



COMMONWEALTH of VIRGINIA

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MEMORANDUM

TO: The Honorable Robert D. Orrock, Sr.
Chairman, House Committee on Health, Welfare & Institutions

The Honorable Stephen H. Martin
Chairman, Senate Committee on Education and Health

FROM: Leslie L. Knachel 
Executive Director
Board of Audiology and Speech-Language Pathology

DATE: October 29, 2014

RE: **Report on actions regarding assistant speech-language pathologists pursuant to Chapter 661 of the 2014 Acts of the Assembly**

As specified in the second enactment of House Bill 764 (Chapter 661 of the 2014 Acts of the Assembly), we are submitting a report from the Board of Audiology and Speech-Language Pathology. The Board was required to provide a report to the Chairmen of the House of Delegates' Committee on Health, Welfare and Institutions and the Senate Committee on Education and Health by November 1, 2014. Accordingly, we are providing a copy of the report for your review.

The Board utilized the expertise of an Ad Hoc Committee to develop recommendations to the Board, which resulted in submission of a Notice of Intended Regulatory Action (NOIRA) to promulgate regulations relating to the qualifications, practice and supervision of speech-language assistants. The NOIRA was submitted for executive branch review pursuant to Executive Order 17 (2014) on September 29, 2014.

We appreciate your review of the report and are available to answer any questions you may have or provide additional information if necessary.

REPORT OF THE VIRGINIA
BOARD OF AUDIOLOGY AND SPEECH-LANGUAGE PATHOLOGY
DEPARTMENT OF HEALTH PROFESSIONS

**Report on Actions Regarding Assistant Speech-Language Pathologists Pursuant to
Chapter 661 (2014)**

To the House Committee on Health, Welfare and Institutions and the Senate Committee
on Education and Health

COMMONWEALTH OF VIRGINIA
RICHMOND
2014

TABLE OF CONTENTS

I. Authority.

II. Formation of a Regulatory Advisory Panel or Ad Hoc Committee.

III. Regulatory Action by the Board of Audiology and Speech-Language Pathology.

IV. Opportunity for public comment on regulatory proposal and likely timetable for regulation.

Report of the Board of Audiology and Speech-Language Pathology

Actions Regarding Assistant Speech-Language Pathologists

I. Authority.

Chapter 661 (HB764) of the 2014 General Assembly added a new section to Chapter 26 of Title 54.1, relating to practice of assistant speech-language pathologists:

§ 54.1-2605. Practice of assistant speech-language pathologists.

A person who has met the qualifications prescribed by the Board may practice as an assistant speech-language pathologist and may perform duties not otherwise restricted to the practice of a speech-language pathologist under the supervision of a licensed speech-language pathologist.

The second enactment clause of Chapter 611 provided that: “*the Board of Audiology and Speech-Language Pathology shall report its actions regarding assistant speech-language pathologists to the Chairmen of the House Committee on Health, Welfare and Institutions and the Senate Committee on Education and Health.*”

II. Formation of a Regulatory Advisory Panel or Ad Hoc Committee.

At its meeting on June 19, 2014, the Board determined that it was necessary to promulgate regulations in order to “prescribe” the qualifications for an assistant speech-language pathologist and the duties that may be performed under the supervision of a licensed speech-language pathologist. To utilize the expertise needed to develop regulations for assistant speech-language pathologists, the Chair of the Board appointed a Regulatory Advisory Panel or Ad Hoc Committee. The Committee was chaired by Laura Verdun, MA, CCC-SLP, board member and included Ronald Spencer, RN, board member, Scott Rankins, SLP, Speech-Language-Hearing Association of Virginia (SHAV), Darlene Robke, SLP, SHAV, and Marie Ireland, SLP, representing the Department of Education.

At its meeting on August 5, 2014, the Committee reviewed the legislative mandate (HB764) and the statutory authority for regulation, the Speech-Language Pathology Assistant Scope of Practice document

from the American Speech-Language-Hearing Association (ASHA), a survey by the Speech-Language-Hearing Association of Virginia on the use of assistants in Virginia, and regulations from the states of Maryland, North Carolina, and Pennsylvania. The Committee agreed to the following: 1) that there was no statutory authority to issue “licenses” to assistants; 2) that the responsibility for their training and practice is that of the supervising speech-language pathologist; and 3) that the duties to which they could be assigned cannot constitute the licensed practice of speech-language pathology.

III. Regulatory Action by the Board of Audiology and Speech-Language Pathology.

Subsequent to the Committee meeting, regulatory language was drafted and circulated for member comment. At the meeting of the full Board on September 25, 2014, the draft language and member comments were discussed. Several issues relating to the responsibilities and oversight by the supervising speech-language pathologist were identified. The Board voted to publish a Notice of Intended Regulatory Action (NOIRA) for promulgation of regulations stating the qualifications for an assistant, the tasks that may be assigned, the tasks that would constitute licensed practice and therefore cannot be assigned, and the oversight responsibilities of the supervising speech-language pathologist. In accordance with Executive Order 17 (2014), the NOIRA was submitted for executive branch review on September 29, 2014. Once approved by the Governor for publication, the NOIRA will be posted on the Virginia Regulatory Town Hall and circulated for comment. Following the 30-day comment period on the NOIRA, the Regulatory Advisory Panel will be reconvened to develop the regulations and make a recommendation to the Board for its adoption in February of 2015.

As stated in the NOIRA, the purpose of the proposed regulatory action is to set out the qualifications for such a person, the scope of his practice, and the responsibilities of the licensed supervisor. The practice of speech-language pathology includes “facilitating development and maintenance of human communication through programs of screening, identifying, assessing and interpreting, diagnosing, habilitating and rehabilitating speech-language disorders” (§ 54.1-2600). Unlicensed assistants may be utilized to augment but not replace the practice of a licensed speech-language pathologist. The American Speech-Language-Hearing Association white paper on the scope of practice for assistants states: “*The decision to shift responsibility for implementation of the more repetitive, mechanical, or routine clinical activities to SLPA’s should be made only by qualified professionals and only when the*

quality of care and level of professionalism will not be compromised.” The proposed regulatory action for the establishment of assistant competency and scope of practice is essential to ensure the quality and continuity of care under the legal and professional responsibility of a licensed speech-language pathologist to protect the health and safety of clients receiving speech-language services.

Current regulations specify that a licensed speech-language pathologist shall provide documented supervision to unlicensed assistants, shall be held fully responsible for their performance and activities, and shall ensure that they perform only those activities which do not constitute the practice of speech-language pathology and which are commensurate with their level of training. Further, regulations provide that 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.

Amendments to the regulations will set out the qualifications of an assistant speech-language pathologist to be determined by the supervising speech-language pathologist after training and direct observation.

Minimal competency in performance must be documented before the supervising speech-language pathologist can assign tasks to the assistant. After demonstration of competency, the assistant may perform duties planned, designed and supervised by a licensed speech-language pathologist.

Regulations will specify which duties are appropriate to the practice of an assistant and which would constitute licensed practice of a speech-language pathologist and are, therefore, not to be performed by an unlicensed assistant. Generally speaking, activities which require assessment and professional judgment in speech-language pathology are not appropriate for delegation to an assistant. Finally, regulations will specify the supervisory responsibilities of the licensed speech-language pathologist for the activities of the assistant, the number of assistants who may be supervised, the frequency with which there must be on-site supervision of assistants, and the frequency with which the licensed speech-language pathologist must personally see and evaluate the client. Ultimate responsibility for the client and the outcomes of his care remain with the licensed speech-language pathologist.

IV. Opportunity for public comment on regulatory proposal and likely timetable for regulation.

In addition to an opportunity for public comment on the Notice of Intended Regulatory Action, there will be a 60-day comment period on the proposed regulations to be adopted by the Board. A public hearing will also be held following the publication of the proposed stage of the regulatory action and

notice of the hearing will be posted on the Virginia Regulatory Town Hall website (<http://www.townhall.virginia.gov>) and on the Commonwealth Calendar website (<http://www.virginia.gov/cmsportal3/cgi-bin/calendar.cgi>). Comments from the public and affected parties may be posted on Town Hall, submitted by electronic or regular mail or given orally at the public hearing. The timeline for the promulgation of regulations will depend on the executive branch review process and the requirements of Executive Order 17 (2014) and the Administrative Process Act. Promulgation of regulatory amendments is typically an 18 to 24 month process, so final regulations would likely be in effect sometime in 2016.

VIRGINIA ACTS OF ASSEMBLY -- 2014 SESSION

CHAPTER 661

An Act to amend the Code of Virginia by adding in Chapter 26 of Title 54.1 a section numbered 54.1-2605, relating to assistant speech-language pathologists.

Approved April 6, 2014

[H 764]

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding in Chapter 26 of Title 54.1 a section numbered 54.1-2605 as follows:

§ 54.1-2605. Practice of assistant speech-language pathologists.

A person who has met the qualifications prescribed by the Board may practice as an assistant speech-language pathologist and may perform duties not otherwise restricted to the practice of a speech-language pathologist under the supervision of a licensed speech-language pathologist.

2. That the Board of Audiology and Speech-Language Pathology shall report its actions regarding assistant speech-language pathologists to the Chairmen of the House Committee on Health, Welfare and Institutions and the Senate Committee on Education and Health.