponsor but are considered by the practitioner to be valuable to his clinical practice.

Since there are many areas of practice for audiology and speech-language pathology in which there are overlapping modalities or conditions, the Board has provided a 45-hour continuing competency requirement for persons who are dually licensed in both fields. Knowledge gained in one is likely to be beneficial to practice in another. Examples of overlapping subject matter include: central auditory processing, otitis media (ear infections) which may affect speech, psychoacoustics, aphasia, an impairment of the ability to use or comprehend words, usually acquired as a result of a stroke or other brain injury, and treatment of children with hearing loss that typically results in the need for speech therapy.

Amendments will also stipulate provisions for record-keeping, a random audit of licensees for compliance, an exemption for the first renewal cycle following initial licensure, and conditions for waivers or exemptions. Amendments to regulations will also establish an inactive license, a fee for renewal of such a license, and conditions for reinstatement of an inactive or lapsed license to include some indication of continued competency to practice.

## Issues

*Please provide a statement identifying the issues associated with the proposed regulatory action. The term "issues" means: 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, please include a sentence to that effect.*

Issues which were addressed by the ad hoc advisory committee, the Regulatory/Legislative Committee and the Board include the following:

### **1) Type and amount of continuing competency requirements**

In order to include varying perspectives on practice in the development of regulations, the Board appointed a Task Force on Continuing Competency Requirements with representation from public and private practice settings. Included in the task force to advise the Board were: the President of Speech-Language and Hearing Association of Virginia (SHAV), representatives from the Veteran's Administration, a large academic institution, Central Virginia Training Center, a large hospital system, the home health care industry, a local school system, and several audiologists and speech-language pathologists in private practice. Members of the Board representing both professions also served on the Task Force and on the Legislative/Regulatory Committee that developed proposed regulations for the Board's consideration. The two citizen members of the Board were significantly involved in the development of regulations; one is responsible for continuing education for a large medical center in the state and was able to provide helpful expertise.

The goal of their work and the intent of the Board was to develop requirements that would:

- 1) encourage learner-directed continuing education through which the practitioner can identify a question or problem, seek the learning activity which provides needed information or teaches a new skill, and thereby, enhance his expertise or ability to practice;
- 2) offer a choice of content and form that is flexible enough to meet the needs of the learner in any type of practice in any location in Virginia; and
- 3) assure the public that practitioners providing audiology or speech-language treatment are maintaining their skills and competencies.

As a result of its work over a period of several months, the Task Force and the Legislative/Regulatory Committee recommended and the Board adopted a requirement which is aimed at involving the audiologist or speech-language pathologist as a continuing learner who is consistently assessing the questions and problems encountered in his practice and then making a

determination about the knowledge and skills needed to address those issues. In making the assessment, the practitioner is asked to consider issues of ethics, standards of care, patient safety, new technology, communication with patients, the changing health care system, and other topics influencing practice.

The 30 required hours are divided into two types: (1) In Type 1 continuing learning activities, the 15 hours required biennially must be offered by an accredited sponsor or organization which is sanctioned by the profession and which provides documentation of hours to the practitioner; and (2) In Type 2 continuing learning activities, a maximum of 15 hours earned biennially may or may not be approved by an accredited sponsor or organization but shall be activities considered by the learner to be beneficial to practice or to continuing learning; licensees document their own participation on the form provided by the Board.

In its adoption of these regulations, the Board considered continuing education requirements for the two professions in other states, requirements of other boards within the Department of Health Professions, and the availability and cost of compliance. Of the 39 states that currently have a continuing education requirement, 20 require a minimum of ten hours in one year or 20 hours in two years. The average number among all states is 11.5 hours of continuing education per year with a range of 10 hours every two years in West Virginia to 50 hours every two years in Maine. Maine and Montana are the only states that list a division between approved and unapproved hours, similar to the proposal in Virginia. In both states, 25 hours must be gained in **sponsored** activities every two years, compared with the 15 hours proposed in Virginia.

The Board (following the recommendation of the Task Force) elected to model its regulations after those adopted by the Board of Medicine, in which half of the hours are "unaccredited", learner-directed and documented. Therefore, of the 30 hours required for biennial renewal, only 15 hours would have to be obtained from and documented by an accredited sponsor. The Board determined that was a minimal amount. In addition, a wide range of accredited sponsors for continuing education were approved through the proposed regulation, so compliance should not be a burden for any licensee regardless of the practice setting or area of the Commonwealth in which he/she works.

## **2) Requirements for reactivation of an inactive or lapsed license.**

Along with requirements for continuing competency for renewal of licenses, the Board is proposing an inactive license for those practitioners who are now retired or out-of-state and have no intention of engaging in active practice in the Commonwealth. In doing so, requirements for reactivation of such a license are necessary to ensure that practitioners are competent to resume practice. The Board determined that it was necessary for a practitioner whose license has been inactive or lapsed for two or more years to provide evidence of continuing competency hours equal to the amount of time the license has not been active, not to exceed four years. The Board also reserves the right to deny reactivation if an inactive licensee has violated provisions of unprofessional conduct.

### **Advantages to the licensees:**

The proposed continuing competency requirements are intended to provide some assurance to the public that licensees of the Board are maintaining current knowledge and skills, while providing the maximum amount of flexibility and availability to licensees. Board members concluded that approximately half of the practitioners already engage in enough learning activities to meet the requirements and should only have to maintain documentation of those activities and hours. Fifteen of the 30 hours may be earned by the practitioner on his own time and schedule and may be hours that are useful to the learner but not accredited or documented by an organization. Fifteen of the hours must involve the practitioner in some course or activity which is offered by an approved sponsor that does provide documentation of completion. The resources for earning the hours and engaging in the required learning are numerous and readily available in all parts of Virginia.

**Disadvantages to the licensees:**

For those practitioners who do not currently engage in any continuing learning in their profession, these requirements will represent an additional burden. While opportunities for obtaining continued competencies exist that are without cost, there may be some additional expense associated with renewal of licensure. However, it was determined by enactment of the statute and by the Board's concurrence that those practitioners and their patients would greatly benefit from continuing learning requirements, and that the public is better protected if there is some assurance of that effort.

**Advantages or disadvantages to the public:**

There are definite advantages of the proposed amended regulations to the public, which will have greater assurance that the licensees of the Board are engaged in activities to maintain and improve their knowledge and skills in providing care to their patients.

**Fiscal Impact**

*Please identify the anticipated fiscal impacts and at a minimum include: (a) the projected cost to the state to implement and enforce the proposed regulation, including (i) fund source / fund detail, (ii) budget activity with a cross-reference to program and subprogram, and (iii) a delineation of one-time versus on-going expenditures; (b) the projected cost of the regulation on localities; (c) a description of the individuals, businesses or other entities that are likely to be affected by the regulation; (d) the agency's best estimate of the number of such entities that will be affected; and e) the projected cost of the regulation for affected individuals, businesses, or other entities.*

a) Cost to the agency for implementation and enforcement of proposed regulation:

(i) Fund source: As a special fund agency, the Board of Audiology and Speech-Language Pathology must generate sufficient revenue to cover its expenditures from non-general funds, specifically the fees it charges to applicants licensees.



(ii) Budget activity by program or subprogram: There is no change required in the budget of the Commonwealth as a result of this program.

(iii) One-time versus ongoing expenditures:

One-time expenditures:

The Board will incur approximately \$2,000 in cost for printing and mailing final amended regulations to licensees and other interested parties. There will be no additional cost for conducting a public hearing, which will be held in conjunction with a scheduled committee or board meeting.

Ongoing expenditures:

Impact on Board revenue:

For those practitioners who are now retired or who are living out-of-state, there may be a percentage who will choose to take the inactive status and avoid the renewal requirements for continuing learning. Since the board has no information on practice activity, it is not known how many licensees would do so. To get some estimate of the percentage of active and inactive physicians, the Board has looked at figures from other boards with continuing education. For the purpose of this analysis, it is assumed that no more than 5% to 10% of licensees will become inactive at a loss of revenue of \$3,636 to \$7,272 for the biennium (5% to 10% of 2424 licensees x \$30 per biennium). The renewal fee for an inactive license (\$30) is one-half that of an active license (\$60). However, if the Board adopts continued competency requirements for renewal without the option of an inactive licensure status, there may be some licensees who live out-of-state or who are retired who would elect to drop the Virginia license altogether. (There are 85 audiologists and 392 speech-language pathologists who list an out-of-state address; we have no information on the number of licensees who are retired.)

In addition, there is a proposed reduction in several miscellaneous fees including the reinstatement or late fee (reduced from \$50 to \$20), the fee for a duplicate wall certificate (reduced from \$50 to \$15), and the fee for a duplicate license (reduced from \$10 to \$5). The

Impact on Board expenditures:

It would be expected that there will be additional costs to the Board for compliance enforcement. The Board will conduct a 1 to 2% audit of its licensees at the conclusion of each biennium. Each practitioner selected for the audit will be required to submit the required documentation of continuing learning activities. There will be some staff time involved in review of the documentation and in communicating with licensee about their deficiencies. No additional personnel will be required to accomplish this activity.

It is also expected that a small percentage of licensees selected for audit will result in a disciplinary case being opened. From the experience of boards within the agency that currently have continuing competency requirements for renewal, the majority of those cases (estimated to be 20-30 per biennium) will probably be settled with a pre-hearing consent order. In those cases, the only costs

would be for charges back to the Board from the Administrative Proceedings Division (APD) of the Department. Costs for cases that do result in an informal conference committee proceeding (estimated to be 5 to 10 per biennium) would include travel expenses and per diem for board members as well as costs for the services of APD. Informal conference committees typically hear several cases in a day, so the costs per case for board member and APD time would be minimized.

Cost estimates for disciplinary cases related to the failure to comply with continuing competency regulations range from \$100 to cases resulting in pre-hearing consent orders to \$500 per case for those that result in an informal conference committee. Total costs for enforcement of continued competency requirements could range from \$2,000 to \$8,000 per biennium. All expenses relating to enforcement of these regulations can be absorbed in the existing budget of the Board.

b. Projected cost on localities:

There are no projected costs to localities. Although speech-language pathologists who work in the public schools are not required to hold a license from this board, many do. Local school boards already require in-service training for their licensees, so those speech-language pathologists have the opportunity to acquire continuing education through the public schools.

c. Description of entities that are likely to be affected by regulation:

Persons who hold a license to practice audiology and/or speech-language pathology and who wish to renew their license will be affected by these regulation beginning in 2002.

d. Number of persons affected:

Audiologists	385
Speech-Language Pathologists	2039

e. Projected costs to the affected entities:

The cost for compliance will vary greatly depending on the practitioner and the type of continuing learning activities chosen. At a conference sponsored by the Speech and Hearing Association of Virginia (SHAV), a licensee could obtain 15 hours of approved credit at a cost of \$95. That would satisfy the Board's requirement for Type 1 hours for a biennium; Type 2 hours can be obtained from reading, consulting on a case, etc. at no cost to the licensee. SHAV also has regional workshops across the state, at which a licensee can obtain 6 hours of CE at a cost of \$25 to \$40. If a licensee is unable to attend a SHAV conference, there are a variety of other sources for continuing education.

The American Speech and Hearing Association (ASHA) offers courses and videotapes via the Internet at a cost ranging from \$58 for members to \$66 for non-members for 2 hours. ASHA also has an affiliation with 36 profession-related groups or organizations through which continuing education could be approved. Professional journals, such as the Journal of the American Academy of Audiology, the American Journal of Speech-Language Pathology, the Journal of Speech, Language and Hearing Research and others include articles which could be read for continuing competency hours.

Courses are also available without any charge through hospitals or other health care organization, which provides continuing education for persons on staff. Persons practicing in a public school or governmental agency have in-service training available which will satisfy their continued competency requirements. It is estimated that approximately half of the practitioners already obtain sufficient hours and will incur no additional costs.

The 15 hours of Type 2 continuing learning is self-directed and self-recorded; it does not require accreditation or sponsorship. It may be obtained by reading scholarly journals, working on professional committees related to practice issues, observing another practitioner do a procedure, and a variety of other methods – all of which can be accomplished at no costs to the practitioner.

There would also be some very minimal costs involved with maintaining records. With the promulgation of these regulations, the Board will send each licensee the required form for assessment of practice needs and planning the activities to meet those needs. The form will also be available on the Board's website and may be downloaded into a file on the individual's personal computer. The licensee will have to maintain that form and the documentation of continuing learning activities for a period of four years. Total costs for compliance with continued competency requirements could range from zero for licensees who have in-service courses and programs available through their employer to \$200 to licensees who will obtain continuing education hours through the state or national associations.

## Detail of Changes

*Please detail any changes, other than strictly editorial changes, that are being proposed. Please detail new substantive provisions, all substantive changes to existing sections, or both where appropriate. This statement should provide a section-by-section description - or cross-walk - of changes implemented by the proposed regulatory action. Where applicable, include citations to the specific sections of an existing regulation being amended and explain the consequences of the proposed changes.*

The following amendments are proposed for 18 VAC 30-20-10 et seq.:

### **18 VAC 30-20-10. Definitions.**

Definitions are added for Type 1 and Type 2 to provide guidance for continuing competency requirements established in 18 VAC 30-20-300.

### **18 VAC 30-20-80. Fees.**

A new fee is established for biennial renewal of an inactive license; it is set at \$30 which is half the cost of renewal of an active license. Several miscellaneous fees are reduced for consistency with other boards within the Department; those fees include the reinstatement or late fee (\$50 to \$20), the fee for a duplicate wall certificate (\$50 to \$15) and the fee for a duplicate license (\$10 to \$5).

### **18 VAC 30-20-160. Reinstatement of lapsed license.**

In addition to the current requirement for payment of fees, amendments will require documentation of continuing competency hours in order to reinstate a lapsed license. If the license has been lapsed for two years or less, the applicant is required to complete the prescribed hours for the period in which the license was lapsed. If the license is lapsed for more than two years, the applicant must meet the requirements for licensure and complete the required hours for the lapsed period, not to exceed four years. In addition, the applicant will be required to provide evidence that no disciplinary action has been taken or is pending in any other jurisdiction in which he holds a license.

**18 VAC 30-20-300. Continued competency requirements for renewal of an active license.**

New regulations provide that a licensee must complete 30 hours of continued competency activities or course for each biennial renewal; at least 15 hours must be in Type 1 programs or courses offered by a sponsor or organization approved by board regulation, that includes state, national and international professional associations, accredited colleges and universities, and local, state and federal agencies. No more than 15 hours may be in Type 2 activities which may or may not be accredited, may be chosen by the licensee, and must be related to the licensed profession. Licensees in audiology and speech-language pathology must acquire a total of 45 hours with 30 of those in Type 1 activities or course and a minimum of 15 in each profession. The Board has also provided an exemption for licensees on their first renewal, for random audits to determine compliance, and a record-keeping requirement of four years following renewal. The Board may grant an extension or an exemption for hours of continuing competency for good cause shown in accordance with regulations.

**18 VAC 30-20-310. Inactive license.**

New regulations establish an inactive license which does not entitle the holder to practice his profession in Virginia, but also does not require completion of continued competency hours.

**18 VAC 30-20-320. Reinstatement of an inactive license.**

New regulations establish the criteria for reinstatement of an inactive license to include payment of the difference between the current inactive and active fee and completion of continued competency hours for the period of time in which the license has been inactive, not to exceed four years. The Board reserves the right to deny reactivation of a license if it is determined that the applicant has violated provisions of law or regulation.

## Alternatives

*Please describe the specific alternatives to the proposal considered and the rationale used by the agency to select the least burdensome or intrusive alternative that meets the essential purpose of the action.*

In the development of regulations, the Board sought to include the different viewpoints and varying perspectives on practice. The Board appointed a Task Force on Continuing Competency Requirements with representation from public and private practice settings. Included in the task force to advise the Board were: the President of Speech-Language and Hearing Association of Virginia (SHAV), representatives from the Veteran's Administration, a large academic

institution, Central Virginia Training Center, a large hospital system, the home health care industry, a local school system, and several audiologists and speech-language pathologists in private practice. Members of the Board representing both professions also served on the Task Force and on the Legislative/Regulatory Committee that developed proposed regulations for the Board's consideration. The two citizen members of the Board were significantly involved in the development of regulations; one is responsible for continuing education for a large medical center in the state and was able to provide helpful expertise.

The goal of their work and the intent of the Board was to develop requirements that would:

- 1) encourage learner-directed continuing education through which the practitioner can identify a question or problem, seek the learning activity which provides needed information or teaches a new skill, and thereby, enhance his expertise or ability to practice;
- 2) offer a choice of content and form that is flexible enough to meet the needs of the learner in any type of practice in any location in Virginia; and
- 3) assure the public that practitioners providing audiology or speech-language treatment are maintaining their skills and competencies.

As a result of its work over a period of several months, the Task Force and the Legislative/Regulatory Committee recommended and the Board adopted a requirement which is aimed at involving the audiologist or speech-language pathologist as a continuing learner who is consistently assessing the questions and problems encountered in his practice and then making a determination about the knowledge and skills needed to address those issues. In making the assessment, the practitioner is asked to consider issues of ethics, standards of care, patient safety, new technology, communication with patients, the changing health care system, and other topics influencing practice.

In its adoption of these regulations, the Board considered continuing education requirements for the two professions in other states, requirements of other boards within the Department of Health Professions, and the availability and cost of compliance. Of the 39 states that currently have a continuing education requirement, 20 require a minimum of ten hours in one year or 20 hours in two years. The Board (following the recommendation of the Task Force) elected to model its regulations after those adopted by the Board of Medicine, which has recently adopted a requirement for 60 hours per biennium with a minimum of 30 in Type 1 and no more than 30 in Type 2 hours which are "unaccredited", learner-directed and documented. The Board of Audiology and Speech-Language Pathology proposes to only require a total of 30 hours for biennial renewal, 15 hours of which would have to be obtained from and documented by an accredited sponsor. The Board determined that was a minimal amount. In addition, a wide range of accredited sponsors for continuing education were approved through the proposed regulation, so compliance should not be a burden for any licensee regardless of the practice setting or area of the Commonwealth in which he/she works.

Along with requirements for continuing competency for renewal of licenses, the Board is proposing an inactive license for those practitioners who are now retired or out-of-state and have no intention of engaging in active practice in the Commonwealth. In doing so, requirements for reactivation of such a license are necessary to ensure that practitioners are competent to resume practice. The Board determined that it was necessary for a practitioner whose license has been

inactive or lapsed for two or more years to provide evidence of continuing competency hours equal to the amount of time the license has not been active, not to exceed four years. The Board also reserves the right to deny reactivation if an inactive licensee has violated provisions of unprofessional conduct.

### Public Comment

*Please summarize all public comment received during the NOIRA comment period and provide the agency response.*

The Notice of Intended Regulatory Action was sent to those persons on the board's public participation mailing list and published in the Register of Regulations on August 16, 1999 with a request for comments to be received by the Board by September 15, 1999. During that period, the Board received no comment on its intent to develop continuing competency regulations. Since the state association and others representing a wide range of practice settings were included in a Task Force to advise the Board on appropriate requirements, interested parties had the opportunity to voice their opinions during the course of those meetings.

### Clarity of the Regulation

*Please provide a statement indicating that the agency, through examination of the regulation and relevant public comments, has determined that the regulation is clearly written and easily understandable by the individuals and entities affected.*

Prior to that adoption of proposed amendments, the Task Force on Continued Competency, the Legislative/Regulatory Committee, and the Board met in open meetings to review the current regulations in light of a need to ensure continuing competency for practitioners. The clarity and reasonableness of the language that was adopted had the approval of the Assistant Attorney General who worked with the Board in drafting regulatory language, the members of the Task Force who represent various types and settings, and the two citizens members of the Board.

### Periodic Review

*Please supply a schedule setting forth when the agency will initiate a review and re-evaluation to determine if the regulation should be continued, amended, or terminated. The specific and measurable regulatory goals should be outlined with this schedule. The review shall take place no later than three years after the proposed regulation is expected to be effective.*

Public Participation Guidelines of the Board of Audiology and Speech-Language Pathology (18 VAC 30-10-10 et seq.) require a thorough review of regulations each biennium. Therefore, the board is scheduled to begin an overall review of its regulations on June 1, 2000. The Regulation Committee of the Board will review this set of regulations and any comment from the public and

will recommend retention of current regulations or submission of a pre-NOIRA to begin the process of amending regulations to the full board for consideration.

Finally, the Board receives public comment at each of its meetings and will consider any request for amendments. Petitions for rule-making also receive a response from the Board during the mandatory 180 days in accordance with its Public Participation Guidelines.

### Family Impact Statement

*Please provide an analysis of the proposed regulatory action that assesses the potential impact on the institution of the family and family stability including the extent to which the regulatory action will: 1) strengthen or erode the authority and rights of parents in the education, nurturing, and supervision of their children; 2) encourage or discourage economic self-sufficiency, self-pride, and the assumption of responsibility for oneself, one's spouse, and one's children and/or elderly parents; 3) strengthen or erode the marital commitment; and 4) increase or decrease disposable family income.*

The agency has reviewed the proposed regulation in relation to its impact on the institution of the family and family stability. There would be no effect of the proposal on the authority and rights of parents, economic self-sufficiency or the marital commitment. While the proposed regulation will require licensees to obtain hours of continued learning in methodology or newer technology, it is likely that such requirements would have only minimal effect on disposable family income.