

THE

VOICE

Summer 2017 Edition

News For Oregon Licensees

Oregon Board of Examiners for Speech -Language Pathology & Audiology

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Erin K. Haag

Administrative Assistant
David Linn

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

Your Feedback Needed: Telepractice Proposed Rules

We wish to thank the Telepractice Advisory Committee for developing draft rules for Telepractice. These are based on model rules from the American Speech-Language Hearing Association (ASHA) and the National Council of State Boards of Examiners for Speech-Language Pathology and Audiology (NCSB). The Board reviewed the draft rules at the August 11th meeting but is not prepared to finalize them and schedule a hearing until the concerns of some members have been addressed. Please review the proposed rules in depth by accessing this link on the Board's website: [Draft Telepractice Rules](#). The Board is urging you to take the time to read them and get back to us with feedback by sending an email to Director Haag at speechaud.board@state.or.us, or by calling her at 971-673-0220. In particular, the Board would like to know your thoughts about whether it is feasible to conduct evaluations and assessments strictly via telepractice and the types of controls that might make it feasible. Is it possible to evaluate a preschool child on the autism spectrum via telepractice? Can all patients, including those with dysphagia, be treated effectively via telepractice? Is it in the best interest of patients if direct supervision of sessions performed by Speech-Language Pathology Assistants is conducted only by telepractice and the patient never is treated or seen in person by the supervising SLP? **These are some of the concerns that have arisen and the Board urges you to provide feedback by October 30th.**

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2017 SLPA Supervision Audit

In April, the Board conducted its annual Speech-Language Pathology Assistant (SLPA) supervision audit, which is a Key Performance Measure (KPM) required by the Legislature. This year the Board reviewed 548 supervision logs, and 84% of those logs passed the audit. This compares to 266 logs reviewed in 2016 with 90% passing, and 396 logs audited in 2015 with 88.6% passing. Of the 36 educational service districts (ESDs) and school districts (SDs) that were audited this year, only 55.6% passed. Six ESDs and ten school districts failed the audit. There are two private practices that were audited in 2017 that failed. Although this compares somewhat favorably to 2016 when only 43% of districts passed, and 2015 when 52% of audited districts passed, the Board finds these continued poor results alarming. The Board has found and identified many problems and in some cases, what appears to be intentional disregard for its rules and statutes in the usage of and supervision of SLPAs. Below are some examples of the Board's concerns:

▪ **Some of Oregon's students may never have been seen even once by the SLP who manages their case,** even through direct supervision of the SLPA conducting sessions. The rules require that supervision requirements be maintained **for each and every student or patient on the SLP's caseload or it is a violation of OAR 335-095-0050(1)(f).** Both SLPs and SLPAs must ensure that the SLPA is being supervised at least 20% of the treatment time (a minimum of 10% must be direct) for each and every student or patient seen by the SLPA. Districts/licensees may not combine the caseload as one entity and then apply the supervision requirements to the "caseload" as a whole. The Board suggests that the SLPA maintain separate logs for each patient/student to ensure supervision requirements are met as required.

▪ SLPAs have been "supervised" by SLPs whose caseload assignment **does not include the children the SLPA is actually providing services for.** For example, an SLPA works all year at Elementary School X but is supervised by an SLP who is not assigned to Elementary School X and the children who attend School X are not on that "supervising" SLP's caseload at all. Instead, the children at School X are on a completely different SLP's caseload—an SLP that is not supervising the SLPA while she/he provides the treatment at School X.

▪ SLPAs are listing the same exact activity for each and every day on every log for the entire year verbatim, with no tracking per student/patient. In many cases, supervisors are signing the logs weeks and months after the treatment and alleged supervision occurred. While the logs are not required to be as detailed as chart notes, it is unreasonable to believe that the activities performed in treating the children would be the same (verbatim) for each very different child, at every session throughout the year.

▪ SLPAs are not allowed to conduct evaluations or make changes to plans of care. They may not attend IEP meetings without the SLP supervisor being present.

▪ The Board has discovered cases of unlicensed practice by SLPs and SLPAs. SLPs are required to be licensed, and are required to verify that the SLPA they supervise is licensed and a supervision form has been filed with the Board within 30 days of any change.

▪ Per ORS 681.370(2), patients or their parent/guardian must be informed in advance if their child is going to be treated by an SLPA, and this must be documented.

▪ SLPs and SLPAs have failed to report such violations to the Board, which is itself a violation of statutes and rules.

Due to the severity and extent of the violations, the Board is stepping up compliance and enforcement and may be subpoenaing student and patient records. All new rules implemented by state agencies must be reviewed six years after implementation, and the SLPA rules are due for that review this year. The Board is asking for suggestions from licensees and will be forming a work group for an in-depth review of the issues. If you have thoughts to share, or would be willing to serve on this committee, please contact director Haag via email at: Erin.Haag@state.or.us. If you are aware of a violation of Board statutes or rules, you are required to report the potential violation within ten days, and may do so via email to director Haag or the Board office.

Link to Board Statutes: https://www.oregonlegislature.gov/bills_laws/ors/ors681.html

Link to Board Rules: http://arcweb.sos.state.or.us/pages/rules/oars_300/oar_335/335_tofc.html

New Board Member and 2017 Officers

Gail Swanstrom, Au.D. has been appointed as our new Chair. Dr. Swanstrom has been a licensed audiologist in Oregon since 1982. She was in private practice for 35 years in Hillsboro, managing her own patients and providing audiology services for four ENT physicians. Retiring in 2016, Dr. Swanstrom's practice included a full range of diagnostic services as well as hearing aid consultation and dispensing. Gail was raised in southern California and began her professional career as a preschool and primary school teacher. After teaching school in Australia, she moved to Oregon to study audiology, completing her master's degree at Portland State University, later earning her AuD from Central Michigan University in 2004. Gail was also a founding member of the Oregon Academy of Audiology, and remains an active member of the association. Gail is passionate about the environment and enjoys outdoor activities. Gail is beginning her second three year term on the Board.

Victoria Edwards, CCC-SLP is our new Vice Chair. She joined the Board on July 1, 2016 and comes to the Board with experience in both medical and educational settings. Vicky grew up in Beaverton, received both her undergraduate and Master's degrees from University of Oregon and has been employed with Kaiser Permanente since 2002. She manages a caseload that varies widely in terms of patient age and diagnosis. Prior to working in healthcare, Vicky worked in the Battleground, Washington and Portland Public School Districts, and has also been a travelling SLP with a wide range of experiences. Ms. Edwards is active in the community and has served as secretary of the OSHA board.

John Evans, CCC-SLP was appointed to serve a three year term commencing July 1, 2017. John grew up in LaGrande and earned his Masters degree in Speech-Language Pathology from the University of Oregon. He has worked for school districts in Port Angeles and Eastern Oregon, and is currently employed with InterMountain ESD as Communication Evaluator for their Early Childhood Assessment Team. He has also worked part time at Grande Ronde Hospital for more than 15 years serving patients and outpatients in the clinical setting. In his spare time, John enjoys hiking, birding, and performing as a vocalist, guitarist and piano player in his band.

Speech Generating Devices Available from TDAP

In 2006, a proactive advisory committee member, Colin Portnuff, who represented the community with speech disabilities, recommended that the Oregon Public Utility Commission (OPUC), via the Telecommunication Devices Access Program (TDAP), loan Speech Generating Devices (SGDs) to qualifying Oregonians. TDAP loans specialized telephone equipment such as amplified phones, captioned phones, speakerphones, etc. to Oregonians with a loss in hearing, vision, speech, mobility, or cognition at no cost and with no income restrictions.

Prior to loaning SGDs, Colin recommended that the OPUC work with Melanie Fried-Oken, Ph.D., a certified speech-language pathologist and a leading international clinician and researcher in the field of SGDs at the Oregon Health Sciences University. Dr. Fried-Oken compiled data that the OPUC used to convince the 2009 Oregon Legislature to allocate funds for the purchase and distribution of SGDs. She also developed the SGD application and advised the OPUC on the selection of products to offer. Because of Dr. Fried-Oken's ongoing commitment to the program, the OPUC still relies on her expertise in supporting the needs of Oregonians with speech disabilities. After entering into contracts with several SGD vendors, the OPUC finally announced the availability of SGDs to an overwhelmingly positive response in 2011.

The OPUC temporarily suspended the purchase and distribution of SGDs in 2016 and 2017 due to the expiration of contracts. However, the OPUC, once again, is now offering an array of SGDs from Prentke Romich, Teltex (iPads), Tobii Dynavox, Salltillo, and Smartbox. Visit www.rspf.org and select TDAP for the SGD application, which lists available SGDs, including eye gaze technology. Although mounting solutions are not listed, the OPUC will accommodate requests at this time while working towards a contract with a vendor(s). SGDs are provided on a "first come, first served" basis so the OPUC encourages those in need to explore the possibility of obtaining a SGD through private insurance, Medicaid, or Medicare. Otherwise, applicants can work with their American Speech Language and Hearing Association certified speech-language pathologist (and vendor) in the selection of the SGD that best meets their needs.

Although Colin succumbed to complications of Amyotrophic Lateral Sclerosis, commonly known as Lou Gehrig's disease, before his efforts were realized, his legacy carries on through those who have benefited and are benefitting from SGDs.

Contact information for TDAP is as follows.

1-800-848-4442, Monday through Friday, 9 a.m. to 4 p.m.

puc.rspf@state.or.us

2 Months to Renewals—Start Getting Your PD Ready!

Below are some tips to make sure your professional development (PD) is acceptable for renewing your license. All licensees must renew their licenses on or before December 31, 2017 to avoid a late fee. SLPs and audiologists must document 30 hours of acceptable PD: SLPAs must document 15 hours, completed in calendar 2016 and 2017.

By rule, PD documentation must be maintained for four years. If you are selected for PD audit, you must submit acceptable documentation prior to the renewal deadline or you could face an additional delinquent fees and/or disciplinary action from the Board. Licensees with insufficient or unacceptable PD will not be renewed until they have submitted the required amount, and if that requires going into the 2018-2019 period they will be subject to an additional delinquent fee. Licensees who fail to submit the required amount of acceptable PD in multiple renewals will be subject to disciplinary action.

- **University Courses**—For a graduate level course to count as professional development it must be taken for credit (pass/no pass is not acceptable) and the individual must earn a “C” or better. Documentation can be in the form of an official or unofficial transcript.
- **In-Service Activities**—In-service activities are only applicable without pre-approval when put on by public school districts, ESDs, hospitals, or universities, **for their own employees**. If you are employed by a school and attend a program sponsored by another district or the ESD, this requires special approval. Ideally the sponsor will apply for such approval when they decide to open it up to other professionals who are not their employees, but it is the responsibility of the licensee to ensure it is an approved activity. Any PD activities must directly related to speech-language pathology and/or audiology. An in-service on basic office tasks or software may improve your service delivery but they are only indirectly related and would not be counted as PD. All PD documentation must have the title, date & length of the activity and must be signed as verified by a third party administrator.
- CPR and basic life support courses put on by the American Red Cross, American Heart Associate or equivalent providers. You can use the card earned after the course as documentation of completion.
- All other activities should be ASHA, AAA, ABA, OSHA or Board approved activities. Documentation can be an unofficial CEU registry and/or certificates of attendance.
- Remember that 1.0 ASHA CEUs are equal to 10 PD hours. You must report your professional development in hours not ASHA CEUs.

PD Activities That Are Not Accepted

Per OAR 335-070-0020 -

Activities not accepted as professional development include but are not limited to:

- Supervision of practicum students or clinical fellows, making presentations, or teaching classes;
- Serving on professional boards or committees;
- Attending professional association business or committee meetings (whether paid or not);
- Attending staff meetings (See article above for acceptable in-service activities);
- Performing volunteer work;
- Reading or studying professional journals or articles, unless part of a self-study program that is sponsored and verified by an independent third party.



RECENT BOARD ACTIONS

A Reminder About Reporting Requirements

8/31/17

McCallister (Jackson), Alyssa Speech-Language Pathologist #13617

Outcome: Final Order by Default

Violation: A Final Order by Default was issued on 8/31/17 imposing license revocation and a \$900 civil penalty. McCallister's license was suspended on May 11, 2015 through a Final Order by Default. Her license was suspended for the remainder of the license period (January 30, 2016) and until she demonstrated to the Board her competence, fitness and ability to practice in accordance with licensing law and professional and ethical standards. On or about February 4, 2016, the Board received an incomplete license re-activation application from McCallister which was not signed, included no fees, no proof of professional development and no statement addressing her previous disciplinary issues as required by the Board. The application stated that McCallister was not currently employed and that her last position had ended May, 2015. The Board's Executive Director attempted to obtain the required information, sent McCallister a certified letter on April 28, 2016 outlining the Board's requirements and received no response. On March 7, 2017, the Board was preparing to close the incomplete application case as being abandoned under OAR 335-060-0020 (3) and discovered possible unlicensed practice on the part of McCallister. The Board's investigation concluded that McCallister worked at Connections Academy from May 11, 2015 to January 26, 2016 without a valid license, and at Connected Home Health from May 11, 2015 through September 2, 2015 without a valid license in violation of ORS 681.250(2), ORS 676.210, and ORS 681.350(1)(b), (c), and (d). McCallister is in default for failing to timely request a hearing.

8/31/17

Bryan, Lisa Speech-Language Pathologist #13464

Outcome: Final Order by Default

Violation: A Final Order by Default was issued on 8/31/17 imposing license suspension for the remainder of the license period (January 30, 2018). If licensee applies after that date for reinstatement, she must demonstrate to the Board her competence, fitness and ability to practice in accordance with licensing law and professional and ethical standards. The Board investigated a complaint and found that Bryan was arrested on October 14, 2016 for stealing credit cards of fellow employees at the Hermiston School District and using them to make small purchases in violation of ORS 681.205(6)(f), OAR 335-005-0010 (2)(e), (k), and (l). The Board found that Bryan failed to report her arrest to the Board as required under OAR 335-005-0010(2) (m), ORS 676.150(1)(a)(A) and ORS 676.150(3). The Board found that Licensee failed to fully cooperate with its investigation in violation of OAR 335-005-0010(2)(a). Bryan is in default for failing to timely request a hearing.

6/13/17

Croy, Mary M.

Outcome: Final Order by Default

Violation: A Final Order by Default was issued on 6/13/17 imposing a \$500 civil penalty. Croy worked in Oregon for at least two years from September 3, 2014 to February 22, 2016 as a Speech-Language Pathology Assistant (SLPA) in the Jackson County School District 9 without first obtaining a Certificate (License) as required by ORS 681.360(1). Croy represented herself to students and the school district as an SLPA in violation of OAR 335-005-0010(10), and 335-005-0010 (2)(e) and misrepresented her credentials in violation of OAR 335-005-0025(1). Respondent failed to honor her responsibility to hold paramount the welfare of persons served in violation of OAR 335-005-0015(1). Croy is in default for failing to timely request a hearing.

A reminder about events to report to the Board office:

- Any name used professionally. If you legally change your name you must submit a copy of whatever legal documentation you used to change the name, within 30 days. We will update our records and mail you a new license.
- Changes in work or home address, email, and phone number must be reported within 30 days.
- Changes in supervision, whether you are an SLPA or a CF holding a Conditional SLP license, must be reported within 30 days.
- Any licensee's conviction for a misdemeanor or felony and any arrest for a felony crime must be reported within 10 days after the conviction or arrest.
- Prohibited or unprofessional conduct on the part of yourself or another licensee must be reported within 10 working days (see the Fall 2011 issue of *The Voice* for details).
- Any adverse action taken against a license by any state or federal agency or professional association.
- Any reasonable belief that another individual is violating the Board's Professional and Ethical Standards.
- Any suspected Child Abuse (ORS 419b) Communicable Disease (ORS 433 & OAR 333-018) or Elder Abuse (ORS 124)

Thanks in advance for your cooperation!

2/10/17

Hopple, Maria N.

Audiologist #20708

Outcome: Consent Order

Violation: A Consent Order was issued on 2/10/17 imposing a \$500 civil penalty. Hopple was initially licensed as an Audiologist by the Board on June 30, 1986. The Board investigated a complaint alleging that Hopple failed to provide timely referrals for a newborn with suspected hearing loss. The Board found that Hopple violated OAR 335-005-0015(3) for failing to use all appropriate resources including timely referral for a sedated ABR, a timely referral to early intervention and timely reporting to the EHDI program; and violated OAR-335-005-0015(1) by failing to hold paramount the welfare of the infant.

TELEPRACTICE RULEMAKING COMMITTEE RECOMMENDATION

August 4, 2017 Draft Rules

Statutory authority allowing the Board of Examiners for Speech-Language Pathology (BSPA) to make rules on use of telepractice:

ORS 681.205(5) “Practice speech-language pathology” means to apply the principles, methods and procedures of measurement, prediction, evaluation, testing, counseling, consultation and instruction that relate to the development and disorders of speech, voice, swallowing and related language and hearing disorders to prevent or modify the disorders or to assist individuals in cognition-language and communication skills.

681.220 Policy. It is declared to be a policy of this state that it is necessary to provide regulatory authority over persons offering speech-language pathology and audiology services to the public in order to: (1) Safeguard the public health, safety and welfare; (2) Protect the public from being misled by incompetent, unscrupulous and unauthorized persons; (3) Protect the public from unprofessional conduct by qualified speech-language pathologists and audiologists; and (4) Help ensure the availability of the highest possible quality speech-language pathology and audiology services to people of this state who have communication disabilities. [Formerly 694.315; 1989 c.224 §134; 1995 c.280 §2; 2005 c.698 §2; 2007 c.70 §307]

681.420 Powers and duties; rules. The State Board of Examiners for Speech-Language Pathology and Audiology shall: (1) Administer, coordinate and enforce the provisions of this chapter; (2) Evaluate the qualifications of applicants for any license as issued under this chapter and supervise the examination of such applicants; (3) Investigate persons engaging in practices which violate the provisions of this chapter; (4) Conduct hearings and keep records and minutes as the board deems necessary to an orderly dispatch of business; (5) Adopt rules and regulations, including but not limited to governing ethical standards of practice under this chapter. [Formerly 694.465; 1995 c.280 §18; 2005 c.698 §18]

The draft rules that have been proposed rules are based on the model rules provided by the American Speech Language & Hearing Association (ASHA) with a few exceptions. Oregon expects the standards of care if provided via telepractice to be at or above in-person level of care. The draft provided below incorporates the consensus edits by committee members at their July 11, 2017 meeting. The Board reviewed these proposed rules at their August 11, 2017 meeting, but would like more comment and will consider them again at their November meeting. Comments should be sent to: Erin.Haag@state.or.us. You may also contact Director Haag to comment via telephone at (971) 637-0080.

**PROPOSED TELEPRACTICE RULES – OREGON BOARD OF EXAMINERS FOR
SPEECH-LANGUAGE PATHOLOGY AND AUDIOLOGY- August 4th DRAFT**

**OREGON ADMINISTRATIVE RULES DIVISION 5 PROFESSIONAL AND ETHICAL
STANDARDS**

ADD THE FOLLOWING TO 335-005-0010 DEFINITIONS:

335-005-0010

(3) “Telepractice” is the application of telecommunications technology to delivery of professional services at a distance by linking clinician to client, or clinician to clinician, for assessment, intervention, and/or consultation. “Telepractice” means, but is not limited to, telehealth, telespeech, teleSLP, telehear, telerehab, teletherapy, teleswallow, teleaudiology when used separately or together.

(a) “Patient” or “client” means a consumer of telepractice services.

(b) “Telepractitioner” means an audiologist or speech-language pathologist who provides telepractice services.

(c) “Telepractice service” means the application of telecommunication technology to deliver audiology and/or speech-language pathology services at a distance for assessment, intervention and/or consultation.

(d) “Client/patient site” means the location of the patient or client at the time the service is being delivered via telecommunications.

(e) “Telepractice Facilitator” means the individual at the client site who facilitates the telepractice service delivery during the visit at the direction of the audiologist or speech-language pathologist. Speech-Language Pathology Assistants (SLPAs) may serve as telepractice facilitators.

(f) “Clinician site” means the site at which the audiologist or speech-language pathologist delivering the service is located at the time the service is provided via telecommunications.

ADD A NEW SECTION – Preferred series #335-005-16: TELEPRACTICE

(1) Audiologists and speech-language pathologists who hold an Oregon license can provide telepractice services through telephonic, electronic, or other means, including diagnosis, consultation, treatment, transfer of health care information, and continuing education. Telepractice, regardless of where the service is rendered or delivered, constitutes the practice of audiology or speech-language pathology and shall require state licensure. Speech-Language Pathology Assistants (SLPAs) are not allowed to provide telepractice services.

(2) Services delivered via telecommunication technology must be equivalent to the quality of services delivered face-to-face (i.e. in-person).

- (3) Telepractice services must conform to professional standards including but not limited to ethical practice, scope of practice, professional policy documents, and other relevant federal, state, and institutional policies and requirements.
- (4) Telepractitioners must have the knowledge and skills to competently deliver services via telecommunication technology by virtue of education, training, and/or experience.
- (5) The use of technology—e.g., equipment, connectivity, software, hardware and network compatibility—must be appropriate for the service being delivered and must be able to address the unique needs of each client.
- (6) Audio and video quality shall be sufficient to deliver services that are equivalent to in-person service delivery.
- (7) Telepractice service delivery includes the responsibility to ensure calibration of clinical instruments in accordance with standard operating procedures and the manufacturer's specifications.
- (8) The telepractitioner is responsible for assessing the client's candidacy for telepractice, including behavioral, physical, and cognitive abilities to participate in services provided via telecommunications.
- (9) Prior to the initiation of telehealth services, a Licensee shall obtain the patient/client and if applicable, their parent or guardian's consent to receive the services via telepractice. The consent may be verbal, written, or recorded and must be documented in the patient/client's permanent record. The notification could include but not be limited to the right to refuse telepractice services, options for service delivery, and instructions on filing and resolving complaints.
- (10) Telepractitioners shall comply with all laws, rules, and regulations governing the maintenance of client records, including but not limited to HIPAA and FERPA, and client confidentiality requirements in the state where the client is receiving services, regardless of the state where the records of any client within this state are maintained.
- (11) Telepractice services may not be provided by correspondence only—e.g., mail, e-mail, fax—although these may be used in connection with telepractice.
- (12) When providing services via telepractice, the Licensee shall have procedures in place to address remote medical or clinical emergencies at the patient/client's location.