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## Final Regulation Agency Background Document

<b>Agency name</b>	Board of Audiology & Speech-Language Pathology; Department of Health Professions
<b>Virginia Administrative Code (VAC) citation(s)</b>	18VAC30-20-10 et seq. 18VAC30-21-10 et seq.
<b>Regulation title(s)</b>	Regulations Governing the Practice of Audiology & Speech-Language Pathology
<b>Action title</b>	Periodic review – promulgation of Chapter 21
<b>Date this document prepared</b>	2/24/16

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), Executive Orders 17 (2014) and 58 (1999), and the *Virginia Register Form, Style, and Procedure Manual*.

### Brief summary

*Please provide a brief summary of the proposed new regulation, proposed amendments to the existing regulation, or the regulation proposed to be repealed. Alert the reader to all substantive matters or changes. If applicable, generally describe the existing regulation.*

The Board has repealed Chapter 20 and adopted a revised set of regulations in Chapter 21 to reorganize sections and provisions more logically and with more clarity. Revisions to current regulations include: 1) a change in continuing competency requirements from 30 hours within two years to 10 hours annually, offered by an approved sponsor or provider; 2) less burdensome rules for re-entry into practice; 3) elimination of barriers to provisional licensure; and 4) more explicit rules for patient confidentiality, maintenance of records and violations of professional boundaries.

### 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

SHAV= Speech-Language-Hearing Association of Virginia

SLP=Speech-Language Pathologist

### 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On February 18, 2016, the Board of Audiology and Speech-Language Pathology repealed 18VAC30-20-10 et seq., and adopted 18VAC30-21-10 et seq., Regulations Governing the Practice of Audiology and Speech-Language Pathology.

### Legal basis

Please identify the state and/or federal legal authority to promulgate this proposed regulation, including: 1) the most relevant citations to the Code of Virginia or General Assembly chapter number(s), if applicable; and 2) promulgating entity, i.e., agency, board, or person. Your citation should include a specific provision authorizing the promulgating entity to regulate this specific subject or program, as well as a reference to the agency/board/person'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. ...*

Authority for the Board and for licensure of professions under the Board is found in Chapter 26 of Title 54.1 and specifically:

**§ 54.1-2603. License required.**

*A. In order to practice audiology or speech pathology, it shall be necessary to hold a valid license.*

*B. Notwithstanding the provisions of subdivision 2 of § 54.1-2601 or any Board regulation, the Board of Audiology and Speech-Language Pathology shall license, as school speech-language pathologists, persons licensed by the Board of Education with an endorsement in speech-language pathology and a master's degree in speech-language pathology. The Board of Audiology and Speech-Language Pathology shall issue licenses to such persons without examination, upon review of credentials and payment of an application fee in accordance with regulations of the Board for school speech-language pathologists.*

*Persons holding such licenses as school speech-language pathologists, without examination, shall practice solely in public school divisions; holding a license as a school speech-language pathologist pursuant to this section shall not authorize such persons to practice outside the school setting or in any setting other than the public schools of the Commonwealth, unless such individuals are licensed by the Board of Audiology and Speech-Language Pathology to offer to the public the services defined in § 54.1-2600.*

*The Board shall issue persons, holding dual licenses from the Board of Education with an endorsement in speech-language pathology and from the Board of Audiology and Speech-Language Pathology as school speech-language pathologists, a license which notes the limitations on practice set forth in this subsection.*

*Persons who hold licenses issued by the Board of Audiology and Speech-Language Pathology without these limitations shall be exempt from the requirements of this subsection.*

**§ 54.1-2604. Provisional license in audiology or speech-language pathology.**

*The Board may issue a provisional license to an applicant for licensure in audiology or speech-language pathology who has met the educational and examination requirements for licensure, to allow for the applicant to obtain clinical experience as specified in the Board's regulations. However, a person practicing with a provisional license in audiology shall practice only under the supervision of a licensed audiologist and a person practicing with a provisional license in speech-language pathology shall practice only under the supervision of a licensed speech-language pathologist in accordance with regulations established by the Board.*

**Purpose**

*Please explain the need for the new or amended regulation. Describe the rationale or justification of the proposed regulatory action. Describe the specific reasons the regulation is essential to protect the health, safety or welfare of citizens. Discuss the goals of the proposal and the problems the proposal is intended to solve.*

In order to arrange the regulations governing the practice of audiology and speech-language pathology in a more understandable, logical manner, the Board voted to repeal the current chapter and promulgated a replacement chapter.

Substantively, the qualifications for licensure in audiology will not change, but applicants for licensure in speech-language pathology will be required to demonstrate clinical competency by professional credentialing through ASHA. This regulatory action is consistent with changes proposed through a fast-track action relating to provisional licensure (Action 4054). Requirements for reactivation and reinstatement of licensure are less burdensome to encourage practitioners to re-enter the workforce. Continuing education requirements are modified to reflect annual renewals and to eliminate the Type 1 and Type 2 categories. Rather than 30 hours every two years, the Board proposes a requirement of 10 hours every year with the ability to transfer or credit excess hours to the next renewal year.

Additionally, the grounds for unprofessional conduct are expanded to include problematic conduct for which the Board currently has no grounds for disciplinary action. Consistent with the Board’s responsibility to protect the health and safety of the public, it proposes additional grounds for disciplinary action for causes such as revocation, suspension or restriction by another regulatory board, failure to comply with laws on patient confidentiality and provision of records, and actions that would constitute a professional boundary violation.

## Substance

*Please briefly identify and explain the new substantive provisions, the substantive changes to existing sections, or both.*

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As stated above, Chapter 20 will be repealed to allow a clearer, more logical reorganization of regulations. In the major parts of regulations, the following changes have been adopted:

### General Provisions:

- New definitions for words and terms used in revised regulations will be added, such as “active practice” and “ASHA”; terms no longer used will be eliminated, such as “Type 1” and “Type 2.” For consistency the term “client”, rather than “patient” will be used throughout the regulations and included in the definitions.
- The requirement for posting a license will be amended to allow licensees to carry copies of their licenses to accommodate those who travel between facilities.
- A requirement for furnishing legal proof to the Board evidencing a name change will be added for consistency with Board policy.
- There are no changes proposed in the application or renewal fees.

### Requirements for Licensure

- General application requirements for all professions will be set out in one section. The Board decided to require an attestation of having read the statutes and regulations rather than initiating a jurisprudence examination.
- Qualifications for initial licensure are simplified into one section; both audiologists and speech-language pathologists will be required to obtain a professional credential certifying graduation from an accredited educational program, passage of the examination and completion of supervised clinical experience.
- All requirements relating to provisional licensure, whether issued to obtain clinical experience for initial licensure or to practice for a period under supervision in order to qualify for licensure by endorsement, reactivation or reinstatement, are placed in one section rather than scattered throughout the chapter. Amendments to provisional licensure include speech-language pathologists as authorized by legislation passed in the 2013 General Assembly. Two barriers to provisional licensure are eliminated.
- Requirements for licensure by endorsement are modified to require less continuing education, allow a license in another state to be lapsed but eligible for reinstatement, and have one of the past three years of active practice . Currently, an applicant can qualify by documentation of a current license and active practice for three of the past five years.

#### Renewal and Continuing Competency (CE)

- Proposal for a reduction in the number of required CE hours from 30 hours every two years to 10 hours per year; the 10 hours would have to be verifiable by a recognizable sponsor, educational institution or organization.
- Elimination of Type 1 and Type 2 designated CE
- Addition of ability to carryover up to 10 hours of CE to the next renewal period.

#### Reactivation and Reinstatement

- Reactivation of an inactive license is less burdensome because the number of CE hours that may be required is capped at 30 or an applicant may submit current ASHA certification. If an inactive licensee has not reactivated within five years, he would be able to show active practice in another jurisdiction for one of the past three years or practice under supervision with a provisional license.
- Reinstatement of a lapsed license is also less burdensome with requirements similar to those for reactivation.

#### Standards of Practice

- The Board has added language on supervisory responsibilities 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 Board has added language to address patient confidentiality, records retention, professional boundaries, advertising and disciplinary action taken by another professional regulatory agency.

### Issues

*Please identify the issues associated with the proposed regulatory action, 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, please indicate.*

- 1) The primary advantage to the public is clearer, more explicit rules for client confidentiality and records, professional boundaries and delegation of tasks to unlicensed assistants. In addition, greater clarity in licensure and renewal requirements will encourage compliance with regulations to the benefit of licensees and the clients they serve. There are less burdensome requirements for persons who may want to re-enter the workforce through reinstatement or reactivation and for applicants for licensure by endorsement to encourage more practitioners who can provide professional services to clients. There are no disadvantages.
- 2) There are no advantages or disadvantages to the agency or the Commonwealth, except the logical order of the revised regulation and more clarity in the rules may reduce the number of questions to staff and problems with non-compliance.
- 3) There are no other pertinent matters.

### Requirements more restrictive than federal

*Please identify and describe any requirement of the proposal which is more restrictive than applicable federal requirements. Include 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 statement to that effect.*

There are no applicable federal requirements.

### Localities particularly affected

*Please identify any locality particularly affected by the proposed regulation. Locality particularly affected means any locality which bears any identified disproportionate material impact which would not be experienced by other localities.*

There are no localities particularly affected.

### Family impact

*Please assess the impact of this regulatory action on the institution of the family and family stability including to what extent 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.*

There is no impact on the family.

### Changes made since the proposed stage

*Please list all changes that made to the text of the proposed regulation and the rationale for the changes; explain the new requirements and what they mean rather than merely quoting the proposed text of the regulation. \*Please put an asterisk next to any substantive changes.*

There were changes made in sections 60 and 131 to incorporate regulatory actions that became effective since the submission of proposed regulations on Townhall. There were no other changes.

### Public comment

*Please summarize all comments received during the public comment period following the publication of the proposed stage, and provide the agency response. If no comment was received, please so indicate. Please distinguish between comments received on Town Hall versus those made in a public hearing or submitted directly to the agency or board.*

All comments were received on Townhall. There were no comments at the public hearing held on December 11, 2015.

Commenter	Comment	Agency response
26 persons commented on Townhall	All supported the proposed regulation in Chapter 21, especially the changes in the continuing education requirements	The Board appreciates the comments in support.
Ann Ferrell	Objected to the lower fee for school speech-language pathologists.	The Board considered the comment but did not amend. Consistently across all health regulatory boards, persons who hold limited licenses are subject to lower fees than those who hold full licensure and can practice in any setting.

**All changes made in this regulatory action**

*Please list all changes that are being proposed and the consequences of the proposed changes. Describe new provisions and/or all changes to existing sections. Explain the new requirements and what they mean rather than merely quoting the proposed text of the regulation*

Chapter 20 is being repealed and replaced by Chapter 21 in order to reorganize regulations in a more logical manner.

Section number	Proposed requirements	Other regulations and law that apply	Intent and likely impact of proposed requirements
10	<p><b>Definitions</b></p> <p>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.</p> <p>B. The following words when used in this chapter shall have the following meanings unless the context clearly indicates otherwise:</p> <p>“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, research or consultative activities or responsibilities for the delivery of such services.</p> <p>“ASHA” means the American Speech-Language-Hearing Association.</p> <p>“Client” means a patient or person receiving services in audiology or speech-language pathology.</p> <p>"Contact hour" means 60 minutes of time spent in continuing learning activities.</p> <p>"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.</p> <p>"Supervision" means that the audiologist or speech-language pathologist is</p>	<p>Definitions are currently found in Section 10 of Chapter 20.</p> <p>Terms newly defined are <i>active practice, ASHA, and client.</i></p> <p>Terms no longer defined in Chapter 21 are: Type 1 and Type 2.</p>	<p>New terms in the revised regulations are defined for clarity in usage.</p> <p>Terms that are not defined are not used in the revised regulations.</p>



	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.		
20	<p><b>Required licenses; posting of licenses</b></p> <p>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.</p> <p>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. If it is not practical to post the license, the licensee shall provide a copy of his license upon request.</p>	<p>Subsection A is currently found in section 45 of Chapter 20</p> <p>Subsection B is currently found in section 50 of Chapter 20</p>	<p>There is no new impact on licensees, as this section is a restatement of current rule.</p> <p>Additional language in subsection B allows someone to provide a copy of his license upon request if it is not practical to post his license in the facility where he is working. That change is far more reasonable for licensees who work in large health care facilities or who rotate among a number of work settings.</p>
30	<p><b>Records; accuracy of information</b></p> <p>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.</p> <p>B. A licensee who has changed his name shall submit as legal proof to the board a copy of the marriage certificate, a certification of naturalization, or court order evidencing the change. A duplicate license shall be issued by the board upon receipt of such evidence and the required fee.</p> <p>C. All notices required by law and by this chapter to be mailed by the board to any registrant or licensee shall be validly served when mailed to the latest address of record on file with the board.</p>	<p>Subsection A is currently subsection A of section 70 in Chapter 20.</p> <p>Subsection B is a new requirement.</p> <p>Subsection C is currently subsection C of section 70 in Chapter 20.</p>	<p>Subsection B is current policy for evidence of a name change and issuance of a new license, but it has not been stated in regulation for this board as it is for other boards.</p>
40	<p><b>Fees required</b></p> <p>Subsection A establishes the fees that shall be paid as applicable for licensure.</p> <p>Subsection B states: Fees shall be made payable to the Treasurer of Virginia and shall not be refunded once submitted</p>	<p><i>All fees in subsection A are identical to current fees set forth in section 80.</i></p> <p>Requirement is subsection B is identical to subsection B of section 80 in current regulation.</p>	<p><i>There is no new impact on licensees, as this section is identical to the current rule.</i></p>
50	<p><b>Application requirements</b></p> <p>A. A person seeking licensure as an audiologist, a speech-language pathologist, or a school speech-language</p>	<p>Subsection A (##1-3) are currently found in subsection A of section 180.</p>	

	<p>pathologist shall submit:</p> <ol style="list-style-type: none"> <li>1. A completed and signed application;</li> <li>2. The applicable fee prescribed in 18VAC30-21-40;</li> <li>3. Documentation as required by the board to determine if the applicant has met the qualifications for licensure;</li> <li>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; and</li> <li>5. If licensed or certified in another U. S. jurisdiction, verification of the status of the license or certification from each jurisdiction in which licensure or certification is held.</li> </ol> <p>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.</p>	<p>#4 is a new requirement for an attestation that the applicant is familiar with the laws and regulations governing practice</p> <p>#5 is a new requirement for verification of the status of licensure in another jurisdiction</p> <p>Subsection B is found in subsection B of section 180, but the one-year period is more explicitly stated to begin on the date the application is received by the board. The proposed regulation also states the current policy of the board to require a new application and fee after the one-year retention period.</p>	<p>Other health profession boards either require an attestation or a passage of a jurisprudence examination. The Board did not want to impose a new burden and cost for applicants by requiring an examination.</p> <p>The Board currently requires verification of licensure status in another state, but it is not specifically stated in regulations. It is a public safety issues to ensure that Virginia is not licensing a person whose licensed has been suspended or revoked or for whom there is sufficient cause to deny licensure in Virginia</p> <p>Subsection B clarifies current policy for retention of applications and is consistent with departmental policies on retention of documentation.</p>
<p>60</p>	<p><b>Qualifications for initial licensure.</b></p> <p>A. The board may grant an initial license to an applicant for licensure in audiology or speech-language pathology who:</p> <ol style="list-style-type: none"> <li>1. Holds a current and unrestricted Certificate of Clinical Competence issued by ASHA or 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 filing an application for licensure; and</li> <li>2. Has passed the qualifying examination from an accrediting body recognized by the board.</li> </ol> <p>B. The board may grant a license to an applicant as a school speech-language pathologist who holds a master's degree in speech-language-pathology.</p> <p>C. Any individual who holds an active, renewable license issued by the Virginia Board of Education with a valid endorsement in speech-language pathology on June 30, 2014, shall be</p>	<p>The requirements in section 60 are currently in subsection A of section 170. However, the requirement for passage of the qualifying examination within three years preceding the date of applying or active practice for one of the past three years has been eliminated.</p> <p>This section is re-titled "Qualifications for <i>initial</i> licensure." If an applicant has already been licensed in another jurisdiction, he must apply for licensure by endorsement. An applicant for <i>initial</i> licensure would not have practice in another jurisdiction but would likely have passed the examination within the past 3 years.</p>	<p>The intent is to remove any unnecessary barriers to licensure while ensuring minimal competency to practice.</p> <p><b>The amendments in subsection B and C were made in the final action to incorporate changes in the licensure of school speech-language pathologists that became effective on 8/13/14.</b></p>

	<p>deemed qualified to obtain a school speech-language pathologist license from the board until July 1, 2016, or the date of expiration of such person's license issued by the Virginia Board of Education, whichever is later.</p>	<p>Subsection B is identical to subsection C in current regulations and consistent with § 54.1-2603 of the Code of Virginia.</p> <p>Current subsection B (pertaining to licensure for speech-language pathologists) is deleted because the Board proposes to require a certificate of clinical competency for applicants in speech-language pathology as well as audiology. The language in section 60 is consistent with regulations for provisional licensure adopted pursuant to Chapter 436 of the 2013 Acts of the Assembly.</p>	
<p>70</p>	<p><b>Provisional licensure</b></p> <p>A. Provisional license to qualify for initial licensure. An applicant may be issued a provisional license in order to obtain clinical experience required for certification by ASHA, the American Board of Audiology or any other accrediting body recognized by the board. To obtain a provisional license in order to qualify for initial licensure, the applicant shall submit documentation that he:</p> <ol style="list-style-type: none"> <li>1. Has passed the qualifying examination from an accrediting body recognized by the board; and</li> <li>2. For provisional licensure in audiology, has successfully completed all the didactic coursework required for the doctoral degree as documented by a college or university whose audiology program is accredited by the Council on Academic Accreditation of ASHA or an equivalent accrediting body; or</li> <li>3. For provisional licensure in speech-language pathology, has successfully completed all the didactic coursework required for a graduate program in speech-language pathology as documented</li> </ol>	<p>Because of passage of Chapter 436 of the 2013 Acts of the Assembly, the Board now has the authority to issue a provisional license to an applicant in speech-language pathology. Therefore, section 70 differs from the current regulation in that it is applicable to both professions, not just audiology. Provisional licensure for speech-language pathologists has already been adopted and submitted in Action 4054/Stage 6703.</p> <p>Provisions of subsection A are currently found in subsection A of section 171, but two barriers to a provisional license have been eliminated.</p> <p>Currently, an applicant for a provisional license to qualify for initial licensure must be</p>	<p>The deletion of two requirements for provisional licensure will enable a few applicants to qualify who are ineligible under the current regulations.</p> <p>Applicants for licensure in speech-language pathology who do not currently meet requirements for licensure by endorsement, reactivation or reinstatement will now be able to obtain a provisional license in order to verify current clinical competency.</p>

	<p>by a college or university whose program is accredited by the Council on Academic Accreditation of the American Speech-Language-Hearing Association or an equivalent accrediting body.</p> <p>B. Provisional license to qualify for endorsement or re-entry into practice. An applicant may be issued a provisional license in order to qualify for licensure by endorsement pursuant to 18VAC30-21-80, reactivation of an inactive license pursuant to subsection C of 18VAC30-21-110 or reinstatement of a lapsed license pursuant to subsection B of 18VAC30-21-120.</p> <p>C. All provisional licenses shall expire 18 months from the date of issuance and may be renewed for an additional six months by submission of a renewal form and 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.</p> <p>D. The holder of a provisional license in audiology shall only practice under the supervision of a licensed audiologist and the holder of a provisional license in speech-language pathology shall only practice under the supervision of a licensed speech-language pathologist. The provisional licensee shall be responsible and accountable for the safe performance of those direct client care tasks to which he has been assigned.</p> <p>E. Licensed audiologists or speech-language pathologists providing supervision shall:</p> <ol style="list-style-type: none"> <li>1. Notify the board electronically or in writing of the intent to provide supervision for a provisional licensee;</li> <li>2. Have an active, current license and at least three years of active practice as an audiologist or speech-language pathologist prior to providing supervision;</li> <li>3. Document the frequency and nature of the supervision of provisional licensees;</li> <li>4. Be responsible and accountable for the assignment of clients and tasks based on their assessment and</li> </ol>	<p>“currently enrolled in a doctoral program.” Additionally, an applicant must have passed the exam within the past 3 years. That prohibits someone who did not pass the examination within the past 3 years from obtaining a provisional license – so those requirements were deleted in the proposed regulations.</p> <p>Provisions of subsection B are currently found in subsection C of section 160 (reinstatement) and subsection C of section 185 (endorsement). A provisional license for an audiologist seeking reactivation of an inactive license is currently not available.</p> <p>Provisions of subsection C are currently found in subsection B of section 171.</p> <p>Provisions of subsection D are currently found in subsection C of section 171.</p> <p>Provisions of subsection E are currently found in subsection D of section 171 with the addition of #2, requiring that the supervisor of a provisional licensee have at least 3 years of active practice.</p>	<p>The requirement for 3 years of experience to supervise a provisional licensee is necessary to ensure sufficient clinical experience by the supervisor to monitor performance and be accountable for appropriate assignment of tasks and patients.</p>
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	<p>evaluation of the provisional licensee's knowledge and skills; and</p> <p>5. Monitor clinical performance and intervene if necessary for the safety and protection of the clients.</p> <p>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.</p>	<p>Provisions of subsection F are currently found in subsection E of section 171.</p>	
<p>80</p>	<p><b>Qualifications for licensure by endorsement.</b></p> <p>An applicant for licensure in audiology or speech-language pathology who has been licensed in another U. S. jurisdiction may apply for licensure in Virginia in accordance with application requirements in 18VAC30-20-50 and submission of documentation of:</p> <p>1. Ten continuing education hours for each year in which he has been licensed in the other jurisdiction, not to exceed 30 hours, or a current and unrestricted Certificate of Clinical Competence in the area in which he seeks licensure issued by ASHA or 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 filing an application for licensure;</p> <p>2. Passage of the qualifying examination from an accrediting body recognized by the board;</p> <p>3. Current status of licensure in another U.S. jurisdiction showing that no disciplinary action is pending or unresolved. The board may deny a request for licensure to any applicant who has been determined to have committed an act in violation of 18VAC30-21-160; and</p> <p>4. Evidence of active practice in another U. S. jurisdiction for at least one of the past three years or practice for six months with a provisional license in accordance with 18VAC30-21-70 and by receiving a recommendation for licensure by his supervisor.</p>	<p>Requirements for licensure by endorsement in section 80 are taken from section 185 in current regulations.</p> <p>The differences are:</p> <p>#1 – Current regulations require documentation of 15 hours of CE for each year the applicant has been licensed for a maximum of 60 hours; proposed regulations require 10 hours for each year for a maximum of 30 hours.</p> <p>#2 – Current regulations permit an applicant to either meet the qualifications for initial licensure or provide evidence of active practice for 3 of the past 5 years. In the amended regulation, passage of the qualifying examination is required for licensure.</p> <p>#3 – Currently, regulations require a “current license” in another jurisdiction <i>in the U.S.</i>; proposed regulations allow the license to be lapsed but eligible for reinstatement and in another U. S. jurisdiction. Current regulations specify that the applicant must provide evidence</p>	<p>#1 – Ten hours per year is consistent with the proposed requirement for renewal of an active license in Virginia. In the proposed regulation, the maximum hourly requirement would be 30 hours versus the current 60 hours and would be much less burdensome. An applicant may use a current certificate from ASHA or ABA to satisfy the continuing education requirement.</p> <p>#2 – The Board has determined that evidence of an examination is necessary to ensure that minimum competency to practice in Virginia can be assured. Current certification from ASHA or ABA would provide such evidence because those credentialing bodies require graduate degrees and passage of an examination for issuance of certification. If the applicant has not maintained current certification, he can provide an exam score to verify qualification.</p> <p>#3 - The proposed regulations will allow an applicant with a lapsed license in another jurisdiction to be licensed by endorsement without having to meet requirements for initial licensure, if the licensee is eligible for reinstatement. Current regulations restrict licensure by endorsement to a licensee of another state in the U.S.; proposed regulations will</p>

		<p>that no disciplinary action has been taken or is pending; proposed regulations specify that no disciplinary action is pending or unresolved.</p> <p>#4 – Current regulations require an applicant to meet the qualifications for initial licensure or have active practice for 3 of the past 5 years. Proposed regulations require active practice in another U. S. jurisdiction for at least one of the past three years or practice for six months with a provisional license.</p>	<p>include U. S. territories. An applicant may have had a previous disciplinary action for a minor violation that would not constitute grounds for denial in Virginia (i.e., failure to obtain required CE). The proposed regulation is less restrictive and more reasonable.</p> <p>#4 – Evidence of active practice is required by it would be one of the past 3 years rather than 3 of the past 5 years. Additionally, the Board would be able to issue a provisional license for 6 months of practice under supervision if the applicant does not have the requisite year of active practice</p>
<p>90</p>	<p><b>Renewal requirements</b> 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.</p>	<p>Provisions of section 100 are identical to those currently found in section 150.</p>	
<p>100</p>	<p><b>Continuing education requirements for renewal of an active license</b> A. In order to renew an active license, a licensee shall complete at least 10 contact hours of continuing education prior to December 31 of each year. Up to 10 contact hours of continuing education in excess of the number required for renewal may be transferred or credited to the next renewal year. B. 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:</p>	<p>Continuing education (CE) requirements for renewal of licensure are currently found in section 300.</p> <p>Currently, regulations require 30 hours within 2 years preceding licensure; proposed regulations will require 10 hours in the year preceding annual renewal and eliminate “Type 2 hours.” A licensee will be able to carry over up to 10 hours and have them credited to the next year.</p>	<p>When renewal was changed from biennial to annual in 2004, the section on CE was not amended, so the requirement remained 30 hours within 2 years preceding renewal. The difference between the CE requirement and the renewal of license has been confusing, so the annual time frame has been made consistent.</p> <p>Maintenance of ASHA certification requires 30 hours of verifiable, approved continuing education every 3 years; so the Board believes it is less burdensome to licensees to require 10 hours per year for annual renewal. The</p>

<p>1. The Speech-Language Hearing Association of Virginia or similar state speech-language hearing association of another state;</p> <p>2. The American Academy of Audiology;</p> <p>3. The American Speech-Language Hearing Association;</p> <p>4. The Accreditation Council on Continuing Medical Education of the American Medical Association offering Category I continuing medical education;</p> <p>5. Local, state or federal government agencies;</p> <p>6. Colleges and universities;</p> <p>7. International Association of Continuing Education and Training; or</p> <p>8. Health care organizations accredited by the Joint Commission on Accreditation of Healthcare Organizations (JCAHO).</p> <p>C. 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.</p> <p>D. A licensee shall be exempt from the continuing competency requirements for the first renewal following the date of initial licensure in Virginia under 18VAC30-20-60.</p> <p>E. The licensee shall retain all continuing education documentation for a period of three years following the renewal of an active license. Documentation from the sponsor or organization shall include the title of the course, the name of the sponsoring organization, the date of the course and the number of hours credited.</p> <p>F. 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 of December 31st.</p> <p>G. 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.</p>	<p>Subsection B, which listed the approved sponsors or providers is almost identical to the listing in section 300 of current regulations; in proposed regulations, a sponsor approved by the Board has been eliminated.</p> <p>Subsection C is similar to subsection B of section 300 in current regulations in that there is credit allowed for someone who is dually licensed. Rather than 10 hours for each profession, the licensee is required to obtain 15 hours with a minimum of half the hours directed to each profession.</p> <p>Subsection D is similar to subsection C in current regulations, but the incorrect reference to <i>biennial</i> renewal is eliminated.</p> <p>Subsection E is similar to subsection D in current regulations, but the retention period is changed from <i>4 years to 3 years</i>. Additionally, “supporting documentation” is further specified so licensees will know what information must be retained in the event they are audited.</p> <p>Subsection F is similar to subsection G in current regulations.</p> <p>Subsection G is taken from subsection H in current regulation in section 300.</p>	<p>Board has also eliminated credit for Type 2 hours, which are not offered by an approved sponsor or provider and are not verifiable. To allow for credit for lengthy and in-depth CE coursework, a licensee will be allowed to carry-over up to 10 hours to the next renewal cycle.</p> <p>The elimination of board-approved sponsors will not have an impact because there is a wide range of CE providers or sponsors approved by regulation in subsection B.</p>
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	<p>H. The board shall periodically conduct an audit for compliance with continuing education requirements. Licensees selected for an audit conducted by the board shall complete the Continued Education Activity and Assessment Form and provide all supporting documentation within 30 days of receiving notification of the audit.</p> <p>I. Failure to comply with these requirements may subject the licensee to disciplinary action by the board.</p>	<p>Subsection H is similar to subsection E in current regulations.</p> <p>Subsection I is identical to subsection F in current regulations.</p>	
<p>110</p>	<p><b>Inactive licensure; reactivation for audiologist and speech-language pathologists.</b></p> <p>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.</p> <p>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 10 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.</p> <p>C. A licensee who does not reactivate within five years shall meet the requirements of subsection B of this section and shall either:</p> <ol style="list-style-type: none"> <li>1. Meet the requirements for initial licensure as prescribed by <a href="#">18VAC30-21-60</a>; or</li> <li>2. Provide documentation of a current license in another jurisdiction in the United States and evidence of active practice for at least one of the past three years <b>or</b> practice in accordance with <a href="#">18VAC30-21-70</a> with a provisional</li> </ol>	<p>Rules for an inactive license in subsection A are identical to section 310 in current regulations.</p> <p>Subsection B is the same as subsection A of section 320 in current rules, except: 1) the number of CE hours is capped at 30 in the proposed regulation, and it is equal to the number of years, not to exceed four years in the current regulation; and 2) an applicant for reactivation may submit documentation of current ASHA certification as evidence of continued competency.</p> <p>Rules in subsection C for reactivation of a license inactive for five or more years are new in proposed regulation.</p>	<p>If a licensee has maintained ASHA certification, it is sufficient evidence that he has completed at least 10 hours of CE each year in which his license has been inactive. If he does not have ASHA certification, he has to complete a maximum of 30 hours of CE.</p> <p>Whether a licensee has taken an inactive status or allowed his license to lapse, he was not authorized to practice in Virginia. After five years, the Board needs some additional evidence of competency to return to active practice. If the licensee has continued to practice in another state for at least 1 or the 3 years, that can suffice as evidence of continued competency or he can work under a provisional license for 6 months.</p>



	<p>license for six months and submit a recommendation for licensure from his supervisor.</p> <p>D. If the licensee holds licensure in any other state or jurisdiction, he shall provide evidence that no disciplinary action is pending or unresolved. The board may deny a request for reactivation to any licensee who has been determined to have committed an act in violation of <a href="#">18VAC30-21-160</a>.</p>	<p>Subsection D is similar to subsection B in section 320 in current regulations. It adds a requirement that the applicant provide evidence that no action is pending or unresolved, <u>if</u> he holds licensure in another state.</p>	<p>Subsection D is necessary to ensure that the Board does not re-license an individual who has a disciplinary history that warrants denial.</p>
<p>120</p>	<p><b>Reinstatement of a lapsed license for audiologists or speech</b></p> <p>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 education hours for each year the license has been lapsed, not to exceed 30 contact hours, obtained during the time the license in Virginia was lapsed.</p> <p>B. A licensee who does not reinstate within five years shall meet the requirements of subsection A of this section and shall either:</p> <ol style="list-style-type: none"> <li>1. Reinstatement by meeting the requirements for initial licensure as prescribed by <a href="#">18VAC30-21-60</a>; or</li> <li>2. Provide documentation of a current license in another U. S. jurisdiction and evidence of active practice for at least one of the past three years <b>or</b> practice in accordance with <a href="#">18VAC30-21-70</a> with a provisional license for six months and submit a recommendation for licensure from his supervisor.</li> </ol> <p>C. If the licensee holds licensure in any other state or jurisdiction, he shall provide evidence that no disciplinary action is pending or unresolved. The board may deny a request for reinstatement to any licensee who has been determined to have committed an act in violation of <a href="#">18VAC30-21-160</a>.</p>	<p>Rules for reinstatement of a lapsed license in subsection A are identical to section 160 in current regulations; except the CE requirement is 10 hours for each year the license was lapsed, with a maximum of 30 hours, rather than 15 hours with a maximum of 60 hours. Additionally, the applicant may use current ASHA certification as evidence of competency.</p> <p>Subsection B is similar to current rules and policy for reinstatement of a license lapsed five or more years. However, the current requirement is evidence of practice for <b>3 of the past 5 years</b>. In current regulations, only an audiology applicant could qualify for a provisional license to practice for 6 months under supervision.</p> <p>Subsection C is similar to subsection C of section 160 in current rules, but an applicant may not have disciplinary action that is “pending or unresolved.” Current regulations say an action may not have been “taken.”</p>	<p>The intent of the proposed rules is to make reinstatement of a lapsed license less burdensome, while continuing to protect the public if a licensee has been out of practice for five or more years.</p>

<p>130</p>	<p><b>Reactivation or reinstatement of a school speech-language pathologist</b>                  A. A school speech-language pathologist whose license has been inactive and who requests reactivation of an active license shall file an application and pay the difference between the inactive and active renewal fees for the current year. A school speech-language pathologist whose license has lapsed and who requests reinstatement shall file an application and pay the reinstatement fee as set forth in 18VAC30-20-40.                  B. The board may reactivate or reinstate licensure as a school speech-language pathologist to an applicant who:                  1. Holds a master's degree in speech-language-pathology; and                  2. Holds a current endorsement in speech-language pathology from the Virginia Department of Education.                  C. The board may deny a request for reactivation or reinstatement to any licensee who has been determined to have committed an act in violation of 18VAC30-21-160.</p>	<p>This is a new section in regulation. The Code specifies the qualifications for licensure as a school speech-language pathologist, so licensure by any method must be consistent.</p> <p>The Board has authority to deny a license to anyone who is found in violation of rules for unprofessional conduct.</p>	<p>The intent is to specify a pathway for reactivation or reinstatement of a school speech-language pathology license.</p>
<p>131</p>	<p><b>Performance of flexible endoscopic evaluation of swallowing</b></p>	<p><b>Section 131 is identical to section 161 in the current regulation which became effective on 10/7/15.</b></p>	<p><b>Section 131 was added to incorporate a regulatory action that became effective after the submission of this proposed regulation on Townhall.</b></p>
<p>140</p>	<p><b>Supervision of unlicensed assistants</b>                  A. If a licensed audiologist and speech-language pathologist has unlicensed assistants, he shall document supervision of them, 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. A licensee may delegate to an unlicensed assistant such activities or functions that are non-discretionary and do not require the exercise of professional judgment for their performance.                  C. The identity of the unlicensed assistant shall be disclosed to the client prior to treatment and shall be made a</p>	<p>Subsection A on supervision of unlicensed assistants is identical to subsection A of section 240 in current regulations, except the proposed regulation notes that it is only applicable to licensees who supervise assistants.</p> <p>Subsection B is new in the proposed regulations.</p> <p>Subsection C is identical to subsection B of section 240 in current regulations.</p>	<p>The Board frequently has questions about what may be delegated to an unlicensed assistant. It does not believe regulations should attempt to state a laundry list of duties and tasks, but it does need to specify the types of activities and functions that may be appropriately delegated. Language in subsection B is identical to provisions in other</p>

	part of the client's file.		health professional regulations on delegation (See § 54.1-2901 #6).
150	<p><b>Prohibited conduct.</b></p> <p>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.</p> <p>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.</p>	The prohibited conduct set out in section 150 is identical to language in section 230 of current regulations.	
160	<p><b>Unprofessional conduct.</b></p> <p>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:</p> <ol style="list-style-type: none"> <li>1. Guarantee of the results of any speech, voice, language, or hearing consultative or therapeutic procedure or exploitation of clients by accepting them for treatment when benefit cannot reasonably be expected to occur, or by continuing treatment unnecessarily;</li> <li>2. Diagnosis or treatment of speech, voice, language, and hearing disorders solely by written correspondence, provided this shall not preclude:             <ol style="list-style-type: none"> <li>a. Follow-up by written correspondence or electronic communication concerning individuals previously seen; or</li> <li>b. Providing clients with general information of an educational nature;</li> </ol> </li> <li>3. Failure to comply with provisions of § 32.1-127.1:03 of the Code of Virginia related to the confidentiality and disclosure of client records or related to provision of client records to another practitioner or to the client or his personal representative;</li> <li>4. Failure to properly manage and keep timely, accurate, legible and complete client records, to include the following:</li> </ol>	<p>Provisions on unprofessional conduct are similar to those in section 280 of current regulations, with a few additions:</p> <p>#1 is taken from ## 1 and 4 in current regulation.</p> <p>#2 is identical to #2 in current regulation.</p> <p>#3 is similar to provisions in current #3 in section 280, but is more explicit about patient records by citing § 32.1-127.1:03.</p> <p>#4 is new language.</p>	<p>Failure to comply with disclosure requirements for patient records is currently not a citable violation. Practitioners licensed by this board may be cited for a violation of law governing the practice but adherence to law on client records is not specified as unprofessional conduct. Likewise, there are currently no rules for maintenance of patient/client records, so practitioners are uncertain about their responsibilities. The proposed rules are identical to those for professions licensed</p>

<p>a. For licensees who are employed by a health care institution, school system or other entity, in which the individual practitioner does not own or maintain his own records, failure to maintain client records in accordance with the policies and procedures of the employing entity; or</p> <p>b. For licensees who are self-employed or employed by an entity in which the individual practitioner does own and is responsible for client records, failure to maintain a client record for a minimum of six years following the last client encounter with the following exceptions:</p> <p>(1) For records of a minor child, the minimum time is six years from the last client encounter or until the child reaches the age of 18 or becomes emancipated, whichever is longer; or</p> <p>(2) Records that have previously been transferred to another practitioner or health care provider or provided to the client or his personal representative as documented in a record or database maintained for a minimum of six years;</p> <p>5. Engaging or attempting to engage in a relationship with a client that constitutes a professional boundary violation in which the practitioner uses his professional position to take advantage of the vulnerability of a client or his family, including but not limited to sexual misconduct with a client or a member of his family or other conduct that results or could result in personal gain at the expense of the client;</p> <p>6. Incompetence or negligence in the practice of the profession;</p> <p>7. 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;</p> <p>8. 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;</p> <p>9. Failure to supervise persons who</p>	<p>#5 Provisions on professional boundaries are new in proposed regulations.</p> <p>## 6 through 11 are found in current regulations in section 280 as ## 5 through 10</p>	<p>under the Board of Medicine.</p> <p>#5 – While the Board does not often encounter professional boundary issues with these professions, there should be provisions that would allow a citable violation if the facts of a case warrant disciplinary action. The language adopted is similar to provisions in regulations for dentistry, nursing and other professions.</p>
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	<p>assist them in the practice of speech-language pathology and audiology as well as failure to disclose the use and identity of unlicensed assistants;</p> <p>10. Conviction of a felony or a misdemeanor involving moral turpitude;</p> <p>11. Violating or cooperating with others in violating any of the provisions of Chapters 1 (§ 54.1-100 et seq.), 24 (§ 54.1-2400 et seq.), 26 (§ 54.1-2600 et seq.) of the Code of Virginia or regulations of the board;</p> <p>12. Publishing or causing to be published in any manner an advertisement relating to his professional practice which is false, deceptive or misleading;</p> <p>13. Inability to practice with skill and safety;</p> <p>14. Fraud, deceit or misrepresentation in the provision of documentation or information to the board or in the practice of audiology or speech-language pathology;</p> <p>15. Aiding and abetting unlicensed activity; or</p> <p>16. 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 U. S. jurisdiction or a foreign jurisdiction.</p>	<p>#11 is general language used by other boards to reference Code sections applicable to health professions and to these licensees in particular.</p> <p>#12, relating specifically to advertisement is new.</p> <p>#13 is identical to #12 in current section 280.</p> <p>#14 is a combination of ##13 and 14 in current regulation, but is more specific about misrepresentation of one’s professional credentials to include submission of applications or supervisory forms.</p> <p>#15 is identical to #15 in current section 280.</p> <p>#16 is similar to #16 in current section 280, except another regulatory agency is included.</p>	<p>While ##11 and 12 are new for this chapter, they are commonly cited as unprofessional conduct in regulations for other professions. Currently, the Board has a prohibition on “making material misrepresentation,” but nothing that specifically addresses false, misleading or deceptive advertising.</p> <p>In #16, another regulatory agency was included because the Board recently was notified of the revocation of a hearing aid license and could not specifically use that revocation to discipline the license of the audiologist. A similar situation could arise in which a teaching license of a speech-language pathologist could be revoked for cause by the Department of Education, and the Board would need to cite that action to revoke the practitioner license.</p>
<p>170</p>	<p>Criteria for delegation to an agency subordinate.</p> <p>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.</p> <p>B. Criteria for delegation. Cases that may not be delegated to an agency subordinate include, but are not limited to, those that involve:</p> <ol style="list-style-type: none"> <li>1. Intentional or negligent conduct that causes or is likely to cause injury to a patient;</li> <li>2. Mandatory suspension resulting from action by another jurisdiction or a</li> </ol>	<p>All of section 170 is identical to section 290 in current regulations.</p>	

<p>felony conviction;</p> <ol style="list-style-type: none"><li>3. Impairment with an inability to practice with skill and safety;</li><li>4. Sexual misconduct;</li><li>5. Unauthorized practice.</li></ol> <p>C. Criteria for an agency subordinate.</p> <ol style="list-style-type: none"><li>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.</li><li>2. The executive director shall maintain a list of appropriately qualified persons to whom an informal fact-finding proceeding may be delegated.</li><li>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.</li></ol>		
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