



WEST VIRGINIA SECRETARY OF STATE

MAC WARNER

ADMINISTRATIVE LAW DIVISION

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Office of West Virginia
Secretary Of State

NOTICE OF PUBLIC COMMENT PERIOD

AGENCY: Speech Language Pathology And Audiology TITLE-SERIES: 29-02
RULE TYPE: Legislative Amendment to Existing Rule: Yes Repeal of existing rule: No
RULE NAME: Rule Governing Speech-Language Pathology,
Audiology and Hearing Aid Dealers Assistants
CITE STATUTORY AUTHORITY: 32-32-7

COMMENTS LIMITED TO:

Written

DATE OF PUBLIC HEARING:

LOCATION OF PUBLIC HEARING:

DATE WRITTEN COMMENT PERIOD ENDS: 07/16/2023 4:00 PM

COMMENTS MAY BE MAILED OR EMAILED TO:

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PLEASE INDICATE IF THIS FILING INCLUDES:

RELEVANT FEDERAL STATUTES OR REGULATIONS: No

(IF YES, PLEASE UPLOAD IN THE SUPPORTING DOCUMENTS FIELD)

INCORPORATED BY REFERENCE: No

(IF YES, PLEASE UPLOAD IN THE SUPPORTING DOCUMENTS FIELD)

PROVIDE A BRIEF SUMMARY OF THE CONTENT OF THE RULE:

Motifications to all relate to adding Hearing Aid Dealers name.

SUMMARIZE IN A CLEAR AND CONCISE MANNER CONTENTS OF CHANGES IN THE RULE AND A STATEMENT OF CIRCUMSTANCES REQUIRING THE RULE:

Formatting Series 2 and adding Hearing Aid Dealers name to the this rule.

SUMMARIZE IN A CLEAR AND CONCISE MANNER THE OVERALL ECONOMIC IMPACT OF THE PROPOSED RULE:

A. ECONOMIC IMPACT ON REVENUES OF STATE GOVERNMENT:

N/A

B. ECONOMIC IMPACT ON SPECIAL REVENUE ACCOUNTS:

N/A

C. ECONOMIC IMPACT OF THE RULE ON THE STATE OR ITS RESIDENTS:

N/A

D. FISCAL NOTE DETAIL:

Effect of Proposal	Fiscal Year		
	2023 Increase/Decrease (use "-")	2024 Increase/Decrease (use "-")	Fiscal Year (Upon Full Implementation)
1. Estimated Total Cost			
Personal Services			
Current Expenses			
Repairs and Alterations			
Assets			
Other			
2. Estimated Total Revenues			

E. EXPLANATION OF ABOVE ESTIMATES (INCLUDING LONG-RANGE EFFECT):

N/A

BY CHOOSING 'YES', I ATTEST THAT THE PREVIOUS STATEMENT IS TRUE AND CORRECT.

Yes

Pamela Coughlin -- By my signature, I certify that I am the person authorized to file legislative rules, in accordance with West Virginia Code §29A-3-11 and §39A-3-2.

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

SERIES 2
RULE GOVERNING SPEECH-LANGUAGE PATHOLOGY ~~AND~~, AUDIOLOGY, AND
HEARING AID DEALERS ASSISTANTS

§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. -- WV Code §30-32-7.

1.3. Filing Date. -- ~~June 29, 2016.~~

1.4. Effective Date. -- ~~July 15, 2016.~~

1.5. Sunset Provision. -- This rule shall terminate and have no further force or effect on August 1, 2029.

§29-2-2. Definitions.

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

2.2. Direct supervision: Direct supervision means 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 supervision: Indirect 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.

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.

2.7. Medically fragile patient/client: A medically fragile patient/client means a patient/client who has any condition that interferes with the airway, breathing, and/or circulatory system.

2.8. 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.

2.9. 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 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 Assistant's 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) 4.1.1. Register with the Board the name of each assistant working under his or her supervision;
- (b) 4.1.2. Complete initial supervision training prior to accepting an assistant for supervision and upgrade supervision training on a regular basis.
- (c) 4.1.3. Participate significantly in hiring the assistant.
- (d) 4.1.4. Document preservice training and credentials of the assistant.
- (e) 4.1.5. 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) 4.1.6. 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 assistants 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) 4.1.7. 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) 4.1.8. Provide 20% direct supervision and 10% indirect supervision for the first ninety (90) days, and thereafter ensure that he or she has direct contact with each patient/client at least once for every two weeks of treatment provided: *Provided*, That supervisors shall provide 100% direct supervision of an assistant who is providing treatment to a medically fragile patient/client.

(i) 4.1.9. Make all clinical decisions, including determining patient/client selection for inclusion/in the case load, and dismissing patients/clients from treatment.

(j) 4.1.10. 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 of the supervisor. Supervision by an alternate supervisor shall not exceed 10 consecutive working days or a maximum of 20 working days per year;

(k) 4.1.11. Communicate with patients/clients, parents, and family members about assessment, prognosis, and treatment plan.

(l) 4.1.12. The supervisor provides documentation of a 90% or better reliability level between supervisor and assistant in:

a. 4.1.12.a. Correct/incorrect judgment of target behavior.

b. 4.1.12.b. Accuracy in implementation of assessment and management procedures, and

c. 4.1.12.c. Accuracy in recording data.

(m) 4.1.13. Conduct diagnostic evaluation, assessments, or appraisals, and interpret obtained data in reports.

(n) 4.1.14. Review each treatment plan with the assistant at least weekly.

(o) 4.1.15. Delegate specific tasks to the assistant while retaining legal and ethical responsibility.

(p) 4.1.16. Prepare an individualized treatment plan and make modifications prior to or during implementation.

(q) 4.1.17. Discuss the case with or refer the patient/client to other professionals.

(r) 4.1.18. Sign all formal documents (e.g., treatment plans, reimbursement form reports; the supervisor should indicate on documents that the assistant performed certain activities).

(s) 4.1.19. Review and sign all informal progress notes prepared by the assistant.

(t) 4.1.20. Provide ongoing training to the assistant on the job.

(u) 4.1.21. Accurately document all direct and indirect supervisory activities on forms prescribed by the board, and submit the same annually upon application for renewal of registration.

(v) 4.1.22. Ensure that the assistant only performs tasks within the scope of responsibility of the

speech- language pathology assistant.

~~(w)~~ 4.1.23. Participate in the performance appraisal of the speech-language pathology or audiology assistant.

~~(x)~~ 4.1.24. 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)~~ 4.1.25. 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 Assistant.

5.1. The speech-language pathology 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)~~ 5.1.1. An assistant may:

~~(1)~~ 5.1.1.a. Assist the speech-language pathology supervisor with screenings (without interpretation).

~~(2)~~ 5.1.1.b. Follow documented treatment plans or protocols developed by the supervising speech- language pathologists.

~~(3)~~ 5.1.1.c. 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)~~ 5.1.1.d. Assist the supervisor during assessment of patients/clients.

~~(5)~~ 5.1.1.e. Assist with informal documentation as directed by the supervisor.

~~(6)~~ 5.1.1.f. Assist with clerical duties, such as preparing materials and scheduling activities as directed by the supervisor.

~~(7)~~ 5.1.1.g. Perform checks and maintenance of equipment.

~~(8)~~ 5.1.1.h. Support the supervising speech-language pathologists or audiologists in research projects, in service training, and public relations programs.

~~(9)~~ 5.1.1.i. Assist with departmental operations (scheduling, record-keeping, safety/maintenance of supplies and equipment).

~~(10)~~ 5.1.1.j. Collect data for quality improvement.

~~(11)~~ 5.1.1.k. Exhibit compliance with regulations reimbursement requirements, and speech-language pathology or Audiology assistant's job responsibilities.

~~(12)~~ 5.1.1.l. Fulfill the facilitator role to assist clients on site when telepractice services are provided.

§29-2-6. Tasks outside the scope of responsibility of a speech-language pathology assistant.

6.1. The assistant shall not:

- a.6.1.1. Administer standardized or nonstandardized diagnostic tests, conduct formal or informal evaluations, or interpret tests results.
- b.6.1.2. Screen or diagnose patients/clients for feeding/swallowing disorders.
- c.6.1.3. Participate in parent conferences, case conferences, or any interdisciplinary team meeting without a licensed speech-language pathologist or audiologist being present.
- d.6.1.4. Provide patient/client or family counseling.
- e.6.1.5. Write, develop or modify a patient/clients/ individualized treatment plan.
- f.6.1.6. Assist with patients/clients without following the individualized treatment plan prepared by the speech-language pathologist or audiologist without access to supervision.
- g.6.1.7. Sign any formal documents.
- h.6.1.8. Select patients/clients for service.
- i.6.1.9. Discharge a patient/client from services.
- j.6.1.10. Disclose clinical or confidential information either orally or in writing to anyone other than the supervising speech-language pathologist or audiologist.
- k.6.1.11. Make referrals for additional service.
- l.6.1.12. Counsel or consult with the patient/client, family, or others regarding the patient claim status or service.
- m.6.1.13. Represent himself or herself as a speech-language pathologist or audiologist.
- n.6.1.14. Use a checklist or tabulate results of feeding or swallowing evaluations.
- o.6.1.15. Demonstrate swallowing strategies or precautions to patients, family or staff.
- p.6.1.16. Provide telepractice services
- q.6.1.17. Perform tasks at any time when a supervisor cannot be reached by personal contact, phone, pager, or other immediate means.

§29-2-7. Role of the Audiology Assistant.

7.1. The 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) 7.1.1. The types of services the audiology assistant can perform include, but are not limited to:
 - (+) 7.1.1.a. Equipment maintenance
 - (+) 7.1.1.b. Hearing aid repair;
 - (+) 7.1.1.c. Electroacoustical analysis, real ear measurements, other verification methods of

hearing aids;

- ~~(4)~~ 7.1.1.d. Hearing screening on a pass/fail basis;
- ~~(5)~~ 7.1.1.e. Hearing conservation and assisting the audiologist in testing;
- ~~(6)~~ 7.1.1.f. Preparation of patient for electrophysiologic and balance testing;
- ~~(7)~~ 7.1.1.g. Fulfill the facilitator role to assist clients on site when telepractice services are provided;
- ~~(8)~~ 7.1.1.h. Other support functions required by the supervising audiologist, not to include duties specifically prohibited by §29.2.7.2.

7.2. Tasks outside the scope of responsibility of an Audiology Assistant.

- ~~(a)~~ 7.2.1. The Audiology Assistant shall not:
 - ~~(1)~~ 7.2.1.a. Dispensing hearing aids;
 - ~~(2)~~ 7.2.1.b. Selection of a hearing aid
 - ~~(3)~~ 7.2.1.c. Performing diagnostic testing;
 - ~~(4)~~ 7.2.1.d. Making ear mold impressions;
 - ~~(5)~~ 7.2.1.e. Fitting a hearing aid, including but not limited to initial programming or changes to prescribed programing;
 - ~~(6)~~ 7.2.1.f. Initiating, modifying, planning or developing therapy procedures;
 - ~~(7)~~ 7.2.1.g. Transmitting clinical information, either verbally or in writing to anyone without the approval of the supervising audiologist;
 - ~~(8)~~ 7.2.1.h. Signing any formal documents such as treatment plans, reimbursement forms or reports;
 - ~~(9)~~ 7.2.1.i. Discharging a patient from services;
 - ~~(10)~~ 7.2.1.j. Acting for the licensed audiologist in any matter related to direct care of patients which requires judgement or decision making;
 - ~~(11)~~ 7.2.1.k. Providing consultation, counseling, recommendation for assessment, treatment protocols, results/outcomes, treatment/intervention plans or patient referrals on any matter regarding patient care;
 - ~~(12)~~ 7.2.1.l. Providing program reviews for individualized habilitation plans or other forms of care planning for patients;
 - ~~(13)~~ 7.2.1.m. Supervising or managing infant hearing screening programs or occupational hearing conservation/prevention programs;
 - ~~(14)~~ 7.2.1.n. Functioning without supervision;

~~(15)~~ 7.2.1.o. Referring to himself or herself either orally or in writing with a title other than audiology assistant;

~~(16)~~ 7.2.1.p. Provide telepractice services; and

~~(17)~~ 7.2.1.q. Perform tasks at any time when the supervisor cannot be reached by personal contact, phone, pager or other immediate means.

§29-2-8. Registration and Renewal of Assistants.

8.1. 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.

8.2. 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.8.2.1. 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 continuing education in the subject of Ethics. Continuing education courses must be obtained between the date of registration and the expiration date.

b.8.2.2. The assistant will be required to provide proof of attendance at all activities for which credit is requested.

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