



NEWS FOR OREGON LICENSEES

Board of Examiners for Speech-Language Pathology and Audiology

April 2004



New Proposed Rules

Brenda Felber
Executive Director
OBSLPA

Look for the Notice of Proposed Rulemaking Hearing and Fiscal Impact Statement on page 7 of this newsletter for new proposed rules on record keeping.

You may notice that some rules, such as those affecting audiologists who contract with hearing aid businesses, are the same proposed rules as announced in the last newsletter. The Board will reaffirm adoption of these rules after giving small businesses an opportunity to comment on whether other options should be considered for achieving the rule’s substantive goals while reducing the negative economic impact of the rule on business.

We are also taking this opportunity to better clarify the rule (OAR335-070-0060) defining the professional development requirements for those new licensees who have not been licensed for the full two-year licensing period. We hope it is clear this time; let us know what you think!

A complete set of the proposed rules can be found on the Board website at www.bspla.state.or.us or you may contact the Board office for a hard copy. ☺



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The Rulemaking Process

Brenda Felber
Executive Director
OBSLPA

An earlier edition of the Board newsletter contained a lengthy article on how the rules regarding professional development (PD) were revised and adopted. Still, the most recent newsletter article on the increase to forty PD hours generated more questions, such as:

“When did the Board increase the hours to forty?”

“Are they going to be increased again?”

“Did they consider unemployed or self-employed professionals?!”

“I wish I would have known; I would have commented!”

The following is intended to summarize the rulemaking procedure and to identify for all interested parties the means by which they can provide input into the process.

First, **the process** for proposing and adopting rules is spelled out for Oregon state agencies in the Oregon Attorney General’s Administrative Law Manual and Uniform and Model Rules of Procedure Under the Administrative Procedures Act. All state agencies must follow the procedure outlined in this manual for rule adoption. The procedure incorporates notices, hearings, publications, legislative and interested party review - all in an effort to obtain public input.

Agencies are advised to appoint **advisory committees** or use other means to obtain public input, as appropriate. For the rule on PD, the Board posted a notice on the “What’s New “ page of the website stating that the Board was looking for licensees interested in participating on an advisory committee to draft proposed rules. Rules were drafted by this committee which included Board members. The Board then sent a hard copy of the draft rules to various interested parties including the presidents of the local professional organizations. A few months later, all attendees at the Oregon Speech and Hearing Association (OSHA) conference were extended the opportunity to attend a session to provide comments and

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feedback on the draft rules. Fifteen speech and audiology professionals took that opportunity to have their questions answered and provided valuable feedback.

All interested parties (including all licensees) are then notified, according to state law, that **proposed rules** are being considered. In the PD rule process, licensees were given more than the required 21-day notice to comment and request a hearing. In an effort to reduce expense, hard copies of the proposed rules were not included with the mailed notices, however, the notice stated that hard copies could be obtained simply by calling the Board office. While the PD hours rule change pre-dated the Board's extensive use of their website as another means of disseminating information to licensees and the public, draft and proposed rules, as well as much other information of interest are now routinely posted and updated on the website at www.bspla.state.or.us.

The Board then either chooses to hold a **hearing**, or holds a hearing if requested, in their usual meeting room at the Portland State Office Building. The Board then reviews written comments, listens to oral comments, discusses comments, and finalizes revisions. The Board then votes (in public session) to adopt, amend or appeal the rules. **The rules then become effective upon filing with the Secretary of State.**

The Board welcomes and encourages licensees and the public to comment on any proposed rules or rules changes. Input may be provided by letter, email, or personal appearance at a scheduled hearing. Take a minute now to review the notices included in this newsletter to learn of your opportunity to comment on the proposed recordkeeping rules. ☺

OBSLPA/TSPC/ASHA

OSHA/SLPA/CCC

Acronymophobia

Brenda Felber
Executive Director
OBSLPA

The first question I am frequently asked when I answer the telephone in the Board office is "Have I reached ASHA, the licensing agency?" Granted, I usually answer the telephone by saying "Hello, this is Brenda" as trying to say the long name of this small Agency is a mouthful. But there is definite

confusion about the differences between the entities that regulate, in some way, the practices of Speech-language pathology and Audiology in the state of Oregon. Let me explain...

OBSLPA is the acronym that Tim Anderson, administrative assistant to the Board of Examiners for Speech-Language Pathology and Audiology, made up so it's probably not as well known. But this Board is the licensing agency for speech-language pathologists, audiologists and speech-language pathology assistants as well as both speech-language pathologists and audiologists working on their clinical fellowship year (CFY), in the state of Oregon. The Board is governed by ORS Chapter 681 and Oregon Administrative Rules (OAR) Chapter 335.

TSPC is the acronym for the Teachers, Standards, and Practices Commission, a licensing agency for teachers. Speech-language pathologists and audiologists who hold a license through TSPC are exempt from needing a license to practice as defined in Oregon Revised Chapter (ORS) Chapter 681. That is, unless the speech-language pathologist supervises a speech-language pathology assistant (SLPA)- that aspect of the law changed on 1/1/03. Since then speech-language pathologists who supervise SLPAs must now be licensed by the Oregon Board of Examiners for Speech-Language Pathology and Audiology, regardless of what other license they hold.

ASHA is the acronym for the American Speech and Hearing Association, a national professional organization. The organization is large, strong and influential, but ASHA is not a licensing agency. Unfortunately, many graduates still seem to think that if they obtain their **Certificate of Clinical Competence (CCCs)** from ASHA, then they are eligible to practice in Oregon. Not so. See above.

Incidentally, ASHA recently discontinued their plan to register SLPAs. This does not in any way affect OBSLPA's requirement for certification of SLPAs. See above.

OSHA is the acronym for the Oregon Speech and Hearing Association, the local chapter of ASHA. ☺

Board Actions Addendum

The last edition of the newsletter reported Recent Board Actions involving two separate

Continued on page 3

("Board Actions Addendum" continued from page 2)

consent orders entered into by the Board and two licensees. (A consent order is a voluntary agreement entered into by both the Board and the licensee).

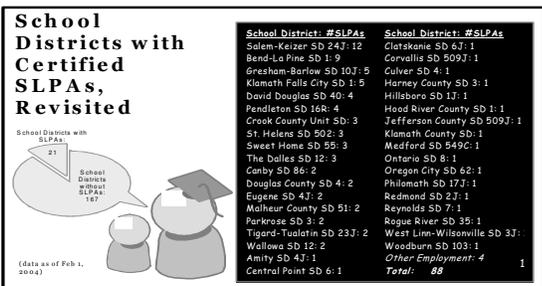
The actions reported may have given readers an inaccurate impression of the nature of the consent orders. To clarify the nature of the consent orders, the Board is publishing revised summaries of those orders. We regret any concerns that the prior summaries may have caused.

McSpaden, Jay, Audiology License #20333

The Board issued a Notice of Proposed Revocation alleging violations of ORS 681.350(1)(b) (unprofessional conduct); OAR 335-005-0015(5) (dispensing a product without reasonable expectation of benefit to patient); and OAR 335-005-0015(10) (misrepresentation); OAR 335-005-0015(1) (provide all services competently); OAR 335-005-0025 (misrepresentation); and OAR 335-005-0010(4) (dishonest conduct involving a client). The licensee denied that he violated any Oregon law and requested a hearing. No hearing was held and neither the Board nor Licensee presented any evidence on any of the allegations to an administrative law judge. The Board and Licensee wished to resolve the matter without further proceedings and entered into a consent order in which Licensee agreed to hold an inactive license and retire from providing audiological services effective 1/1/04.

McEachern, Le'Anne, Audiology License #20391

The Board was prepared to issue a notice alleging that Licensee violated ORS 681.350(1) (unprofessional conduct) and OAR 335-05-0015(1) (provide all services competently). Licensee denied that she violated any Oregon laws. The Board and Licensee wished to resolve the matter without further action or a hearing and entered into a consent order in which Licensee agreed to limit her practice to providing audiological services to persons aged six years and older. Licensee retains the right to provide hearing aid services to children under six who use hearing aids, excluding hearing aid fittings. 🎧



The Board's Disciplinary Process

Frank Mussell
Attorney-at-Law
Investigator
OBSLPA

Recent Board actions in the January newsletter generated comments of concern and questions, so I asked our contract investigator to write this article to inform the professional about how the disciplinary process works.
-- Brenda Felber

In 1973 the Oregon Legislature first recognized Speech-language pathology and Audiology as licensed professions and at that time created the Board of Examiners of Speech-Language Pathology and Audiology to regulate the professions. Within the framework established by the legislature, the Board is empowered to adopt rules setting standards for licensure and for setting standards of practice of the professions. The Board is also authorized to issue licenses to qualified applicants and to take disciplinary action against licensees who have violated the statutes and rules applicable to professional practice.

When the Board receives a complaint or otherwise learns of a possible violation of the statutes and rules by a licensee, the Board is required to conduct an investigation.

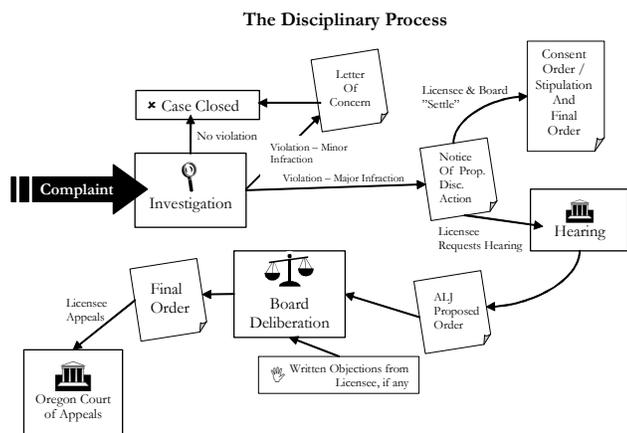
The investigation generally includes an interview of the complainant, a review of the records involved in the matter and an interview of the licensee. Although not a requirement, a licensee is entitled to be represented by an attorney during the investigation and at all other stages of the disciplinary process. The investigation is confidential and the Board is prohibited from informing either the licensee or the public of the identity of the complainant. The Board is also prohibited from informing the public that the licensee is under investigation.

At the conclusion of the investigation **the Board will review the matter to determine whether it appears that the licensee has violated any statute or rule.** If there is no apparent violation, the matter will be closed and there will be no record available to the public that the Board ever received the complaint or conducted an investigation. If it appears that the licensee committed a violation, the Board may decide to close the case based on the judgment that no useful purpose would be served by imposing a sanction on the licensee. In such a situation the Board may send a letter of concern to the

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(“The Board’s Disciplinary Process” continued from page 3)

licensee in which the Board identifies an issue that the Board believes could be profitably addressed in the licensee’s practice.



If it appears to the Board that the licensee committed a violation and that disciplinary action is warranted, the Board will issue a Notice of Proposed Disciplinary Action and deliver it to the licensee. The Notice will describe the misconduct involved and it will identify the specific statutes and rules the Board believes were violated. The Notice may also identify the particular disciplinary sanction the Board proposes. If in the course of the investigation the Board receives information that the licensee poses a serious danger to the public health and safety, the Board may issue an emergency license suspension order that will remain in effect until the conclusion of the disciplinary process unless earlier withdrawn by the Board. If such an order is issued, the licensee is entitled to a hearing in regard to the validity of the suspension order. Upon written request, such a hearing will be scheduled as soon as practicable.

When the licensee receives the Notice of Proposed Disciplinary Action, the licensee may acknowledge the violations and agree to the proposed sanction. If so, the case will be resolved by the Board and the licensee entering into an agreement that may be called a “Consent Order” or “Stipulation and Final Order”. **Alternatively, the licensee may request a hearing in order to contest the alleged violations and the proposed sanction.** The hearing request must be in writing and it must be received by the Board within the required time. If the hearing request is late, the opportunity for hearing will be lost, unless there is a valid excuse for the delay. If the Board issues an emergency license suspension order and a Notice of Proposed Disciplinary Action and the licensee requests a hearing in regard to both

matters, a single hearing will be scheduled to address them both.

The hearing is much like a court trial, except it is less formal. The presiding officer will be an Administrative Law Judge (ALJ) who is employed by the Office of Administrative Hearings in the Department of Employment. The Board will be represented by an Assistant Attorney General and the licensee may, but is not required, to be represented by an attorney. The burden is on the Board to prove the allegations in the Notice. The Board will call witnesses and present documentary evidence. The licensee is entitled to testify and to call witnesses, to present evidence and cross-examine the witnesses called by the Board. **After the hearing is concluded the ALJ will prepare a written proposed order** that contains the ALJ’s determination of the facts and a determination of whether the licensee violated the statutes and rules as alleged in the Notice. The proposed order will also include a proposed sanction, if the ALJ determines that a violation occurred. The ALJ’s proposed order is sent to the Board and to the licensee. If the licensee disagrees with the proposed order, the licensee may submit written objections for the Board to consider at the time the Board deliberates on the proposed order. The Board makes the final decision in the case and, with some limitations, it may reject or modify the proposed order submitted by the ALJ.

The Board’s final order will be in writing and it will contain findings of fact, conclusions of law and a sanction. The final order will be delivered to the licensee. If the licensee is dissatisfied with the final order, the licensee may ask the Board to reconsider it. If the licensee wants to appeal the Board’s final order to the Oregon Court of Appeal, the licensee must first ask the Board to reconsider its order. If the licensee is dissatisfied with the Board’s final order following reconsideration, the licensee may appeal to the Court of Appeals by filing a written petition for judicial review with that court within the time limits provided for such an appeal. Failure to file a petition for judicial review within the time limit will result in the licensee’s loss of the right to appeal the Board’s final order.

The hearing and the portion of the Board meeting during which the Board deliberates on the proposed order are closed to the public. The only documents generated by the disciplinary process that are available to the public are the notice of proposed disciplinary action, an Emergency Suspension Order, a Consent Order or “Stipulation and Final Order”, and a Final Order. ☺

SLPA Forms Updated

Tim Anderson
Office Assistant
OBSLPA

If you work in a school district, be sure to remind the personnel responsible for assisting speech-language pathology assistants in filling out applications that a new competency form for grandparenting is available for use on the Board website.



Regardless of immediate need, it's a good idea to check the forms page on the Board website and look at the last updated date to the right of the form in the list. This way, you'll know next time you need to use one that there is a new form available. The forms are revised to make them easier to complete and easier to process. ☺

How Will I Ever Obtain The Increased Professional Development Hours?

Lezlie Pearce-Hopper, SLP
Board Member
OBSLPA

Did you know?

- ✓ Many public school districts in the state hold in-services and invite others to attend. No need to submit an approval form if your public school, hospital or clinic holds an in-service; just drop your certificate of attendance in a file for easy access later.
- ✓ Clinics and hospitals hold workshops and in-services.
- ✓ You can count your CPR class for two hours every two years.
- ✓ Take a graduate level class at a college or community college.
- ✓ Attend the American Academy of Audiology's Annual Convention in Salt Lake City, March 31-April 3.
- ✓ Attend OASPA (Or. Acad. Of Speech Lang. Path. And Aud.) monthly meetings (given that OASPA has received approval to award the credit).

- ✓ Attend the fall OSHA conference in Eugene on October 12 and 13. There is something for everyone.
- ✓ OSHA's website has a page devoted to continuing education opportunities. The URL is <http://www.oregonspeechandhearing.org/Continuing/>

With approval from the Board you may also:

- ✓ Get together with a group of professionals on a monthly or quarterly basis and discuss books or literature.
- ✓ Use the Internet and discuss pre-arranged topics if you live in a rural area.
- ✓ Someone has attended a conference, workshop or in-service and gives a talk back "home". Keep a record of the topic and record your hours.
- ✓ Order audio or video tapes from ASHA or OSHA and discuss with a group. These and other continuing education materials may be ordered by calling ASHA at (888) 498-6699, or by visiting <http://www.asha.org/shop/index-subject.htm>
- ✓ Teach a class (you can count one class one time only).
- ✓ Classes for one and two PD hours are available as e-courses on the Internet at \$30 per one PD hour. One member of the group could take the course and report back.
- ✓ Read a new book in our profession and provide a review to the OSHA newsletter.
- ✓ Undergraduate courses, particularly for SLPAs, may be approved if directly related to SLP. ☺

Recognizing and Valuing Our Unique Position

Marsha Johnson, MS, FAAA
Oregon Tinnitus & Hyperacusis
Treatment Clinic

If we paint a picture of the world of medicine and health care providers as it stands in this country at this time, we could picture a bit of a family tree configuration, with the physician standing alone at the top, arms spread, being supported by a vast branch and root system of assistants, technicians, and administrative personnel, all of whom practice under that direct supervisory force. Nurses, medical assistants, aides, interns, pharmacists, phlebotomists, dental hygienists,

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("Recognizing and Valuing..." continued from page 5)

therapists, and imaging technicians...all working together to provide a program that has been set out by a physician.

But in one corner of that picture, there stands several other trees: smaller trees, but still rooted in their own right, and there we find a few medical providers who also practice as independent professionals: audiologists, speech pathologists, and optometrists, to name a few. Within their legal scope of practice, these few can evaluate, diagnose, treat, and provide direct services to the public. Standing alone, they can conduct their own business as they see fit, provide therapy, and work in isolation or in groups, by choice.

The value of this situation cannot be underestimated. In searching the available data from different professional associations, it is clear the audiologists and speech language pathologists hold a unique place in this complex world. As practicing professionals, we need to safeguard our rights to independence and work together to further our professional status as a group. With skyrocketing medical insurance and increasingly limited coverage for certain fees, in the presence of global charges with embedded technician charges emerging from the major medical reimbursement regulators, we need to practice vigilant self-representation, both in a local and a national arena of very sophisticated players.

At this point, in Oregon, we are able to maintain our own practices and bill directly for our services, but as a group, we are limited by the decisions of major insurers who have restricted entry into their provider lists. Some major insurers impose barriers to our right to independent practice through this procedure. Other insurers will only reimburse for our clinical services when the CPT codes are filed under a physician's identification number. And finally, the new inclusion of global codes that pay higher rates for services that include physician participation, act to push more independent clinicians into the employee position in a clinic, rather than an equally independent, qualified professional or partners. In this time of medical services constriction, the right to practice independently and provide direct services does not amount to much if the right to reimbursement is missing.

I applaud the efforts of the various state and national organizations in their effort to improve and maintain our scope of practice, and encourage all fellow professionals to get involved with guarding our precious freedom. 🌀

You've Got Mail!

Tim Anderson
Office Assistant
OBSLPA

If you have an email address that you check frequently, it's to your advantage to share it with the Board. This renewal period, if a licensee had an email address on record, we usually attempted to contact them via email to alert them to problems or missing information on their renewal. We believe that this allowed the recipients a faster alert and more time to respond, thus averting a lapse in licensure.

Additionally, email is a quick way to get in touch with the Board. You can alert the Board to address changes or ask questions via email and receive a faster response than if you contacted the Board via regular mail. Should you wish to correspond via email, you can contact the Board at speechaud.board@state.or.us 🌀

Recent Board Actions

Clarification of SLPA Law – Feb. 20, 2004

A letter clarifying the law governing Speech-language pathology assistants was recently sent to the attention of Administrators and Special Education Directors in every school district in Oregon. If you would like to read this letter, you can view a PDF copy at <http://www.bspa.state.or.us/SLPAclarificationletter.pdf>. If you do not have access to the internet, you can contact this office for a copy.

Record-Keeping Rules Proposed – April 1, 2004

The Board is notifying all interested parties (according to Oregon Administrative Rule 335-001-0000) that *rules regarding record keeping are being proposed*. See related article on page 1.

Letter to Hearing Aid Advisory Council – March 23, 2004

The Board sent a request to the Hearing Aid Advisory Council to consider requiring a standard audiogram for purposes of consumer protection. 🌀

Secretary of State
NOTICE OF PROPOSED RULEMAKING HEARING*
A Statement of Need and Fiscal Impact accompanies this form.

Board of Examiners for Speech-Language Pathology and Audiology
335

Agency and Division Administrative Rules Chapter Number

Brenda Felber 503/731-4050
Rules Coordinator Telephone

800 NE Oregon St, Ste 407, Portland, Or 97232-2162

Address

Friday, May 21, 2004 10:00 – 11:00 a.m. Room 445 Portland State
Office Building 800 NE Oregon St. Chair Joanna Burk

Date Time

Location

Hearings Officer

Note: Comments may be submitted by fax (503) 731-4207 up until 10:00 a.m. on 5/21/04.

Are auxiliary aids for persons with disabilities available upon advance request? Yes X No

RULEMAKING ACTION

ADOPT:

335-010-0050, 335-010-0060, 335-0010-0070, 335-010-0080

AMEND:

335-005-0015, 335-005-0025, 335-070-0030, 335-070-0060, 335-095-0020, 335-095-0030

ORS Chapter 681.205, 681.340, 681.360, 681.370, 681.375, 681.420, 681.460

Stat. Auth.:ORS

ORS Chapter 681.250(1), 681.320, 681.330, 681.340, 681.360, 681.370, 681.375, 681.420, 681.460

Stats. Implemented: ORS

RULE SUMMARY

New Division 10 rules provide an explanation of and requirements for record keeping. Amended rules in Division 5 add maintenance of clinical records to professional and ethical standards and define the rules for accurate representation of an audiologist who works for a business that dispenses hearing aids. 335-005-0025 (12) (13) also clarifies documentation requirements for speech-language pathologists who supervise others. Amended rules in Division 70 clarifies that inservices are acceptable at public schools and clarifies the professional development requirements for new licensees. Amended rules in Division 95 delete a grandparenting qualification that no longer applies and clarifies how a person may qualify outside of grandparenting.

Full text of the proposed rules may be viewed on the Agency website at www.bspa.state.or.us or by contacting the Board office at (503) 731-4050 for a hardcopy.

ORS 183.335(2)(b)(G) requests public comment on whether other options should be considered for achieving the rule's substantive goals while reducing negative economic impact of the rule on business.

May 21, 2004

Last Day for Public Comment

Signature and Date

Brenda Felber

Brenda Felber

Printed name

*The Oregon Bulletin is published on the 1st of each month and updates the rule text found in the Oregon Administrative Rules Compilation. Notice forms must be submitted to the Administrative Rules Unit, Oregon State Archives, 800 Summer Street NE, Salem, Oregon 97310 by 5:00 pm on the 15th day of the preceding month unless this deadline falls on a Saturday, Sunday or legal holiday when Notice forms are accepted until 5:00pm on the preceding workday.
ARC 920-2003

Note!

See "New Proposed Rules" on Page 1 for more information. Take special notice of dashed-line highlights on the document.

Secretary of State

STATEMENT OF NEED AND FISCAL IMPACT

A Notice of Proposed Rulemaking Hearing or a Notice of Proposed Rulemaking accompanies this form.

BOARD OF EXAMINERS FOR SPEECH-LANGUAGE PATHOLOGY & AUDIOLOGY **335**

Agency and Division Administrative Rules Chapter Number

In the Matter of:

Proposal to adopt Administrative Rules 335-010-0050, 335-010-0060, 335-0010-0070, 335-010-0080

Amend Administrative Rule 335-005-0015, 335-005-0025, 335-070-0030, 335-070-0060, 335-095-0020, and 335-095-0030

Statutory Authority: ORS 681.460

Statutes Implemented: ORS 681

Need for the Rule(s):

Amended rule in Division 5 adds maintenance of clinical records to professional and ethical standards. New Division 10 rules provide an explanation of and requirements for record keeping.

Documents Relied Upon:

ORS Chapters 681

Fiscal and Economic Impact:

No fiscal impact for revisions to Divisions 70 and 95.

Fiscal impact for amended rules in Division 5 and Division 10 uncertain; insufficient information available.

Affect on small business: Small businesses will be provided opportunity to comment on these proposed rules.

Administrative Rule Advisory Committee consulted?:

Yes, the Board invited all practitioners to discuss the need for revised rule, 335-005-0025, at the Oregon Speech and Hearing Association meeting in October of 2002. Hearing Aid Specialists attended the meeting as well. The Board then followed with an invitation to participate in drafting the revised rule at the Oregon Speech and Hearing Association conference in October of 2003. Audiologists were invited to this meeting via email and on the Agency website.

A subcommittee of Board members drafted the new Division 10 rules to respond to a need identified during recent investigations of inadequate consumer protection. The Board is posting the drafted rules on the Agency website and invites comment in this early stage. The comment period is being held for twice the required period and a hearing is scheduled. The Board is also drawing attention to the rulemaking process and these proposed rules in their next newsletter.

Brenda Felber

Authorized Signer and Date

Administrative Rules Unit, Archives Division, Secretary of State, 800 Summer Street NE, Salem, Oregon 97310. ARC 925-1997

**OREGON BOARD OF EXAMINERS
FOR SPEECH-LANGUAGE PATHOLOGY AND
AUDIOLOGY**



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“News for Oregon Licensees” is a publication of the Oregon Board of Examiners for Speech-Language Pathology and Audiology, published annually or as needed. The Board welcomes your suggestions for articles as well as news items. Neither the Board, its members, nor its staff are responsible for factual statements or opinions published in this newsletter. The Board reserves the right to refuse or edit all articles submitted.

Contact the Board office for further information on how to submit a suggestion or article.

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