



**Virginia
Regulatory
Town Hall**

**Notice of Intended Regulatory Action
Agency Background Document**

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| Agency Name: | Department of Professional and Occupational Regulation |
| VAC Chapter Number: | 18 VAC 80-20-10 et seq. |
| Regulation Title: | Board for Hearing Aid Specialists Rules and Regulations |
| Action Title: | To amend existing regulations of the Board for Hearing Aid Specialists |
| Date: | March 12, 2001 |

This information is required prior to the submission to the Registrar of Regulations of a Notice of Intended Regulatory Action (NOIRA) pursuant to the Administrative Process Act § 9-6.14:7.1 (B). Please refer to Executive Order Twenty-Five (98) and Executive Order Fifty-Eight (99) for more information.

Purpose

Please describe the subject matter and intent of the planned regulation. This description should include a brief explanation of the need for and the goals of the new or amended regulation.

Per Section 54.1-201 of the Code of Virginia, the Board for Hearing Aid Specialists is proposing to amend its existing regulations governing the licensure of hearing aid specialists. The purpose of the regulation is to clarify entry requirements for licensure, modify the procedures and provisions regarding renewal, and reinstatement, and insure that the standards of practice and conduct meet all current laws and statutes. Further, the board proposes to review several provisions of the regulations and simply them thereby ensuring that the board is meeting its statutory mandate to ensure minimal competence of all licensees without burdensome requirements.

Basis

Please identify the state and/or federal source of legal authority to promulgate the contemplated regulation. The discussion of this authority should include a description of its scope and the extent to which the authority is mandatory or discretionary. The correlation between the proposed regulatory

action and the legal authority identified above should be explained. Full citations of legal authority and, if available, web site addresses for locating the text of the cited authority must be provided.

The statutory authority for the promulgation of regulation by the Board for Hearing Aid Specialists may be found in Sections 54.1-201 and 54.1-1500 through 54.1-1505 of the Code of Virginia (1950), as amended. The Board for Hearing Aid Specialists is empowered to establish regulations setting standards for the regulation of individuals who engage in the practice of fitting and dealing of hearing aids in the Commonwealth of Virginia.

Substance

Please detail any changes that would be implemented: this discussion should include a summary of the proposed regulatory action where a new regulation is being promulgated; where existing provisions of a regulation are being amended, the statement should explain how the existing regulation will be changed. The statement should set forth the specific reasons the agency has determined that the proposed regulatory action would be essential to protect the health, safety or welfare of citizens. In addition, a statement delineating any potential issues that may need to be addressed as the regulation is developed shall be supplied.

The Board for Hearing Aid Specialists is empowered to promulgate regulations in accordance with the Administrative Process Act (§ 9-6.14:1 et seq.) as necessary to assure continued competency, to prevent deceptive or misleading practices by practitioners and to effectively administer and enforce the regulatory system administered by the board.

Review of the regulations should ensure protection to consumers by identifying and modifying, where necessary, the existing regulations.

The regulations are essential to comply with state mandates and to increase the efficient and economical performance of an important governmental function by adopting the least burdensome alternatives alternatives allowed by state law.

The board proposes the following:

18 VAC 80-20-10 - The board proposes to clarify the definition of "Audiologist" by citing § 54.1-2600 of the Code of Virginia. The board also proposes to clarify the definition of "Reciprocity", and to delete the definition of "Otologist".

18 VAC 80-20-30 - The board proposes to clarify the basic qualifications and entry requirements for licensure by simplifying the language. The board will include language to require disclosure of convictions of any crime, and specify what types of conviction documentation are admissible as evidence. By including this language, the board is consistent with other DPOR boards.

18 VAC 80-20-40 - The board proposes to clarify qualifications for a temporary permit. Language will be included to specify the reasons for which the board will extend a temporary permit. Language will also be included requiring disclosure of disciplinary actions, which is consistent with disclosure language in 18 VAC 80-20-30. Finally, language will be included to specify certification requirements and duties of licensed sponsors of temporary permit holders.

18 VAC 80-20-60 - The board proposes to clarify language pertaining to the licenses for physicians by only requiring that physicians be licensed to practice in Virginia and be certified by the American Board of Otolaryngology.

18 VAC 80-20-70.C - The board proposes to include language that will allow the Department to establish an insufficient fund fee. Further, the board will remove language from the fee chart that states when fees are due.

18 VAC 80-20-80 - The board proposes to change the examination requirements to only require retaking those examination sections which were failed.

18 VAC 80-20-120 - The board proposes to remove language which allows for the delaying or withholding of services provided by the Department in the event of failure to timely pay any monetary payments or fees assessed by a consent or final order.

18 VAC 80-20-140 - The board proposes to allow a regulant to reinstate his license for a period of three years following the expiration date of the license. Currently, a licensee may reinstate only for a period of twelve months following license expiration.

18 VAC 80-20-150 - The board proposes to remove language which allows for the delaying or withholding of services provided by the Department in the event of failure to timely pay any monetary payments or fees assessed by a consent or final order.

18 VAC 80-20-160 - The board proposes to include language which will provide a reinstated license with the same expiration date as all licenses which were renewed on schedule.

18 VAC 80-20-170 - The board proposes to repeal this entire section pertaining to fines, revocation, or suspension of license.

18 VAC 80-20-180 - The board proposes to include language specifying that the license must be visibly displayed at "each physical site of employment," and that a photocopy of the license is "acceptable" if one practices at more than one site.

18 VAC 80-20-200 - The board proposes to remove "sale" from this section as it only pertains to what the licensee shall deliver at "the time of a repair or service". Further, the board proposes to

include language requiring that documentation provided to each purchaser be signed by the licensee or designee. Language would also be added to include "equipment" to items being repaired or serviced. Finally, language will be removed that required the purchase agreement and hearing aid container to be clearly marked "used" or "reconditioned" if the aid, which is "not new", is sold or rented.

18 VAC 80-20-210 - The board proposes to clarify language pertaining to the information about the principal place of business that a hearing aid specialist must supply when establishing first contact with the purchaser or prospective purchaser.

18 VAC 80-20-220 - The board proposes to make this section less restrictive by setting out what information shall be included on the purchase agreement as opposed to dictating the actual purchase agreement terminology.

18 VAC 80-20-230 - The board proposes to clarify what documentation a physician must present to the hearing aid specialist before a child under 18 years of age may be fitted with a hearing aid.

18 VAC 80-20-240 - The board proposes to include language clarifying what documentation is required should a client decline the hearing aid specialist's recommendation to obtain a written statement signed by a licensed physician stating that the client's hearing loss has been medically evaluated within the preceding six months, and that the client may be a candidate for a hearing aid. New language will also state that the client must be provided a "separate" and "additional" signature space in purchase agreements to acknowledge his "understanding of the purchase terms and conditions" established in 18 VAC 80-20-220.

18 VAC 80-20-250 - The board proposes to make this section less restrictive by eliminating the requirement for a speech test to be performed after fittings. Further, "tinnitus as a primary symptom" has been removed from the list of conditions for which a hearing aid specialist will check a client and, if found to exist, shall "refer the client to a licensed physician".

18 VAC 80-20-260 - The board proposes to make this section less restrictive by removing the requirement that certified copies of electronic audiometer calibration statements must be sent to the board annually. New language will state that such copies "shall be maintained for three years" by the regulant and "shall be made available to the department upon request".

18 VAC 80-20-270.6 - The board proposes to include language to require the disclosure of any felony or misdemeanor involving "lying, cheating, stealing, sexual offense, drug distribution, physical injury", or "any crime relating to the practice of the profession". This language will make this section consistent with similar sections of other board regulations of the Department.

Alternatives

Please describe, to the extent known, the specific alternatives to the proposal that have been considered or will be considered to meet the essential purpose of the action.

The board considered all alternative requirements and confirms that the proposed regulations will be less burdensome and less intrusive than current regulations, while continuing to protect the health, welfare, and safety of the citizens of the Commonwealth by regulating individuals providing services in the Hearing Aid Specialist profession.

Family Impact Statement

Please provide a preliminary analysis of the potential 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.

The proposed regulations will have only the most positive impact on families. The elimination of overly-restrictive requirements will permit easier entry into the profession, will stop unnecessary government interference in the conduct of private business in the Commonwealth and will allow government to operate in the most efficient manner possible.