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## Fast-Track Regulation Agency Background Document

<b>Agency name</b>	Board of Audiology and Speech-Language Pathology, Department of Health Professions
<b>Virginia Administrative Code (VAC) Chapter citation(s)</b>	18VAC30-21
<b>VAC Chapter title(s)</b>	Regulations Governing the Practice of Audiology and Speech-Language Pathology
<b>Action title</b>	Regulatory Reduction 2024
<b>Date this document prepared</b>	July 15, 2024

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), Executive Order 19 (2022) (EO 19), any instructions or procedures issued by the Office of Regulatory Management (ORM) or the Department of Planning and Budget (DPB) pursuant to EO 19, the Regulations for Filing and Publishing Agency Regulations (1 VAC 7-10), and the *Form and Style Requirements for the Virginia Register of Regulations and Virginia Administrative Code*.

### Brief Summary

*Provide a brief summary (preferably no more than 2 or 3 paragraphs) of this regulatory change (i.e., new regulation, amendments to an existing regulation, or repeal of an existing regulation). Alert the reader to all substantive matters. If applicable, generally describe the existing regulation.*

This fast-track action eliminates language that is duplicative with statute, combines certain regulations that are identical for audiologists and speech-language pathologists, and reduces requirements to obtain licensure in Virginia as an audiologist or as a speech-language pathologist.

### Acronyms and Definitions

*Define all acronyms used in this form, and any technical terms that are not also defined in the "Definitions" section of the regulation.*

SLP = speech-language pathologist  
School SLP = school speech-language pathologist  
ASHA = American Speech Language Hearing Association  
CCC = Certificate of Clinical Competence, issued by ASHA

### Statement of Final Agency Action

*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.*

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On July 9, 2024, the Board of Audiology and Speech-Language Pathology voted to amend the Regulations Governing the Practice of Audiology and Speech-Language Pathology.

### Mandate and Impetus

*Identify the mandate for this regulatory change and any other impetus that specifically prompted its initiation (e.g., new or modified mandate, petition for rulemaking, periodic review, or board decision). For purposes of executive branch review, “mandate” has the same meaning as defined in the ORM procedures, “a directive from the General Assembly, the federal government, or a court that requires that a regulation be promulgated, amended, or repealed in whole or part.”*

*Consistent with Virginia Code § 2.2-4012.1, also explain why this rulemaking is expected to be noncontroversial and therefore appropriate for the fast-track rulemaking process.*

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The impetus for this action is [Executive Order 19](#), the [Board’s 2021 periodic review](#), and a [petition for rulemaking](#) received in late 2022. The Board delayed action following its 2021 periodic review and denied the petition for rulemaking due to unknown requirements related to the ASLP Compact, which the General Assembly passed as [HB2033](#) during the 2023 Session. The Compact allows for single state licenses, so the Board is able to continue with its action regarding the periodic review changes and is able to take action regarding the requested regulatory changes from the petition for rulemaking.

### Legal Basis

*Identify (1) the promulgating agency, and (2) the state and/or federal legal authority for the regulatory change, including the most relevant citations to the Code of Virginia and Acts of Assembly chapter number(s), if applicable. Your citation must include a specific provision, if any, authorizing the promulgating agency to regulate this specific subject or program, as well as a reference to the agency’s overall regulatory authority.*

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Regulations of the Board of Audiology and Speech-Language Pathology are promulgated under the general authority of Chapter 24 of Title 54.1 of the Code of Virginia. Virginia Code § 54.1-2400(6) specifically states that the general powers and duties of health regulatory boards shall be “[t]o promulgate regulations in accordance with the Administrative Process Act (§ 2.2-4000 et seq.) that are reasonable and necessary to administer effectively the regulatory system.”

### Purpose

*Explain the need for the regulatory change, including a description of: (1) the rationale or justification, (2) the specific reasons the regulatory change is essential to protect the health, safety or welfare of citizens, and (3) the goals of the regulatory change and the problems it is intended to solve.*

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As stated previously, the changes delete duplicative language, combine provisions for clarity, and reduce requirements to obtain licensure in Virginia. Regulations governing the practice of audiology and speech-language pathology have been determined by the General Assembly to be essential to protect the health, safety, or welfare of citizens.

### **Substance**

*Briefly identify and explain the new substantive provisions, the substantive changes to existing sections, or both. A more detailed discussion is provided in the “Detail of Changes” section below.*

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The changes amend unclear or passive language, remove outdated provisions, remove provisions duplicative of statutory language, remove unnecessary or internally duplicative provisions, combine listed requirements for audiology and speech-language pathology where possible, reduce requirements to obtain a license to practice by initial application and endorsement, and remove non-regulatory language from the chapter.

### **Issues**

*Identify the issues associated with the regulatory change, 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, include a specific statement to that effect.*

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- 1) The primary advantages to the public are potential increase in licensees available to provide audiology or speech-language pathology services to the public. There are no disadvantages to the public.
- 2) There are no primary advantages or disadvantages to the agency or the Commonwealth.
- 3) The Director of the Department of Health Professions has reviewed the proposal and performed a competitive impact analysis. Any restraint on competition as a result of promulgating these regulations is a foreseeable, inherent, and ordinary result of the statutory obligation of the Board to protect the safety and health of citizens of the Commonwealth. The Board is authorized under § 54.1-2400 “[t]o promulgate regulations in accordance with the Administrative Process Act (§ 2.2-4000 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 promulgated regulations do not conflict with the purpose or intent of Chapters 1 or 25 of Title 54.1.

### **Requirements More Restrictive than Federal**

*Identify and describe any requirement of the regulatory change which is more restrictive than applicable federal requirements. Include a specific citation for each applicable federal requirement, and 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 specific statement to that effect.*

There are no applicable federal requirements.

**Agencies, Localities, and Other Entities Particularly Affected**

*Consistent with § 2.2-4007.04 of the Code of Virginia, identify any other state agencies, localities, or other entities particularly affected by the regulatory change. Other entities could include local partners such as tribal governments, school boards, community services boards, and similar regional organizations. "Particularly affected" are those that are likely to bear any identified disproportionate material impact which would not be experienced by other agencies, localities, or entities. "Locality" can refer to either local governments or the locations in the Commonwealth where the activities relevant to the regulation or regulatory change are most likely to occur. If no agency, locality, or entity is particularly affected, include a specific statement to that effect.*

Other State Agencies Particularly Affected – none

Localities Particularly Affected – none

Other Entities Particularly Affected – none

**Economic Impact**

*Consistent with § 2.2-4007.04 of the Code of Virginia, identify all specific economic impacts (costs and/or benefits), anticipated to result from the regulatory change. When describing a particular economic impact, specify which new requirement or change in requirement creates the anticipated economic impact. Keep in mind that this is the proposed change versus the status quo.*

**Impact on State Agencies**

<p><i>For your agency:</i> projected costs, savings, fees or revenues resulting from the regulatory change, including:                  a) fund source / fund detail;                  b) delineation of one-time versus on-going expenditures; and                  c) whether any costs or revenue loss can be absorbed within existing resources</p>	<p>The Department of Health Professions is a Special Fund agency. All operating costs for the regulatory boards are taken from fees for licensing and renewal of regulated professions.</p> <p>This action does not change any fees.</p>
<p><i>For other state agencies:</i> projected costs, savings, fees or revenues resulting from the regulatory change, including a delineation of one-time versus on-going expenditures.</p>	<p>There are no costs to other state agencies.</p>
<p><i>For all agencies:</i> Benefits the regulatory change is designed to produce.</p>	<p>There are no benefits to state agencies.</p>

**Impact on Localities**

*If this analysis has been reported on the ORM Economic Impact form, indicate the tables (1a or 2) on which it was reported. Information provided on that form need not be repeated here.*

Projected costs, savings, fees or revenues resulting from the regulatory change.	No impact on localities.
Benefits the regulatory change is designed to produce.	No benefit to localities.

**Impact on Other Entities**

*If this analysis has been reported on the ORM Economic Impact form, indicate the tables (1a, 3, or 4) on which it was reported. Information provided on that form need not be repeated here.*

Description of the individuals, businesses, or other entities likely to be affected by the regulatory change. If no other entities will be affected, include a specific statement to that effect.	Individuals affected are licensed audiologists, licensed SLPs, licensed school SLPs, and individuals intending to apply for a license in Virginia as an audiologist or speech-language pathologist.
Agency’s best estimate of the number of such entities that will be affected. Include an estimate of the number of small businesses affected. Small business means a business entity, including its affiliates, that: a) is independently owned and operated and; b) employs fewer than 500 full-time employees or has gross annual sales of less than \$6 million.	Information regarding the current count of audiologists, SLPs, and school SLPs is available on the agency’s website under “ <a href="#">Quarterly Reports</a> ” and “Count of Licensees.” The reported numbers are updated by quarter.  As of the time of this writing, FY2024Q3 reports were available and reported 601 audiologists licensed in Virginia, 5318 SLPs licensed in Virginia, and 362 school SLPs licensed in Virginia.  The agency has no indication of how many individuals may apply for licensure in a given year.
All projected costs for affected individuals, businesses, or other entities resulting from the regulatory change. Be specific and include all costs including, but not limited to: a) projected reporting, recordkeeping, and other administrative costs required for compliance by small businesses; b) specify any costs related to the development of real estate for commercial or residential purposes that are a consequence of the regulatory change; c) fees; d) purchases of equipment or services; and e) time required to comply with the requirements.	There are no projected costs.
Benefits the regulatory change is designed to produce.	There are no monetary benefits.

**Alternatives to Regulation**

*Describe any viable alternatives to the regulatory change that were considered, and the rationale used by the agency to select the least burdensome or intrusive alternative that meets the essential purpose of the regulatory change. 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 regulatory change.*

These are existing regulatory requirements. To remove or change the requirements, the Board must amend the applicable regulations. There is no alternative to regulatory action. The changes already reduce burdens, as described below.

**Regulatory Flexibility Analysis**

*Consistent with § 2.2-4007.1 B of the Code of Virginia, 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) establishing less stringent compliance or reporting requirements; 2) establishing less stringent schedules or deadlines for compliance or reporting requirements; 3) consolidation or simplification of compliance or reporting requirements; 4) establishing 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 regulatory change.*

(1) These amendments already reduce compliance requirements. (2) No schedules or compliance requirements exist. (3) No schedules or compliance requirements exist. (4) No design or operational standards exist. (5) The Board does not regulate small businesses and, if it did, could not exempt small businesses from public safety requirements without severe detriment to the public.

**Public Participation**

*Indicate how the public should contact the agency to submit comments on this regulation, and whether a public hearing will be held, by completing the text below.*

*Consistent with § 2.2-4011 of the Code of Virginia, if an objection to the use of the fast-track process is received within the 30-day public comment period from 10 or more persons, any member of the applicable standing committee of either house of the General Assembly or of the Joint Commission on Administrative Rules, the agency shall: 1) file notice of the objections with the Registrar of Regulations for publication in the Virginia Register and 2) proceed with the normal promulgation process with the initial publication of the fast-track regulation serving as the Notice of Intended Regulatory Action.*

If you are objecting to the use of the fast-track process as the means of promulgating this regulation, please clearly indicate your objection in your comment. Please also indicate the nature of, and reason for, your objection to using this process.

The Board of Audiology and Speech-Language Pathology is providing an opportunity for comments on this regulatory proposal, including but not limited to (i) the costs and benefits of the regulatory proposal and any alternative approaches, (ii) the potential impacts of the regulation, and (iii) the agency's regulatory flexibility analysis stated in this background document.

Anyone wishing to submit written comments for the public comment file may do so through the Public Comment Forums feature of the Virginia Regulatory Town Hall web site at: <https://townhall.virginia.gov>. Comments may also be submitted by mail to Erin Barrett, 9960 Mayland Drive, Suite 300, Henrico, Virginia 23233; by email to [erin.barrett@dhp.virginia.gov](mailto:erin.barrett@dhp.virginia.gov); by fax to (804) 527-4434. In order to be considered, comments must be received by 11:59 pm on the last day of the public comment period.

## Detail of Changes

List all regulatory changes and the consequences of the changes. Explain the new requirements and what they mean rather than merely quoting the text of the regulation. For example, describe the intent of the language and the expected impact. Describe the difference between existing requirement(s) and/or agency practice(s) and what is being proposed in this regulatory change. Use all tables that apply, but delete inapplicable tables.

If an existing VAC Chapter(s) is being amended or repealed, use Table 1 to describe the changes between existing VAC Chapter(s) and the proposed regulation. If existing VAC Chapter(s) or sections are being repealed and replaced, ensure Table 1 clearly shows both the current number and the new number for each repealed section and the replacement section.

**Table 1: Changes to Existing VAC Chapter(s)**

Current chapter-section number	Current requirements in VAC	Change, intent, rationale, and likely impact of new requirements
21-40	Provides the fees required by the Board	Subsection B is amended to remove the statement that the fee shall be made payable to the Treasurer of Virginia. That direction for payment is not necessary in regulation. Additionally, the statement that fees are nonrefundable is amended for clarity. The previous wording of subsection B was overly wordy and used passive voice.
21-50	Lists application requirements of the Board	<p>Section 50 lists the documents and information an applicant must submit, including the application itself and the applicable fee, among other requirements.</p> <p>Subsection A 3 is deleted because it is redundant. The specific requirements for submission are already included in regulation.</p> <p>Subsection A 4 is deleted because it is unnecessary to protect the health, safety, and welfare of the public. Multiple boards have begun the process of removing this requirement. A licensee is responsible for knowing and adhering to all applicable laws governing their practice. Requiring a box to be checked stating that they will comply with the law serves no purpose and it is impossible for the Board to verify veracity in reporting. Should a licensee not comply with statutes and regulations governing practice, that licensee would be subject to disciplinary proceedings regardless of whether such an attestation was provided on licensure.</p> <p>In subsection B, the Board has removed the phrase “from the date the application is received by the board.” That phrase is not consistent with current practice at the agency for all boards. Boards maintain an application status as pending from the date of</p>

		<p>initial submission of application materials, not from the date the entire application is received by the Board. The existing language allows an applicant to file an application form but never complete the remainder of the application by submitting a fee or providing the other required information. The application may stay open indefinitely due to the one year timeframe never being initiated because the application was never fully submitted to the Board.</p>
<p>21-60</p>	<p>Provides qualifications for initial licensure as an audiologist or SLP</p>	<p>Section 60 is amended to combine the requirements for a licensure as an audiologist and as an SLP. The requirements are identical and do not need to be separated.</p> <p>Subsections A 2 and A 3 are deleted because an applicant with current CCCs already meets the requirements of A 2 and A 3. An alternative to holding the CCCs is provided in additional amendments to this section, so A 2 and A 3 are no longer needed.</p> <p>An alternative for licensure requirements to holding active CCCs is provided in amended A 2, which allows licensure for an individual that provides documentation of graduation from an accredited program, passage of the qualifying examination, and six months of supervised practice under a provisional license pursuant to section 70. This change directly relates to the petition for rulemaking received by the Board in late 2022, which requested that the Board provide alternative pathways to licensure outside of holding an active CCC.</p> <p>Subsection B is deleted as unnecessary. A 1 already allows an applicant holding an active CCC to obtain licensure.</p>
<p>21-70</p>	<p>Provides requirements to obtain a provisional license as an audiologist or SLP</p>	<p>Subsection A is amended to allow provisional licensure to be used to qualify for initial licensure in Virginia. As an active CCC will no longer be required for all applicants due to amendments in section 60, the language associated with ASHA and other accrediting bodies is not necessary. An applicant obtaining a provisional licensure will not have to use that provisional licensure practice to obtain an active CCC and then apply for licensure under section 60; the applicant can use the practice obtained under provisional licensure to satisfy Section 60 A 2.</p> <p>Subsection A 2 b is amended to allow a speech-language pathologist to apply for provisional licensure during completion of a joint masters/PhD program following completion of the masters portion. A similar change was not made in subsection A 2 a for audiologists because accredited audiology programs are only PhD programs; no accredited masters programs exist.</p>



		<p>Amendments to subsection C extend the time before expiration of a provisional license from 18 months to 24 months, extend the ability to renew a provisional license for a time period of 12 months instead of the existing 6 months, and allow the possibility of renewal of a provisional license after 36 months rather than 24 months. These extensions of time are intended to reduce the burden of completing practice requirements to obtain a full license to practice in Virginia.</p>
<p>21-80</p>	<p>Provides qualifications for licensure by endorsement</p>	<p>Subsection A is amended to change “shall” to “may.” The current language requires an applicant holding a license in another state to apply through the endorsement process; some applicants may not have been in practice long or may have applied to two states nearly simultaneously and have not practiced at all. The licensure by endorsement process should not be required for any applicant.</p> <p>A 1 and 2 are amended for clarity. The requirements of practice for one of the last three years or six months of provisional licensure practice, plus a supervisor’s recommendation, are included in existing regulatory language. That language is confusing, however, and is easier to read and understand in a numbered paragraph format. The statement that an applicant may be issued a license without evidence of active practice if the applicant holds an active CCC is deleted. Such an applicant would obtain licensure under section 60 A 1.</p> <p>The existing requirement in A 2 that an applicant for licensure by endorsement submit evidence of continuing education, evidence of an active CCC, or certification issued by another accrediting body is removed. The Board does not believe the continuing education requirement is necessary for an individual holding a license in another state. The other state maintains its own renewal requirements; the Virginia Board does not need to perform additional checks on such requirements. The reference to an active CCC or other certification is removed as well as unnecessary for licensure by endorsement. An applicant with an active CCC that does not wish to use the licensure by endorsement pathway may obtain licensure using an active CCC through section 60.</p>
<p>21-100</p>	<p>Provides continuing education requirements for renewal of an active license</p>	<p>Consistent with action by other boards, the list of continuing education providers in subsection B is removed from the amended regulations. The entities recognized by the Board will be placed in a guidance or policy document, depending on legal guidance. This allows the Board to add providers of continuing education without requiring a regulatory amendment to do so.</p>

21-110	Provides information related to obtaining inactive licensure status, reactivation from inactive licensure, and reinstatement from a lapsed license	<p>Section 110 is amended to include the information previously contained in section 120 related to reinstatements of lapsed licenses in the same section as reactivation from inactive licensure. The Board felt that the combination of these two sections provided greater clarity for licensees and the public.</p> <p>The Board has added the requirement to provide a current report from the NPDB for all reactivations or reinstatements, rather than simply those reinstatements after five years. The Board feels the five year mark was arbitrary and there is no reason not to request an NPDB report for all reactivations and reinstatements.</p> <p>The Board has deleted subsection C, which provided additional requirements for an individual reactivating a license after five years. The Board does not feel that these requirements are necessary to protect the public, particularly given that a reinstatement application will institute an investigation by DHP's Enforcement Division and a Board hearing.</p>
21-120	Provides information related to reinstatement of a lapsed license	<p>This section is repealed. The information contained in Section 120 is now included in Section 110. The Board believes including all of this information in one section, rather than two, is less confusing to licensees and the public.</p>
21-141	Provides requirements for recordkeeping	<p>Subsections 1 and 3 are deleted as those subsections only restate statutory requirements. Those statutory requirements do not need to be repeated in regulation, and practitioners are responsible for being aware of and compliant with all such requirements.</p> <p>The section is reordered to account for the removed subsections.</p>
21-150	Lists specific prohibited conduct	<p>This section is repealed. Subsection A is a replica of Virginia Code § 54.1-2601(5). Subsection B is wording included in Virginia Code § 54.1-2603(B) Neither need to be repeated in regulation.</p>