

Title 22. Examining Boards

Part 32. State Board of Examiners for Speech-Language Pathology and Audiology

Chapter 741. Speech-Language Pathologists and Audiologists.

Subchapter A. Definitions

Amendment §741.1

Subchapter B. The Board

Amendment §741.13

Subchapter D. Code of Ethics; Duties and Responsibilities of Supervisors [**License Holders**]

Amendments §741.44

Subchapter E. Requirements for Licensure of Speech-Language Pathologists

Amendments §§741.61, 741.62, 741.64

New §741.66

Subchapter F. Requirements for Licensure of Audiologists

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New §741.86

Subchapter J. Licensure Examinations

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New §§741.203, 741.204

Proposed Preamble

The State Board of Examiners for Speech-Language Pathology and Audiology (board) proposes amendments to §§741.1, 741.13, 741.44, 741.61, 741.62, 741.64, 741.81, 741.121, 741.141, 741.162, 741.191 and 741.192, and new §§741.66, 741.86, 741.142, 741.163, 741.203, and 741.204 concerning the regulation and licensure of speech-language pathologists and audiologists.

BACKGROUND AND PURPOSE

The proposed rules are intended to update the rules so that they reflect the rulemaking required by the recent legislation, 82nd Texas Legislature, Regular Session, 2011, amending Occupations Code, §401.202, concerning the continuation and functions of the State Board of Examiners for Speech-Language Pathology and Audiology.

SECTION-BY-SECTION SUMMARY

The amendment to §741.1 is proposed to clarify several definitions related to the functions of the board.

The amendment to §741.13 is proposed to clarify that the governor shall designate a member of the board as the presiding officer of the board to serve in that capacity at the will of the governor.

The amendments to §741.44 adds wording clarifying that the supervisor can be either a speech-language pathologist or an audiologist and deletes wording that should be in another subchapter.

The amendment to §741.61 is proposed to clarify the national accrediting organization that is approved by the board and recognized by the United States Secretary of Education.

The amendment to §741.62 is proposed to clarify the time frame for submission of an application after completing the supervised professional experience.

The amendment to §741.64 outlines requirements for licensure of an Assistant in Speech-Language Pathology.

New §741.66 addresses the licensing process for speech-language pathology professionals seeking licensure of spouses of members of the military.

The amendment to §741.81 is proposed to clarify the national accrediting organization that is approved by the board and recognized by the United States Secretary of Education and to remove obsolete language.

New §741.86 addresses the licensing process for audiology professionals seeking licensure of spouses of members of the military.

The amendment to §741.121 is proposed to include the new score for the audiology examination.

The amendment to §741.141 is proposed to clarify the expiration date of an intern's license.

New §741.142 addresses the criminal history record information process for licensure.

The amendment to §741.162 is proposed to clarify that the ethics clocks hours are per renewal cycle.

New §741.163 addresses the criminal history record information process for renewal of a license.

The amendment to §741.191 is proposed to clarify the recusal of a board member process.

The amendment to §741.192 adds language for the board to assess an administrative penalty to an audiologist and to order a refund to a consumer who returns a hearing instrument during the 30-day trial period.

New §741.203 addresses the process of board-ordered refunds.

New §741.204 addresses the process of cease and desist orders.

FISCAL NOTE

Joyce Parsons, Executive Director, has determined that for each year of the first five years the sections are in effect, there will be no fiscal implications to state or local governments as a result of enforcing or administering the sections as proposed.

SMALL AND MICRO-BUSINESS ECONOMIC STATEMENT AND REGULATORY FLEXIBILITY ANALYSIS.

Ms. Parsons has also determined that there will be no adverse economic impact to small businesses or micro-businesses required to comply with the sections as proposed. This was determined by interpretation of the rules that small businesses and micro-businesses will not be required to alter their business practices in order to comply with the sections. Therefore, an economic impact statement and regulatory flexibility analysis for micro-businesses and small businesses is not required.

ECONOMIC COSTS TO PERSONS AND IMPACT ON LOCAL EMPLOYMENT

There are no anticipated economic costs to persons who are required to comply with the sections as proposed. The proposal does not impose additional fees. There is no anticipated impact on local employment.

PUBLIC BENEFIT

Ms. Parsons has also determined that for each year of the first five years the sections are in effect, the public benefit anticipated as a result of enforcing or administering the sections will be to ensure the effective regulation of speech-language pathologists and audiologists in Texas, which will protect and promote public health, safety, and welfare.

REGULATORY ANALYSIS

The board has determined that this proposal is not a "major environmental rule" as defined by Government Code, §2001.0225. "Major environmental rule" is defined to mean a rule the specific intent of which is to protect the environment or reduce risk to human health from environmental exposure and that may adversely affect, in a material way, the economy, a sector of the economy, productivity, competition, jobs, the environment or the public health and safety of a state or a sector of the state. This proposal is not specifically intended to protect the environment or reduce risks to human health from environmental exposure.

TAKINGS IMPACT ASSESSMENT

The board has determined that the proposed rules do not restrict or limit an owner's right to his or her property that would otherwise exist in the absence of government action and, therefore, do not constitute a taking under Government Code, §2007.043.

PUBLIC COMMENT

Comments on the proposal may be submitted to Joyce Parsons, Executive Director, State Board of Examiners for Speech-Language Pathology and Audiology, Department of State Health Services, Mail Code 1982, P.O. Box 149347, Austin, Texas 78714-9347. Comments may also be sent through email to speech@dshs.state.tx.us. Please write "Comments on Proposed Rules" in the subject line. Comments will be accepted for 30 days following publication of the proposal in the *Texas Register*.

STATUTORY AUTHORITY

The amendments and new rules are authorized under Texas Occupations Code, §401.202, which provides the State Board of Examiners for Speech-Language Pathology and Audiology with the authority to adopt rules necessary to administer and enforce Texas Occupations Code, Chapter 401.

The amendments and new rules affect Texas Occupations Code, Chapter 401.

Legend: (Proposed Amendments)

Single Underline = Proposed new language

[Bold print and brackets] = Current language proposed for deletion

Regular Print = Current language

(No change.) = No changes are being considered for the designated subdivision

§741.1. Definitions. Unless the context clearly indicates otherwise, the words and terms below shall have the following meanings. Refer to Texas Occupations Code, §401.001, for definitions of additional words and terms.

(1) - (4) (No change.)

(5) Department--Department of State Health Services.

(6) [(5)] Extended absence--More than two consecutive working days for any single continuing education experience.

(7) [(6)] Extended recheck--Starting at 40 dB and going down by 10 dB until no response is obtained or until 20 dB is reached and then up by 5 dB until a response is obtained. The frequencies to be evaluated are 1,000, 2,000, and 4,000 hertz (Hz).

(8) [(7)] Fitting and dispensing hearing instruments--The measurement of human hearing using professionally accepted practices to select, adapt, or sell a hearing instrument.

(9) [(8)] Health care professional--An individual required to be licensed under Texas Occupations Code, Chapter 401, or any person licensed, certified, or registered by the state in a health-related profession.

(10) [(9)] Hearing instrument--Any wearable instrument or [A] device designed for, or represented as; aiding, improving or correcting defective human hearing. This includes the instrument's parts and any attachment, including an earmold, or accessory to the instrument. The term does not include a battery or cord. [offered for the purpose of, or represented as aiding persons with or compensating for, impaired hearing.]

(11)[(10)] Hearing screening--A test administered with pass/fail results for the purpose of rapidly identifying those persons with possible hearing impairment which has the potential of interfering with communication.

(12) [(11)] Licensed Assistant in Speech-Language Pathology--An individual who provides speech language pathology support services under supervision of a licensed speech-language pathologist.

(13) [(12)] Licensed Assistant in Audiology--An individual who provides audiological support to clinical programs under supervision of a licensed audiologist.

(14) [(13)] Sale or purchase--Includes the sale, lease or rental of a hearing instrument or augmentative communication device to a member of the consuming public who is a user or prospective user of a hearing instrument or augmentative communication device.

(15) [(14)] Telehealth--The use of telecommunications and information technologies for the exchange of information from one site to another for the provision of speech-language pathology or audiology services to an individual from a provider through hardwire or internet connection.

(16) [(15)] Telepractice--The practice of telehealth.

(17) [(16)] Under the direction of--The licensed speech-language pathologist or audiologist directly oversees the services provided and accepts professional responsibility for the actions of the personnel he or she agrees to direct.

§741.13. Transaction of Official Business.

(a) The governor shall designate a member of the board as the presiding officer of the board to serve in that capacity at the will of the governor.

(b) [(a)] The board shall elect, by a simple majority vote of those members present, [**a presiding officer,**] an assistant presiding officer, and a secretary-treasurer at the meeting held nearest to January 1st. If a vacancy occurs in any of the offices at any other time, it shall be filled by a simple majority vote of those members present at any board meeting.

(c) [(b)] The executive director shall prepare and submit an agenda to the board prior to each meeting. The agenda shall include:

- (1) items required by law;
- (2) items requested by members; and
- (3) other items of board business approved for discussion by the presiding officer.

(d) [(c)] The board shall make all official decisions according to parliamentary procedure as set forth in Robert's Rules of Order Revised. If a question arises concerning interpretation of Robert's Rules of Order Revised, the presiding officer or assistant presiding officer shall make the decision.

(e) [(d)] The board shall not be bound in any way by any statement or action on the part of any board member, committee, or staff member except when a statement or action is in pursuance of the specific instruction of the board.

§741.44. Requirements; Duties, and Responsibilities of Supervisors.

(a) A licensee must have three years of professional experience in providing direct client services in the area of licensure in order to supervise an intern or assistant. The licensee's internship year shall be counted toward the three years of experience. If the licensee **[licensed speech-language pathologist]** does not have the required experience, he or she may submit a written request outlining his or her qualifications and the reason for the request. The board's designee shall evaluate the request and approve or disapprove it within 15 working days of receipt by the board.

(b) - (d) (No change.)

[(e) A supervising speech-language pathologist must attend an ARD meeting if the purpose of the meeting is to develop a student's initial individual educational plan or if the meeting is to consider the student's dismissal, unless the supervising speech-language pathologist has submitted their recommendation in writing on or before the date of the meeting.]

[(f) A licensed assistant shall not use "SLP-A" or "STA" as indicators for their credentials. Licensees shall use "Assistant SLP" or "SLP Assistant" to shorten their professional title.]

[(g) A licensed intern shall not use "SLP-CFY" or "SLP-CF" as indicators for their credentials. Licensees shall use "Intern SLP" or "SLP Intern" to shorten their professional title.]

§741.61. Requirements for a Speech-Language Pathology License.

(a) (No change.)

(b) The graduate degree shall be completed at a college or university which has a program accredited by a national accrediting organization that is approved by the board and recognized by the United States Secretary of Education under the Higher Education Act of 1965 (20 U.S.C., §1001 et seq.) **[the American Speech-Language Hearing Association Council on Academic Accreditation and holds accreditation or candidacy status from a recognized regional accrediting agency].**

(1) - (5) (No change.)

(c) - (g) (No change.)

§741.62. Requirements for an Intern in Speech-Language Pathology License.

(a) - (n) (No change.)

(o) If the intern holds a valid license, the **[The]** intern may continue to practice under supervision for up to 30 days after the board office receives the Report of Completed Internship Form. **[if he or she holds a valid intern license while awaiting the processing of the speech-**

language pathology license or the temporary certificate of registration in speech-language pathology as follows:]

[(1) The current supervisor shall agree to supervise the intern from the "Ending Date of Internship" as shown on the report of completed internship form until the intern receives either the speech-language pathology license or the temporary certificate of registration.]

[(2) If the intern changes supervisors, the new supervisor shall first submit the intern plan and agreement of supervision form and receive board approval before the intern may resume practice.]

[3) Supervision required while awaiting approval of either the speech-language pathology license or the temporary certificate of registration shall be consistent with supervision requirements established in subsection (h) of this section.]

(p) If the intern holds a valid license, the intern may continue to practice under supervision for up to 30 days after the board office receives the Report of Completed Internship.

(q) A licensed intern shall not use "SLP-CFY" or "SLP-CF" as indicators for their credentials. Licensees shall use "Intern SLP" or "SLP Intern" to shorten their professional title.

§741.64. Requirements for an Assistant in Speech-Language Pathology License.

(a) - (h) (No change.)

(i) The licensed assistant shall not:

(1) - (15) (No change.)

(16) provide client or family counseling; **[or]**

(17) write or sign any formal document relating to the reimbursement for or the provision of speech-language pathology services; or

(18) use "SLP-A" or "STA" as indicators for their credentials. Licensees shall use "Assistant SLP" or "SLP Assistant" to shorten their professional title.

(j) - (m) (No change.)

§741.66. Speech-Language Pathology Licensing of Spouses of Members of the Military.

(a) This section sets out the alternative license procedure for military spouse required under Occupations Code, Chapter 55 (relating to License While on Military Duty and for Military Spouse).

(b) The spouse of a person serving on active duty as a member of the armed forces of the United States who holds a current license issued by another state that has licensing requirements shall complete and submit an application form and fee to the department. In accordance with Occupations Code, §55.004(c), the executive director may waive any prerequisite to obtaining a license after reviewing the applicant's credentials and determining that the applicant holds a license issued by another jurisdiction that has licensing requirements substantially equivalent to those of this state.

(c) The spouse of a person serving on active duty as a member of the armed forces of the United States who within the five years preceding the application date held the license in this state that expired while the applicant lived in another state for at least six months is qualified for licensure base on the previously held license, if there are no unresolved complaints against the applicant and if there is no other bar to licensure, such as criminal background or non-compliance with a board order.

§741.81. Requirements for an Audiology License.

(a) (No change.)

(b) The **[master's degree (awarded prior to 2007) or the]** doctoral degree in audiology or related hearing sciences shall be completed at a college or university that has a program accredited by a national accrediting organization that is approved by the board and recognized by the United States Secretary of Education under the Higher Education Act of 1965 (20 U.S.C., §1001 et seq.) [the American Speech-Language Hearing Association Council on Academic Accreditation and holds accreditation or candidacy status from a recognized regional accrediting agency].

(c) - (d) (No change.)

[(e) In the event the applicant passed the examination referenced in subsection (d) of this section more than two years after the completion date of the internship, the applicant shall repeat the 36 weeks supervised internship before applying for the audiology license. The applicant shall obtain the intern license as required by §741.82 of this title (relating to Requirements for an Intern in Audiology License) prior to repeating the internship. The applicant may appeal to the board for waiver of the requirement to repeat the internship.]

(e) **[(f)]** An applicant who previously held the American Speech-Language-Hearing Association Certificate of Clinical Competence or the American Board of Audiology (ABA) certification may have the certificate reinstated and apply for licensure under §741.83 of this title (relating to Waiver of Clinical and Examination Requirements for Audiologists).

§741.86. Audiology Licensing of Spouses of Members of the Military.

(a) This section sets out the alternative license procedure for military spouse required under Occupations Code, Chapter 55 (relating to License While on Military Duty and for Military Spouse).

(b) The spouse of a person serving on active duty as a member of the armed forces of the United States who holds a current license issued by another state that has licensing requirements shall complete and submit an application form and fee to the department. In accordance with Occupations Code, §55.004(c), the executive director may waive any prerequisite to obtaining a license after reviewing the applicant's credentials and determining that the applicant holds a license issued by another jurisdiction that has licensing requirements substantially equivalent to those of this state.

(c) The spouse of a person serving on active duty as a member of the armed forces of the United States who within the five years preceding the application date held the license in this state that expired while the applicant lived in another state for at least six months is qualified for licensure base on the previously held license, if there are no unresolved complaints against the applicant and if there is no other bar to licensure, such as criminal background or non-compliance with a board order.

§741.121. Examination Administration.

(a) (No change.)

(b) An applicant shall have passed the examination: **[if the score is 600 or above.]**

(1) in Speech-Language Pathology, if the score is 600 or above;

(2) in Audiology (for examinations taken before November 21, 2011), if the score is 600 or above; or

(3) in Audiology (for examinations taken after November 20, 2011), if the score is 170 or above.

§741.141. Issuance of License.

(a) (No change.)

(b) The board shall issue an initial license to an applicant for an intern in speech-language pathology or an intern in audiology license after the fee, forms, and other documentation have been received and approved by the board or board staff. The license shall expire two years **[one year]** past the effective date.

(c) - (g) (No change.)

§741.142. Criminal History Record Information Requirement for License Issuance.

(a) An applicant for a license shall submit a completed legible set of fingerprints on a form prescribed by the board, to the board or the Department of Public Safety for the purpose of

obtaining criminal history record information from the Department of Public Safety and the Federal Bureau of Investigation.

(b) A person who does not comply with the requirements in subsection (a) of this section shall not be issued a license by the board.

(c) A criminal history check of each applicant for a license shall be conducted by the board using information:

(1) provided by the individual seeking licensure; and

(2) made available to the board by the Department of Public Safety, the Federal Bureau of Investigation, and any other criminal justice agency under Government Code, Chapter 411.

(d) On the board's behalf, the Department of State Health Services may:

(1) enter into an agreement with the Department of Public Safety to administer a criminal history check required under this section; and

(2) authorize the Department of Public Safety to collect from each applicant the costs incurred by the Department of Public Safety in conducting the criminal history check.

§741.162. Requirements for Continuing Professional Education.

(a) - (b) (No change.)

(c) A minimum of twenty clock hours (two CEUs) shall be required to renew a license issued for a two-year term. The holder of dual licenses, meaning both a speech-language pathology license and an audiology license, shall be required to earn 30 clock hours (three CEUs) to renew a license issued for a two-year term. Effective April 30, 2009, a license holder must complete a minimum of 2.0 clock hours (0.2 CEUs) in ethics as part of the continuing education requirement each renewal term.

(d) - (n) (No change.)

§741.163. Criminal History Record Information Requirement for License Renewal.

(a) An applicant renewing a license shall submit a completed legible set of fingerprints on a form prescribed by the board, to the board or the Department of Public Safety for the purpose of obtaining criminal history record information from the Department of Public Safety and the Federal Bureaus of Investigations.

(b) A person who does not comply with the requirements in subsection (a) of this section shall not received a license renewal

(c) The requirements of this section do not apply to a license holder who has previously submitted fingerprints under this section or §741.142 of this title (relating to Criminal History Record Information Requirement for License Issuance).

§741.191. Complaint Procedures.

(a) A board member who participated in the investigation of a complaint or an informal settlement negotiations regarding the complaint:

(1) may not vote on the matter at a board meeting related to the complaint; and

(2) shall state at the meeting why the member is prohibited from voting on the matter.

(b) A statement under subsection (a)(2) of this section shall be entered into the minutes of the meeting.

(c) [(a)] A person wishing to report an alleged violation of the Act or the rules by a licensee or other person shall notify the executive director. The initial notification may be in writing, by telephone, or by personal visit to the board office.

(d) [(b)] Upon receipt of a complaint, the executive director shall send an acknowledgment letter to the complainant along with an official form which the complainant must complete and return to the board before further action may be taken. The executive director may accept an anonymous complaint if there is sufficient information for the investigation.

(e) [(c)] A complaints committee shall be appointed to work with the executive director to:

(1) review and determine whether each complaint fits within the category of a serious complaint affecting the health and safety of clients or other persons;

(2) ensure that complaints are not dismissed without appropriate consideration;

(3) ensure that a person who files a complaint has an opportunity to explain the allegations made in the complaint; and

(4) resolve the issues of the complaint which arise under the Act or this chapter.

(f) [(d)] Prior to or during an investigation, the executive director or his or her designee shall request a response from the licensee or person against whom an alleged violation has been filed to gather information required by the complaints committee of the board. The licensee or person against whom an alleged violation has been filed must respond within 15 working days of the executive director's request.

(g) [(e)] If it is determined that the matters alleged in the complaint are non-jurisdictional, or if the matters alleged in the complaint would not constitute a violation of the Act or this chapter, the executive director may dismiss the complaint and give written notice of dismissal to the licensee or person against whom the complaint has been filed, the complainant, and the complaints committee.

(h) [(f)] If it is determined that the matters in the complaint are jurisdictional, the complaint shall be investigated. The executive director or the committee may initiate the investigation.

(i) [(g)] If the committee determines that there are insufficient grounds to support the complaint, the committee shall dismiss the complaint and give written notice of the dismissal to the licensee or person against whom the complaint has been filed and the complainant.

(j) [(h)] If the board has the authority to resolve a written complaint, at least quarterly and until final disposition of the complaint, the board shall notify the parties to the complaint of the status of the complaint unless the notice would jeopardize an undercover investigation.

(k) [(i)] After review of a complaint or allegation that is not resolved by the committee, the committee may:

- (1) dismiss the complaint;
- (2) revoke, or suspend, or deny the license; or
- (3) take other appropriate action as authorized by law be taken.

§741.192. Disciplinary Action; Notices.

(a) The board may deny, revoke, temporarily suspend, or suspend a license, assess an administrative penalty, order a refund, or may probate disciplinary action, or may issue a reprimand to a person who:

(1) - (4) (No change.)

(b) - (d) (No change,)

§741.203. Board Ordered Refund.

(a) The board may order an audiologist to pay a refund to a consumer who returns a hearing instrument(s) during the 30-day trial period required by the rules adopted under this chapter.

(b) If the 30-day period ends on a Sunday or a holiday, then the 30-day period shall not expire until the next business day.

(c) The licensee shall have 30 days from the date of a consumer's return of the hearing instrument(s) to reimburse the consumer.

(d) In the event that the licensee fails to reimburse the consumer within the prescribed period in subsection (c) of this section, then the licensee may be subject to additional penalties and/or sanctions provided for under the Act and rules.

§741.204. Cease and Desist Order.

(a) If it is determined by the board or the board's designee that a person who is not licensed under this chapter is violating this chapter or a rule adopted under this chapter, or another state statute or rule relating to the practice of speech-language pathology and/or audiology, the board, after notice and opportunity for a hearing, may issue a cease and desist order prohibiting the person from engaging in the activity.

(b) A violation of an order under this section constitutes grounds for imposing an administrative penalty under this chapter.