

**WEST VIRGINIA
SECRETARY OF STATE
NATALIE E. TENNANT
ADMINISTRATIVE LAW DIVISION**

Form #3

Do Not Mark In This Box

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2013 JUL 25 PM 2:46

OFFICE WEST VIRGINIA
SECRETARY OF STATE

**NOTICE OF AGENCY APPROVAL OF A PROPOSED RULE
AND
FILING WITH THE LEGISLATIVE RULE-MAKING REVIEW COMMITTEE**

AGENCY: Speech-Language Pathology & Audiology, WV Board of Examiners for TITLE NUMBER: 29

CITE AUTHORITY: 30-32-7

AMENDMENT TO AN EXISTING RULE: YES NO

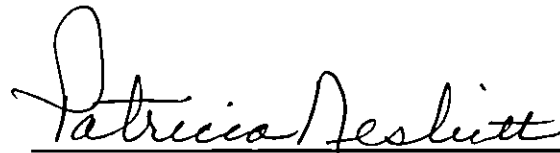
IF YES, SERIES NUMBER OF RULE BEING AMENDED: Series 2

TITLE OF RULE BEING AMENDED: Rule Governing Speech-Language Pathology and Audiology Assistants

IF NO, SERIES NUMBER OF RULE BEING PROPOSED: _____

TITLE OF RULE BEING PROPOSED: _____

THE ABOVE PROPOSED LEGISLATIVE RULE HAVING GONE TO A PUBLIC HEARING OR A PUBLIC COMMENT PERIOD IS HEREBY APPROVED BY THE PROMULGATING AGENCY FOR FILING WITH THE SECRETARY OF STATE AND THE LEGISLATIVE RULE-MAKING REVIEW COMMITTEE FOR THEIR REVIEW.



Authorized Signature

QUESTIONNAIRE

(Please include a copy of this form with each filing of your rule: Notice of Public Hearing or Comment Period; Proposed Rule, and if needed, Emergency and Modified Rule.)

DATE: 07/26/2013

TO: LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

FROM: (*Agency Name, Address & Phone No.*) Speech-Language Pathology & Audiology, WV Bd of
Examiners for
99 Edmiston Way - Box 11, Suite 214
Buckhannon, WV 26201
304-473-4289

LEGISLATIVE RULE TITLE: Rule Governing Speech-Language Pathology and Audiology
Assistants

1. Authorizing statute(s) citation 30-32-7

2. a. Date filed in State Register with Notice of Hearing or Public Comment Period:
June 21, 2013

b. What other notice, including advertising, did you give of the hearing?
Legal advertisements re: public comment were posted on June 18 and/or June 19 in the following publications:
Charleston Gazette - Charleston, Greenbrier Valley Ranger - Lewisburg, Bluefield Daily - Bluefield, Dominion Post - Morgantown, Intelligencer - Wheeling, News & Sentinel - Parkersburg, Martinsburg Journal - Martinsburg, Exponent Telegram - Clarksburg

c. Date of Public Hearing(s) *or* Public Comment Period ended:
June 18, 2013

d. Attach list of persons who appeared at hearing, comments received, amendments, reasons for amendments.

Attached 1 No comments received _____

- e. Date you filed in State Register the agency approved proposed Legislative Rule following public hearing: (be exact)

07/26/2013

- f. Name, title, address and phone/fax/e-mail numbers of agency person(s) to receive all *written correspondence* regarding this rule: (Please type)

Patricia Nesbitt
Administrative Services Manager
WVBESLPA
99 Edmiston Way
Box 11 - Suite 214
Buckhannon, WV 26201
304-473-4289 - 304-473-4291 (fax)
wvbeslpa@wv.gov

- g. **IF DIFFERENT FROM ITEM 'f'**, please give **Name, title, address and phone number(s)** of agency person(s) who wrote and/or has responsibility for the contents of this rule: (Please type)

N/A

3. If the statute under which you promulgated the submitted rules requires certain findings and determinations to be made as a condition precedent to their promulgation:

- a. Give the date upon which you filed in the State Register a notice of the time and place of a hearing for the taking of evidence and a general description of the issues to be decided.

N/A

b. Date of hearing or comment period:

N/A

c. On what date did you file in the State Register the findings and determinations required together with the reasons therefor?

N/A

d. Attach findings and determinations and reasons:

Attached N/A

West Virginia Board of Examiners for Speech-Language Pathology and Audiology

Board Members

Michael J. Zagarella, AuD., President
Vickie Pullins, M.A., CCC-SLP, Secretary
Joe E. Richards, M.A., Citizen Member

SUMMARY OF PROPOSED CHANGES CSR29 – SERIES 2 RULE GOVERNING SPEECH-LANGUAGE PATHOLOGY AND AUDIOLOGY ASSISTANTS

WV Code §30-32 was amended and reenacted on April 13, 2013 by the WV Legislature and signed by the Governor on May 3, 2013. The proposed changes to WV Code Rule §29-2 are required to comply with the amended WV Code. The changes include:

- Revised References to WV Code sections
- §29-2-2. – Revised with additional and updated definitions
- §29-2-3. – Removed the reference if a minimum requirement of a bachelor's degree. The minimum requirement is an associate's degree, as now stated.
- §29-2-4.1.f - Revised to make specific to supervisor's documentation responsibilities.
- §29-2-4.1.h – Revised direct and indirect supervision with specific requirements.
- §29-2-5. – Added "facilitator" to the role of Assistants
- §29-2-6. – Added telepractice services as being a task outside the scope of the responsibility of an assistant.
- §29-2-7. – Added the requirement of one (1) clock hours of continuing education in ethics. The total number of continuing education hours required for registration renewal does not change.

99 Edmiston Way, Box 11 – Suite 214, Buckhannon, WV 26201

Email: wvbespa@wv.gov

Web Site: www.wvspeechandaudiology.com

Phone: 304-473-4289 Fax: 304-473-4291 In-state toll free number: 877-462-5460

~Patricia Nesbitt – Administrative Services Manager~

**West Virginia Board of Examiners for
Speech-Language Pathology and Audiology**

Board Members

Michael J. Zagarella, AuD., President
Vickie Pullins, M.A., CCC-SLP, Secretary
Joe E. Richards, M.A., Citizen Member

**STATEMENT OF CIRCUMSTANCES
CSR29 – SERIES 2
WEST VIRGINIA BOARD OF EXAMINERS FOR
SPEECH-LANGUAGE PATHOLOGY AND AUDIOLOGY
RULE GOVERNING SPEECH-LANGUAGE PATHOLOGY
AND AUDIOLOGY ASSISTANTS**

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~Patricia Nesbitt – Administrative Services Manager~

APPENDIX B

FISCAL NOTE FOR PROPOSED RULES

Rule Title: Rule Governing Speech-Language Pathology and Audiology Assistants
29CSR - Series 2

Type of Rule: Legislative Interpretive Procedural

Agency: Speech-Language Pathology & Audiology, WV Board of Examiners for

Address: 99 Edmiston Way
Box 11 - Suite 214
Buckhannon, WV 26201

Phone Number: 304-473-4289 Email: wvbeslpa@wv.gov

Fiscal Note Summary

Summarize in a clear and concise manner what impact this measure will have on costs and revenues of state government.

There should be no financial impact, cost or revenue, with the revision of this Rule.

Fiscal Note Detail

Show over-all effect in Item 1 and 2 and, in Item 3, give an explanation of Breakdown by fiscal year, including long-range effect.

FISCAL YEAR			
Effect of Proposal	Current Increase/Decrease (use "--")	Next Increase/Decrease (use "--")	Fiscal Year (Upon Full Implementation)
1. Estimated Total Cost			
Personal Services			
Current Expenses			
Repairs & Alterations			
Assets			
Other			
2. Estimated Total Revenues	0.00	0.00	0.00

Rule Title: Rule Governing Speech-Language Pathology and Audiology Assistants
29CSR2

Rule Title: _____

3. Explanation of above estimates (including long-range effect):

Please include any increase or decrease in fees in your estimated total revenues.

N/A

MEMORANDUM

Please identify any areas of vagueness, technical defects, reasons the proposed rule **would not** have a fiscal impact, and/or any special issues **not** captured elsewhere on this form.

The proposed changes to 29CSR2 are required to comply with the amended and reenacted WV Code 30-32. The items added/revised are:

WV Code references

Addition of the role of Facilitator during a telepractice session

Addition of telepractice services listed as a service that cannot be provided by an assistant.

Section 29-2-4.1.(h) - Revised and added more specific guidelines for direct and indirect supervision requirements per ASHA's recommendation in comments received and dated July 17, 2013

Addition of requirement of one (1) clock hour per year of continuing education in ethics.

The changes to 29-2 do not relate and will not have a fiscal impact on the Board.

Date: 07/24/2013

Signature of Agency Head or Authorized Representative

Patricia Deslutt

TITLE 29
LEGISLATIVE RULE
BOARD OF EXAMINERS FOR SPEECH-LANGUAGE
PATHOLOGY AND AUDIOLOGY

SERIES 2
RULE GOVERNING SPEECH-LANGUAGE
PATHOLOGY AND AUDIOLOGY ASSISTANTS

FILED

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OFFICE WEST VIRGINIA
SECRETARY OF STATE

§29-2-1. General.

1.1. Scope. -- This legislative rule establishes procedures for the registration of speech-language pathology and audiology assistants and defines the qualifications, duties, and responsibilities of the assistant and supervisor.

1.2. Authority. -- ~~W. Va. WV Code~~ §30-32-107.

1.3. Filing Date. -- ~~June 9, 2005.~~

1.4. Effective Date. -- ~~June 9, 2005.~~

§29-2-2. Definitions.

2.1. Credentialing: Mechanism for formal recognition. May take different forms such as recognition, registration, or credentialing.

2.2. Direct supervision: ~~Direct supervision means on-site, in-view observation and guidance by a speech language pathologist while an assigned activity is performed by support personnel~~ the actual physical presence of a supervising licensed speech-language pathologist or supervising licensed audiologist in the room where treatment is provided by an assistant.

2.3. Indirect/General supervision: ~~Indirect /General supervision means initial direction and periodic inspection of the activities of an assistant by the supervising licensed speech-language pathologist or supervising licensed audiologist, who is physically present in the building where treatment is provided and is quickly and easily available. those activities other than direct observation and guidance conducted by a speech language pathologist that may include demonstration, record review, review and evaluation of audio or videotaped sessions, and/or interactive television.~~

2.4. Plan of care: (treatment plan). This terminology is meant to include, but not be limited to, the "Plan of Care," "Individualized Education Program (IEP) or "Individualized Family Service Plan (IFSP)," and other titles that outline the care of the patient/client.

2.5. Telepractice: The application of telecommunication technology to deliver speech-language pathology or audiology services through real time interaction from one site to another for assessment, intervention or consultation in a manner sufficient to ensure patient confidentiality.

2.6. Facilitator: An individual at the client site who facilitates the telepractice service delivery at the direction of the speech-language pathologist or audiologist.

2.57. Supervisor: A speech pathologist or audiologist licensed by the state who has been practicing for at least 2 years following licensure and who assumes legal responsibility for services provided by an assistant.

2.68. Support personnel: Support personnel in speech-language pathology and Audiology are people who, following academic and/or on-the-job training, perform tasks as prescribed, directed, and supervised by licensed speech-language pathologists and audiologists. There are different levels of support personnel based on training and scope of responsibilities.

§29-2-3. Qualifications.

3.1. The speech-language pathology or audiology assistant shall possess a minimum of an associate's degree ~~or a bachelor's degree~~ from an institution or technical training program with a program of study designed to prepare the student to be a speech language pathology or audiology assistant. Individuals who hold a bachelor's degree in speech-language pathology or audiology are considered at the same level as assistants who meet the training requirements specified in this document. However, these distinctions could be viewed as separate rungs of a career ladder for support personnel that for some could culminate with a master's degree and ASHA certification in speech-language pathology or audiology. A bachelor's degree does not automatically qualify an individual as a speech-language pathology or audiology assistant. All training requirements apply, including supervised practicum, on-the-job training, and demonstrated competence through outcome-based measures.

§29-2-4. Responsibilities of the Supervisor.

4.1. The fully qualified, licensed supervising speech-language pathologist or audiologist is responsible for the services provided by assistants. The professionally licensed supervisor will hold full, unrestricted licenses and assume the following responsibilities for persons working under their direction. The supervisor of a speech language pathology or audiology assistant shall:

- (a) Register with the Board the name of each assistant working under his or her supervision;
- (b) Complete initial supervision training prior to accepting an assistant for supervision and upgrade supervision training on a regular basis.
- (c) Participate significantly in hiring the assistant.
- (d) Document preservice training and credentials of the assistant.
- (e) Ensure that persons receiving services from an assistant receive prior written notification that services are to be provided by an assistant and inform patients/clients and families about the level (professional vs. support personnel), frequency, and duration of services as well as supervision.
- (f) ~~Provide direct supervision of the first three hours of treatment by the speech-language pathology assistant for each patient/client, followed by a minimum of one direct observation for each subsequent two-week period.~~ The supervisor shall document direct observations, and shall include information on the quality of the assistant's performance. Information obtained during direct observations may include data relative to (1) agreement (reliability) between the assistant and the supervisor on correct/incorrect judgment of target behavior, (2) accuracy in implementation of assessment and management procedures, (3) accuracy in recording data, and (4) ability to interact effectively with the client. These levels of agreement, or reliability levels shall be sampled a minimum of one time per each quarter year period. Whenever areas (1) through (3) fall below a 90% reliability level between supervising professional and the assistant for three consecutive direct observations, the supervisor shall provide retraining in areas of deficiency, and shall increase direct observation to 50% of all clinical sessions until the reliability level returns to 90% for three consecutive direct observations.
- (g) Represent the speech-language pathology or audiology team for drafting correspondence and

reports for editing, approval, and signature by the speech-language pathologist or audiologist.

(h) ~~Provide direct supervision of the first ten (10) hours of direct client contact for the audiology assistant, with direct supervision of a minimum of 10% of all subsequent client contact; Provide 20% direct supervision and 10% indirect supervision for the first ninety (90) days. After the initial ninety (90) day work period, the amount of supervision may be adjusted depending on the skill of the assistant, the needs of the patients/clients served, and the nature of the assigned tasks. The minimum recommendation is 20% supervision weekly, with no less than 10% weekly being direct supervision.~~

(i) Make all clinical decisions, including determining patient/client selection for inclusion/in the case load, and dismissing patients/clients from treatment.

(j) Be on-site at all times when the speech-language pathology or audiology assistant is providing direct client services in a hospital, rehabilitation facility, or residential care facility, or insure that a person holding a current West Virginia license in the field of supervision is on-site in the absence on the supervisor. Supervision by an alternate supervisor shall not exceed 10 consecutive working days or a maximum of 20 working days per year;

(k) Communicate with patients/clients, parents, and family members about ~~diagnosis~~ assessment, prognosis, and treatment plan.

(l) The supervisor provides documentation of a 90% or better reliability level between supervisor and assistant in:

- a. Correct/incorrect judgment of target behavior
- b. Accuracy in implementation of assessment and management procedures, and
- c. Accuracy in recording data.

(m) Conduct diagnostic evaluation, assessments, or appraisals, and interpret obtained data in reports.

(n) Review each treatment plan with the assistant at least weekly.

(o) Delegate specific tasks to the assistant while retaining legal and ethical responsibility patient/client services provided or omitted.

(p) Prepare an individualized treatment plan and make modifications prior to or during implementation.

(q) Discuss the case with or refer the patient/client to other professionals.

(r) Sign all formal documents (e.g., treatment plans, reimbursement form reports; the supervisor should indicate on documents that the assistant performed certain activities).

(s) Review and sign all informal progress notes prepared by the assistant.

(t) Provide ongoing training to the assistant on the job.

(u) Provide and document appropriate supervision of the assistants.

(v) Ensure that the assistant only performs tasks within the scope of responsibility of the speech-

language pathology assistant.

(w) Participate in the performance appraisal of the speech-language pathology or audiology assistant.

(x) The speech-language pathologist or audiologist shall not supervise a speech-language pathology or audiology assistant until the speech-language pathologist or audiologist has completed the certification examination, the post graduate professional experience and 2 additional years of clinical experience after receiving licensure in speech-language pathology or audiology.

(y) Supervise no more than three full-time assistants at any one time, with full-time employment being defined as forty (40 hours per week).

§29-2-5. Role of the Speech-Language Pathology and/or Audiology Assistant.

5.1. The speech-language pathology and audiology assistant shall engage only in those duties that are planned, designed and supervised by the supervisor, and for which the assistant has received adequate training.

(a) An assistant may:

(1) Assist the speech-language pathology or Audiology supervisor with screenings (without interpretation)

(2) Follow documented treatment plans or protocols developed by the supervising speech-language pathologists or audiologists.

(3) Document patient/client performance (e.g., tally data for the supervisor to use; prepare charts, records, and graphs) and report this information to the supervisor.

(4) Assist the supervisor during assessment of patients/clients.

(5) Assist with informal documentation as directed by the supervisor.

(6) Assist with clerical duties, such as preparing materials and scheduling activities as directed by the supervisor.

(7) Perform checks and maintenance of equipment.

(8) Support the supervising speech-language pathologists or audiologists in research projects, inservice training, and public relations programs.

(9) Assist with departmental operations (scheduling, record-keeping, safety/maintenance of supplies and equipment).

(10) Collect data for quality improvement.

(11) Exhibit compliance with regulations reimbursement requirements, and speech-language pathology or Audiology assistant's job responsibilities.

(12) Fulfill the facilitator role to assist clients on site when telepractice services are provided, as stated in WV Code Rule §29-1-15.2.

§29.2.6 Tasks outside the scope of responsibility of an assistant.

6.1. The assistant shall not:

- a. Administer standardized or nonstandardized diagnostic tests, conduct formal or informal evaluations, or interpret tests results.
- b. Screen or diagnose patients/clients for feeding/swallowing disorders.
- c. Participate in parent conferences, case conferences, or any interdisciplinary team meeting without a licensed speech-language pathologist or audiologist being present.
- d. Provide patient/client or family counseling.
- e. Write, develop or modify a patient/clients/ individualized treatment plan.
- f. Assist with patients/clients without following the individualized treatment plan prepared by the speech-language pathologist or audiologist without access to supervision.
- g. Sign any formal documents.
- h. Select patients/clients for service.
- i. Discharge a patient/client from services.
- j. Disclose clinical or confidential information either orally or in writing to anyone other than the supervising speech-language pathologist or audiologist.
- k. Make referrals for additional service.
- l. Counsel or consult with the patient/client, family, or others regarding the patient client status or service.
- m. Represent himself or herself as a speech-language pathologist or audiologist.
- n. Use a checklist or tabulate results of feeding or swallowing evaluations.
- o. Demonstrate swallowing strategies or precautions to patients, family or staff.
- p. Provide telepractice services
- pg. Perform tasks at any time when a supervisor cannot be reached by personal contact, phone, pager, or other immediate means.

§29.2.7 Registration and Renewal of Assistants.

7.1. The supervisor of the assistant shall register with the Board the name of each assistant working under his or her supervision on a form provided by the Board.

7.2. The speech-language pathology or Audiology assistant shall be registered with the Board for a period of up to one year, with expiration of registration to occur on December 31 of each year. The supervisor may renew the registration of the assistant prior to that date provided that:

a. The assistant has completed (5) hours of Board approved continuing education in his or her field during the previous year. These continuing education units must relate directly to the assistant's professional growth and development; and shall also include one (1) clock hour of ethics continuing education. Rules for continuing education is stated in WV Code Rule §29-1-13. Assistants should refer to Appendix Four, 29.1.11 of this rule for information on continuing education. Continuing education courses must be obtained between the date of registration and the expiration date.

b. The assistant will be required to provide proof of attendance at all activities for which credit is requested.

7.3. An assistant may not continue working after his or her registration has expired. Any continuation constitutes a violation of WV Code §30-32-15. the W.Va. Code 30.32.3.