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SECRETARY OF STATE

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October 23, 2013

NOTICE OF EMERGENCY RULE DECISION BY THE SECRETARY OF STATE

AGENCY: West Virginia Board for Speech-Language Pathology & Audiology

RULE: Amendments, 29CSR1, Licensure of Speech-Pathology and Audiology

DATE FILED AS AN EMERGENCY RULE: September 12, 2013

DECISION NO. 6-13

Following review under W. Va. Code §29A-3-15a, it is the decision of the Secretary of State that the above emergency rule is **disapproved**. A copy of the complete decision with required findings is available from this office.

NATALIE E. TENNANT
Secretary of State

EMERGENCY RULE DECISION
(ERD 6-13)

AGENCY: West Virginia Board of Examiners for Speech-Language & Audiology
RULE: Amendments, 29CSR1, Licensure of Speech-Pathology and Audiology

FILED AS AN EMERGENCY RULE: September 12, 2013

- par. 1 The West Virginia Board of Examiners for Speech-Language Pathology & Audiology (Board) has filed the above amendment to an existing rule as an emergency rule.
- par. 2 W. Va. Code §29A-3-15a requires the Secretary of State to review all emergency rules filed after March 8, 1986. This review requires the Secretary of State to determine if the agency filing such emergency rule: 1) has complied with the procedures for adopting an emergency rule; 2) exceeded the scope of its statutory authority in promulgating the emergency rule; or 3) can show that an emergency exists justifying the promulgation of an emergency rule.
- par. 3 Following review, the Secretary of State shall issue a decision as to whether or not such an emergency rule should be disapproved [§29A-3-15a].
- par. 4 (A) Procedural Compliance: W. Va. Code §29A-3-15 permits an agency to adopt, amend or repeal, without hearing, any legislative rule by filing such rule, along with a statement of the circumstances constituting the emergency, with the Secretary of State and forthwith with the Legislative Rule-Making Review Committee (LRMRC).
- par. 5 If an agency has accomplished the above two required filings with the appropriate supporting documents by the time the emergency rule decision is issued or the expiration of the forty-two day review period, whichever is sooner, the Secretary of State shall rule in favor of procedural compliance.
- par. 6 The Board filed this emergency rule with supporting documents with the Secretary of State September 12, 2013 and with the LRMRC September.
- par. 7 It is the determination of the Secretary of State that the Board has complied with the procedural requirements of W. Va. Code §29A-3-15 for adoption of an emergency rule.
- par. 8 (B) Statutory Authority -- W. Va. Code §30-32-7 reads:
- (a) The board shall propose rules for legislative approval, in accordance with the provisions of article three, chapter twenty-nine-a of this code, to implement the provisions of this article, including:*
- (1) Standards and requirements for licenses and registrations;*
- (2) Requirements, qualifications and designation of third parties to establish educational requirements and to prepare and/or administer examinations and reexaminations;*

- (3) *Procedures for the issuance and renewal of a license, registration and provisional license;*
 - (4) *A fee schedule;*
 - (5) *Continuing education and competency requirements for licensees and registrants;*
 - (6) *Establishment of competency standards;*
 - (7) *The procedures for denying, suspending, revoking, reinstating or limiting the practice of a licensee or registrant;*
 - (8) *Requirements for reinstatement of revoked licenses and registrations;*
 - (9) *Guidelines for telepractice;*
 - (10) *Rules to define the role of the speech-language pathology assistant or audiology assistant, including, but not limited to:*
 - (A) *The supervision requirements of licensees;*
 - (B) *The ratio of assistants to licensees;*
 - (C) *The scope of duties and restrictions of responsibilities of assistants;*
 - (D) *The frequency, duration and documentation of supervision required under the provisions of this article; and*
 - (E) *The quantity and content of pre-service and in-service instruction.*
 - (11) *Professional conduct and ethical standards of practice; and*
 - (12) *Any other rules necessary to effectuate the provisions of this article.*
- (b) The board may promulgate emergency rules in accordance with section fifteen, article three, chapter twenty-nine-a of this code to establish requirements and procedures for telepractice in accordance with the provisions of this article, including the scope of duties and restrictions of assistants in telepractice.*
- (c) All rules in effect on January 1, 2013 shall remain in effect until they are amended or repealed, and references to provisions of former enactments of this article are interpreted to mean provisions of this article.*

par. 9 It is the determination of the Secretary of State that the Board has exceeded its statutory authority in promulgating this emergency rule.

par. 10 This decision shall be cited as Emergency Rule Decision 6-13 or ERD 6-13 and may be cited as precedent. This decision is available from the Secretary of State and has been filed with the West Virginia Board for Speech-Language Pathology & Audiology, the Attorney General and the Legislative Rule Making Review Committee.

Natalie Tennant

 NATALIE E. TENNANT
 Secretary of State

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