

RULES AND REGULATIONS

Title 49—PROFESSIONAL AND VOCATIONAL STANDARDS

BUREAU OF PROFESSIONAL AND OCCUPATIONAL AFFAIRS

STATE BOARD OF EXAMINERS IN SPEECH- LANGUAGE PATHOLOGY AND AUDIOLOGY

[49 PA. CODE CHS. 43b AND 45]

Fees; General Revisions

The State Board of Examiners in Speech-Language Pathology and Audiology (Board) and the Commissioner of Professional and Occupational Affairs (Commissioner) jointly amend §§ 43b.16a, 45.1, 45.2, 45.11—45.17, 45.20—45.22, 45.102, 45.103, 45.301, 45.304, 45.305, 45.307, 45.308, 45.401, 45.501, 45.505 and 45.507, rescind §§ 45.18 and 45.19 and add §§ 45.23 and 45.24 (relating to provisional licenses; and certification to utilize neurophysiologic intraoperative monitoring) to read as set forth in Annex A.

Effective Date

This final-form rulemaking will be effective upon publication in the *Pennsylvania Bulletin*.

Statutory Authority

Section 5(2) of the Speech-Language Pathologists and Audiologists Licensure Act (act) (63 P.S. § 1705(2)) authorizes the Board to adopt and revise rules and regulations consistent with the act as may be necessary to implement the provisions of the act. Section 5(7) of the act specifically authorizes the Board to establish standards of eligibility for license renewal, which includes demonstration of satisfactory completion of continuing education. Additionally, section 8.1 of the act (63 P.S. § 1708.1) requires that the Board issue certifications to audiologists utilizing neurophysiologic intraoperative monitoring (IOM).

In connection with the fees, section 7(d)(1) of the act (63 P.S. § 1707(d)(1)) authorizes the Board to issue provisional licenses to qualifying applicants who submit an application and an accompanying fee. Additionally, section 8(a) of the act (63 P.S. § 1708(a)) requires the Board to increase fees by regulation to meet or exceed projected expenditures if the revenues raised by fees, fines and civil penalties are not sufficient to meet expenditures over a 2-year period. Finally, section 810(a)(3) and (7) of The Administrative Code of 1929 (71 P.S. § 279.1(a)(3) and (7)) authorizes the Commissioner to issue all certificates and other official documents of the various professional and occupational examining boards and, unless otherwise provided by law, to fix the fees to be charged by the boards within the Bureau of Professional and Occupational Affairs.

With regard to the schedule of civil penalties, section 5 of the act of July 2, 1993 (P.L. 345, No. 48) (63 P.S. § 2205) authorizes the Commissioner, upon consultation with the Board, to adopt a schedule of civil penalties for violations under the act and regulations of the Board.

Background and Purpose

The final-form rulemaking implements the act of July 2, 2014 (P.L. 971, No. 106) (Act 106) by regulating the practice of speech-language pathology and audiology, eliminating references to teachers of the hearing impaired and adding credentials for provisional licenses and certificates to utilize IOM. This final-form rulemaking also adopts related fees and increases biennial renewal fees.

Summary and Responses to Comments

Notice of proposed rulemaking was published at 46 Pa.B. 6853 (October 29, 2016), with a 30-day public comment period. The Board received comments from the following public commentators: Anne Gilbertson, President, Pennsylvania Speech-Language-Hearing Association (PSHA); Roy Shinn, Ph.D., Professor and Chair, Speech, Language and Hearing Department, Edinboro University; and James L. Shafer, AuD, Vice President of Governmental Affairs, Pennsylvania Academy of Audiology (PAA). The Independent Regulatory Review Commission (IRRC) also submitted comments. Neither the House Professional Licensure Committee (HPLC) nor the Senate Consumer Protection and Professional Licensure Committee (SCP/PLC) submitted comments.

§ 45.1. Fees

In the proposed rulemaking, the Board provided a fiscal analysis for the additional revenue that it expects to be produced by the new provisional license and IOM certificate fees and the increased biennial renewal fees. IRRC asked the Board to provide the expected expenditures for the same period. The Department of State's Bureau of Finance and Operations (BFO) pointed out to the Board that at the current fee levels, with the elimination of the teacher of the hearing impaired licensure classification, the Board currently receives revenue of approximately \$425,000 over a 2-year period. Conversely, budgeted expenditures for the next 2 fiscal years (Fiscal Year (FY) 2016-2017 and FY 2017-2018) are currently projected at \$510,000—an operating deficit of \$85,000. The Board raises the majority (approximately 85%) of its revenue through biennial renewal fees. A small percentage (approximately 15%) of its revenue comes from other fees, fines and civil penalties. Beginning with projected FY 2018-2019 and continuing through projected FY 2027-2028, with the advent of the new fees, the Board's biennial revenues are anticipated to grow to \$670,000 per biennium while expenditures for the same period would grow from \$595,000 (in FYs 2018-2019 and 2019-2020) to \$631,000 (in FYs 2020-2021 and 2021-2022) to \$670,000 (in FYs 2022-2023 and 2023-2024) to \$711,000 (in FYs 2024-2025 and 2025-2026) to \$755,000 (in FYs 2026-2027 and 2027-2028). If the projections hold, the Board will evaluate the renewal fees again in FY 2022-2023. The BFO's projections were attached to the Regulatory Analysis Form provided to IRRC and are available upon request.

§ 45.2. Definitions

IRRC recommended that the Board add a definition for IOM and revise the proposed definitions of “practice of audiology” and “practice of speech-language pathology” by including meaningful statutory provisions. Owing to IRRC's concerns, the Board added the statutory definition of “neurophysiologic intraoperative monitoring.” In addition, the Board added specific examples delineated in section 3 of the act (63 P.S. § 1703) into the definition of

“practice of audiology” and the instances of unprofessional conduct in § 45.103(22) and (23) (relating to unprofessional conduct).

The Board did not revise the definition of “practice of speech-language pathology” because it is the Board’s position that the amended definition closely interprets the definition in section 3 of the act. Subparagraphs (vii) and (ix) in the regulatory definition encompass elective modification of communication behaviors and enhancement of communication specified in paragraph (1) of the statutory definition. Subparagraph (vi) in the regulatory definition addresses the identification of nonmedical speech, language, swallowing, cognitive and social aspects of communication by developing and providing speech, language, voice, swallowing, cognitive and social aspects of communication-related screening programs for persons of all ages as listed in paragraph (2) of the statutory definition. Subparagraphs (ii)—(iv), (vii) and (x) in the regulatory definition encompass providing nonmedical diagnosis, evaluation and remediation services for disorders of speech, language, voice, swallowing, cognitive and social aspects of communication specified in paragraph (3) of the statutory definition. Subparagraphs (iv) and (vi) in the regulatory definition encompass establishing augmentative and alternative communication techniques and strategies, including selecting, recommending and dispensing of augmentative aids and devices specified in paragraph (4) of the statutory definition. Subparagraphs (v), (vii), (viii) and (ix) in the regulatory definition describe the provision of nonmedical services to individuals with hearing loss and their families, that is auditory training, speech reading and speech and language intervention secondary to hearing loss specified in paragraph (5) of the statutory definition. Subparagraph (i) in the regulatory definition corresponds to the statutory requirement in paragraph (6) to provide hearing screening limited to pass or fail for the purposes of identification of individuals with potential disorders of hearing. Subparagraphs (iv), (vi), (viii) and (x) in the regulatory definition include the statutory requirement in paragraph (7) of the statutory definition regarding the training of individuals, their families and other communication partners in the use, selecting, fitting and establishment of effective use of appropriate prosthetic and adaptive devices for speaking and swallowing. Subparagraphs (i), (vi), (viii) and (x) in the regulatory definition relate to paragraph (8) of the statutory definition involving the use of instrumental technology to provide nonmedical diagnosis, nonmedical treatment and nonmedical services for disorders of communication, voice and swallowing. Paragraph (9) of the statutory definition regarding the requirement of a medical evaluation is in § 45.103(23). The Board did make clarity edits to eliminate the need to refer to both the statutory and regulatory definitions because everything in the statutory definition is fairly covered by the regulatory definition.

The PSHA requested and IRRC concurred that the Board should amend the reference to the American Speech-Language-Hearing Association’s (ASHA) 2003 Scope of Practice in Audiology and the 2007 Scope of Practice of Speech-Language Pathology documents to reflect the ASHA’s adoption of updated documents in 2016 following publication of the proposed rulemaking. The Board reviewed the ASHA’s 2016 definitions and finds them to be consistent with the definitions in the act. Therefore, the Board has implemented the recommendation and revised the date to reflect the most recent documents in both definitions.

The PAA requested that the Board list the American Academy of Audiology (AAA) as a governing body in the definitions. In that the AAA is specifically listed in subparagraph (xv)(B) of the final-form definition of “[p]ractice of audiology,” and is not used elsewhere in the regulations, the Board has not revised the definitions. The PAA also recommended that the Board delete “provided there is no conflict with the act or this chapter” when incorporating the National professional organizations’ definitions of “practice of audiology” and “practice of speech-language pathology.” The Board did not make this change owing to concerns that doing so could be considered an improper delegation of authority as the parameters for the scopes of practice are contained in the statutory definitions in section 3 of the act. This is further clarified by the requirement in section 5(9) of the act that the Board promulgate a new regulation whenever the National professional organizations amend their scope of practice definitions.

§ 45.12. Licensure application procedures

Section 45.12 (relating to licensure application procedures) requires applicants for licensure to submit the required fees, a completed, signed and dated application, and applicable documentation. IRRC asked the Board to add the specific documentation required in the final-form rulemaking. The documentation required is determined by the type of application submitted and the applicant’s employer. For example, speech-language pathology applicants seeking licensure under section 7(a)(1) of the act shall submit documentation verifying their supervised professional experience while audiology applicants seeking licensure under section 7(a)(2) of the act do not need to submit experience documentation. Additionally, applicants seeking a waiver of the examination requirement under section 7(b)(1) of the act shall submit a letter of good standing from the state wherein the applicant holds/held a license and a copy of the applicable laws and regulations from those states so that the Board can determine equivalence with the educational requirements. Applicants seeking a waiver based upon current ASHA certification under section 7(b)(2) of the act shall submit a verification from the ASHA that applicant possesses a current Clinical Competence from the ASHA’s Council for Clinical Certification based upon having obtained the required education and passing the licensure examination. Similarly, applicants seeking a waiver under the grandfather provision in section 7(c) of the act shall submit the specific education and employment verifications to meet the requirements of this subsection.

Applicants who are employed by organizations or corporations that engage in the practice of speech-language pathology or audiology also shall submit employer certifications with their applications under sections 16 and 17 of the act (63 P.S. §§ 1716 and 1717). Similarly, applicants who have different names than the ones used to apply for licensure shall submit a copy of the legal name document. Because of the various permutations, the Board has not set forth the specific documentation required. Rather, the instructions for the various applications, which appear on the Board’s web site, specifically set forth the applicable documentation required.

§ 45.14. Reactivation of licensure status

Proposed § 45.14(a) (relating to reactivation of licensure status) required licensees who wish to reactivate an expired or inactive license to apply for reactivation, pay the registration fee and submit a “verification of nonpractice.” IRRC asked the Board to clarify what documentation would need to be submitted and how it is

to be submitted to the Board. The Board clarifies in this final-form rulemaking that a licensee is required to verify that the licensee has not practiced in this Commonwealth while the license was expired or inactive. This verification, as is set forth in the reactivation instructions, can be in a letter to the Board, submitted on a form provided by the Board or, in the future as the Board converts many of its applications to online formats, submitted electronically through an online verification.

§ 45.17. *Education requirements*

§§ 45.18 and 45.19. *(Reserved)*

Professor Shinn recommended that the Board retain the former educational requirements in addition to the accreditation requirements so that the Board does not become dependent on the accreditation standards, some of which the Board may not support. The amendments to § 45.17 (relating to education requirements) track the changes to section 7 of the act. For speech-language pathologists, applicants shall possess a master's degree from an academic program accredited by an accrediting agency approved by the Board. For audiologists, applicants shall possess a doctoral degree in audiology from an academic program accredited by an accrediting agency approved by the Board and the United States Department of Education or the Council for Higher Education Accreditation. The Board will not approve an accrediting agency with standards that the Board does not support. The Board will post a list of approved accrediting agencies on its web site.

In light of the educational changes in section 7 of the act, the Board is divested from imposing additional educational standards or permitting alternative educational pathways. As a result, §§ 45.18 and 45.19 are no longer applicable and are rescinded.

§ 45.20. *Supervised professional experience required for licensure as a speech-language pathologist*

In the preamble to the proposed rulemaking, the Board clarified that unlike audiology students who complete their supervised professional experience during the last year of their doctoral degree programs, speech-language pathology students complete their supervised professional experience after their degrees are conferred. IRRC requested that the Board specify in this final-form rulemaking that this provision only applies to persons seeking licensure as speech-language pathologists. Owing to IRRC's request, the Board revised this section heading to "supervised professional experience required for licensure as a speech-language pathologist."

This section requires that the experience be supervised by a currently licensed speech-language pathologist in the state or jurisdiction where the supervised professional experience is being obtained. The PSHA recommended that the Board replace "supervisor" and "supervision" with "mentor" and "mentoring" in subsection (d) to conform to Principle I(D) of ASHA's Code of Ethics. Supervisor and supervision are also used in subsections (a) and (c). In light of the specific statutory language in section 7(a)(1) of the act requiring supervised professional experience in the field of speech-language pathology, the Board believes it should not replace supervisor with mentor or supervision with mentoring.

§ 45.22. *Foreign-trained applicants*

In the proposed rulemaking, the Board split § 45.22 (relating to foreign-trained applicants) into separate subsections for speech-language pathologists and audiologists because the educational requirements for the two profes-

sions differ as set forth in section 7(a) of the act. Although both subsections mentioned the requirement that foreign-trained applicants for licensure take the licensure examination, the proposed deletion of subsection (b), which specifically required passing the examination, caused confusion so that IRRC and Professor Shinn questioned why the Board proposed to delete the requirement. Professor Shinn recommended that the Board reinsert it.

Because it was not the Board's intention to delete the examination requirement as a precondition for licensure of foreign-trained applicants, the Board withdraws the proposal to delete subsection (b). In addition, the Board amends subsection (a) in this final-form rulemaking to include the requirements for speech-language pathology and audiology applicants.

§ 45.23. *Provisional licenses*

Section 45.23 stems from the authorization in section 7(d) of the act to issue provisional licenses to: (1) speech-language pathologists and audiologists licensed in other states; (2) speech-language pathologists who are completing their supervised professional experience; and (3) audiologists who are applying for licensure or post-doctoral graduate students completing additional post-graduate professional experience. Subsection (a)(1)(i) and (2)(i) tracks the statutory time frame of 6 months because the applicant has completed all of the requirements for licensure but is awaiting the issuance of the license by the Board. Subsection (a)(1)(ii) and (2)(ii) tracks the statutory time frame of 18 months enabling individuals to practice speech-language pathology or audiology while completing the professional experience. Because audiologists complete their supervised professional experience as part of their audiology degree, the Board understands this provision to apply to individuals seeking additional education, for example, a doctorate in education following the conferral of a doctorate in audiology. Subsection (a)(3) tracks the statutory time frame of 90 days for applicants who hold licenses in other states.

IRRC questioned whether an audiologist holding a provisional license may renew the provisional license since subsection (d) only addresses speech-language pathologists. The PAA also sought verification that audiologists may renew provisional licenses. As reflected in subsection (a)(1)(ii) and (2)(ii), which tracks section 7(d)(1) of the act (as well as the fee for the renewal of a provisional license in § 45.1 (relating to fees)), speech-language pathologists and audiologists who are obtaining professional experience are permitted to renew their provisional licenses. Proposed subsection (d) added the additional requirement that speech-language pathology provisional license holders who are completing their supervised professional experience shall update the Board regarding their acquisition of supervised professional experience. Because the Board believed that audiology post-doctoral graduates would likely complete their additional post-graduate professional experience within the 18-month provisional license timeframe, it did not include this group in subsection (d). Owing to the PAA's concern, however, the Board added audiologists who obtain a provisional license under final-form subsection (a)(2)(ii) to subsection (d).

§ 45.102. *Code of Ethics*

Principle of Ethics I(1) in subsection (c) reiterates the prohibition in the definitions of "practice of audiology" and "practice of speech-language pathology" against speech-language pathologists and audiologists providing medical diagnosis and medical treatments. The PAA

requested that the Board carve out an exemption for certain diagnostic codes for insurance billing purposes in subsection (c) so that there would not be confusion over insurance reimbursement for audiologic procedures that audiologists currently perform. The only changes made to this provision from the former version is the deletion of references to teachers of the hearing-impaired. The Board does not believe that it has, in any way, altered the standard for insurance reimbursement for audiologic procedures that audiologists perform. In fact, the Board does not have jurisdiction to regulate in any manner regarding insurance reimbursement. Given the specific statutory language in section 2 of the act (63 P.S. § 1702) and throughout the act clearly referring to nonmedical diagnosis and treatment, the Board did not see a reason to revise this section or to carve out exceptions related to specific insurance billing codes.

§ 45.103. *Unprofessional conduct*

The Board proposed to add a requirement in paragraph (24) that licensees utilize universal precautions based upon the Centers for Disease Control and Prevention's (CDC) recommendation for all health care providers as well as the standard in the professions enunciated by the ASHA and the AAA. IRRC did not oppose the addition of this provision but requested that the Board add a more definitive explanation of what precautions and infection control methods would be acceptable since the violation of these precautions would subject a licensee to discipline. Owing to IRRC's concern, the Board revises paragraph (24) to require licensees to follow the CDC's 2007 Guideline for Isolation Precautions: Preventing Transmission of Infectious Agents in Healthcare Settings available on the CDC's web site at <https://www.cdc.gov/hicpac/2007IP/2007isolationPrecautions.html>.

Subchapter E. Assistants

In §§ 45.301, 45.304, 45.305, 45.307 and 45.308, the Board deletes references to teachers of the hearing-impaired. The PAA requested that the Board further amend §§ 45.301 and 45.304 (relating to definitions; and minimum education, experience and training requirements) to enable audiologists to apply the same delegation rubric to assistants as the State Board of Medicine uses for physician delegation to assistants and technicians in §§ 18.401 and 18.402 (related to definitions; and delegation). Under section 202 of the act of July 31, 1968 (P.L. 769, No. 240) (45 P.S. § 1202), known as the Commonwealth Documents Law, the Board is precluded from making amendments to this final-form rulemaking that enlarge the original purpose of the proposed rulemaking. Because the only basis for this final-form rulemaking is implementing Act 106 and increasing biennial renewal fees, the Board cannot, at this stage in the rulemaking process, add substantive provisions concerning delegation. To give stakeholders the opportunity to comment on this proposal, the Board will consider addressing delegation in a subsequent rulemaking.

Fiscal Impact and Paperwork Requirements

This final-form rulemaking will increase the initial and biennial renewal fees for licensees of the Board and adopt a new fee for the issuance of provisional licenses. There are currently approximately 7,353 actively licensed speech-language pathologists and 947 actively licensed audiologists, a total of approximately 8,300 licensees who will be required to pay \$19 more to renew their licenses. Additionally, approximately 650 applicants apply for licensure annually. The vast majority of licensees and applicants are considered to be working for small busi-

nesses. They will be impacted because their license fees will increase. This final-form rulemaking should not have other fiscal impact on the private sector, the general public or political subdivisions of this Commonwealth.

This final-form rulemaking will require the Board to alter some of its forms to reflect the new fee and create new applications for provisional licenses and IOM certifications. Audiologists seeking IOM certification will be required to file additional paperwork with the Board. However, this final-form rulemaking will not create other additional paperwork for the regulated community or for the private sector.

Sunset Date

The Board continuously monitors the effectiveness of its regulations. Therefore, a sunset date has not been assigned.

Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P.S. § 745.5(a)), on October 19, 2016, the Commissioner and the Board submitted a copy of the notice of proposed rulemaking, published at 46 Pa.B. 6853, to IRRC and the Chairpersons of the HPLC and the SCP/PLC for review and comment.

Under section 5(c) of the Regulatory Review Act, the Board shall submit to IRRC, the HPLC and the SCP/PLC copies of comments received during the public comment period, as well as other documents when requested. In preparing the final-form rulemaking, the Board has considered all comments from IRRC and the public.

Under section 5.1(j.2) of the Regulatory Review Act (71 P.S. § 745.5a(j.2)), on June 14, 2017, the final-form rulemaking was deemed approved by the HPLC and the SCP/PLC. Under section 5.1(e) of the Regulatory Review Act, IRRC met on June 15, 2017, and approved the final-form rulemaking.

Additional Information

Additional information may be obtained by writing to Sandra Matter, Board Administrator, State Board of Examiners in Speech-Language Pathology and Audiology, P.O. Box 2649, Harrisburg, PA 17105-2649.

Findings

The Board finds that:

(1) Public notice of proposed rulemaking was given under sections 201 and 202 of the act of July 31, 1968 (P.L. 769, No. 240) and regulations promulgated thereunder, 1 Pa. Code §§ 7.1 and 7.2.

(2) A public comment period was provided as required by law and all comments were considered in drafting this final-form rulemaking.

(3) The amendments made to the final-form rulemaking do not enlarge the purpose of the proposed rulemaking published at 46 Pa.B. 6853.

(4) The amendments to the regulations of the Board are necessary and appropriate for the regulation of the practice of audiology and speech-language pathology in this Commonwealth.

Order

The Commissioner and the Board, acting under its authorizing statute, order that:

(a) The regulations of the Commissioner and the Board, 49 Pa. Code Chapters 43b and 45, are amended by adding §§ 45.23 and 45.24, deleting §§ 45.18 and 45.19

and amending §§ 43b.16a, 45.1, 45.2, 45.11—45.17, 45.20—45.22, 45.102, 45.103, 45.301, 45.304, 45.305, 45.307, 45.308, 45.401, 45.501, 45.505 and 45.507 to read as set forth in Annex A, with ellipses referring to the existing text of the regulations.

(b) The Commissioner and the Board shall submit a copy of Annex A to the Office of the Attorney General and the Office of General Counsel for approval as required by law.

(c) The Commissioner and the Board shall submit this order and Annex A to IRRC, the HPLC and the SCP/PLC as required by law.

(d) The Commissioner and the Board shall certify this order and Annex A and shall deposit them with the Legislative Reference Bureau as required by law.

(e) The regulations shall take effect immediately upon publication in the *Pennsylvania Bulletin*.

IAN J. HARLOW,
Commissioner
Bureau of Professional and Occupational Affairs

JONETTE B. OWEN, AuD,
Chairperson
State Board of Examiners in
Speech-Language Pathology and Audiology

(Editor's Note: See 47 Pa.B. 3672 (July 1, 2017) for IRRC's approval order.)

Fiscal Note: 16A-6803. (1) Professional Licensure Augmentation Account; (2) Implementing Year 2016-17 is -\$0; (3) 1st Succeeding Year 2017-18 is -\$3,680; 2nd Succeeding Year 2018-19 is -\$250; 3rd Succeeding Year 2019-20 is -\$5,200; 4th Succeeding Year 2020-21 is -\$250; 5th Succeeding Year 2021-22 is -\$5,200; (4) 2015-16 Program—\$245,226; 2014-15 Program—\$224,881; 2013-14 Program—\$209,071; (7) Professional and Occupational Affairs (R); (8) recommends adoption. Eliminating the license for teachers of the hearing impaired will result in a loss of fee revenue for the Board. However, increases to the application and biennial renewal fees for all speech-language pathologists and audiologists are necessary to cover current and future year Board expenses.

Annex A

TITLE 49. PROFESSIONAL AND VOCATIONAL STANDARDS

PART I. DEPARTMENT OF STATE

Subpart A. PROFESSIONAL AND OCCUPATIONAL AFFAIRS

CHAPTER 43b. COMMISSIONER OF PROFESSIONAL AND OCCUPATIONAL AFFAIRS

SCHEDULE OF CIVIL PENALTIES, GUIDELINES FOR IMPOSITION OF CIVIL PENALTIES AND PROCEDURES FOR APPEAL

§ 43b.16a. Schedule of civil penalties—audiologists and speech-language pathologists.

STATE BOARD OF EXAMINERS IN SPEECH-LANGUAGE PATHOLOGY AND AUDIOLOGY

<i>Violation under</i>	<i>Title / Description</i>	<i>Civil Penalty</i>
63 P.S. § 1706	Practicing as an audiologist or speech-language pathologist on a lapsed license	0—12 months—\$50 per month Over 12 months—formal action 2nd offense—formal action
49 Pa. Code § 45.501	Failure to complete 20 hours of approved continuing education during a biennial renewal period	1st offense—\$100 per clock hour 2nd offense—formal action

CHAPTER 45. STATE BOARD OF EXAMINERS IN SPEECH-LANGUAGE PATHOLOGY AND AUDIOLOGY

Subchapter A. GENERAL PROVISIONS

§ 45.1. Fees.

The following are the fees charged by the Board:

- (1) Initial license \$50
- (2) Certification of licensure \$15
- (3) Biennial renewal of license \$65
- (4) Provisional license \$50
- (5) Provisional license renewal \$30
- (6) Certification to utilize neurophysiologic intraoperative monitoring \$15
- (7) Application for continuing education approval (other than preapproved provider) \$40

§ 45.2. Definitions.

The following words and terms, when used in this chapter, have the following meanings, unless the context clearly indicates otherwise:

ASHA—The American Speech-Language-Hearing Association.

Act—The Speech-Language Pathologists and Audiologists Licensure Act (63 P.S. §§ 1701—1719).

Biennial renewal period—The period from August 1 of an even-numbered year to July 31 of the next even-numbered year.

Board—The State Board of Examiners in Speech-Language Pathology and Audiology.

Business entity—A lawful form of organization, including a corporation, partnership, trust, association, company or other similar form of organization.

Clock hour—Consists of 50 to 60 minutes of instruction or participation in an approved continuing education course or program.

Continuing education record—Report provided to a participant in a continuing education course or program by the provider which conforms to § 45.506(b) (relating to provider responsibilities).

Direct supervision—The personal, on-premises observation of activities performed by personnel working under the licensee or qualified training supervisor.

Inactive license—A license status in which the licensee notifies the Board that the licensee no longer requires an active license to practice.

Lapsed license—A license status in which the license has not been currently renewed.

Licensees—Speech-language pathologists and audiologists.

Neurophysiologic intraoperative monitoring—The process of continual testing and interpreting of results by the use of electrodiagnostic modalities to identify and monitor the functional integrity of neurological structures to reduce the risk of injury and complications related to the nervous system during a surgical procedure.

Practice of audiology—The application of principles, methods and procedures related to disorders of the auditory and vestibular systems including all of the following:

(i) Prevention of hearing loss by designing, implementing and coordinating industrial, school and community-based hearing conservation programs.

(ii) Identification of dysfunction of hearing, balance and other auditory-related systems by developing and overseeing hearing and balance-related screening programs for persons of all age, including newborn and school screening programs.

(iii) Administration of speech or language screening or other measures for the purpose of initial identification and referral of persons with other communicative disorders.

(iv) Assessment and nonmedical diagnosis and treatment of hearing and vestibular disorders through the administration of behavioral, psychoacoustic, electrophysiologic tests of the peripheral and central auditory and vestibular systems using standardized test procedures, including all of the following:

- (A) Audiometry.
- (B) Tympanometry.
- (C) Acoustic reflex measures.
- (D) Otoacoustic emissions.
- (E) Auditory evoked potentials.
- (F) Video and electronystagmography.

(G) Tests of central auditory function using calibrated instrumentation leading to the diagnosis of auditory and vestibular dysfunction abnormality.

(v) Assessment of candidacy of persons with hearing loss for cochlear implants.

(vi) Nonmedical treatment for persons with impairment of auditory function utilizing amplification and other assistive devices.

(vii) Selection, fitting, evaluation and dispensing of hearing aids and other amplification systems.

(viii) Fitting and mapping of cochlear implant devices and audiologic rehabilitation to optimize device use.

(ix) Fitting of middle ear implantable hearing aids, fully implantable hearing aids and bone-anchored hearing aids.

(x) Conducting otoscopic examinations.

(xi) Nonmedical treatment of persons with tinnitus using techniques including biofeedback, masking, hearing aids, education and counseling.

(xii) Counseling on the psychosocial aspects of hearing loss and the use of amplification systems.

(xiii) Administration of electrophysiologic measures of neural function, including sensory and motor-evoked potentials, and preoperative and postoperative evaluation of neural function.

(xiv) Use of neurophysiologic intraoperative monitoring of the central nervous system, spinal cord and cranial nerve function by an audiologist holding certification from the Board under § 45.24 (relating to certification to utilize neurophysiologic intraoperative monitoring) and upon delegation from and under the overall direction of a physician.

(xv) Acts within the definition of “practice of audiology” in the following documents, provided there is not a conflict with the act or this chapter:

(A) ASHA’s Scope of Practice in Audiology statement developed by the Coordinating Committee for ASHA Vice President for Professional Practices in Audiology and approved in 2016 by the Legislative Council.

(B) The American Academy of Audiology’s Scope of Practice document developed in 1992, and updated in 1996 and 2004.

(C) The Academy of Doctors of Audiology’s (ADA) Scope of Practice statement jointly crafted by the ADA and the Audiology Foundation of America (July 31, 2003).

Practice of speech-language pathology—The application of principles, methods and procedures of prevention, screening, consultation, identification, assessment and evaluation, determination of disorders and service delivery model, nonmedical treatment and intervention, counseling, collaboration and referral services for persons with known or suspected language, cognitive and linguistic, social, speech (resonance and voice, fluency and sound production), feeding and swallowing, orofacial myofunctional disorders or communication disorders, including all of the following:

(i) Screening individuals for hearing loss or middle ear pathology using conventional pure-tone air conduction methods, otoacoustic emissions screening and screening tympanometry.

(ii) Providing intervention and support services for children and adults diagnosed with speech-language or auditory processing disorders.

(iii) Using instrumentation to observe, collect data and measure parameters of communication and swallowing or other upper aerodigestive functions.

(iv) Developing, selecting and implementing multimodal augmentative and alternative communication systems, including aided and unaided strategies.

(v) Providing amplification services to children and adults with hearing loss.

(vi) Selecting, fitting and establishing effective use of devices for communication and swallowing other than hearing amplification.

(vii) Providing nonmedical treatment and instruction on modification or enhancement of communication performance.

(viii) Evaluating the functionality of amplification devices.

(ix) Providing auditory training involving individuals with hearing loss.

(x) Teaching and implementing techniques to assure safety and efficiency in swallowing.

(xi) Acts within the definition of “practice of speech-language pathology” developed by the ASHA’s Ad Hoc Committee on the Scope of Practice in Speech-Language Pathology and approved by the ASHA Legislative Council in 2016, provided there is not a conflict with the act or this chapter.

Provider—An agency, organization, institution, college, university, professional society, association or center approved by the Board to offer an organized continuing education course or program.

Subchapter B. LICENSURE AND CERTIFICATION

§ 45.11. Licenses and certifications.

The Board issues the following licenses and certifications:

- (1) Speech-language pathologist license.
- (2) Audiologist license.
- (3) Provisional license as a speech-language pathologist.
- (4) Provisional license as an audiologist.
- (5) Certification for an audiologist to utilize neurophysiologic intraoperative monitoring.

§ 45.12. Licensure application procedures.

(a) The applicant for licensure shall submit to the Board, along with required fees as provided by § 45.1 (relating to fees), a completed, signed and dated application and applicable documentation.

(b) Excluding applicants who fall within the exclusions in section 6(b) of the act (63 P.S. § 1706(b)), the applicant for licensure shall file with the Board evidence that the applicant has:

- (1) *Speech-language pathologists.*
 - (i) Met the educational requirements of § 45.17(a) (relating to education requirements).
 - (ii) Completed 9 months of supervised professional experience requirements of § 45.20 (relating to supervised professional experience required for licensure as a speech-language pathologist).
 - (iii) Passed an examination approved by the Board.
 - (iv) Demonstrated that the applicant is of good moral character.
- (2) *Audiologists.*
 - (i) Met the educational requirements of § 45.17(b).
 - (ii) Passed an examination approved by the Board.
 - (iii) Demonstrated that the applicant is of good moral character.

(c) An applicant who wishes to apply for more than one Board-issued license or provisional license specified in § 45.11 (relating to licenses and certifications) shall submit a separate application for each license or provisional license.

§ 45.13. Renewal of license; inactive status of license; required continuing education.

(a) Unless renewed for the upcoming biennium, licenses issued under this subchapter expire at the end of the current biennium.

(b) Licenses, provisional licenses, certifications and documentation from the Board will be sent to the address provided to the Board by the licensee. Whenever the licensee changes an address of record, the licensee shall notify the Board in writing within 10 days after making the address change.

(c) The licensee shall renew his license in the manner prescribed by the Board and pay the required fee, as provided by § 45.1 (relating to fees). Unless a licensee requests that a license be placed on inactive status, at the end of a biennial period it will be marked expired until it is renewed or reactivated.

(d) When a license is renewed after the expiration date, a late fee, as provided for by section 225 of the Bureau of Professional and Occupational Affairs Fee Act (63 P.S. § 1401-225), will be charged for each month or part of a month that the licensee has engaged in practice beyond the expiration date. A licensee who practices under an expired license may be subject to criminal prosecution under section 18 of the act (63 P.S. § 1718).

(e) A license that is not renewed at the end of a biennium will be marked expired unless a licensee who does not intend to practice in this Commonwealth requested that the license be placed on inactive status.

(f) A licensee who fails to renew a license or who requests to be placed on inactive status will not be sent Board notifications until the license is renewed or reactivated.

(g) An application for renewal of a license will not be granted unless the licensee has certified that the licensee has completed the required continuing education hours under § 45.501 (relating to credit hour requirements). If requested by the Board, an application for renewal shall also include the documentation required under § 45.504 (relating to reporting completion of continuing education).

(h) An application for reactivation of an inactive or lapsed license shall also include the documentation required under § 45.504 for the preceding biennial period.

§ 45.14. Reactivation of licensure status.

(a) A licensee who wishes to reactivate an expired or inactive license shall apply for reactivation, pay the current registration fee and verify that the licensee has not practiced in this Commonwealth while the license was expired or inactive.

(b) A licensee shall pay a late renewal fee for the preceding biennial registration periods in which the licensee engaged in practice in this Commonwealth while the license was expired or inactive.

(c) With the exception of individuals exempt from licensure under section 6(b)(2) of the act (63 P.S. § 1706(b)(2)), licensees who practice in this Commonwealth during a period in which the licensees’ registration is not renewed shall pay a late fee of \$5 for each month or part of a month beyond the date specified for renewal, as provided in section 225 of the Bureau of Professional and Occupational Affairs Fee Act (63 P.S. § 1401-225), in addition to the prescribed biennial renewal fee. The payment of a late fee does not preclude the Board from taking disciplinary action against a licensee for practicing in this Commonwealth without a current license.

(d) A licensee whose license has lapsed, been suspended or placed on inactive status for more than 5 years shall demonstrate continued competency to reactivate the license by doing one of the following:

(1) Successfully complete the initial licensing examination approved by the Board.

(2) Successfully complete the required continuing education in § 45.501(a) (relating to credit hour requirements) for the biennial periods during which the license was lapsed, suspended or inactive.

(3) Provide evidence to the Board that the applicant has a license in good standing to practice speech-language pathology or audiology in another jurisdiction that has substantially similar requirements for licensure and has engaged in practice in the other jurisdiction at some period within the last 5 years.

§ 45.15. Duplicate licenses.

A duplicate license will be issued only upon payment of the fee as prescribed by the Bureau of Professional and Occupational Affairs Fee Act (63 P.S. §§ 1401-101—1401-501).

§ 45.16. Display of license.

The licensee shall post the license and, if applicable, certification in a conspicuous place in the office or place of business of the licensee.

§ 45.17. Education requirements.

(a) *Speech-language pathologist.* An applicant for licensure as a speech-language pathologist shall provide evidence of holding a master's degree in speech-language pathology from an academic program accredited by an accrediting agency approved by the Board. The Board will make available a list of approved accrediting agencies on its web site.

(b) *Audiologist.* An applicant for licensure as an audiologist shall provide evidence of holding a doctoral degree in audiology from an academic program approved by an accrediting agency approved by the Board and the United States Department of Education or the Council for Higher Education Accreditation. The Board will make available a list of approved accrediting agencies on its web site.

§ 45.18. (Reserved).

§ 45.19. (Reserved).

§ 45.20. Supervised professional experience required for licensure as a speech-language pathologist.

(a) The applicant shall begin the supervised professional experience within 4 years of conferral of the degree, and shall complete no less than 1,260 hours in no less than 9 months, but no more than 2 years.

(b) The Board may waive the requirements in subsection (a) in the case of demonstrated undue hardship, military service or other good cause shown by the applicant.

(c) The applicant shall complete the supervised professional experience under the supervision of a currently licensed speech-language pathologist in the state or jurisdiction where the supervised professional experience is being obtained.

(1) The supervisor may not supervise more than three applicants completing their supervised professional experience at any one time.

(2) Applicants may not work under the direction of more than two supervisors at one time.

(d) The applicant shall inform individuals under his care that he is completing the supervised professional experience and is working under the supervision of a licensed speech-language pathologist.

(e) An applicant shall spend at least 80% of each week in direct client contact related to assessment, nonmedical diagnosis, evaluation, screening, habilitation, rehabilitation, consulting, recordkeeping or other duties appropriate to a bona fide program of clinical work. No more than 50% of the applicant's time may be spent conducting screenings. Clinical residents who teach, conduct research, perform administrative tasks or engage in other activities not related to direct client contact may not apply the time devoted to these activities toward meeting the supervised professional experience requirement.

(f) During the supervised professional experience, the applicant shall routinely consult with the supervisor for evaluation of the applicant's performance in professional employment. These consultations shall occur at least once a month and shall include review of the applicant's performance in regard to one or more of the following:

- (1) Clinical treatment or evaluation.
- (2) Changes in the communication behaviors of persons served by the applicant.

(3) Clinical records, diagnostic reports, treatment records, correspondence, plans of treatment and summaries of clinical conferences.

(4) Staff conferences and interaction with allied professionals, colleagues and clients and their representatives.

(5) Contributions to professional meetings and publications, and participation in other professional growth opportunities.

(6) Other matters related to the applicant's knowledge, skills and abilities to practice.

(g) During the supervised professional experience, the applicant shall complete at least 36 supervised activities as follows:

(1) A minimum of one supervised activity shall be completed per month.

(2) Each of a minimum of 18 activities shall meet the following criteria. The activities shall:

- (i) Be directly supervised and involve the assessment, nonmedical diagnosis, evaluation, screening, habilitation and rehabilitation of clients.
- (ii) Be at least 1 hour in duration.

(3) No more than 6 hours of direct supervision activities may be completed in 1 day.

(4) At least six direct supervision activities shall be completed during each third of the supervised professional experience.

(5) Applicants fulfilling the supervised professional experience at more than one site shall complete at least one direct supervision activity at each site during each of the three segments of the supervised professional experience.

(h) The supervisor shall attest that the applicant has fulfilled the criteria of the supervised professional experience.

(i) The final decision as to whether the applicant has satisfactorily met the conditions of the supervised professional experience is within the discretion of the Board.

§ 45.21. Waivers.

The Board will waive the education, experience and examination requirements of this subchapter for an applicant who:

(1) Holds a currently valid license to practice speech-language pathology or audiology in a state which has standards determined by the Board to be at least equal to those for licensure in this Commonwealth. The applicant shall file an application with the Board, and shall cause the appropriate agency in the state of licensure to submit to the Board a letter attesting to the applicant's good standing.

(2) Holds a current certificate of clinical competence from the Council for Clinical Certification of the ASHA. The applicant shall file an application with the Board, and shall cause the ASHA to submit to the Board certification of the applicant's status.

(3) Is a current practitioner who falls within the exemption in section 7(c) of the act (63 P.S. § 1707(c)), earned a bachelor's degree in speech-language pathology or a master's degree in audiology from an accredited college or university as of February 19, 1982, and was employed as a speech-language pathologist or audiologist for at least 9 consecutive months during the period February 19, 1982—February 19, 1985. The applicant shall file an application with the Board, and shall provide documentation evidencing completion of the degree and employment as a speech-language pathologist or audiologist.

§ 45.22. Foreign-trained applicants.

(a) To apply for licensure the foreign-trained applicant shall, before examination, submit evidence satisfactory to the Board that the applicant meets the following requirements:

(1) *For speech-language pathologists:*

(i) Is of good moral character.

(ii) Has completed educational requirements substantially equivalent to § 45.17(a) (relating to education requirements). The Board will accept a credential evaluation done by a recognized and accredited credential evaluation agency approved by the Board as proof that the foreign-trained applicant has completed these requirements.

(iii) Has completed at least 9 months of supervised professional experience as provided by § 45.20 (relating to supervised professional experience required for licensure as a speech-language pathologist).

(2) *For audiologists:*

(i) Is of good moral character.

(ii) Has completed educational requirements substantially equivalent to § 45.17(b). The Board will accept a credential evaluation done by a recognized and accredited credential evaluation agency approved by the Board as proof that the foreign-trained applicant has completed these requirements.

(b) The foreign-trained applicant may be licensed by the Board, if the applicant has complied with subsection (a) and has passed the licensure examination.

§ 45.23. Provisional licenses.

(a) The following applicants may be issued a provisional license:

(1) *Speech-language pathologist.*

(i) Applicants for licensure who have completed the requirements in § 45.12(b)(1) (relating to licensure application procedures). A provisional license granted under this subparagraph will be valid for 6 months from the date the application for licensure is submitted to the Board.

(ii) Applicants who are completing the supervised professional experience necessary to receive an ASHA Certificate of Clinical Competence. A provisional license granted under this subparagraph will be valid for 18 months and may be renewed one time under section 7(d) of the act (63 P.S. § 1707(d)).

(2) *Audiologists.*

(i) Applicants for licensure who have completed the requirements in § 45.12(b)(2). A provisional license granted under this subparagraph will be valid for 6 months from the date the application for licensure is submitted to the Board.

(ii) Post-doctoral graduates completing additional post-graduate professional experience. A provisional license granted under this subparagraph will be valid for 18 months and may be renewed one time under section 7(d) of the act.

(3) *Licenseses from other states.* Individuals who hold a valid license in another state to practice speech-language pathology or audiology who apply for licensure in this Commonwealth may also apply for a provisional license. A provisional license granted under this paragraph will be valid for 90 days.

(b) An applicant seeking a provisional license shall submit all of the following:

(1) An application for a provisional license and the fee in § 45.1(4) (relating to fees).

(2) In addition to meeting the requirements of subsection (b)(1), an applicant for a provisional license under subsection (a)(1)(ii) or (2)(ii) shall also submit:

(i) A letter describing the applicant's plans for completing the professional experience.

(ii) A transcript.

(A) Speech-language pathologist applicants' transcripts must evidence completion of the applicants' didactic education.

(B) Audiologist applicants' transcripts must evidence completion of didactic and clinical education.

(3) In addition to meeting the requirements of paragraph (1), an applicant for a provisional license under subsection (a)(1)(i), (2)(i) or (3) shall also submit an application for licensure and the accompanying fee in § 45.1(1).

(c) Except for provisional licenses granted under subsection (a)(1)(i) and (2)(i), provisional licensees shall practice only under supervision of a supervisor who holds the same type of license as the provisional licensee and, if the provisional licensee does not hold a graduate degree, who is physically present in the area or unit where the provisional licensee is practicing.

(d) An applicant who was issued a provisional license under subsection (a)(1)(ii) or (2)(ii) seeking an extension of the provisional license shall provide a detailed written explanation of the reason the extension is requested and the status of the applicant's supervised professional experience.

§ 45.24. Certification to utilize neurophysiologic intraoperative monitoring.

(a) Prior to utilizing neurophysiologic intraoperative monitoring, an audiologist shall obtain certification from the Board.

(b) Applicants shall be granted certification by the Board upon submission of documentation evidencing one of the following:

(1) Current certification from the American Board of Neurophysiologic Monitoring, the American Audiology Board of Intraoperative Monitoring or another National certifying organization approved by the Board.

(2) Completion of the doctoral level coursework, including neuroanatomy, neurophysiology and other neurophysiologic intraoperative monitoring, from an accredited doctoral audiology program and clinical instruction in neurophysiologic intraoperative monitoring that meets the requirements of section 8.1(2) of the act (63 P.S. § 1708.1(2)). The applicant has the affirmative burden of proving that these requirements are met.

(c) The Board will make available a list of approved certifying organizations on its web site.

Subchapter C. STANDARDS OF PRACTICE AND CONDUCT

§ 45.102. Code of Ethics.

(a) *General.* The Board is empowered by section 5(2) of the act (63 P.S. § 1705(2)) to promulgate a Code of Ethics for speech-language pathologists and audiologists, and the Board finds that the following rules are essential for establishing and maintaining stringent standards of professional conduct and for protecting the public interest, the Board has established the following Code of Ethics. A violation of this code constitutes unprofessional conduct under § 45.103 (relating to unprofessional conduct) or, as applicable, fraud or deceit under § 45.104 (relating to fraud or deceit), and subjects the violator to appropriate disciplinary action.

(b) *Preamble.*

(1) The preservation of the highest standards of integrity is vital to the successful discharge of the professional responsibilities of speech-language pathologists and audiologists. To this end, the Board has established this Code of Ethics to safeguard the public health, safety and welfare and to assure that speech-language and hearing services of the highest possible quality are available to the people of this Commonwealth. A violation of a provision of the Code of Ethics constitutes unprofessional conduct subject to disciplinary action. Accordingly, failure to specify a particular responsibility or practice in the code should not be construed as a deliberate omission.

(2) The fundamental rules of ethical conduct are described in the following categories:

(i) *Principles of Ethics.* Seven principles serve as the basis for the ethical evaluation of professional conduct and form the underlying moral basis for the Code of Ethics. Speech-language pathologists and audiologists, as defined in the act, shall observe these principles as affirmative obligations under all conditions of professional activity.

(ii) *Ethical proscriptions.* Ethical proscriptions are formal statements of prohibitions that are derived from the Principles of Ethics.

(c) *Principle of Ethics I.*

(1) Because speech-language pathologists and audiologists provide nonmedical and nonsurgical services, medical diagnosis and medical treatment by these persons are specifically to be considered unethical and illegal.

* * * * *

§ 45.103. Unprofessional conduct.

As used in section 10(5) of the act (63 P.S. § 1710(5)), the term “unprofessional conduct” includes all of the following types of conduct:

(1) Practicing as a speech-language pathologist or an audiologist with a license that has lapsed or that has been suspended or revoked.

(2) Knowingly aiding or abetting a person who is not licensed or exempted from licensure by the act to practice as a speech-language pathologist or an audiologist.

(3) Misrepresenting or concealing a material fact in seeking reinstatement of a license to practice as a speech-language pathologist or an audiologist.

(4) Delegating to a person duties that the speech-language pathologist or an audiologist knows, or has reason to know, the person is not competent or authorized to perform.

(5) Committing an act of gross negligence, gross malpractice or gross incompetence, or repeated acts of negligence, malpractice or incompetence.

(6) Practicing as a speech-language pathologist or an audiologist while unable to do so with reasonable skill and safety because of illness, drunkenness, excessive use of controlled substances, chemicals or other types of materials or as the result of a mental or physical condition.

(7) Withdrawing professional services after a professional relationship has been established without informing the person served of where to obtain necessary and equivalent professional services in a timely manner.

(8) Harassing, abusing or intimidating a person served. Sexual contact, or requests for sexual contact, with a person served is specifically prohibited by this subsection.

(9) Committing an act involving moral turpitude, dishonesty or corruption when the act directly or indirectly affects the health, welfare or safety of citizens of this Commonwealth. If the act constitutes a crime, conviction in a criminal proceeding is not a condition precedent to disciplinary action by the Board.

(10) Failing to provide necessary professional care or products to a person served in a timely manner or to inform the person served of the need for the care.

(11) Revealing personal or professional identifiable facts obtained as a result of a professional relationship without the prior consent of the person served, parent or guardian, except as authorized by a court or required by statute.

(12) Unconditionally guaranteeing the effectiveness of professional services and products rendered.

(13) Advertising professional services and products in a manner which is false, misleading or deceptive.

(14) Accepting compensation from a person being supervised or sponsored, beyond reasonable reimbursement for direct expenses.

(15) Being disciplined by a licensing or disciplinary authority of another state or country or convicted or disciplined by a court of a state or country for an act that would be grounds for disciplinary action under the act or this chapter.

(16) Being convicted of or pleading guilty or nolo contendere to a felony, whether or not an appeal or other proceeding is pending to have the conviction or plea set aside.

(17) Failing to comply with § 45.101 (relating to preparing, maintaining and retaining records).

(18) Providing services or promoting the sale of devices, appliances or products to a person who cannot reasonably be expected to benefit from them.

(19) Failing to comply with the act.

(20) Failing to comply with an order, rule or regulation issued or adopted by the Board, including its Code of Ethics.

(21) Violating a State or Federal statute or a regulation promulgated thereunder in the *Pennsylvania Code* or the *Code of Federal Regulations* by a State or Federal agency that imposes a standard for practicing as a speech-language pathologist or an audiologist in this Commonwealth. The Board, in reaching a decision as to whether there has been a violation of a statute or regulation, will be guided by adjudications of the agency or court that administers or enforces the standard.

(22) Utilizing neurophysiologic intraoperative monitoring without possessing certification from the Board.

(23) Failing to refer patients who presented with suspected medical conditions beyond the licensee's scope of practice under the act for medical evaluation to an appropriate physician within 30 days.

(24) Failing to follow the Centers for Disease Control and Prevention's 2007 Guideline for Isolation Precautions: Preventing Transmission of Infectious Agents in Healthcare Settings.

Subchapter E. ASSISTANTS

§ 45.301. Definitions.

The following words and terms, when used in this subchapter, have the following meanings, unless the context clearly indicates otherwise:

Assistant—An individual who works under the direction and supervision of a licensed audiologist or speech-language pathologist and who meets the requirements in this subchapter.

Direct onsite supervision—The physical presence of a licensed audiologist or speech-language pathologist in the facility or location where the assistant is working who is immediately available to exercise supervision, direction and control.

Interpreter—An individual whose sole function is to translate or to facilitate communication between persons via oral, cued speech, manual, total communication or written modes. For purposes of this subchapter, an interpreter is not considered an assistant.

Task—Work assigned or carried out as a part or subcomponent of the assistant's duties.

§ 45.304. Minimum education, experience and training requirements.

(a) Prior to the use of an assistant, the licensee shall obtain from the assistant evidence of one of the following:

(1) The assistant has completed 30 semester hours or the equivalent from an accredited institution of higher education in the area of speech-language pathology and audiology as outlined in the requirements as specified (nonaudited) for a certificate of clinical competence from the Council for Clinical Certification of the ASHA.

(2) The assistant has practiced as an assistant in the area of speech-language pathology and audiology since at least June 8, 1989, under the supervision of an audiologist or speech-language pathologist licensed in this Commonwealth.

(3) The assistant has practiced as an assistant in the area of speech-language pathology and audiology since at least June 8, 1989, under the supervision of an audiologist or speech-language pathologist licensed in another state or the District of Columbia which has requirements for assistants substantially equivalent to the provisions of this subchapter.

(b) Prior to assigning a duty to an assistant, a licensee shall perform a task analysis of the expected duties of each assistant the licensee supervises, and shall then train the assistant, with an emphasis on competency-based skill acquisition, in accordance with this analysis. Training may be provided through formal coursework, workshops or directly supervised observation or practicum; training shall encompass all areas of activities which the assistant will perform. An assistant trained in one area (audiology or speech-language pathology) may not perform duties in another area unless training in that area has been given. An assistant is not permitted to perform a duty for which, in the opinion of the licensed supervisor, the assistant is neither trained nor qualified. A minimum of 20 hours of practical training for each duty is required.

(c) A licensee shall familiarize an assistant with the standards of practice and conduct and the application of these ethics to each assistant's activities, codified in Subchapter C (relating to standards of practice and conduct).

§ 45.305. Functions and duties of assistants.

(a) An assistant may engage in only duties that are planned, designed and supervised by a licensee. Examples of appropriate duties include the following:

(1) The screening of speech, language or hearing.

(2) The recording, charting, graphing or otherwise displaying of data which reflects the performance of a person served.

(3) The maintaining of clinical records.

(4) The reporting of changes in the performance of a person served to the licensee who is responsible for that person.

(5) The preparing of clinical materials, including ear molds.

(6) The testing of hearing aids to determine whether they meet published specifications.

(7) The participating with the licensee in research projects, in-service training, public relations programs and similar activities.

(b) The assistant may not engage in one or more of the following activities:

(1) The formulating of diagnostic statements or clinical management strategies or procedures.

(2) The determining of who will be served.

(3) The transmitting of clinical information, including data or impressions bearing on the performance, behavior or progress of a person served, either verbally or in writing, to anyone other than the licensee.

(4) The independent composing of clinical reports, except for progress notes to be held in the file of a person served.

(5) The referring of a person served to other professionals or other agencies.

(6) The using of a title, either verbally or in writing, other than one which complies with § 45.301 (relating to definitions).

(7) Activities which require the formal education or training, and the skill and knowledge of a licensed audiologist or speech-language pathologist.

§ 45.307. Limitations.

(a) An assistant may not engage in activities reserved by the act to licensees of the Board, nor may the assistant hold himself out to the public, either by title or by description of services, as an audiologist or speech-language pathologist. Titles may be used only in conjunction with the appendage “assistant,” for example, “audiology assistant.”

(b) A licensee may not assign, delegate or permit assistants to perform activities which require the formal education or training, and the skill and knowledge of a licensed audiologist or speech-language pathologist, including activities enumerated under § 45.305 (relating to functions and duties of assistants).

§ 45.308. Exceptions.

(a) A licensee is not required to file with the Board a list of support personnel who do not engage in activities requiring formal education or training in the field of speech-language and hearing, the skill and knowledge of a licensed audiologist or speech-language pathologist, or the skill and knowledge of an assistant, as required under this subchapter.

(b) This subchapter does not limit the activities of a student who is pursuing a program of study supervised by a person licensed under the act which leads to a degree in audiology or speech-language pathology in this Commonwealth.

Subchapter F. CHILD ABUSE REPORTING REQUIREMENTS

§ 45.401. Definitions.

The following words and terms, when used in this subchapter, have the following meanings, unless the context clearly indicates otherwise:

Child abuse—A term meaning any of the following:

(i) A recent act or failure to act by a perpetrator which causes nonaccidental serious physical injury to a child under 18 years of age.

(ii) An act or failure to act by a perpetrator which causes nonaccidental serious mental injury to or sexual abuse or sexual exploitation of a child under 18 years of age.

(iii) A recent act, failure to act or series of acts or failures to act by a perpetrator which creates an imminent risk of serious physical injury to or sexual abuse or sexual exploitation of a child under 18 years of age.

(iv) Serious physical neglect by a perpetrator constituting prolonged or repeated lack of supervision or the

failure to provide the essentials of life, including adequate medical care, which endangers a child’s life or development or impairs the child’s functioning.

ChildLine—An organizational unit of the Department of Human Services which operates a 24-hour a day Statewide toll free telephone system for receiving reports of suspected child abuse, referring reports for investigation and maintaining the reports in the appropriate file.

Individual residing in the same home as the child—An individual who is 14 years of age or older and who resides in the same home as the child.

Licensee—An audiologist or speech-language pathologist licensed by the Board.

Perpetrator—A person who has committed child abuse and is a parent of the child, a person responsible for the welfare of a child, an individual residing in the same home as a child or a paramour of a child’s parent.

Person responsible for the child’s welfare—A person who provides permanent or temporary care, supervision, mental health diagnosis or treatment, training or control of a child in lieu of parental care, supervision and control. The term does not include a person who is employed by or provides services or programs in a public or private school, intermediate unit or area vocational-technical school.

Recent acts or omissions—Acts or omissions committed within 2 years of the date of the report to the Department of Human Services or county agency.

Serious mental injury—A psychological condition, as diagnosed by a physician or licensed psychologist, including the refusal of appropriate treatment, that does one or more of the following:

(i) Renders a child chronically and severely anxious, agitated, depressed, socially withdrawn, psychotic or in reasonable fear that the child’s life or safety is threatened.

(ii) Seriously interferes with a child’s ability to accomplish age-appropriate developmental and social tasks.

Serious physical injury—An injury that causes a child severe pain or significantly impairs a child’s physical functioning, either temporarily or permanently.

Sexual abuse or exploitation—The employment, use, persuasion, inducement, enticement or coercion of a child to engage in or assist another person to engage in sexually explicit conduct or a simulation of sexually explicit conduct for the purpose of producing a visual depiction, including photographing, videotaping, computer depicting or filming, of sexually explicit conduct or the rape, sexual assault, involuntary deviate sexual intercourse, aggravated indecent assault, molestation, incest, indecent exposure, prostitution, statutory sexual assault or other form of sexual exploitation of children.

Subchapter G. CONTINUING EDUCATION

§ 45.501. Credit hour requirements.

(a) Each speech-language pathologist or audiologist shall have completed 20 clock hours of continuing education per license during each preceding biennial renewal period. Excess clock hours may not be carried over to the next biennium.

(b) Up to 10 clock hours of approved continuing education credit per biennial renewal period may be granted on a case-by-case basis for services as a lecturer or speaker, and for publication of articles, books and research relating to the practice of speech-language pathology or audiol-

ogy. A licensee seeking continuing education credit under this subsection shall submit a written request with a copy of the lecture, presentation, article, book or research and a fee for continuing education approval as required under § 45.1 (relating to fees). The request shall be submitted 180 days prior to the expiration of the biennial renewal period for which the licensee is seeking credit. An instructor of a program approved under § 45.505 (relating to approval of continuing education programs) will receive credit to the same extent that an attendee will receive credit and is not required to apply for approval under this subsection.

(c) Unless granted a waiver under § 45.502 (relating to exemption and waiver), the Board will not renew or reactivate any speech-language pathologist or audiologist license until the continuing education requirement for the current biennial renewal period has been completed.

(d) A licensee may not receive credit for participation in substantially the same program more than once during a single renewal cycle.

§ 45.505. Approval of continuing education programs.

* * * * *

(d) The following programs are deemed approved for continuing education credit:

(1) Continuing education programs approved or sponsored by the ASHA.

(2) Continuing education programs approved or sponsored by the American Academy of Audiology.

(3) Courses and programs offered for credit by academic programs in speech-language pathology or audiol-

ogy associated with institutions accredited by any state's department of education or a regional commission on institutions of higher education.

* * * * *

§ 45.507. Disciplinary action authorized.

(a) A licensed speech-language pathologist or audiologist who submits fraudulent continuing education records may be subject to discipline under section 10 of the act (63 P.S. § 1710).

(b) A licensed speech-language pathologist or audiologist who fails to complete the required continuing education requirement within any biennial renewal period may be subject to discipline unless the licensee is exempt or has been granted a waiver under § 45.502 (relating to exemption and waiver).

(c) Notwithstanding discipline imposed by the Board under subsection (b), whether by formal disciplinary proceedings or by issuance of a citation as set forth in § 43b.16a (relating to schedule of civil penalties—audiologists and speech-language pathologists), a licensed speech-language pathologist or audiologist who has been found to be deficient in continuing education hours shall make up deficiencies within 6 months of receiving notice of the deficiency.

(d) Failure to make up deficient continuing education hours as required under subsection (c) may subject the licensed speech-language pathologist or audiologist to further discipline under section 10 of the act.

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