

BOARD FOR HEARING AID SPECIALISTS AND OPTICIANS

TENTATIVE AGENDA

Wednesday, August 7, 2019 - Board Room 3, 2nd Floor

Department of Professional and Occupational Regulation

Perimeter Center, 9960 Mayland Drive

Richmond, Virginia 23233

(804) 367-8590

- I. CALL TO ORDER**
- II. APPROVAL OF AGENDA**
1. Board for Hearing Aid Specialists and Opticians Meeting Agenda, August 7, 2019
- III. APPROVAL OF MINUTES**
2. Board for Hearing Aid Specialists and Opticians Meeting, April 10, 2019
- IV. COMMUNICATIONS**
- V. PUBLIC COMMENT PERIOD ***
- VI. CASES**
- VII. REPORTS**
1. Licensing Statistics
 2. Examination Statistics
- VIII. REGULATORY ACTION AND BOARD GUIDANCE**
1. Regulatory Report
 2. Fast Track Regulatory Change – Related Technical Instruction for Apprenticeships
 3. Guidance Document – Optician Apprenticeship Related Instruction
- IX. NEW BUSINESS**
1. Ad Hoc Committee on Approved Related Technical Instruction
 2. Technology Changes in Hearing Aid Adjustments
 3. Periodic Review of Regulations
- X. ADJOURN**

REMAINING 2019 MEETING DATES:
WEDNESDAY, DECEMBER 11, 2019

2020 MEETING DATES:
WEDNESDAY, APRIL 15, 2020
WEDNESDAY, AUGUST 12, 2020
WEDNESDAY, DECEMBER 16, 2020

* 5 minute public comment period, per person, with the exception of any open disciplinary or application files. Persons desiring to attend the meeting and requiring special accommodations/interpretive services should contact the board office at 804-367-8590 at least 10 days prior to the meeting so that suitable arrangements can be made for an appropriate accommodation. The Department fully complies with the Americans with Disabilities Act.



TO: VIRGINIA BOARD FOR HEARING AID SPECIALISTS AND OPTICIANS
FROM: STEPHEN KIRSCHNER, REGULATORY OPERATIONS ADMINISTRATOR
SUBJECT: OPTICIANS REGULATIONS CORRECTION
DATE: JULY 26, 2019

On April 1, 2019, amendments to the Board's optician's regulations became effective, making changes to the apprenticeship training requirement. While working on implementation of the apprenticeship changes, staff has received feedback from the Department of Labor and Industry's Division of Registered Apprenticeship (DOLI) that may require the Board to amend the regulations pertaining to its related instruction requirements.

At a recent meeting between department staff and DOLI, DOLI staff pointed out that some of the language in the opticians apprenticeship training regulation, 18 VAC 80-30-20.5.b, is antiquated and does not reflect current practices. Specifically, the requirement that an apprenticeship include "one school year of related instruction or home study" does not match current federal or state apprenticeship requirements, nor does it match the Board's Standards of Apprenticeship. The apprenticeship is required to have 144 hours of related instruction each year of the apprenticeship, and "home study" is not authorized as a substitute for related instruction. In order resolve this issue, staff recommends amending 18 VAC 80-30-20.5.b as follows:

A two-year apprenticeship, including all required related technical instruction, with a minimum of one school year of related instruction or home study while registered in the apprenticeship program in accordance with the standards established by the state Department of Labor and Industry, Division of Registered Apprenticeship, and approved by the board;

This change is in line with federal and state requirements as well as the Board's Standards of Apprenticeship.



TO: VIRGINIA BOARD FOR HEARING AID SPECIALISTS AND OPTICIANS
FROM: STEPHEN KIRSCHNER, REGULATORY OPERATIONS ADMINISTRATOR
SUBJECT: OPTICIANS APPRENTICESHIP RELATED TECHNICAL INSTRUCTION
DATE: JULY 26, 2019

On April 1, 2019, amendments to the Board's optician's regulations became effective, making changes to the apprenticeship training requirement. While working on implementation of the apprenticeship changes, staff has received feedback from several related instruction providers which may require the Board to issue guidance pertaining to its related instruction requirements. Related technical instruction (RTI) providers have reached out to the Board regarding two separate issues.

The first issue is that several RTI providers do not currently meet the Board's requirements for RTI. Some have been offering curriculum that is no longer approved, and one provider, Reynolds Community College, does not have the requisite number of hours per year to meet the requirement. To address these concerns, staff recommends the Board offer guidance to RTI providers that it will grandfather all students who began their RTI under a program that does not meet current requirements, and allow them to complete the RTI curriculum they started. The providers have indicated a strong desire to meet the Board's requirements, but do not want to see their students negatively impacted. Without this provision, students that are well into their programs will incur the cost and lost time of having to start several years' worth of RTI over from the beginning.

The second issue is that the Board has had a request to have additional RTI curriculum approved. Currently, the Board has an Ad Hoc Committee on Opticianry Apprenticeship that has been working on the initial RTI curriculum review that is made up of all current optician and ophthalmologist Board members. Staff would recommend the Board commission this committee to create a set, written criteria for reviewing RTI curriculum. The Board has previously stated that RTI curriculum should be substantially equivalent in content to the NAO's Ophthalmic Career Progression Program. Because the NAO's program is proprietary, other RTI curriculum providers will not have the ability to study and implement programs based on the NAO's content. Additionally, this language does not clearly identify what criteria the Board will use to accept or reject curricula. By creating a set of criteria the Board will use, and making this available to the public, the Board can provide clear direction to curriculum providers wishing to be added to the approved RTI list.

We will discuss these issues in more detail at the meeting.



TO: VIRGINIA BOARD FOR HEARING AID SPECIALISTS AND OPTICIANS
FROM: STEPHEN KIRSCHNER, REGULATORY OPERATIONS ADMINISTRATOR
SUBJECT: PERIODIC REGULATORY REVIEW
DATE: JULY 26, 2019

The Code of Virginia and Governor's Executive Order 14 requires that state regulations be reviewed every four years to determine whether "they should be continued without change or be amended or repealed, consistent with the stated objectives of applicable law, to minimize the economic impact on small business" while protecting the health, safety, and welfare of the public. The regulatory review must include: (1) the continued need for the rule; (2) the nature and complaints or comments received concerning the regulation from the public; (3) the complexity of the regulation; (4) the extent to which the regulation overlaps, duplicates, or conflicts with federal or state law or regulation; and (5) the length of time since the regulation has been evaluated or the degree to which technology, economic conditions, or other factors have changed in the area affected by the regulation. The Board has three sets of regulations that will be subject to this review: Hearing Aid Specialist Regulations (18 VAC 80-20), Optician Regulations (18 VAC 80-30), and Public Participation Guidelines Regulations (18 VAC 80-11).

From June 24 to July 15, 2019, the agency received public comment on each of the Board's regulations. The Board received comments from the Virginia Society of Hearing Aid Specialist (attached). These are the only comments received regarding the Board's regulations. At the August 7, 2019 Board meeting, the Board will discuss the comments and determine whether to retain each of the regulations as is, or begin a regulatory action to make changes to some or all of the sets of regulations.

Virginia Society of Hearing Aid Specialists

4641 Melody Road, North Chesterfield, VA 23234

Att: Department of Professional and Occupational Regulations

Hearing Aid Specialist & Optician Board

Public Comment related to **Hearing Aid Specialist licensing regulations 2019 review:**

The Virginia Society of Hearing Aid Specialists would like to provide input into changes needed in these regulations. Red sentences refer to why we feel a need for the changes. Yellow highlights are what we would like to change or added to the regulations.

We would like to support the regulations in whole with the following exceptions:

18VAC80-20-40 Temporary Permit

A.

1. A temporary permit shall be issued for a period of 18 months. After a period of 18 months an extension is no longer possible and the former temporary permit holder shall sit for the examination in accordance with this section.

Problem arose when DPOR refused to extend temporary permit for additional 6 months as allowed under the regulations if the applicant had applied to take the licensing exam. Training does not stop when an applicant applies to take an exam—training stops when the applicant passes the examination and receives their license to practice. This has caused a hardship on several small business owners and applicants as this is not how this regulation was administered in the past.

F. All correspondence from the board to the temporary permit holder not otherwise exempt from disclosure, shall be mailed to both the temporary permit holder and the licensed sponsor. The licensed sponsor shall be mailed a copy of any correspondence for the temporary permit holder at the business address of the licensed sponsor. The business name must appear on all mail from DPOR.

Problem addressing mail to both sponsor & temporary permit holder with no business name has caused mail to be returned to the DPOR as undeliverable. Offices located in shopping centers will only deliver with a business name included in mailing address.

18VAC80-20-80 Examinations

- B. Applicants for licensure shall pass a two part examination, of which Part I is a written examination and Part II is a practical examination.
 1. The applicant shall pass each section of the practical examination administered by the board. Candidates failing one or more section of the practical exam will be required to retake only those sections failed.
 2. Delete number 2
 3. If the temporary permit holder fails to achieve a passing score on any section of the practical examination with the 18 months the temporary permit shall expire. No renewal is possible.

4. Any applicant shall take the written examination, ILE which is given as testing site and administered by the International Hearing Society, as many times as exam is offered after applying for the licensing exam through DPOR.

If the applicant receives a passing score on the ILE written exam this score is valid for an indefinite period of time.

5. After the temporary permit expires the applicant must reapply for the licensing examination. If the applicant subsequently receives a passing score on the practical exam then verification from the International Hearing Society of the passing ILE exam scores must be submitted to DPOR to complete the requirement of the two part licensing exam.

If the applicant is unable to verify the passing ILE exam score then they would have to retake the written exam.

ILE passing scores are valid for indefinite period of time and the applicant should not have to retake the exam. This creates an undue hardship on the applicant.

Allowing the applicant for licensure to retake the exam as many times as available during the 18 month temporary permit is less burdensome than making them reapply and start over after three (3) failed attempts if they have proved their competency in part of the exam.

18.VAC80-20-100 Procedures for Renewal

10 hours per year of Continuing Education be added as a requirement for licensure renewal. This can be a required form along with license renewal form.

Continuing education classes are readily available from all manufacturers free of charge to the licensee. This would not be a burden on DPOR to make this part of license renewal as The International Hearing Society already tracks CEU's and would be able to provide the licensee a copy of their transcript to attach to their renewal forms.

It is in the public's best interest that all licensees keep up with changes in the hearing care industry. Most other states in the United States require this for license renewal. Ten hours per year seems to be the usual number in most states.

Thank you for your consideration of our recommendations.

Any additional questions can be directed to Teresa Irwin, Secretary/Treasurer of the Virginia Society of Hearing Aid Specialists, (804) 240-2181, or email Vahearingaidsociety@gmail.com.



TO: VIRGINIA BOARD FOR HEARING AID SPECIALISTS AND OPTICIANS
FROM: STEPHEN KIRSCHNER, REGULATORY OPERATIONS ADMINISTRATOR
SUBJECT: FINANCIAL STATEMENTS
DATE: JULY 26, 2019

In response to a recommendation in the Joint Legislative Audit and Review Commission's report on the Department, staff has begun providing the Board with financial statements in your agenda packet. Attached you will find the most recent Statement of Financial Activity and the Supporting Statement of Year-to-Date Activity for the Board. Additionally, you will find the Agency Statement of Financial Activity.

DRAFT AGENDA
Materials contained in this agenda are proposed topics for discussion
and are not to be construed as regulation or official Board position.

Department of Professional and Occupational Regulation
Statement of Financial Activity

Board for Hearing Aid Specialists and Opticians
954240

2018-2020 Biennium

June 2019

	June 2019 Activity	Biennium-to-Date Comparison	
		July 2016 - June 2017	July 2018 - June 2019
Cash/Revenue Balance Brought Forward			56,621
Revenues	0	181,276	165,525
Cumulative Revenues			222,146
Cost Categories:			
Board Expenditures	0	29,222	28,673
Board Administration	0	33,889	37,893
Administration of Exams	0	19,677	22,145
Enforcement	0	393	465
Legal Services	0	332	372
Information Systems	0	24,917	27,735
Facilities and Support Services	0	8,978	10,951
Agency Administration	0	23,216	17,124
Other / Transfers	0	3,328	0
Total Expenses	0	143,952	145,358
Ending Cash/Revenue Balance			76,788

Actual Callahan Percentage at End of Previous Biennium	19.5%
Target Callahan Percentage at End of Current Biennium	3.2%

Number of Regulants
 Current Month 0
 Previous Biennium-to-Date 2,546

Department of Professional and Occupational Regulation
 Supporting Statement of Year-to-Date Activity
 Board for Hearing Aid Specialists and Opticians - 954240
 Fiscal Year 2019

	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun	Fiscal YTD Charges	Planned Annual Charges	Current Balance	Projected Charges at 6/30	Projected Variance Favorable (Unfavorable) Amount	%
Board Expenditures	830	4,174	496	614	5,093	5,587	3,716	1,939	2,124	1,497	2,604	0	28,620	52,968	24,295	31,010	21,958	41.5%
Board Administration	5,075	3,355	3,456	3,291	3,271	3,280	3,199	3,231	3,236	3,237	3,260	0	37,693	49,192	11,299	39,177	10,015	20.4%
Administration of Exams	3,759	2,348	1,799	1,870	1,761	1,765	1,748	1,751	1,787	1,759	1,797	0	22,145	25,770	3,625	23,211	2,559	9.9%
Enforcement	57	40	39	39	42	40	43	42	42	41	41	0	465	611	146	481	130	21.3%
Legal Services	0	93	0	93	0	0	93	0	0	3	0	0	372	370	-2	406	-36	-9.7%
Information Systems	1,656	4,100	2,843	1,282	2,438	2,659	3,870	2,292	3,194	3,194	2,653	0	27,735	36,015	8,280	29,743	6,272	17.4%
Facilities / Support Svcs	430	815	896	733	1,232	2,570	1,500	890	804	991	806	0	10,951	10,889	-62	11,802	-913	-8.4%
Agency Administration	2,393	1,472	1,519	1,428	1,611	1,490	1,567	1,312	1,394	1,319	1,609	0	17,124	22,464	5,340	17,806	4,658	20.7%
Other / Transfers	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	
Total Charges	14,201	16,398	10,847	9,350	15,448	17,400	15,086	11,355	10,369	12,131	12,774	0	145,358	198,279	52,921	153,636	44,644	22.5%

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Department of Professional and Occupational Regulation
Statement of Financial Activity

Agency Total

2018-2020 Biennium

June 2019

	June 2019 Activity	Biennium-to-Date Comparison	
		July 2016 - June 2017	July 2018 - June 2019
Cash/Revenue Balance Brought Forward			27,183,878
Revenues	0	18,699,828	16,797,944
Cumulative Revenues			43,981,822
Cost Categories:			
Board Expenditures	0	1,509,043	1,640,281
Board Administration	0	3,824,121	4,312,818
Administration of Exams	0	243,255	284,524
Enforcement	0	6,025,531	6,418,920
Legal Services	0	207,671	193,054
Information Systems	0	2,877,726	3,239,610
Facilities and Support Services	0	1,716,591	1,747,584
Agency Administration	0	2,677,363	1,995,469
Other / Transfers	0	-1,531	0
Total Expenses	0	19,079,160	19,832,260
Ending Cash/Revenue Balance			24,149,562
Actual Callahan Percentage at End of Previous Biennium		N/A	
Target Callahan Percentage at End of Current Biennium		N/A	

Number of Regulants
 Current Month 0
 Previous Biennium-to-Date 304,295