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

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Best Practices and the Board of Examiners

Lyndsay Duffus, AuD, Board Member, and
Evan L. Evans, Ph.D., Audiologist, Board Vice-Chair

With regard to our professional scope of practice and best practice issues, our licensees often ask for clarification of the role of the Board of Examiners. Is it to specify what tests an audiologist or speech-language pathologist should utilize in a diagnostic evaluation? What specific steps are used in a hearing aid fitting or speech treatment session? No, and this is where some confusion often occurs in the audiology and speech-language pathology community in Oregon.



As indicated on the Board website, “the Licensing Board cannot evaluate individual procedures and technique that a practitioner might utilize. The individual practitioner must make decisions based on their training, the standard of care and compliance with facility policies. The Licensing Board relies on the scope of practice issued by the American Speech-Language-Hearing Association (ASHA) and the American Academy of Audiology (AAA). Licensees should also consult the administrative rules regarding welfare of clients (OAR 335-005-0015) and professional competence (OAR 335-005-0020)”.

An important aspect of the above statement is that the Board very much relies on the national and state professional associations to guide us in determining if a licensee is practicing outside their scope or endangering their clients. In Oregon, this would include the Oregon Speech-Language-Hearing Association (OSHA) and the Oregon Academy of Audiology (OAA) in addition to ASHA and AAA. If we receive a complaint from an individual regarding a licensee, an investigation is launched and the evidence is used to determine if that licensee violated the Oregon Revised Statutes (Chapter 681) or the Oregon



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Administrative Rules (Chapter 335), or violated the accepted scope of practice, including best practices, that the national and state associations endorse.

So, as a practicing audiologist or speech-language pathologist, it is your professional responsibility to ensure that you are following accepted guidelines for practice and using best practices outlined by your respective association. It is not the Board's responsibility to dictate these guidelines.



A real-life example can help clarify this professional responsibility:

An audiologist working in a private practice, who overwhelmingly sees older adult hearing aid patients, is scheduled to see a 2-year-old child, referred by a local physician. This child has recently moved from out-of-state and needs to establish hearing aid services with a local audiologist. The audiologist has never fit hearing aids on such a small child before and does not have the experience or testing equipment to competently work with them.

Best practices would dictate that this audiologist refer to a colleague who has experience working with children. At a minimum, one would expect the audiologist to consult with a colleague who does have this experience, if time and distance is a huge hurdle for the family.

A really important take-home message from this situation – know your limits! Use best practice guidelines to help determine what you should do for a particular patient and if you do not have the appropriate equipment or experience, then refer to a colleague who does. Then consider receiving additional training or

mentoring to further develop your skills. Even though the Board does not specify in rule or statute what each evaluation or treatment session should entail, it will look to professional association guidelines to determine if a licensee is practicing outside of their scope of practice or practicing in a way that endangers the welfare of their patients.

As always, if you have concerns about a situation that violates our professional and ethical standards, or if you just have a question, please contact the Board office or a Board member.



Pacific University Plans to Bring Audiologist Training Back to Oregon

Ann Barr
Vice Provost and Executive Dean
College of Health Professions
Pacific University



Pacific University's College of Health Professions is pleased to announce our proposal for a clinical doctorate program in audiology. The aging of the population, increased numbers of veterans returning from the Iraq and Afghanistan wars, and state programs that mandate testing of infants are creating increasing demand for audiologists. Oregon has been without an audiology program for nearly 10 years, with the nearest programs in Seattle and San Diego.

The Pacific AuD program will use a unique 3-year, modified block curriculum with a strong interprofessional component. The College has a strong track record in this curriculum model in which students work in collaborative learning groups that cover content in intensive one- to three-week blocks. The AuD fits well with Pacific's other entry-level professional programs,

including dental hygiene, physical therapy, healthcare administration, occupational therapy, pharmacy, and optometry. We expect these programs to provide numerous opportunities for collaboration with the AuD program, particularly in the area of balance disorders.

We appreciate the enthusiasm that many members of the audiology community, some of whom attended a reception on January 13th to introduce the new program, have shown for our efforts to bring audiology education back to Oregon, and their eagerness to engage with us as the program develops. The Audiology program proposal was approved by the Board of Trustees in

December, and final budgetary approval is expected next month. We have submitted an application for candidacy for accreditation, and intend to admit our first class in Fall 2012.



Updated Website!

We're constantly updating forms and information on our website — in particular, be sure to check out the following items:

- The Professional Development Special Approval Forms have been updated!
- There's a new log form for SLPA supervision based on minutes on the forms page!
- Rule Changes effective February 1, 2011 on the Rules/Statute page.

More updates on the way after our web review group complete their "scavenger hunt"!

Renewal/Professional Development Deadline Changed to December 31, 2011

Included in the recent rule changes was a change in the deadline for license renewal and PD compliance.

Licenses will still expire on January 30, 2012.

However, your renewal application (including fees and PD requirements) will need to be completed **by December 31, 2011**. A late fee (\$200) will apply for renewals postmarked or submitted electronically after December 31st.



Start planning now to be sure that you complete your required PD hours during the period January 31, 2010 – December 31, 2011 for your 2012 renewal. This is only a 23-month period for this renewal cycle. For future renewals, you will count your PD hours based on the two full prior calendar years, which we believe will make it easier for licensees to track and report.

The earlier renewal deadline will also allow staff the time to review your PD and process, print and mail your renewed license before your current license expires. This will make it far less likely that anyone practices without a valid license, even for a few days.



Pacific University's College of Education Plans New SLP Programs

Mark Ankeny
Dean, College of Education
Pacific University

The College of Education plans to launch two new programs: a communication sciences disorder (CSD) undergraduate minor (fall 2011), and a speech language pathology (SLP) master's degree (fall 2012).

According to the *2010 Occupational Outlook*, SLPs held about 119,300 jobs in 2008. A 19% increase, or an additional 22,100 SLPs, will be needed by 2018. The largest numbers of unfilled jobs are in the Pacific and Mountain regions.

Pacific's SLP master's program will prepare graduates obtain state licensure and ASHA certification and to work in schools, hospitals, or clinics. The CSD minor targets two audiences:

Pacific University undergraduate students preparing to enter professional programs in Speech Language and Pathology (MSLP) and Audiology (AuD).

Individuals without an undergraduate degree in CSD who need to complete post-baccalaureate work as a prerequisite to entering graduate school in SLP. {*Editor's note: the minor in CSD will not meet Board requirements for SLPA licensure.*}

Pacific University intends to admit cohorts that average 35 students a year in the master's program, 20 students in the undergraduate CSD program, and 10 students taking the prerequisite courses. Hiring plans over the first five years include seven tenure-track faculty members, two

clinical faculty members, and a staff person.

The SLP program plan has received widespread support within Pacific University, including Board of Trustees approval in December 2010. While final budgetary approval is pending, the College has submitted an application for candidacy through the Council on Academic Accreditation in Audiology and Speech-Language Pathology (CAA).

The first SLP master's degree cohort is expected to start in fall 2012 on the University's Forest Grove campus.



Recent Board Actions

Click on the licensee name or go to the [Recent Board Actions](#) tab on our website for details.

Actions involving ongoing administrative hearings are not included.

1/14/11

Martin, Marissa E.

Speech-Language Pathology Assistant # A0244

Outcome: Consent Order: \$500 Civil Penalty

Violation: A Consent Order was issued on January 14, 2011, imposing a civil penalty of \$500. Licensee failed to renew her speech-language pathology assistant (SLPA) certificate on or before its expiration on January 30, 2010, in violation of ORS 681.360(3) and OAR 335-060-0030. Licensee continued to work as an SLPA in Oregon without a valid license from January 31, 2010 to March 5, 2010, in violation of ORS 681.360(1). Licensee failed to inform Board of changes in her home and/or work addresses and telephone numbers within 30 days, in violation of OAR 335-005-0020(8).

1/26/11

O'Loughlin, Dennis Audiologist #22387

Outcome: License Limitation Lifted; Licensee on Probation

Violation: A Consent Order was issued on March 10, 2010, limiting licensee's practice of audiology. Licensee has completed academic training and clinical observations as agreed in the Consent Order, and the Board lifted his license limitation on 1/26/11. Licensee may now perform audiologic testing and auditory brainstem response (ABR) testing on any individuals regardless of age. Licensee remains on probation until case reviews of his pediatric care and ABR testing are completed and approved by the Board, as specified in the Order.

Statutory Updates Passed in Senate Health Committee

The Board has spent many hours over the last two years reviewing the statutes and rules that govern our work. While administrative rules may be changed by the Board using the state's rule-making procedures, statutory changes must be made by the Legislature. Statutory changes are needed to reflect best practices in the professions, grant clearer or broader authority to protect the public health and safety, and streamline operations.

The Board's proposed statutory changes became the text for Senate Bill 141. I am pleased to report that SB141 was heard and approved unanimously by the Senate Committee on Health Care, Human Services, & Rural Health Policy on February 2, 2011. Senator Kruse will carry the bill to the Senate floor for its consideration, and then it is expected to be heard in the House Health Care Committee on its way to becoming law. The likely effective date for these changes will be July of this year.

The proposed changes were shared with OSHA and OAA, and were supported actively by both professional organizations, for which we thank them! All licensees also received a copy of the bill summary and draft language via a recent "newsflash" email.

Specific proposed changes:

- Clarify that medical assistants or audiology assistants trained and working under a licensed physician performing audiometry do not require BSPA licensure (ORS 681.230)
- Remove the exemption for licensure from those working in university or federal settings (ORS 681.230)
- Remove outdated language regarding the number of graduate credit hours and supervised clinical hours that must be completed by SLP applicants (ORS 681.260) and audiologist applicants (ORS 681.264). Training programs are accredited nationally by the American Speech-Language Hearing Association (ASHA) and the American Board of Audiology (ABA). The Board will approve the accrediting organizations and adopt specific licensing requirements by rule.

- Update audiologist licensure requirements to reflect the significant change that occurred in 2007, whereby entrance to the audiology profession now requires a clinical doctorate (Au.D.) rather than a master's degree (ORS 681.264). Those trained before 2007 will still be licensed based upon the prior requirements.
- Allow the Board to waive the examination requirement if an applicant holds a national credential issued by ASHA, while removing reciprocity based on current licensure in a state with equivalent standards (ORS 681.300 and ORS 681.365). This simplifies the determination of equivalency and streamlines Board operations.
- Provide a one-month period between the license renewal due date (December 31st) and the license expiration date (January 30th) each biennium, to allow staff time to process renewals or deny them if incomplete (ORS 681.320). This change has actually been made in rule, but we are updating the statute so the language is consistent.
- Remove the current loophole that an applicant holding their ASHA credential can practice in Oregon while their license is being processed (ORS 681.280). This reduces the likelihood of unlicensed practice.
- Allow the Board to establish rules and fees for a new, temporary license category (ORS 681.340). This license could be granted for short-term practice, telepractice, and to help meet critical staffing shortages while the Board performs enhanced background checks (as granted by the 2009 Legislature).
- Allow the Board to establish "qualifications and conditions" by which an SLP licensed by Teacher Standards and Practices Commission (TSPC) may supervise SLPAs (ORS 681.360). Current statute allows the Board to regulate SLPA practice and supervision; this is merely a word-smithing change.

We have posted the draft bill as introduced on our website at http://www.oregon.gov/BSPA/pdfs/SB141_summary_draft_text.pdf, and will keep you informed as the legislative process continues.



New Rules Implemented February 1, 2011

At its January 22, 2011 meeting, the Board approved several updates of our Oregon Administrative Rules. These proposed changes were published in *The Voice* in December. A hearing was held and an opportunity for written comment was provided, in accordance with Oregon rule-making requirements.

The rule changes were made effective February 1, 2011. A summary of the changes follows:

- Defines equivalent credentials for licensure
- Clarifies under what circumstances delinquent fees *will* or *may* be charged for rule infractions
- Makes permanent previous temporary rules regarding elimination of "Permit to Supervise SLPAs" and its associated fee
- Makes permanent previous temporary rules regarding qualifications and conditions for SLPA supervision
- Moves license renewal deadline to December 31st of odd-numbered years to create one-month period between renewal deadline and expiration date of previous license
- Changes professional development hours required for re-activation of recently expired licenses to conform to those of renewed licenses
- Conforms rule regarding filing written exceptions and argument to the Administrative Procedures Act
- Changes miscellaneous text for clarity

The full text of the changes can be viewed on our website by clicking the "Rules/ Statute" link, and then clicking the [Rule Changes Effective 2-1-2011 \(PDF\)](#) link below the OAR 335 link.



BSPA & OHLA Rules: What's the Same, What's Different?

Evan L. Evans, Ph.D

Audiologist, Board Vice-Chair

Since audiologists no longer come under both OHLA (Oregon Health Licensing Agency) and BSPA licensure, a concern has arisen that audiologists do not have to adhere to the perceived "more stringent" rules and regulations governing "dispensers." Specifically, a concern was voiced that audiologists may not be routinely doing "real ear testing" post fitting. It was also asserted that audiologists had reduced the required "paperwork" of the Statement to the Purchaser agreement and the Delivery Contract. Let's review what the OARs say about professional conduct, and then address the current "paperwork" required for the sale of hearing instruments.

The Board does not set detailed procedural requirements for audiologists' practice. Professional standards are set by national and state associations. The American Academy of Audiology, the American Speech Hearing and Language Association, and (to a lesser degree) OAA and OSHA currently set standards regarding scope of practice, standard of care, and evidence-based practice.

The Board gets involved when a patient, fellow professional, or member of the public contacts the Oregon Board of Examiners with a complaint regarding a licensee, and an investigation is initiated. During and following an investigation, evidence is compared to the Oregon Revised Statutes (Chapter 681) and Oregon Administrative Rules (Chapter 335) to determine if a violation has occurred. A key OAR states that "individuals must perform all services competently". Rather than trying to spell out each procedure undertaken in audiology practice, the Board determines whether the licensee has violated scope of practice or "best practice" concepts promulgated by national and state organizations and/or generally accepted in the professional community.

Let's take "real ear measurements" in the fitting protocol of hearing instruments as an example. While most everyone would agree that real ear measurements are considered "best practice", an audiologist is not required to perform this procedure by specific law or rule. The audiologist is presumed to be a competent professional until or unless proven otherwise. If the patient is pleased and satisfied with the results, then real ear measurements may not be needed. It is also possible that real ear results may cause the patient



to dislike the sound quality or be dissatisfied with the outcome. In that case, it may be just as inappropriate to make the patient unhappy with the "correct" computer generated result. There must be room for a professional's experience, judgment and expertise. The true professional will practice according to best practice, best judgment, best experience, and then refer to others in areas of his/her admitted areas of weakness. However, should a patient file a complaint that the hearing instrument is not, and has not, been performing to expectation, and those reviewing the case find that by using real ear measurements the patient could have received a better result, then licensee competence may well be questioned.

Regarding "paperwork", two sections of the Board's professional and ethical standards rules outline Board requirements regarding the statement to the prospective hearing aid consumer and the patient's rights post-delivery, including terms governing rescission of the sale. (OARs 335-005-0030 and 335-005-0035, available at http://arcweb.sos.state.or.us/rules/OARs_300/OAR_335/335_005.html, and reproduced at right). These rules are the same as those adopted by OHLA for the same purpose.

In meeting these requirements, the question has arisen: Can the "Statement to the Prospective Hearing Aid Consumer" and the "Purchase Agreement" be one and the same? As long as the terms of both agreements are met, they can indeed be one form. However it is suggested that the form be divided into two portions. The first portion is the Statement to the Prospective Hearing Aid Consumer (with its required elements). The second part would be filled out upon delivery of the aids, with the serial number of each hearing instrument, and signatures indicating date of delivery, the ending date of trial period, and the total cost to purchaser if the sale is rescinded. Samples of contracts are available on the Board's home page, however, you are free to develop your own forms/formats as long as the required elements are included.



335-005-0030

Statement to Prospective Hearing Aid Consumer; Contents; Copy Retained

- (1) Prior to consummation of the sale of a hearing aid, the audiologist shall provide to the consumer a written statement that shall include but not be limited to all of the following:
- (a) The name and address of the prospective hearing aid user;
 - (b) The date of the sale;
 - (c) The make, model, and serial number of the hearing aid or aids sold;
 - (d) A statement on the condition of the hearing aid: new, reconditioned, or used. A used hearing aid is a hearing aid that has been worn for any period of time, excepting hearing aids worn as part of hearing aid evaluations. A reconditioned hearing aid is a used hearing aid that has been rebuilt or is a hearing aid that consists of both old and new parts;
 - (e) The terms of any guarantee or expressed warranty with respect to the hearing aid or hearing aids;
 - (f) Statement of right to rescind the sale, length of trial period (minimum 30 days), procedure for extending trial period, procedure for rescinding sale, and the date by which the hearing aid(s) need to be returned to rescind the sale;
 - (g) The business address of the audiologist;
 - (h) The name, license number and signature of the audiologist selling the hearing aids;
 - (i) The procedure for filing a complaint which includes the address and telephone number of the Board and the internet address for the location of complaint forms on the Board's website;
 - (j) A statement acknowledging that the consumer has read and understands the information contained in the sales agreement, signed by the consumer and dated.
 - (2) A duplicate copy of the statement required under subsection (1) of this section is a clinical record and as such must be kept for seven years by the audiologist selling the hearing aid.

335-005-0035

Right to Rescind Hearing Aid Purchase and Time Limit; Refund; Post Delivery Session

- (1) Any monies paid by or on behalf on the consumer toward the purchase of a hearing aid shall be refunded to the payer if the delivery of the hearing aid to the consumer is cancelled.
- (2) After delivery of the hearing aid to the consumer, the consumer shall have the right to rescind the hearing aid purchase for any reason within 30-days from the date of initial fitting by returning the hearing aid to the place of business either in person or by certified mail. Any hearing aid returned must be in good condition less normal wear and tear. If any hearing aid has been out of the consumer's possession for a period of 72 hours or more for any alteration or adjustment during the 30 day rescission period, the 30 day rescission period is restarted. The length of the rescission period may exceed 30 days by written agreement between the consumer and the audiologist.
- (3) After delivery of the hearing aid(s) to the consumer, the audiologist may retain 10% of the purchase price or a maximum of \$250 per hearing aid when the consumer rescinds the sale during the rescission period. The purchaser shall incur no additional liability for the cancellation.
- (4) The audiologist will conduct and document a minimum of one post-delivery follow-up session with the consumer before the expiration of the 30-day trial period. The audiologist must document in the clinical record if the consumer can not be





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