PERMANENT ADMINISTRATIVE ORDER

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CHAPTER 335
BOARD OF EXAMINERS FOR SPEECH-LANGUAGE PATHOLOGY AND AUDIOLOGY

FILING CAPTION: Tele-practice rules

EFFECTIVE DATE: 09/05/2019

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RULES:
335-005-0010, 335-005-0016

AMEND: 335-005-0010

RULE TITLE: Definitions

NOTICE FILED DATE: 12/11/2018

RULE SUMMARY: Adding definitions related to telepractice.

RULE TEXT:

(1) Misrepresentation includes any untrue statements or statements that are likely to mislead. Misrepresentation also includes the failure to state any information that is material and that reasonably ought to be considered.

(2) Unprofessional Conduct includes:

(a) Failure or refusal of an applicant for a license from the Board or of a licensee of the Board to cooperate fully in any investigation conducted by the Board.

(b) Making a false statement to the Board.

(c) Attempting to obtain a license from the Board by means of fraud, misrepresentation, or concealment of material facts.

(d) Sexual misconduct with a client.

(e) Any act of theft, dishonesty or misrepresentation involving a client, another practitioner, third party providers, or a government agency.

(f) Habitual or excessive use of intoxicants, drugs or controlled substances.

(g) Assisting or permitting any person to practice speech-language pathology or audiology without a license.

(h) Practicing speech-language pathology or audiology when impaired by drugs, alcohol or any other substance.

(i) Verbal or physical abuse of a client.

(j) Sexual harassment: Any unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature when:

(A) Submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment;

(B) Submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual; or
(C) Such conduct unreasonably interferes with an individual's work performance or creates an intimidating, hostile, or offensive working environment.

(k) Violating an employer’s ethics or conduct policy.

(l) Conviction of a crime or admitting to an act that even in the absence of a conviction would constitute a crime.

(m) Failing to report to this Board a misdemeanor or felony conviction or arrest for a felony crime within 10 days after the conviction or arrest.

(n) Failing to immediately report to the Board any adverse action taken against a license or certificate holder by a state or federal agency; or another state speech-language pathology or audiology licensing agency; or professional association.

(o) Unprofessional conduct as defined in ORS 676.150.

(3) “Telepractice” is the application of telecommunications technology to delivery of professional services at a distance 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) “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.

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

(d) “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.

STATUTORY/OTHER AUTHORITY: ORS 681

STATUTES/OTHER IMPLEMENTED: ORS 681.330
ADOPT: 335-005-0016

RULE TITLE: Tele-practice

NOTICE FILED DATE: 12/11/2018

RULE SUMMARY: Defines "Telepractice" and adds a new section outlining the applicable rules for licensees participating in telepractice.

RULE TEXT:

(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. Telepractice, whether the service is rendered from Oregon or delivered to Oregon, constitutes the practice of audiology or speech-language pathology and shall require state licensure.

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

(3) 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.

(4) 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.

(5) Telepractitioners must have the knowledge and skills to competently deliver services via telecommunication technology by virtue of education, training, and/or experience.

(6) The use of technology—e.g., equipment, connectivity, software, hardware must be appropriate for the service being delivered and must be able to address the unique needs of each client.

(7) Audio and video quality shall be sufficient to deliver services that are equivalent to in-person service delivery.

(8) Telepractice service delivery includes the responsibility to ensure calibration of clinical instruments in accordance with standard operating procedures and the manufacturer's specifications.

(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 will include, but not be limited to, the right to refuse telepractice services, options for service delivery to the extent compliant with applicable Federal laws and regulations, 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.

STATUTORY/OTHER AUTHORITY: ORS 681

STATUTES/OTHER IMPLEMENTED: ORS 681.330, ORS 681.420, ORS 681.460