

TITLE 21 - OCCUPATIONAL LICENSING BOARDS AND COMMISSIONS

CHAPTER 64 – EXAMINERS OF SPEECH AND LANGUAGE PATHOLOGISTS AND AUDIOLOGISTS

Notice is hereby given in accordance with G.S. 150B-21.2 that the Board of Examiners for Speech and Language Pathologists and Audiologists intends to adopt the rules cited as 21 NCAC 64 .0108, .1101-.1105 and amend the rule cited as 21 NCAC 64 .0219.

Link to agency website pursuant to G.S. 150B-19.1(c): www.ncboeslpa.org

Proposed Effective Date: June 1, 2021

Public Hearing:

Date: February 1, 2021

Time: 10:00 a.m.

Location: Attend online at: <https://zoom.us/s/91799802723>;

Phone one-tap: US +13017158592.917998022723# or +13126266799.91799802723#

Meeting ID: 917 9980 2723

Reason for Proposed Action:

21 NCAC 64 .0108 - To give the Board authority to waive rules when requested.

21 NCAC 64 .0219 - To clarify the roles of Speech and Language Pathology Assistants and Audiology Assistants.

21 NCAC 64 .1101 - To provide a single location in the chapter for definitions.

21 NCAC 64 .1102 - To clarify the registration process of Audiology Assistants.

21 NCAC 64 .1103 - To set out the requirements by which audiologists supervise assistants.

21 NCAC 64 .1104 - To set out the scope of practice for Audiology Assistants.

21 NCAC 64 .1105 - To set out supervision and continuing competence requirements of Audiology Assistants.

Comments may be submitted to: Denise Sherwood Brown, Executive Director, NC Board of Examiners for Speech and Language Pathologists and Audiologists, PO Box 16885, Greensboro, NC 27416; phone 336-272-1828; fax 336-262-4353; email dbrown@ncboeslpa.org

Comment period ends: March 16, 2021

Procedure for Subjecting a Proposed Rule to Legislative Review: If an objection is not resolved prior to the adoption of the rule, a person may also submit written objections to the Rules Review Commission after the adoption of the Rule. If the Rules Review Commission receives written and signed objections after the adoption of the Rule in accordance with G.S. 150B-21.3(b2) from 10 or more persons clearly requesting review by the legislature and the Rules Review Commission approves the rule, the rule will become effective as provided in G.S. 150B-21.3(b1). The Commission will receive written objections until 5:00 p.m. on the day following the day the Commission approves the rule. The Commission will receive those objections by mail, delivery service, hand delivery, or facsimile transmission. If you have any further questions concerning the submission of objections to the Commission, please call a Commission staff attorney at 919-431-3000.

Fiscal impact. Does any rule or combination of rules in this notice create an economic impact? Check all that apply.

- State funds affected
- Local funds affected
- Substantial economic impact (\geq \$1,000,000)
- Approved by OSBM
- No fiscal note required

SECTION .0100 - GENERAL PROVISIONS

21 NCAC 64 .0108 WAIVER

The Board may waive any rule in this Chapter that is not statutorily required if a licensee submits a written request. Factors the Board shall use in determining whether to grant the waiver are:

- (1) degree of disruption to the Board;
- (2) cost to the Board;
- (3) degree of benefit to the public;
- (4) whether the requesting party had control over the circumstances that required the requested waiver;
- (5) notice to and opposition by the public;
- (6) need for the waiver; and
- (7) previous requests for waivers submitted from the requesting party.

History Note: Authority G.S. 90-304; 150B-19(6);
Emergency Adoption Eff. April 24, 2020;

*Temporary Adoption Eff. June 26, 2020. 2020;
Eff. June 1, 2021.*

SECTION .0200 - INTERPRETATIVE RULES

21 NCAC 64 .0219 TELEPRACTICE

(a) For purposes of this Rule the following words shall have the following meanings:

- (1) "Patient site" means the patient's physical location at the time of the receipt of the telepractice services.
- (2) "Provider" means a licensed speech and language pathologist or audiologist who provides telepractice services.
- (3) "Provider site" means the licensee's physical location at the time of the provision of the telepractice services.
- (4) "Telepractice" means the use of telecommunications and information technologies for the exchange of encrypted patient data, ~~obtained through real time interaction, data~~ from patient site to provider site for the provision of speech and language pathology and audiology services to patients through hardware or internet connection. ~~Telepractice also includes the interpretation of patient information provided to the licensee via store and forward techniques. connection via real time interaction or store forward techniques.~~

(b) Telepractice shall be obtained in ~~real time and in~~ a manner sufficient to ensure patient confidentiality.

(c) Telepractice is subject to the same standard of practice stated in Rules .0205 and .0216 of this Chapter as if the person being treated were physically present with the licensee. Telepractice is the responsibility of the licensee. ~~licensee and shall not be delegated.~~

(d) Telepractice constitutes the practice of Speech and Language Pathology and Audiology in both the patient site and provider site. Providers must hold a license in the state of the provider site and shall be in compliance with the statutory and regulatory requirements of the patient site.

(e) Registered Speech and Language Pathology Assistants and Audiology Assistants under the supervision of licensed providers shall be allowed to engage in telepractice under the same level of direct supervision as required by 21 NCAC 64 .1003(e)(1), (2), and (6).

~~(e)(f)~~ Licensees and staff involved in telepractice must be trained in the use of telepractice equipment.

~~(f)(g)~~ Notification of telepractice services shall be provided to the patient and guardian if the patient is a ~~minor~~ minor or under guardianship. The notification shall include the right to refuse telepractice services and options for alternate service delivery.

~~(g)~~ Telepractice constitutes the practice of Speech and Language Pathology and Audiology in both the patient site and provider site.

History Note: Authority G.S. 90-304(a)(3);

Eff. July 1, 2020;

Amended Eff. March 1, 2014;

Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 4, 2016;

Emergency Amendment Eff. March 27, 2020;

Temporary Amendment Eff. June 26, 2020. 2020;

Amended Eff. June 1, 2021.

SECTION .1100 - REQUIREMENTS FOR THE USE OF AUDIOLOGY ASSISTANTS IN DIRECT SERVICE DELIVERY

21 NCAC 64 .1101 DEFINITIONS

(a) "Board" means the North Carolina Board of Examiners for Speech and Language Pathologists and Audiologists.

(b) "Licensee" means an individual who holds a current permanent license in audiology from the North Carolina Board of Examiners for Speech and Language Pathologists and Audiologists.

(1) "Primary Supervising Licensee" means the Licensee who supervises the majority of the Assistant's work, who is responsible for the Assistant's registration with the Board, and who bears the responsibility for all supervision requirements and notification responsibility to the Board of any changes in registration information set forth in the rules of this Section.

(2) "Secondary Supervising Licensee" means a Licensee who supervises the Assistant in the absence of the Primary Supervising Licensee to cover variations in work hours.

(c) "Assistant" means an Audiology Assistant who is registered by a Primary Supervising Licensee with the Board.

(d) "Registration" means the process through which an Assistant is approved by the Board to work with a Licensee to provide services to the public.

History Note: Authority G.S. 90-298.1; 90-304(a)(3);

Emergency Adoption Eff. April 24, 2020;

Temporary Adoption Eff. June 26, 2020. 2020;

Eff. June 1, 2021.

21 NCAC 64 .1102 GENERAL REQUIREMENTS

(a) For registration, Assistants must present:

(1) Evidence of high school diploma or equivalent; and

(2) A letter of certification of the Assistant's competency provided by a supervising audiologist that attests to one of the following:

(A) the supervising audiologist has trained the Assistant in tasks allowed in Rule .1104 of this Section;

(B) the Assistant has provided the supervising audiologist with evidence that he or she has completed training in the tasks allowed in Rule .1104 of this Section; or

(C) the supervising audiologist has assessed and is satisfied with the competency of the Assistant to perform the tasks allowed in Rule .1104 of this Section.

(b) Assistants who conduct pure tone audiometry under general supervision by the licensee must have completed a Certified Occupational Hearing Conservationists (COHC) or a program with equivalent certification requirements. If the assistant has completed training under the NC Hearing Aid Dealers and Fitters Board, then proof of successful completion of the NCHADFB exam would also meet the requirement.

(c) A Licensee who is employed full-time (30 hours/week or more) may register to be primary supervisor of no more than two Assistants at any one time. A Licensee who is employed part-time (less than 30 hours/week) may register to supervise no more than one Assistant at any one time. The Primary Supervising Licensee shall ensure that the Assistant complies with this Section, and with ethical standards set forth in the Board's Practice Act and rules. Secondary Supervising Licensees in the same practice may also supervise the Assistant, provided that such supervision is conducted in accordance with the rules set forth in this Section.

(d) The Primary Supervising Licensee must keep the Board apprised of any changes in registration information as follows:

(1) Changes of supervising licensee(s) shall require prior written approval of the Board and the Primary Supervising Licensee must submit the request in writing at least 10 days prior to the effective date.

(2) The Primary Supervising Licensee must submit changes that do not directly relate to patient care, such as change of address, to the Board in writing within 10 business days of the effective change. Such changes do not require pre-approval from the Board.

(e) The Primary Supervising Licensee shall remit to the Board an annual registration fee for the Assistant in an amount of forty dollars (\$40.00).

*History Note: Authority G.S. 90-298.1; 90-304(a)(3);
Emergency Adoption Eff. April 24, 2020;
Temporary Adoption Eff. June 26, ~~2020~~ 2020;
Eff. June 1, 2021.*

21 NCAC 64 .1103 LICENSEE REQUIREMENTS

(a) Licensees who register an Assistant shall be licensed in North Carolina, or hold equivalent qualifications from another state, for the previous two years prior to registering an Assistant with the Board. Temporary license holders shall not register Assistants.

(b) Licensees who register an Assistant shall attest to the Assistant's understanding and review of the registration and supervision process (scope of practice, ethics, written protocols, record keeping) set forth in the rules of this Section.

(c) Licensees must submit the application and annual fee for registration of the Assistant to the Board.

(d) Licensees shall inform all patients when services are being provided by an Assistant and the Assistant must wear a badge that includes the job title: "Audiology Assistant."

(e) Tasks and duties that are within the scope of responsibilities for an Assistant are listed in Rules .1104 and .1105 of this Section. The Supervising Licensee shall be responsible for all patient services performed by the Assistant. The Supervising Licensee shall determine the assignment of tasks and the amount and type of supervision to ensure quality of care considering relevant factors such as the skills of the Assistant, the needs of the patient, and the service setting. Before assigning treatment tasks to an Assistant, the Licensee shall evaluate the patient files and develop a plan for the care and/or follow an established protocol.

(f) Any time an Assistant provides services during a patient encounter (screening or treatment), the Supervising Licensee or Assistant shall document the Assistant's services in the patient's medical record. If the Assistant documents the services, the Supervising Licensee shall co-sign the medical record. The Supervising Licensee shall be responsible for the accuracy and compliance of the documentation. These signed and dated patient encounter records must be retained as part of the patient's file for the time period specified in Rule .0209 of this Chapter and may be requested by the Board.

(g) The Board may do random audits of records to determine compliance with the rules in this Chapter.

(h) When patient services are being rendered by an Assistant, the Supervising Licensee must be available to observe and supervise the Assistant, when necessary.

(i) The Primary Supervising Licensee shall assess the Assistant's competencies during the initial 60 days of employment using a performance-based competency assessment. The completed assessment shall be submitted to the Board within 90 days of registration. A new competency assessment must be completed and filed within 90 days each time the Primary Supervising Licensee changes.

(j) Assistants shall only engage in those activities related to the practice of Audiology as set forth in Rules .1104 and .1105 of this Section. An Assistant's activities related to the practice of Audiology not set forth therein shall be regarded as the unlicensed practice of Audiology.

*History Note: Authority G.S. 90-298.1; 90-304(a)(3);
Emergency Adoption Eff. April 24, 2020;
Temporary Adoption Eff. June 26, ~~2020~~ 2020;
Eff. June 1, 2021.*

21 NCAC 64 .1104 AUTHORIZED TASKS OF AUDIOLOGY ASSISTANTS

(a) An audiology assistant may engage in the following direct patient services:

(1) Obtaining partial or selected case history information from patients and families;

(2) Administering audiologic screening protocols, as directed by the supervising audiologist. These screening procedures, including tests and checklists or parts of tests and checklists, shall have the purpose of determining the need for further diagnostic testing by the supervising audiologist and must meet the following criteria:

(A) have administration protocols and methods;

- (B) consist of test items that require no more than a binary judgment (i.e., yes-no, present-absent, pass/refer);
 - (C) require no more than a specifically-elicited single response; and
 - (D) require no clinical interpretation by the assistant;
 - (3) Preparing or positioning patients for evaluation or treatment following guidelines of the supervising audiologist and of the facility;
 - (4) Direct patient services for evaluation are not within the approved scope of responsibilities for assistants who are not Certified Occupational Hearing Conservationists (COHC). Audiology assistants who are not COHC may assist in the evaluation of both pediatric and adult patients, but only under the supervision of the supervising audiologist who is present in the room and attending to the assistant's activities 100 percent of the time. Audiology Assistants who are COHC may conduct unmasked pure-tone audiometry under supervision by the licensee for adult patients. Direct patient services to children under the age of 21 years old are not within the approved scope of activities for assistants unless under the supervision of the supervising audiologist who is physically present in the room and attending to 100 percent of the assistant's activities;
 - (5) Basic hearing device repair and trouble shooting;
 - (6) Assistance with procedures related to the fitting and dispensing of hearing devices, not to include cerumen management. Ear mold impressions must be conducted with the supervision of an audiologist;
 - (7) Instructing patients in care and use of devices dispensed by the supervising audiologist; and
 - (8) Providing services previously mentioned through telehealth to extend access to clinical care.
- (b) An audiology assistant may engage in the following indirect patient services:
- (1) Reporting any workplace conduct that appears to be unethical in violation of Section .0300 of this Chapter or illegal to the supervising audiologist or to the Board of Examiners;
 - (2) Requesting assistance from the supervising audiologist, as needed, in order to ensure continuous service quality;
 - (3) Observing universal precautions and safety procedures;
 - (4) Releasing patients only to the care of care-givers of record; and
 - (5) Participating in research activities as approved by an Institutional Review Board and oversight committees.

History Note: Authority G.S. 90-298.1; 90-304(a)(3);
 Emergency Adoption Eff. April 24, 2020;
 Temporary Adoption Eff. June 26, ~~2020~~ 2020;
 Eff. June 1, 2021.

21 NCAC 64 .1105 SUPERVISION AND CONTINUING COMPETENCE REQUIREMENTS

Following registration by a supervising audiologist, a registered assistant shall:

- (1) discuss job expectations with the supervising audiologist(s) in order to have a mutual understanding of job scope and responsibilities;
- (2) participate in a specified amount of supervised training according to a written plan for all tests and clinical equipment that will be used for assessment and treatment of the patient;
- (3) receive employment evaluations on a scheduled basis from the supervising audiologist(s) to assess the assistant's performance, strengths, and weaknesses of the assistant and to establish development goals for continuous performance improvement;
- (4) request assistance, additional instruction, and additional supervision from the supervising audiologist, when needed;
- (5) participate in various types of educational activities in order to enhance skill and knowledge, as assigned by the supervising audiologist; and
- (6) read information assigned by the audiologist.

History Note: Authority G.S. 90-298.1; 90-304(a)(3);
 Emergency Adoption Eff. April 24, 2020;
 Temporary Adoption Eff. June 26, ~~2020~~ 2020;
 Eff. June 1, 2021.