

Chair
Evan Evans, AUD

Vice-Chair
Jennie Price, SLP

Professional Members
Wendy Gunter, SLP
Lyndsay Duffus, AUD
Mark Wax, MD

Public Members
Ralph Blanchard
Elisa Williams

Executive Director
Sandy Leybold, MPH

Administrative Assistant
Tim Anderson

(971) 673-0220
fax (971) 673-0226
www.oregon.gov/bspa

News for Oregon-Licensed Speech-Language Pathologists, Audiologists, & SLPAs

FALL 2011 EDITION

THE VOICE

Budget Update



Evan Evans
Audiologist, Board Chair

In the last few days of the 2011 Legislative Session, the Board's budget was determined by the Oregon Legislature as part of a package that included several state agencies.

The budget level requested by the Board included resources for a full-time executive director, a half-time investigator, and a full-time administrative assistant, for a total of 2.5 FTE. The Board recommended this staffing level to fulfill the Board's mission of public protection in light of our expanded number of licensees and disciplinary caseload over the last few years. The budget proposal also included a request for the Legislature to ratify the fee increase that was implemented in 2009 through a public rule-making process.

The budget and the fee increase were supported by the Oregon Speech-Language Hearing Association, Oregon Academy of Audiology, and the Governor's Office. The Legislature granted an approximately 8% increase in spending for the 2011-13 biennium. However, it did not approve the staff increase or most of the other changes the Board requested due to overall budgetary concerns during these difficult economic times.

As a result, the Board has re-adopted the pre-2009 fee schedule, and our budgeted staffing remains at 1.4 FTE. At the same time, Board staff are required to take 12-14 days of unpaid furlough time over the next biennium, as are all other state employees. This further reduces the staffing available to carry out Board functions.

The Board will seek to prioritize our available resources to achieve maximum effectiveness in carrying out our mission during the next biennium.

IN THIS ISSUE

Budget Update	Page 1
Rule Revisions Impact SLPA Supervision and Other Requirements	Page 2
Law Adds Extra Layer of Reporting Responsibility for Licensees	Page 2
Feedback: October 2011 Customer Service Survey Results	Page 3
Q&As on Mandatory Reporting	Page 4
Smartest Form for Supervision?	Page 4
Champagne & License Renewal	Page 5
Recent Board Actions	Page 5



Rule Revisions Impact SLPA Supervision and Other Requirements

The proposed rule changes that were published in the Spring 2011 edition of *The Voice* were adopted by the Board at its September 30th meeting, and became effective in October.

Probably the most important changes for current licensees clarify key provisions of the SLPA supervision requirements:

- New language emphasizes that the SLP’s responsibilities relate to his/her caseload, including making diagnostic and treatment related decisions for all clients on the caseload, and supervising any SLPAs assigned to assist with that **caseload**.
- Documentation requirements now include the term “**clinical interaction hours**”, and direct and indirect supervision hours. These terms have been defined and used for several years, but are now listed in rule. Definitions of these terms, and instructions on how to use the clinical logs (“smart forms”) are at <http://www.oregon.gov/bspa/forms.shtml>, accessed through the Forms tab on our website.
- Importantly, a rule now spells out that **clinical logs must be completed and supervision hours calculated for each calendar month for each caseload**. This change is designed to clarify several questions that have emerged from the last three SLPA supervision audits.

(Continued on page 3)

Rules/Statutes	Form	Format	Description	Last Updated
Forms	Licensing			
FAQ	Name / Address Change Report	PDF	Form to report change of name or address.	11/30/10
Licensee Directory				
Recent Board Actions				
Meeting Minutes	Application for Licensure	PDF	Licensure application for Speech-Language Pathologists and Audiologists.	2/09/11
Performance Measures				
Professional Development	Application for Conditional Licensure	PDF	Licensure application for SLPs and Audiologists in their CPV.	8/18/11
Relevant Links	Conditional License Renewal / Upgrade to Regular Licensure	PDF	Form to renew conditional licensure after initial year or to upgrade to a regular license	2/09/11
News and Newsletters				
Home				
Licensing Process Explained	Application for Speech-Language Pathology Assistant Certificate	PDF	Certification application for Speech-Language Pathology Assistants.	2/09/11
	SLPA Clinical Contact Competencies Checklist	PDF	Competency Checklist for 100 hours of required clinical interaction	2/09/11
	SLPA Clinical Interaction Log	PDF	Example Log Form for recording 100 clinical interaction hours.	2/09/11
	Registration to Supervise SLPAs - no longer needed - see 8/9/10 news flash.		Use the SLPA supervision change notice	8/9/10
	Supervision			
	Petition for Special Approval for Supervision of Speech-Language Pathology Assistants	PDF	Education Service Districts and School Districts must use this form to apply for approval for an exception to the usual requirements for Direct Supervision of SLPAs by licensed SLPs.	8/18/08
	Supervision Change (or adding new) Notice	PDF	For SLPAs to report changes (adding additional supervisor; replacing supervisor; removing supervisor) in supervisors.	10/21/11
	Smart Form for Supervision of SLPAs in Clinical Interaction		Questions and Answers (PDF) Blank Smart Form (DOC)	10/14/11

Law Adds Extra Layer of Reporting Responsibility for Licensees

Judith Anderson, JD, Assistant Attorney General
Sandy Leybold, MPH, Executive Director

Individuals licensed by BSPA have several mandatory reporting duties including:

- Child Abuse reporting (ORS 419B.010)
- Elder Abuse reporting (ORS 124.060)
- Abuse of mentally ill or developmentally disabled persons (ORS 430.765)
- Abuse of long term care facility residents (ORS 441.645)

In 2009, the Oregon Legislature passed House Bill (HB) 2059, which added mandatory reporting requirements for individuals licensed by BSPA and other health care professionals, effective January 1, 2010. Its provisions are now included in ORS 676.150, which requires licensees to:

- Report a misdemeanor or felony conviction, or a felony arrest to BSPA within 10 days. Licensees must not wait until the next renewal cycle to report their own conviction for a misdemeanor or felony, or their arrest for a felony. The required reporting time frame is 10 (calendar) days.
- Report the prohibited or unprofessional conduct of any licensed

health care professional within 10 days to that licensee's board or agency (unless state or federal confidentiality laws prohibit the reporting).

To understand the second reporting requirement, we need to look at a number of related definitions:

- “**Prohibited conduct**” is conduct by a licensee that: (1) Constitutes a criminal act against a patient or client; or (2) Constitutes a criminal act that creates a risk of harm to a patient or client.
- “**Unprofessional conduct**” is conduct unbecoming a licensee or detrimental to the best interests of the public, including conduct contrary to recognized standards of ethics of the licensee's profession or conduct that endangers the health, safety or welfare of a patient or client.

Each Oregon health licensing board has administrative rules that further define unprofessional conduct. BSPA’s rules are at http://arcweb.sos.state.or.us/pages/rules/oars_300/oar_335/335_005.html. Professional associations also promulgate written professional and ethical standards. In most cases, if the conduct seems unethical, it probably is. **When in doubt, one should err on the side of reporting unprofessional conduct to protect the public health and safety.**

(Continued on page 3)

Rule Revisions Impact... (Continued from page 2)

Several other changes were made regarding qualifications to supervise SLPAs:

- Clarifying that the 2 years of professional work experience required for an SLP supervising an SLPA must be *after* completing their graduate degree;
- The 2 years *may* include the clinical fellowship year, but may NOT include years licensed by TSPC during the graduate program (such as restricted transitional, emergency licenses); Adds alternative qualifications for certain TSPC-licensed SLPs who do not hold graduate degrees

Current licensees are also impacted by changes that relate to professional conduct and supervision of conditional licensees:

- Mandatory reporting requirements have been updated to conform to ORS 676.150 (see article on page #).
- Conditional licensees (SLPs in their Clinical Fellowship year, or post-graduate supervised clinical experience) must be supervised by a Board licensee or someone holding their SLP-CCCs, and there are requirements for that supervised experience.

Many other changes primarily affect applicants for licensure. Since specific requirements for licensure were removed from statute by the 2011 Legislature, the Board needed to include the requirements in rules. SLP and audiologist licensing requirements were made consistent with current ASHA certification standards. New rules require all applicants to demonstrate English language proficiency if their first language is not English. Another set of changes updates accreditation standards for graduate programs from which applicants hold degrees.



Law Adds... (Continued from page 2)

- **“Reasonable cause to believe”:** Mandatory reporting is triggered when a licensee has *reasonable cause to believe* that another licensee has engaged in prohibited or unprofessional conduct. This means having knowledge or notice of facts and circumstances that would lead a person of ordinary care and prudence to have a strong suspicion.
- **“Any licensed health care professional”:** This reporting duty applies to the conduct of *any individual* licensed by a health licensing board or agency, a list of which can be found at ORS 676.150 (1)(a). The list includes BSPA.

Board licensees who fail to report in accordance with HB 2059 may be subject to discipline by BSPA. ORS 676.150(5). Licensees that report in good faith are provided immunity. ORS 676.150(10).



Feedback: Customer Service Survey

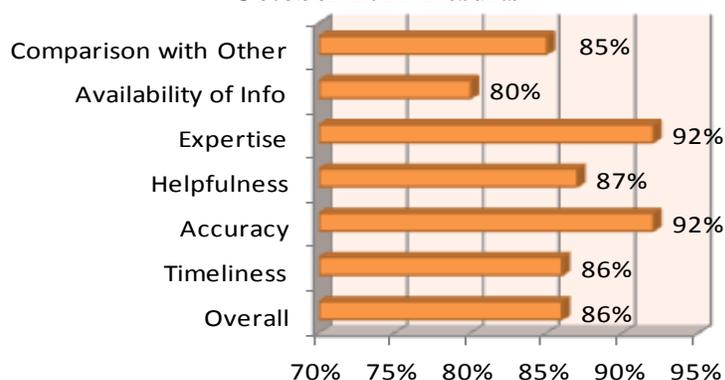
Tim Anderson
Administrative Assistant

Every October, we send a prompt to our licensees to rate us on our customer service. The survey has six areas for the taker to rate from Excellent to Poor: Timeliness, Accuracy, Helpfulness, Expertise, Availability of Information, and Comparison with Other Licensing Agencies.

The percentages below are for the number who rated us Excellent or Good on each element. This year, we received 258 responses: more than ever! We are pleased that each score is higher than the 2009 or 2010 numbers (except availability of information, which remains at 80%). We also review each suggestion for potential improvements.

We appreciate your positive ratings, especially since we both work part-time schedules and are juggling many duties. Thank you again for your feedback!

October 2011 Results



- **“Confidentiality laws”:** Federal confidentiality laws that might prohibit reporting are HIPAA (the Health Insurance Portability and Accountability Act of 1996 Privacy and Security Rules) and 42 USC 2.11, a law that protects drug or alcohol program records. State confidentiality laws that might prohibit reporting include laws protecting health information and laws that protect privileged communications between a psychotherapist and a patient. ORS 179.505, 192.520, 40.230.

Impact of HIPAA Confidentiality Rules

If a licensee is a covered entity (or works for a covered entity) under HIPAA, that licensee is generally prohibited from disclosing information about a patient without their consent, unless the disclosure is for the purpose of treatment, payment, or health care operations. *Another exception is for disclosure necessary to avert a serious and imminent threat to health or safety.*

(Continued on page 4)

Q&As on Mandatory Reporting

Judith Anderson, AAG

The following Questions & Answers may assist licensees in determining their duty to report under ORS 676.150. These scenarios do not analyze other reporting duties that may apply. These scenarios are meant to help licensees make the best decision possible, but the answers are not intended, nor can they be used, as legal advice. The final answer in each case would depend on more detailed facts and the subjective manner in which those facts are viewed by the licensee.

Ultimately, it is the licensee's decision whether to report an observation or incident relating to another health professional in the interest of public safety. ***In the event of the licensee's own prohibited or unprofessional conduct, the duty to report is clear.***

Q: I am a BSPA licensed SLP. I work in an elementary school with another SLP who is licensed only by TSPC. I detected alcohol on the breath of the other SLP during the school day. Do I have a duty to report this conduct to BSPA or TSPC?

A: If you have reasonable cause to believe that the SLP has engaged in unprofessional conduct you *should* report this conduct to your school or ESD administrator so they can investigate. While this may be unprofessional conduct, SLPs who are not licensed by the BSPA are likely not subject to BSPA's jurisdiction. TSPC would have concerns about this conduct.

[Note: if the other SLP holds a Board license, or is dually licensed by BSPA and TSPC, you would need to report this to BSPA.]

(Continued on page 5)

Law Adds... (Continued from page 3)

If a licensee has a reasonable belief that use or disclosure of protected health information is necessary to prevent or lessen ***a serious and imminent threat*** to health or safety of an individual or the public, a disclosure may be made, without the patient's consent, to a person or entity that is reasonably able to prevent or lessen the threat.

How Do I Decide If I Need to Report?

When trying to determine whether you are required to report or can report under HB 2059 it may be helpful to go through the following thought process:

- Does the conduct in question fall within the definition of prohibited or unprofessional conduct?
- Is the individual engaging in the conduct as a licensed health care professional?
- Is the individual engaging in the conduct as my client or being treated as a client at my workplace? If yes, then ask yourself additional questions:
 - Am I or is my employer a covered entity under HIPAA?
 - ✦ If yes, do I reasonably believe that disclosure is necessary to prevent or lessen a ***serious and imminent threat*** to an individual or the public?

Smartest Form for Supervision?

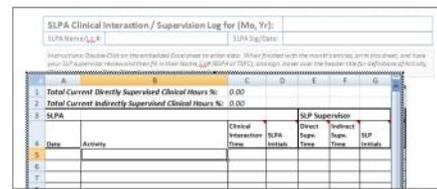
Tim Anderson
Administrative Assistant

It's said that third time's the charm. We have posted a third version of our smart form for logging and calculating supervision of SLPAs. This form was designed with the following parameters in mind:

1. Supervision percentages are supposed to be calculated on a monthly basis. To meet this expectation, the new form only accommodates about a month's worth of lines in the embedded Excel sheet.
2. Supervision is supposed to be logged and the 20% total / 10% direct supervision requirements met separately for each SLP's caseload that the SLP works on. To meet this parameter, the form only provides one SLP's signature.

The one weakness of having an Excel worksheet embedded into a Word document is that it can have difficulties in a networked environment where applications might be run from a central server. If you have issues with the Excel sheet, feel free to save it as its own file by right-clicking the sheet and selecting "open" then saving it on its own. Be aware, however, that you are still expected to meet the above conditions.

Please call or email me if you have any issues with the file.



✦ If yes, can BSPA do something to lessen or prevent that serious and imminent threat?

- Is the individual engaging in the conduct a co-worker, friend or acquaintance? If yes, then it is unlikely any federal or state confidentiality laws apply and you would be required to report.
- Do I have reasonable cause to believe the conduct has occurred, or have knowledge of facts or circumstances that would lead a person of ordinary care and prudence to have a strong suspicion?
- Did I see the conduct occur? If not, how trustworthy is the information that I got?

See the above article for more Q&As on mandatory reporting.



**Help us save paper!
If you receive this
newsletter in the mail, tell
us to email it to you from
now on! Our website:
www.oregon.gov/bspa**

Q: I am an SLP working in a long-term care facility. A co-worker, also an SLP, told me she lost custody of her children due to neglect. Do I report this to the Board?

A: In this scenario there are no confidentiality laws that would prohibit reporting. The issues are whether the co-worker's statement constitutes a reasonable cause to believe neglect occurred, and whether the neglect of a licensee's child falls within the definition of prohibited or unprofessional conduct. You may not have enough knowledge, notice, or facts to determine whether the other licensee's conduct is unprofessional conduct. You must review the definitions of prohibited and unprofessional conduct, and decide if you have reasonable cause to believe it occurred.

To meet the definition of reportable prohibited conduct, a licensee must have engaged in criminal behavior against a *patient or client*, or engaged in criminal conduct that creates a risk of harm to a *patient or client*. The licensee's children are not her patients or clients, so the licensee has not engaged in prohibited conduct.

Unprofessional conduct is defined in part as conduct that is detrimental to the best interests of the public. The BSPA could view child neglect as conduct detrimental to the best interests of the public and therefore the licensee should err on the side of caution and report to the Board.

Q: I am a Board licensed SLP who works in adult rehabilitation in acute care. I evaluated a 32-year-old male admitted to the trauma unit after a motor vehicle crash in which he was the driver. EMTs on the scene suspected driving under the influence since he smelled of alcohol, they observed unopened containers of beer, and empty beer cans in the car. The patient's wife was present in the room during the evaluation and reported his occupation as an audiologist when I asked our standard evaluation questions. Do I need to report this to the board as unprofessional conduct? No charges were made against him to my knowledge.

A: As an SLP working in the acute care department of a hospital, you are working for a HIPAA covered entity and this knowledge is protected by HIPAA. At this point you need to look at whether you reasonably believe that disclosure of the suspected behavior is necessary to prevent or lessen a *serious and imminent* threat to an individual or the public.

Since the patient/client is in the trauma unit there is not likely an imminent threat to the public. Also, if you felt there was an imminent threat, could BSPA do something to lessen or prevent that serious and imminent threat? This would depend on other facts, such as how long the patient will be in rehabilitation. If it is a long time then there is no reasonable belief that he poses an imminent threat to the public. It is most likely in this scenario that HIPAA would prevent the SLP from reporting even though the conduct could be classified as unprofessional conduct.

[Note: If there is an arrest or citation issued to the patient for DUI based on his conduct and an investigation, then the licensee will have to report this on his next renewal.]



Champagne & License Renewal

Sandy Leybold, MPH
Executive Director

We've mentioned this already several times in *The Voice*, in a letter mailed to you, and in email "Newsflashes", so this should be old news:



The deadline for renewing your license has been moved this year to 11:59 p.m. on New Year's Eve, December 31, 2011.

Don't raise that glass of champagne to toast the New Year before logging on and completing your renewal application! Although the on-line process is more streamlined this time, be aware that the 31st is a Saturday, so if you need time to ask us any questions, you will need to do it no later than Friday, December 30th.

If you choose to send payment by check, and/or are audited for professional development, those envelopes must be postmarked by 11:59 p.m. on December 31st. Remember few post offices have Saturday hours. If you expect to get a Saturday postmark, you will need to find and open post office and verify with their staff if you have made their postmark deadline.

Recent Board Actions

Click on the individual's name or go to the Recent Board Actions tab on our website for details.

Actions involving ongoing administrative hearings are not listed.

10/17/11

[O'Connor, Lisa C. Non-Licensee](#)

Outcome: Final Order imposed a civil penalty of \$500 for practicing speech-language pathology in Oregon without a valid Oregon license, in violation of ORS 681.250(2).

10/31/11

[Lambson, Rebecca SLP # 13140](#)

Outcome: Final Order imposed a Reprimand and \$500 Civil Penalty for working as an SLP in Oregon with an inactive license, in violation of ORS 681.250(2).

