



Board of Examiners  
For Speech-Language  
Pathology & Audiology  
(971) 673-0220  
(971) 673-0226 fax  
800 NE Oregon St  
Ste 407  
Portland OR 97232  
[www.bsqa.state.or.us](http://www.bsqa.state.or.us)

## **Telepractice Rule Advisory Committee Minutes May 2, 2017 Portland State Office Building Conference Room 445 Portland, Oregon**

Present: Shilpi Banerjee, Aud, Melissa Fryer, SLP, Pacific University, Jenny Peddicord, SLP, The Hello Foundation, Anna Sanger Reed, BSPA Public Board Member, Sharon Soliday, SLP, The Hello Foundation. Staff present: Erin K. Haag, Executive Director, David Linn, Administrative Assistant.

The committee was called to order at 5:30 PM by Executive Director Haag. Introductions were made. Haag said that the rules do not have to be approved by August and this process could extend longer, such as until November, but the group would like to stick with the existing timeline if possible so that project is complete by the end of summer. Meeting handouts included minutes from the last meeting, a list of to ten topic areas gleaned from notes of the last meeting by staff, a sample of telepractice requirements from other states provided by Peddicord prior to the meeting, printout of OAR chapter 335 on professional and ethical standards, welfare of clients and accurate representation, rules from the Oregon PT and OT Boards and the National Council of State Boards of Examiners (NCSB) position statement on telepractice.

The committee began by reviewing rules from other states supplied by Peddicord, and after a lengthy discussion there was consensus that folks like the definition of telepractice from the Louisiana Board. The group likes the definitions in the Louisiana rules regarding "originating site, etc" because that language also is included in Medicare Learning Network Telehealth Services document. However, the group is not sure that level of detail is required in Oregon's rules. Discussion also centered around whether telepractice rules and definitions should be sprinkled through the rules as they currently appear, or should there be a specific rules section on telepractice? One strategy could be that we draft the rule language and then staff and legal counsel can work on where the language should be placed. Banerjee and others pointed out that telepractice is really "ethical practice" and is simply another tool in the box for clinicians and patients, rather than it being something different or stand-alone. Soliday said there are too many possible scenarios but that treatment should be just as good via telepractice as it is in person. Since there is so much interest in telepractice and a desire for clinicians to comply with Board rules, the consensus was that telepractice should have its own section within the rules, even if that entire section is a sub-section of OAR 335-005-0010 - "professional and ethical standards." Although it will most likely be its own section, the committee made it clear that all of the

professional and ethical standards clearly should apply to all treatment modalities, including telepractice.

The committee discussed the need for informed consent to be included in the rules, but did not proscribe how that documentation needs to take place. Haag pointed out the only other place where informed consent is mentioned in the statutes and rules is that if treatment is being provided at any time by an SLPA then the patient/parent must consent. (After the meeting Haag found that consent is also required for any unproven treatments or research programs and will check the rules and statutes for any other mentions of it). The group discussed HIPAA and FERPA informed consent as being a regular part of the job, but there might be a need to specify how that documentation must take place.

There was discussion as to what clinicians should do if they are somewhat transient, on the road at a conference or away from a duration of time, or what if the patient was retired, moved around in a trailer, etc. Peddicord felt the end-goal is licensure compact across states but not the realm of this committee work.

Soliday and Peddicord said that most clinicians are not experienced in telepractice and feel they must work for a specific telepractice company or clinic in order to do it well, but they feel as more of them become educated and comfortable with it, telepractice will ultimately be just another modality and clinicians will realize how useful it is.

Banerjee asked if the Board ever prepares practice guidance documents, but Haag and Peddicord stated that is more the realm of OSHA, ASHA, OAA, AAA, etc. as the Board is there to provide regulation through statutes and rules, not practical advice on best practices. The Board does regularly work with all of the professional organizations on these matters.

The group briefly touched on SLPA supervision and treatment as related to telepractice, but did not flesh it out at this time. Haag pointed out that SLPA rules are fairly silent on the topic except under the clause that allows school districts to apply for exemption from the 2:1 SLPA to SLP supervision ratio. Districts can apply for a two year exemption which allows one SLP to supervise four SLPAs and utilize video conferencing, etc. Haag said that a group at OSHA was going to begin reviewing the SLPA rules but she is not sure about the status of the project, and the Board might need to take up a rulemaking committee about SLPAs and supervision to clear up some holes. Also, all new rules must be systematically reviewed after they have been in existence for six years, so SLPA rules will be under review within the next year to meet that statutory requirement.

There was discussion about whether clinicians should follow statutes and rules of the initiating state or the receiving state. Haag needs to discuss this with the Board and their Assistant Attorney General, but she is fairly sure that the priority laws would be those of the state in which the patient/client was located. One example is the differences between Oregon and California law regarding the number of years' experience required for and SLP to supervise SLPAs. Oregon requires two, California requires only a license and no experience.

Sanger Reed asked questions through the lens of the consumer as she is one of the Board's public members and a volunteer for the Parkinson's Foundation where she sees older people who need the services. She said she is beginning to understand that telepractice is really just a tool and we want the public to obtain and stick with their treatment, so if it makes them more likely to comply, it is a good thing for the public. She wondered how we can do a better job of reaching the actual constituents who utilize these services and how they might complain if they receive sub-standard care.

Linn asked if there was any minimum standards or a business model that would prevent clinicians from seeing patients in person as a cost saving measure. He wondered if there is any situation at all where telepractice is not appropriate. Since most committee members are clinicians and not part of the regulatory process, they asked Linn to bring case studies to the next meeting so that we can flesh out some of the real life scenarios. He will also reach out to other state licensing boards to see if they have had cases that involved the use of telepractice tools, and if they are happy with their own statutes and rules if they have any.

Consensus was that BSPA should be consistent with other Oregon boards and ASHA and require that the clinicians must have a license in both the state where they live and the state where they are providing services.

The committee briefly discussed whether "treatment" is defined as live interaction, or if supplying the patient with a video, i.e. "how to change your hearing aid battery" would be considered telepractice.

Sanger Reed felt the committee is making progress on what is truly important. It was agreed that the committee members will absorb the material that has been distributed, continue to review ASHA best practices and other state rules, and meet again on June 2<sup>nd</sup>. Haag will attempt to draft rule language based on feedback at the first two meetings and send it out before the June meeting. Staff will also send out information through the BSPA newsletter and will reach out to OSHA, OAA, ASHA and AAA to ensure we're obtaining sufficient comments.

The meeting adjourned at approximately 6:50PM.

## **ADJOURNMENT**

The committee meeting adjourned at about 6:45PM. Next committee meetings:

\* 5:30PM, Tuesday, June 2<sup>nd</sup>



Board of Examiners  
For Speech-Language  
Pathology & Audiology  
(971) 673-0220  
(971) 673-0226 fax  
800 NE Oregon St  
Ste 407  
Portland OR 97232  
[www.bspa.state.or.us](http://www.bspa.state.or.us)

## **Telepractice Rule Advisory Committee Minutes April 4, 2017 Portland State Office Building Conference Room 445 Portland, Oregon**

Present: Melissa Fryer, SLP, Pacific University, Kate Morrell, Providence Health Systems, Jenny Peddicord, SLP, The Hello Foundation, Anna Sanger Reed, BSPA Public Board Member, Sharon Soliday, SLP, The Hello Foundation, , Jean Verheyden, M.D., Otolaryngologist and BSPA Board member (via teleconference).

The committee was called to order at 5:30 p.m. by Executive Director Haag, and each person present introduced themselves, their affiliation, and why they are interested in serving on this rulemaking advisory committee.

Haag provided handouts including a roster, selected references from ORS Chapter 681 and OAR Chapter 335 rules. She also provided a draft telepractice rulemaking timeline that would result in a rules implementation date of January 1, 2018. The goal is to hold a public hearing in conjunction with the August Board meeting with the Board voting in the new rules at either the August or November Board meeting. Prior to the committee meeting, Haag distributed links to ASHA's website that has a summary of each state with telepractice rules, the ASHA telepractice guidance documents and a sample telepractice rule from the National Council of Boards of Examiners for Speech-Language Pathology and Audiology (NCSB), the Board's professional organization.

The group then held a brainstorming session in order to get some of the major issues out on the table, without necessarily evaluating them.

Soliday pointed out that providing services via telepractice is really just another tool and that practitioners continue to follow all professional guidelines. She also pointed out that the rules in Oregon and California are different regarding SLPAs and the type of supervision that is required, so folks are not sure if they should follow OR or CA laws when working via telepractice. One example is that there is only a one year experience requirement to supervise SLPA in CA whereas Oregon requires two years of experience, one of which can be the CF year. We assume one should follow the law wherever patient is located but Board clarification is needed.

Peddicord pointed out that while many thought that telepractice would be particularly attractive for rural areas, they are also finding that due to the proliferation of hand-held

devices, etc. that it is also popular in cities, where patients must combat traffic and other barriers to obtain services.

Sanger Reed asked whether there is a different quality of care if it is provided via telepractice. Soliday said that in some ways better. Urban areas like it too. For example, when real life things happen when the child is being treated at home, such as when the family dog runs by, they can ask the patient about it. Anecdotal & convenience wise + scheduling, more consistent attendance. All goes back to professional judgement. Now we are used to technology. Can be more compliant, "safe" at home. Engaged due to robot (providence) family member support. Highlights functional aspect.

Most states require that the clinician be licensed in both the state from which they are providing services and the state where the patient is located. This is true in Oregon's P.T and O.T. rules. The clinicians present felt strongly that there should be no difference in the quality of care.

Morrell shared that Providence has robust tele-stroke network using nurse practitioners and so she led a team research project that used them for bedside swallow screening. In January they finished their study on 100 stroke patients and presented their results at ASHA. They found that 91% of the studies were accurate with liquids and 87% were accurate w/solids. It was a blinded study. Medicare doesn't pay yet. Kaiser is conducting this at its own expense.

Will need CPT codes for it. CPS code w/ modifier.

Discussion re: support and need for this.

When CMS changes rules & sees states put things in place maybe they'll allow payment for it. For example it is much less expensive to treat a patient at Washington's Ocean Beach Hospital than transferring them via ambulance to Astoria, etc. Maybe they would have a lesser reimbursement rate if it is a televisit.

Practitioners will need to allot funding to ensure they are HIPAA compliant in terms of their equipment and practices.

Peddicord shared some thoughts about which states have the best rules on telepractice from her perspective. She said that Kentucky and Texas require the first visit to be in person but that TX is getting pushback.

Haag pointed out that ASHA states there are 10-15% of patients who are not appropriate for telepractice and wonders how the SLP or Audiologist can make this determination if they have not yet seen the patient in person. How would you evaluate a child with severe autism via telepractice? The answer from the SLPs is that they use their professional judgement just as they do in every other situation. They pointed out that some children with autism actually do better with screens. Training & education is key. A "bad" professional is going to be a problem regardless of whether services are delivered in the same room or over Skype.

Although not the topic of this rulemaking committee, the group discussed the multistate licensure compact adopted for P.T. by the Oregon legislature. The PT board does have telepractice rules and they include informed consent/parent. They also have procedures in place to deal with medical emergencies that take place during therapy.

Haag pointed out that since we have a rule that states therapy may not be provided solely via correspondence, we will need to define what that means, and decide if we will keep that language and add to it or revise. For example, if you record and store and therapy session and then send it via email, is that correspondence? Ever audio only? Or visual we mean but must define it. If choppy? If adult = 1 on 1.

With her eye on the consumer, Sanger Reed asked if the SLP can see more patients this way - can you be more efficient more treatment hours? Soliday said no, because she can't ask her SLPs to sit at a screen 8 hours a day. Instead she has found it ideal for the SLPs to schedule six 45 minute sessions per eight hour day which allows time for them to record chart notes, plans of care, etc. She did note that some older patients like physical appointment just to get out of the house.

We will need to continue to research what other boards do, the role of SLPAs, HIPAA issues and risk mitigation strategy. Find out how they ensure it. Is HIPAA stipulated in statute/rules, HIPAA compliant platforms, etc.? What does it look like? OHA does have information, informed consent important. What does ASHA recommend?

Peddicord will have SLPAs in schools who run it while she observes and if not effective then she uses another modality.

Dr. Verheyden asked about the ratio of clinicians to patients in a telepractice setting. Is it possible for one clinician to run a social skills group via telepractice, for example? She participated in the committee meeting via teleconference (phone) and found it hard for her to hear and interject in this meeting situation, so how would you not lose something by doing evaluation and treatment via telepractice? It is difficult for her read visual cues over the telephone.

## **ADJOURNMENT**

The committee meeting adjourned at about 6:45PM. Next committee meetings:

\* 5:30PM, Tuesday, May 2<sup>nd</sup>

\* 5:30PM, Tuesday, June 6<sup>th</sup>