



## Fast Track Proposed Regulation Agency Background Document

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| <b>Agency name</b>                                 | Board of Audiology and Speech-Language Pathology, Department of Health Professions |
| <b>Virginia Administrative Code (VAC) citation</b> | 18VAC30-20-10 et seq.  |
| <b>Regulation title</b>                            | Regulations Governing the Practice of Audiology and Speech-Language Pathology      |
| <b>Action title</b>                                | Provisional licensure in speech-language pathology                                 |
| <b>Date this document prepared</b>                 | 7/24/13  |

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), Executive Orders 14 (2010) and 58 (1999), and the *Virginia Register Form, Style, and Procedure Manual*.

### Brief summary

*Please provide a brief summary (no more than 2 short paragraphs) of the proposed new regulation, proposed amendments to the existing regulation, or the regulation proposed to be repealed.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.*

Chapter 436 of the 2013 Acts of the Assembly amended § 54.1-2604 to authorize the Board to issue a provisional license to an applicant in speech-language pathology in order to allow for the applicant to obtain clinical experience as specified in the regulations. Therefore, the Board has adopted amendments to specify that an applicant for full licensure in speech-language pathology must have clinical experience but may be granted provisional licensure for that purpose.

### 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

SLP = speech-language pathology

**Statement of final agency action**

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

On July 18, 2013, the Board of Audiology and Speech-Language Pathology amended 18VAC30-20-10 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. ...*

The specific authority for the Board to promulgate regulations for a provisional license in speech-language pathology is found in:

§ [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. Detail 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.*

If the Board continues to grant a full license to speech-language pathologists without evidence of clinical competency, the public may be at risk by receiving inadequate or incompetent services. Those services are often provided to young children or the elderly who are stroke victims. The issuance of a provisional license to SLP applicants will allow them to receive clinical supervision for their practice and allow the Board to issue full, independent licensure with some assurance of competency to protect the health, safety and welfare of the public.

### Rationale for using fast track process

*Please explain the rationale for using the fast track process in promulgating this regulation. Why do you expect this rulemaking to be noncontroversial?*

The Board expects the action to be noncontroversial because issuance of and practice with a provisional license is already common for audiologists. The legislation (HB2031) was requested by the Speech-Language-Hearing Association of Virginia (SHAV) and is strongly supported by the profession. Additionally, Virginia has been only one of three states (ND and NV) that do not require clinical experience for licensure, so these changes will make licensure in the Commonwealth consistent with other states and improve mobility for practitioners.

### Substance

*Please briefly identify and explain the new substantive provisions, the substantive changes to existing sections, or both where appropriate. (Provide more detail about these changes in the "Detail of changes" section.) Please be sure to define any acronyms.*

The proposed amendments will allow an applicant for reinstatement or licensure by endorsement to meet the requirements for clinical experience by obtaining a provisional license and practicing under supervision for six months. A provisional license will also be available to a person with a graduate degree who is practicing under supervision in order to complete a clinical fellowship year and qualify for clinical competency certification from ASHA. Such certification will be required for full licensure in order to ensure minimal clinical competency for licensed speech-language pathologists.

## 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 assurance of clinical competency for licensed speech-language pathologists. Additionally, a few SLP's who are currently unable to be licensed by endorsement may be able to obtain practical experience through a provisional license which will qualify them for licensure in Virginia. There are no disadvantages to the public.
- 2) The credentials review for SLP applicants will be performed by ASHA, so there is an advantage to the Commonwealth in terms of cost-avoidance to the Board. There are no disadvantages.
- 3) The professional association of speech-language pathologists in Virginia is fully supportive of the changes and worked to get authorizing legislation passed in the General Assembly.

## 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.

## Regulatory flexibility analysis

*Pursuant to §2.2-4007.1B of the Code of Virginia, please describe the agency's analysis of alternative regulatory methods, consistent with health, safety, environmental, and economic welfare, that will accomplish the objectives of applicable law while minimizing the adverse impact on small business. Alternative regulatory methods include, at a minimum: 1) the establishment of less stringent compliance*

or reporting requirements; 2) the establishment of less stringent schedules or deadlines for compliance or reporting requirements; 3) the consolidation or simplification of compliance or reporting requirements; 4) the establishment of performance standards for small businesses to replace design or operational standards required in the proposed regulation; and 5) the exemption of small businesses from all or any part of the requirements contained in the proposed regulation.

There are no alternative regulatory methods to the establishment of a provisional license in speech-language pathology that will accomplish the objectives of § 54.1-2604.

**Economic impact**

*Please identify the anticipated economic impact of the proposed new regulations or amendments to the existing regulation. When describing a particular economic impact, please specify which new requirement or change in requirement creates the anticipated economic impact. Please keep in mind that we are looking at the impact of the proposed changes to the status quo.*

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| <p><b>Description of the individuals, businesses or other entities likely to be affected (positively or negatively) by this regulatory proposal.</b> Think broadly, e.g., these entities may or may not be regulated by this board</p>   | <p>The persons likely to be affected would be applicants for licensure by examination, endorsement or reinstatement.</p>  |
| <p><b>Agency's best estimate of the number of (1) entities that will be affected, including (2) small businesses affected.</b> Small business means a business, including affiliates, that is independently owned and operated, employs fewer than 500 full-time employees, or has gross annual sales of less than \$6 million.</p>      | <p>The Board receives approximately 300- 350 applications for SLP licensure each year. It is unknown how many already have certification of clinical competence from ASHA and will qualify for full licensure without a provisional license, but it may be expected that at least half of that number will obtain a provisional license to obtain clinical experience in order to qualify for ASHA certification.</p>                     |
| <p><b>Benefits expected as a result of this regulatory proposal.</b></p>   | <p>The entities in which such persons may work would be positively affected by the ability to employ them with provisional licensure while they are gaining the clinical experience needed for full licensure. Applicants for licensure by endorsement who do not have the requisite clinical experience will benefit the most by being able to satisfy the missing experience requirement with experience as a provisional licensee.</p> |
| <p><b>Projected cost to the state to implement and enforce this regulatory proposal.</b></p>   | <p>There are no costs for implementation. Applications may be revised by board staff and posted electronically.</p>   |
| <p><b>Projected cost to localities to implement and enforce this regulatory proposal.</b></p>  | <p>There are no costs to localities.</p>  |
| <p><b>All projected costs of this regulatory proposal for affected individuals, businesses, or other entities.</b> Please be specific and include all costs, including projected reporting, recordkeeping, and other administrative costs required for compliance by small businesses, and costs related to real estate development.</p> | <p>There may be a cost reduction from some applicants. If a graduate in speech-language pathology needs a license to complete his year of clinical experience, he would be able get a provisional license at a cost of \$50, rather than paying for the full license at a cost of \$135. For those applicants who do not already have</p>   |

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|  | <p>ASHA certification, there will be a cost ranging from \$286 to \$511, depending on the category of application to ASHA. To obtain ASHA certification, an applicant must submit transcripts, exam scores, and an evaluation of clinical practice. ASHA's certification standards are based on skills validation studies and practice analyses involving employers, leaders in the discipline of communication sciences and disorders, and practitioners in the professions of speech-language pathology and audiology. If regulations required an the evaluation of credentials to be performed by the Board rather than by ASHA, it would be necessary to contract with expert reviewers and would delay the application process for all potential licensees. ASHA has the expertise and resources for a credential review. For the Board to engage in that process, it would be necessary to significantly increase its application and renewal fees.</p> |
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**Alternatives**

*Please describe any viable 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. Also, include discussion of less intrusive or less costly alternatives for small businesses, as defined in §2.2-4007.1 of the Code of Virginia, of achieving the purpose of the regulation.*

Without amendments to regulation, the Board is unable to implement Chapter 436 of the 2013 Acts of the Assembly. The regulatory language for provisional licensure in speech-language pathology is identical to the current requirements for audiology, except the provisional license in audiology requires a doctoral degree but the graduate degree may be a master’s for speech-language pathology.

**Family impact**

*Please assess the impact of the proposed 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 and family stability.

**Detail of changes**

*Please list all changes that are being proposed and the consequences of the proposed changes. If the proposed regulation is a new chapter, describe the intent of the language and the expected impact. Please describe the difference between existing regulation(s) and/or agency practice(s) and what is being proposed in this regulatory action.*

| <b>Current section number</b> | <b>Current requirement</b>                              | <b>Proposed change, intent, rationale, and likely impact of proposed requirements</b>   |
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| 80                            | Sets out the fees for applicants and licensees          | <p>Amendments to subsection A eliminate the specific reference to “audiology” so the application and renewal fees for provisional licensure are applicable to both professions.</p> <p>The deletion of subsection C is necessary to eliminate a fee that was on in effect in 2009.</p>  |
| 160                           | Sets requirements for reinstatement of a lapsed license | <p>Amendments to subsection C will expand the opportunity for an applicant to qualify for reinstatement by including a provisional license for speech-language pathology applicants. Currently, a SLP whose license has been lapsed in Virginia for 5 years or more and who does not meet the requirement for active practice 3 of the past 5 years is unable to qualify by 6 months of clinical practice as a provisional licensee. That person has no option other than re-applying for licensure.</p>  |
| 170                           | Sets the requirements for licensure                     | <p>Amendments will eliminate subsection B which currently allows an SLP applicant to be licensed without any clinical experience. There are only 2 other states that allow full licensure without supervised experience, so mobility is problematic for SLP’s who have been licensed in Virginia without their certificate of clinical competence issued by ASHA. Additionally, the public is at risk by allowing an SLP to have a full license without any evidence of supervised clinical experience.</p> <p>Consistent with changes to the statute, the Board is now authorized to issue a provisional license to an SLP graduate which will allow them to work, but to do so under clinical supervision. If the clinical fellowship is obtained in the context of an educational program, the provisional license would not be necessary as practice would fall under an exemption in § 54.1-2601. The speech-language pathology clinical fellowship is the transition period between being a student enrolled in an educational program and being an independent provider of speech-language pathology clinical services. The clinical fellowship involves a mentored professional experience after the completion of academic course work and clinical practicum.</p> <p>According to ASHA, the purpose of a clinical fellowship is:</p> <ul style="list-style-type: none"> <li>§ Integration and application of the theoretical knowledge from academic training</li> <li>§ Evaluation of strengths and identification of limitations</li> <li>§ Development and refinement of clinical skills</li> <li>§ Advancement from constant supervision to independent practitioner</li> </ul> |

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| <p>171</p> | <p>Sets out the requirements for issuance of and practice with a provisional license</p> | <p>Subsection B is added to specify the qualifications for an SLP applicant for provisional licensure. The requirements are the same for SLP as for audiology, but the educational qualification for SLP is a “graduate” degree (master or doctoral).</p> <p>Subsection C is amended to clarify that renewal of a provisional license requires submission of a form as well as a fee. (A form is currently required for renewal)</p> <p>Subsection E is amended to:</p> <ol style="list-style-type: none"> <li>1) Clarify that notification of the intent to provide supervision must be electronically or in writing (current policy).</li> <li>2) Specify that the supervisor must have an active, current license as an audiologist or speech-language pathologist, as applicable and that the supervisor have a minimum of 3 years of experience.</li> </ol> <p>It has been presumed that a supervisor would have a current license; otherwise he would be unable to perform the responsibilities stated in regulation of monitoring clinical performance and intervening if necessary for patient safety. Three years of experience is considered necessary to minimally qualify a practitioner to supervise the clinical practice of a person who has not demonstrated competency. Time in practice is important to allow a licensee to experience a variety of cases and situations in order to provide guidance in clinical practice.</p> |
| <p>185</p> | <p>Sets out the requirements for licensure by endorsement</p>                            | <p>Amendments to subsection C will expand the opportunity for an applicant to qualify for licensure by endorsement by including a provisional license for speech-language pathology applicants. Currently, a SLP whose has been licensed in another state and wants to practice in Virginia and who does not meet the requirement for active practice 3 of the past 5 years is unable to qualify by 6 months of clinical practice as a provisional licensee. That person has no option other than re-applying for licensure.</p>  |