

January 30, 2023
Training Room 2
10:00 a.m.

Agenda
Virginia Board of Audiology &
Speech-Language Pathology
Regulatory Committee Meeting

Call to Order – Melissa A. McNichol, Au.D., CCA-A, Chair

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- Welcome
- Emergency Egress
- Mission Statement

Ordering of Agenda – Dr. McNichol

Public Comment – Dr. McNichol

The Board will receive all public comment related to agenda items at this time. The Board will not receive comment on any regulatory process for which a public comment period has closed or any pending or closed complaint or disciplinary matter.

Discussion – Erin Barrett/Leslie Knachel

Pages

- Regulatory Reduction Process
- Review of Regulations

Next Steps – Ms. Barrett/Ms. Knachel

Meeting Adjournment – Dr. McNichol

This information is in **DRAFT** form and is subject to change.

MISSION STATEMENT

Our mission is to ensure safe and competent patient care by licensing health professionals, enforcing standards of practice, and providing information to health care practitioners and the public.

Commonwealth of Virginia



**REGULATIONS
GOVERNING THE PRACTICE OF AUDIOLOGY AND
SPEECH-LANGUAGE PATHOLOGY**

**VIRGINIA BOARD OF AUDIOLOGY AND SPEECH-
LANGUAGE PATHOLOGY**

Title of Regulations: 18VAC30-21-10 et seq.

**Statutory Authority: § 54.1-2400 and Chapter 26
of Title 54.1 of the *Code of Virginia***

Effective: January 5, 2023

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CHAPTER 21

REGULATIONS GOVERNING AUDIOLOGY AND SPEECH-LANGUAGE PATHOLOGY

Part I

General Provisions

18VAC30-21-10. Definitions.

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.

B. The following words and terms when used in this chapter shall have the following meanings unless the context clearly indicates otherwise:

"ABA" means the American Board of Audiology.

"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.

"ASHA" means the American Speech-Language-Hearing Association.

"Client" means a patient or person receiving services in audiology or speech-language pathology.

"Limited cerumen management" means the identification and removal of cerumen from the cartilaginous outer one-third portion of the external auditory canal in accordance with minimum standards and procedures set forth in this chapter.

"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.

"Supervision" means that the audiologist or speech-language pathologist is 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.

18VAC30-21-20. Required licenses.

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.

B. A licensee shall provide a copy of his license upon request.

18VAC30-21-30. Records; accuracy of information.

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.

B. A licensee who has changed his name shall submit as legal proof to the board a copy of the marriage certificate, a certificate of naturalization, or a court order evidencing the change. A duplicate license with the changed name shall be issued by the board upon receipt of such evidence and the required fee.

C. All notices required by law and by this chapter to be mailed by the board to any licensee shall be validly served when mailed to the latest address of record on file with the board.

18VAC30-21-40. Fees required.

A. The following fees shall be paid as applicable for licensure:

1. Application for audiology or speech-language pathology license	\$135
2. Application for school speech-language pathology license	\$70
3. Verification of licensure requests from other states	\$20
4. Annual renewal of audiology or speech-language pathology license	\$75
5. Late renewal of audiology or speech-language pathology license	\$25
6. Annual renewal of school speech-language pathology license	\$40
7. Late renewal of school speech-language pathology license	\$15
8. Reinstatement of audiology or speech-language pathology license	\$135
9. Reinstatement of school speech-language pathology license	\$70
10. Duplicate wall certificate	\$25
11. Duplicate license	\$5
12. Returned check or dishonored credit card or debit card	\$50
13. Inactive license renewal for audiology or speech-language pathology	\$40
14. Inactive license renewal for school speech-language pathology	\$20
15. Application for provisional license	\$50
16. Renewal of provisional license	\$25

B. Fees shall be made payable to the Treasurer of Virginia and shall not be refunded once submitted.

Part II Requirements for Licensure

18VAC30-21-50. Application requirements.

A. A person seeking a provisional license or licensure as an audiologist, a speech-language pathologist, or a school speech-language pathologist shall submit:

1. A completed and signed application;
2. The applicable fee prescribed in 18VAC30-21-40, or in the case of an application for licensure as an audiologist, a speech-language pathologist, or a school speech-language pathologist issued a provisional license pursuant to 18VAC30-21-70 A, the difference between the provisional licensure fee and the application licensure fee;
3. Documentation as required by the board to determine if the applicant has met the qualifications for licensure;
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
5. Verification of the status of the license or certification from each United States jurisdiction in which licensure or certification is held or has ever been held; and
6. A current report from the U.S. Department of Health and Human Services National Practitioner Data Bank.

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.

18VAC30-21-60. Qualifications for initial licensure.

A. The board may grant an initial license to an applicant for licensure in audiology who:

1. Holds a current and unrestricted Certificate of Clinical Competence issued by ASHA;
2. Holds a current and unrestricted certification issued by the ABA or any other accrediting body recognized by the board and provides documentation of having passed the qualifying examination from an accrediting body recognized by the board; or

3. Provides documentation of (i) graduation from an audiology program accredited by the Council on Academic Accreditation of ASHA or an equivalent accrediting body as recognized by the board; and (ii) having passed the qualifying examination from an accrediting body recognized by the board.

B. The board may grant an initial license to an applicant for licensure in speech-language pathology who holds a current and unrestricted Certificate of Clinical Competence issued by ASHA.

C. 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.

D. The board may refuse to issue a license to any applicant who has been determined to have committed an act in violation of 18VAC30-21-160.

18VAC30-21-70. Provisional licensure.

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, ABA, 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 has:

1. Passed the qualifying examination from an accrediting body recognized by the board; and

2. Either:

a. For provisional licensure in audiology, 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 as recognized by the board; or

b. For provisional licensure in speech-language pathology, successfully completed all the didactic coursework required for a graduate program in speech-language pathology as documented by a college or university whose program is accredited by the Council on Academic Accreditation of ASHA or an equivalent accrediting body as recognized by the board.

B. Provisional license to qualify for endorsement or reentry 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.

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.

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.

E. Licensed audiologists or speech-language pathologists providing supervision shall:

1. Have an active, current license and at least three years of active practice as an audiologist or speech-language pathologist prior to providing supervision;
2. Document the frequency and nature of the supervision of provisional licensees;
3. Be responsible and accountable for the assignment of clients and tasks based on their assessment and evaluation of the provisional licensee's knowledge and skills; and
4. Monitor clinical performance and intervene if necessary for the safety and protection of the clients.

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.

18VAC30-21-80. Qualifications for licensure by endorsement.

A. An applicant for licensure in audiology or speech-language pathology who has been licensed in another United States jurisdiction shall apply for licensure in Virginia in accordance with application requirements in 18VAC30-21-50 and shall submit documentation of:

1. Evidence of active practice in another United States 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 providing evidence of a recommendation for licensure by the applicant's supervisor. An applicant who graduated from an accredited program in audiology or speech-language pathology within 24 months immediately preceding application may be issued a license without evidence of active practice if the applicant holds a current and unrestricted Certificate of Clinical Competence in the area in which the applicant seeks licensure issued by ASHA or certification issued by ABA or any other accrediting body recognized by the board; and

2. One of the following:

- a. Ten continuing education hours for each year in which the applicant has been licensed in the other jurisdiction, not to exceed 30 hours, and passage of the qualifying examination from the accrediting body recognized by the board;
- b. A current and unrestricted Certificate of Clinical Competence in the area in which the applicant seeks licensure issued by ASHA; or
- c. A current and unrestricted certification issued by ABA and passage of the qualifying examination from the accrediting body recognized by the board.

B. The board may refuse to issue a license to any applicant who has been determined to have committed an act in violation of 18VAC30-21-160.

Part III Renewal and Continuing Education

18VAC30-21-90. Renewal requirements.

A. A person who desires to renew his license shall, not later than June 30 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 an attestation of compliance with continuing education requirements.

18VAC30-21-100. Continuing education requirements for renewal of an active license.

A. In order to renew an active license, a licensee shall complete at least 10 hours of continuing education prior to the renewal date each year. One hour of the 10 hours required for annual renewal may be satisfied through delivery of professional services, without compensation, to low-income individuals receiving health services through a local health department or a free clinic organized in whole or primarily for the delivery of those services. One hour of continuing education may be credited for three hours of providing such volunteer services, as documented by the health department or free clinic.

B. Continuing education shall be activities, programs, or courses related to audiology or speech-language pathology, depending on the license held, and offered or approved by one of the following accredited sponsors or organizations sanctioned by the profession:

1. The Speech-Language-Hearing Association of Virginia or a similar state speech-language-hearing association of another state;
2. The American Academy of Audiology;
3. The American Speech-Language-Hearing Association;
4. The Accreditation Council on Continuing Medical Education of the American Medical Association offering Category I continuing medical education;
5. Local, state, or federal government agencies;
6. Colleges and universities;
7. International Association of Continuing Education and Training; or
8. Health care organizations accredited by The Joint Commission or DNV GL Healthcare.

C. If the licensee is dually licensed by this board as an audiologist and speech-language pathologist, a total of no more than 15 hours of continuing education are required for renewal of both licenses with a minimum of 7.5 contact hours in each profession.

D. A licensee shall be exempt from the continuing education requirements for the first renewal following the date of initial licensure in Virginia under 18VAC30-21-60.

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.

F. The board may grant an extension of the deadline for continuing education requirements, for up to one year, for good cause shown upon a written request from the licensee prior to the renewal date of each year.

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.

H. The board may periodically conduct an audit for compliance with continuing education requirements. Licensees selected for an audit conducted by the board shall provide all supporting documentation within 30 days of receiving notification of the audit.

I. Failure to comply with these requirements may subject the licensee to disciplinary action by the board.

Part IV Reactivation and Reinstatement

18VAC30-21-110. Inactive licensure; reactivation for audiologists, speech-language pathologists, or school speech-language pathologists.

A. An audiologist, speech-language pathologist, or school speech-language pathologist 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 education requirements and shall not be entitled to perform any act requiring a license to practice audiology or speech-language pathology in Virginia.

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:

1. Current certification issued by ASHA or ABA; or
2. Completion of 10 continuing education hours equal to the requirement for the number of years in which the license has been inactive, not to exceed 30 contact hours.

C. A licensee who does not reactivate within five years shall meet the requirements of subsection B of this section and shall provide:

1. A current report from the U.S. Department of Health and Human Services National Practitioner Data Bank;
2. Verification of the status of any license or certification from each United States jurisdiction in which licensure or certification is held or has ever been held; and
3. Evidence of either:
 - a. Active practice for at least one of the past three years, or
 - b. Practice in accordance with 18VAC30-21-70 with a provisional license for six months and a recommendation for licensure from one's supervisor.

D. The board may deny a request for reactivation to any licensee who has been determined to have committed an act in violation of 18VAC30-21-160.

18VAC30-21-120. Reinstatement of a lapsed license for audiologists, speech-language pathologists or school speech-language pathologists.

A. A person may renew a lapsed license within one year of expiration by following the requirements for late renewal in subsection B of 18VAC30-21-90.

B. 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 reinstatement application, payment of the reinstatement fee, and submission of documentation of either:

1. A current Certificate of Clinical Competence issued by ASHA or certification issued by ABA or any other accrediting body recognized by the board; or
2. 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.

C. A licensee who does not reinstate within five years shall meet the requirements of subsection B of this section and shall provide:

1. A current report from the U.S. Department of Health and Human Services National Practitioner Data Bank (NPDB);
2. Verification of the status of any license or certification from each United States jurisdiction in which licensure or certification is or has ever been held; and
3. Evidence of either:

a. Active practice for at least one of the past three years; or

b. Practice in accordance with 18VAC30-21-70 with a provisional license for six months and a recommendation for licensure from one's supervisor.

D. The board may deny a request for reinstatement to any licensee who has been determined to have committed an act in violation of 18VAC30-21-160.

18VAC30-21-130. (Repealed.)

18VAC30-21-131. Performance of flexible endoscopic evaluation of swallowing.

A. For the purposes of this section, an endoscopic procedure shall mean a flexible endoscopic evaluation of swallowing limited to the use of flexible endoscopes to observe, collect data, and measure the parameters of swallowing for the purposes of functional assessment and therapy planning.

B. A speech-language pathologist who performs an endoscopic procedure shall meet the following qualifications:

1. Completion of a course or courses or an educational program offered by a provider approved in 18VAC30-20-100 that includes at least 12 hours on endoscopic procedures;
2. Successful performance of at least 25 flexible endoscopic procedures under the immediate and direct supervision of a board-certified otolaryngologist or another speech-

language pathologist who has successfully performed at least 50 flexible endoscopic procedures beyond the 25 required for initial qualification and has been approved in writing by a board-certified otolaryngologist to provide that supervision; and

3. Current certification in basic life support.

C. The speech-language pathologist who qualifies to perform an endoscopic procedure pursuant to subsection B of this section shall maintain documentation of course completion and written verification from the supervising otolaryngologist or speech-language pathologist of successful completion of flexible endoscopic procedures.

D. An endoscopic procedure shall only be performed by a speech-language pathologist on referral from an otolaryngologist or other qualified physician.

E. A speech-language pathologist shall only perform an endoscopic procedure in a facility that has protocols in place for emergency medical backup. A flexible endoscopic evaluation of swallowing shall only be performed by a speech-language pathologist in either:

1. A licensed hospital or nursing home under the general supervision of a physician who is readily available in the event of an emergency, including physical presence in the facility or available by telephone; or

2. A physician's office at which the physician is on premises and available to provide onsite supervision.

F. The speech-language pathologist shall promptly report any observed abnormality or adverse reaction to the referring physician, an appropriate medical specialist, or both. The speech-language pathologist shall provide a report of an endoscopic procedure to the referring physician in a timely manner and, if requested, shall ensure access to a visual recording for viewing.

G. A speech-language pathologist is not authorized to possess or administer prescription drugs except as provided in § 54.1-3408 B of the Code of Virginia.

H. A speech-language pathologist who has been performing flexible endoscopic evaluations of swallowing prior to October 7, 2015, may continue to perform such evaluations provided he has written verification from a board-certified otolaryngologist that he has the appropriate training, knowledge, and skills to safely perform such evaluations.

Part V
Standards of Practice

18VAC30-21-140. Supervisory responsibilities; supervision of unlicensed assistants.

A. Responsibility of a licensee.

1. A licensed audiologist who supervises unlicensed assistants shall document such supervision, shall be held fully responsible for their performance and activities, and shall ensure that they perform only those activities that do not constitute the practice of audiology and that are commensurate with their level of training.

2. A licensed speech-language pathologist who supervises unlicensed assistants shall document such supervision, shall be held fully responsible for their performance and activities, and shall ensure that they perform only those activities that do not constitute the practice of speech-language pathology and that are commensurate with their level of training.

a. A speech-language pathologist shall not supervise an assistant without the speech-language pathologist's knowledge and consent by the assistant and the licensee documented prior to assumption of supervisory responsibilities.

b. The frequency in which the speech-language pathologist personally delivers treatment or services to a client who is receiving some services from an assistant shall be up to the professional judgment of the speech-language pathologist and shall be determined by the treatment needs of the client, the type of services being provided, and the setting in which the client is being served, but shall occur at least every 30 days.

3. The identity of the unlicensed assistant shall be disclosed to the client prior to treatment and shall be made a part of the client's file.

B. Qualifications of a speech-language pathologist assistant.

1. A person acting as a speech-language pathologist assistant shall have:

a. A bachelor's degree or associate's degree and documented training by a licensed speech-language pathologist in topics related to the client population to be served;
or

b. Employment as a speech-language pathologist assistant in a United States jurisdiction within the last five years preceding July 27, 2016.

2. A speech-language pathologist supervising an assistant shall be responsible for determining that the knowledge, skills, and clinical experience of the assistant are sufficient to ensure competency to perform all tasks to which the assistant is assigned. The speech-language pathologist shall document competency after training and direct observation of the assistant's performance of such tasks, and a record of skills and competencies shall be maintained.

C. Scope of practice of a speech-language pathologist assistant. After demonstration and documentation of competency for the duties to be assigned, an assistant shall only engage in those duties planned, designed, and supervised by a licensed speech-language pathologist, to include the following:

1. Assist with speech, language, and hearing screenings without clinical interpretation of results.

2. Assist during assessment of a client exclusive of administration or interpretation.

3. Perform activities for each session that are routine and do not require professional judgment, in accordance with a plan developed and directed by the speech-language pathologist who retains the professional responsibility for the client.

4. Document a client's performance and report information to the supervising speech-language pathologist.

5. Assist with programming augmentative and alternative communication devices and assist the client in repetitive use of such devices.

6. Sign or initial informal treatment notes and, upon request, co-sign formal documents with the supervising speech-language pathologist.

7. Engage in the following activities:

a. Preparing materials;

b. Scheduling appointments and activities;

c. Preparing charts, records, or graphs and performing other clerical duties;

d. Performing checks and maintenance of equipment; and

e. Assisting a client with transitioning to and from therapy sessions.

8. Perform duties not otherwise restricted to the practice of speech-language pathology.

D. A speech-language pathologist assistant shall not engage in the practice of speech-language pathology, including the following:

1. Represent himself as a speech-language pathologist.
2. Perform standardized or nonstandardized diagnostic tests or formal or informal evaluations.
3. Perform procedures that require a professional level of clinical acumen and technical skill.
4. Tabulate or interpret results and observations of feeding and swallowing evaluations or screenings performed by a speech-language pathologist.
5. Participate in formal conferences or meetings without the presence of the supervising speech-language pathologist.
6. Provide interpretative information to the client, the family of the client, or others regarding the client's status or service.
7. Write, develop, or modify a client's treatment plan.
8. Assist in or provide services as specified in subsection C of this section unless directed by the supervising speech-language pathologist.
9. Sign any formal documents in lieu of the supervising speech-language pathologist.
10. Select a client for service or discharge a client from service.
11. Make a decision on the need for additional services or make referrals for service.
12. Disclose clinical or confidential information either orally or in writing to anyone other than the supervising speech-language pathologist, unless mandated by law or authorized by the supervising speech-language pathologist.
13. Develop or determine the swallowing or feeding strategies or precautions for a client or provide feeding or swallowing treatment.

E. Supervision of an assistant in speech-language pathology.

1. The practice of an assistant shall only be supervised by a speech-language pathologist who retains full legal and ethical responsibility for the client. A speech-language pathologist shall only supervise the equivalent of two full-time assistants.

2. The speech-language pathologist shall provide the level of supervision to the speech-language pathologist assistant necessary to ensure quality of care to include onsite supervision of at least two client sessions for each assistant being supervised every 30 days to directly observe and evaluate the performance of the assistant. The speech-language pathologist shall document such onsite observation and evaluation in the client record for each session.

18VAC30-21-141. Recordkeeping.

A licensee shall:

1. 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 the client's personal representative.

2. Properly manage and keep timely, accurate, legible, and complete client records, to include the following:

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 the practitioner's own records, failure to maintain client records in accordance with the policies and procedures of the employing entity; or

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:

(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 years or becomes emancipated, whichever is longer; or

(2) Records that have previously been transferred to another practitioner or health care provider or provided to the client or the client's personal representative as documented in a record or database maintained for a minimum of six years.

3. Comply with requirements of § ~~54.1-2405~~ of the Code of Virginia for notification and transfer of patient records in conjunction with closure, sale, or relocation of one's practice.

18VAC30-21-145. Limited cerumen management.

A. In order for an audiologist to perform limited cerumen management, he shall:

1. Be a graduate of a doctoral program in audiology that is accredited by the Council on Academic Accreditation of the American Speech-Language-Hearing Association or other accrediting body recognized by the board and that included didactic education and supervised clinical experience in cerumen management as specified in subsection B of this section; or

2. Complete a course or workshop in cerumen management that provides training as specified in subsection B of this section and that is approved by the American Speech-Language Hearing Association or the American Academy of Audiology.

B. An audiologist shall maintain documentation evidencing satisfactory completion of training in cerumen management to include the following:

1. Recognizing the presence of preexisting contraindications that necessitate referral to a physician;

2. Recognizing patient distress and appropriate action to take if complications are encountered;

3. Use of infection control precautions;

4. Procedures for removal of cerumen, including cerumen loop, gentle water irrigation, suction, and the use of material for softening;

5. Observation of each type of cerumen management procedure performed by a qualified audiologist or physician; and

6. Successful performance, under direct supervision by an audiologist qualified to perform cerumen management or a physician, of each type of cerumen management procedure.

C. An audiologist shall not perform cerumen management on a patient who has any of the following preexisting contraindications:

1. A perforated tympanic membrane;

2. Inflammation, tenderness, drainage, or open wounds or traces of blood in the external ear canal;

3. History of ear surgery that results in distortion of the external ear canal;

4. HIV infection or bleeding disorders;

5. Actual or suspected foreign body in the ear, excluding hearing aid components that are located in the lateral one-third portion of the ear canal;

6. Stenosis or bony exostosis of the ear canal; or
7. Cerumen impaction that totally occludes the visualization of the tympanic membrane.

D. An audiologist performing cerumen management shall:

1. Obtain informed consent of the patient or legally responsible adult and document such consent and the procedure performed in the patient record.
2. Refer patients to a physician if they exhibit contraindications or experience any complication, such as dizziness, during the procedure.

18VAC30-21-150. Prohibited conduct.

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.

B. No person licensed as a school speech-language pathologist shall conduct the practice of speech-language pathology outside of the public school setting.

18VAC30-21-160. Unprofessional conduct.

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:

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;
2. Diagnosis or treatment of speech, voice, language, and hearing disorders solely by written correspondence, provided this shall not preclude:
 - a. Follow-up by written correspondence or electronic communication concerning individuals previously seen; or
 - b. Providing clients with general information of an educational nature;
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;

4. 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 a client's family, including sexual misconduct with a client or a member of the client's family or other conduct that results or could result in personal gain at the expense of the client;
5. Incompetence or negligence in the practice of the profession;
6. 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;
7. 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;
8. Failure to supervise persons who assist in the practice of audiology or speech-language pathology as well as failure to disclose the use and identity of unlicensed assistants;
9. Conviction of a felony or a misdemeanor involving moral turpitude;
10. Violating or cooperating with others in violating any of the provisions of Chapter 1 (§ 54.1-100 et seq.), 24 (§ 54.1-2400 et seq.), or 26 (§ 54.1-2600 et seq.) of Title 54 of the Code of Virginia or the regulations of the board;
11. Publishing or causing to be published in any manner an advertisement relating to his professional practice that is false, deceptive, or misleading;
12. Inability to practice with skill and safety;
13. Fraud, deceit, or misrepresentation in provision of documentation or information to the board or in the practice of audiology or speech-language pathology;
14. Aiding and abetting unlicensed activity; or
15. Revocation, suspension, restriction, or any other discipline of a license or certificate to practice or surrender of license or certificate while an investigation or administrative proceedings are pending in another regulatory agency in Virginia or another jurisdiction.

18VAC30-21-170. Criteria for delegation to an agency subordinate.

A. Decision to delegate. In accordance with subdivision 10 of § 54.1-2400 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.

B. Criteria for delegation. Cases that may not be delegated to an agency subordinate are those that involve:

1. Intentional or negligent conduct that causes or is likely to cause injury to a patient;
2. Mandatory suspension resulting from action by another jurisdiction or a felony conviction;
3. Impairment with an inability to practice with skill and safety;
4. Sexual misconduct;
5. Unauthorized practice.

C. Criteria for an agency subordinate.

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.
2. The executive director shall maintain a list of appropriately qualified persons to whom an informal fact-finding proceeding may be delegated.
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.