

1 21 NCAC 64 .0108 is adopted as published in 35:14 NCR 1583-1586 as follows:

2

3 **21 NCAC 64 .0108 WAIVER**

4 The Board may waive any rule in this Chapter that is not statutorily required if a licensee submits a written request.

5 Factors the Board shall use in determining whether to grant the waiver are:

6 (1) degree of disruption to the Board;

7 (2) cost to the Board;

8 (3) degree of benefit to the public;

9 (4) whether the requesting party had control over the circumstances that required the requested waiver;

10 (5) notice to and opposition by the public;

11 (6) need for the waiver; and

12 (7) previous requests for waivers submitted from the requesting party.

13

14 *History Note: Authority G.S. 90-304; 150B-19(6);*

15 *Emergency Adoption Eff. April 24, 2020;*

16 *Temporary Adoption Eff. June 26, ~~2020~~, 2020;*

17 *Eff. June 1, 2021.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Board of Examiners for Speech and Language Pathologists and Audiologists

RULE CITATION: 21 NCAC 64 .0219

DEADLINE FOR RECEIPT: Wednesday, May 12, 2021

PLEASE NOTE: This request may extend to several pages. Please be sure you have reached the end of the document.

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may call our office to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends that the following technical changes be made:

In Paragraph (c), what is meant by “telepractice is the responsibility of the licensee”?

In the History Note, please correct “July 1, 2020” to “September 1, 2010”

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Amber May
Commission Counsel
Date submitted to agency: Wednesday, April 28, 2021

1 21 NCAC 64 .0219 is amended as published in 35:14 NCR 1583-1586 as follows:

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3 **21 NCAC 64 .0219 TELEPRACTICE**

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

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

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

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

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

24 (e) Registered Speech and Language Pathology Assistants and Audiology Assistants under the supervision of licensed
25 providers shall be allowed to engage in telepractice under the same level of direct supervision as required by NCAC
26 64 .1003 (e)(1), (2), and (6).

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

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

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

33
34 *History Note: Authority G.S. 90-304(a)(3);*

35 *Eff. July 1, 2020;*

36 *Amended Eff. March 1, 2014;*

1 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. October 4,*
2 *2016;*
3 *Emergency Amendment Eff. March 27, 2020;*
4 *Temporary Amendment Eff. June 26, ~~2020~~ 2020;*
5 *Amended Eff. June 1, 2021.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Board of Examiners for Speech and Language Pathologists and Audiologists

RULE CITATION: 21 NCAC 64 .1101

DEADLINE FOR RECEIPT: Wednesday, May 12, 2021

PLEASE NOTE: This request may extend to several pages. Please be sure you have reached the end of the document.

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may call our office to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends that the following technical changes be made:

Please consider alphabetizing the definitions.

In Paragraph (b), is there a reason that Subparagraphs (b)(1) and (2) are part of Paragraph (b), as opposed to their own Paragraphs? Is the intent here to provide kinds of licensees? Are these the only kinds? If you want to keep these as Subparagraphs, please provide some introductory language to (b)(1) and (2).

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Amber May
Commission Counsel
Date submitted to agency: Wednesday, April 28, 2021

1 21 NCAC 64 .1101 is adopted as published in 35:14 NCR 1583-1586 as follows:

2
3 **SECTION .1100 - REQUIREMENTS FOR THE USE OF AUDIOLOGY ASSISTANTS IN DIRECT**
4 **SERVICE DELIVERY**

5
6 **21 NCAC 64 .1101 DEFINITIONS**

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

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

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

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

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

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

19
20 *History Note: Authority G.S. 90-298.1; 90-304(a)(3);*
21 *Emergency Adoption Eff. April 24, 2020;*
22 *Temporary Adoption Eff. June 26, ~~2020~~ 2020;*
23 *Eff. June 1, 2021.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Board of Examiners for Speech and Language Pathologists and Audiologists

RULE CITATION: 21 NCAC 64 .1102

DEADLINE FOR RECEIPT: Wednesday, May 12, 2021

PLEASE NOTE: This request may extend to several pages. Please be sure you have reached the end of the document.

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may call our office to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends that the following technical changes be made:

G.S. 90-298.1 says that a licensed speech and language pathologist or audiologist may register an assistant and G.S. 90-298.1 and Rule .1103 puts the responsibility of the application on the supervisor, but this Rule appears to put that responsibility on the Assistant in (a). Do they just need to provide this information to their supervisor? Please review and clarify.

In (b), I assume that "successful completion" is determined by the Hearing Aid Dealers and Fitters Board?

In (d), are the factors that the Board will use in determining approval provided elsewhere in rule or statute?

What is your authority for the annual registration fee in (f)? I see that you have that authority to charge a fee that doesn't exceed those fees set forth in G.S. 90-305, but I don't see a "annual registration fee" in G.S. 90-305. Is this the renewal fee in G.S. 90-305(4)? If so, please use consistent language with the statute.

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Amber May
Commission Counsel
Date submitted to agency: Wednesday, April 28, 2021

1 21 NCAC 64 .1102 is adopted as published in 35:14 NCR 1583-1586 as follows:

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3 **21 NCAC 64 .1102 GENERAL REQUIREMENTS**

4 (a) For registration, Assistants must present:

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

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

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

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

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

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

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

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

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

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

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

33
34 *History Note: Authority G.S. 90-298.1; 90-304(a)(3);*
35 *Emergency Adoption Eff. April 24, 2020;*
36 *Temporary Adoption Eff. June 26, ~~2020~~ 2020;*
37 *Eff. June 1, 2021.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Board of Examiners for Speech and Language Pathologists and Audiologists

RULE CITATION: 21 NCAC 64 .1103

DEADLINE FOR RECEIPT: Wednesday, May 12, 2021

PLEASE NOTE: This request may extend to several pages. Please be sure you have reached the end of the document.

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may call our office to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends that the following technical changes be made:

In (c), are the substantive requirements of the form set forth elsewhere in rule or statute? If not, please provide them here.

In (e), please change "and/or" to either "and" or "or", whichever is intended.

In (f), do you need the language in the parenthesis? Does a patient encounter include anything other than screening or treatment? Alternatively, would it be appropriate to replace "patient encounter" with "screening or treatment"?

In (h), must they be available to physically observe or would it be sufficient to observe via the telepractice?

In (i), what is a performance-based competency assessment? Does your regulated public know?

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Amber May
Commission Counsel
Date submitted to agency: Wednesday, April 28, 2021

1 21 NCAC 64 .1103 is adopted as published in 35:14 NCR 1583-1586 as follows:

2
3 **21 NCAC 64 .1103 LICENSEE REQUIREMENTS**

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

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

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

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

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

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

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

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

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

31 (j) Assistants shall only engage in those activities related to the practice of Audiology as set forth in Rules .1104 and
32 .1105 of this Section. An Assistant's activities related to the practice of Audiology not set forth therein shall be
33 regarded as the unlicensed practice of Audiology.

34
35 *History Note: Authority G.S. 90-298.1; 90-304(a)(3);*
36 *Emergency Adoption Eff. April 24, 2020;*
37 *Temporary Adoption Eff. June 26, ~~2020~~ 2020;*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Board of Examiners for Speech and Language Pathologists and Audiologists

RULE CITATION: 21 NCAC 64 .1104

DEADLINE FOR RECEIPT: Wednesday, May 12, 2021

PLEASE NOTE: This request may extend to several pages. Please be sure you have reached the end of the document.

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may call our office to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends that the following technical changes be made:

What is the overall intent of (a)(4)? Is this to say that assistants who are not certified can't provide these direct services unless they are supervised by someone who is physically present and available 100% of the time? Would it make sense to pull this out into its own Paragraph?

What is the overall intent of (b)? Is this essentially to define "indirect patient services"? The way that I'm reading this, it is saying that the assistant has the option, but doesn't have to, do these things. So, for example in (b)(1), the assistant may (but doesn't have to) report unethical behavior; and in (b)(3), the assistant may (but doesn't have to) follow safety procedures. Is that the intent? I realize that this change was made in response to technical change request for the temporary rules related to (a), but does it make sense for the indirect patient services in (b)? Do you need to break direct patient services and indirect patient services up? Could you just say "Audiology assistants may do the following:" in (a), then in (b) say "if audiology assistants engage in any activities in (a), they shall do the following:..."? I'm wondering if (b)(1), (3), and (4) are intended to be a shall standard. I note that I don't see a difference in direct and indirect patient services referenced throughout these rules.

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Amber May
Commission Counsel
Date submitted to agency: Wednesday, April 28, 2021

1 21 NCAC 64 .1104 is adopted as published in 35:14 NCR 1583-1586 as follows:

2
3 **21 NCAC 64 .1104 AUTHORIZED TASKS OF AUDIOLOGY ASSISTANTS**

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

- 5 (1) Obtaining partial or selected case history information from patients and families;
- 6 (2) Administering audiologic screening protocols, as directed by the supervising audiologist. These
7 screening procedures, including tests and checklists or parts of tests and checklists, shall have the
8 purpose of determining the need for further diagnostic testing by the supervising audiologist and
9 must meet the following criteria:
 - 10 (A) have administration protocols and methods;
 - 11 (B) consist of test items that require no more than a binary judgment (i.e., yes-no, present-
12 absent, pass/refer);
 - 13 (C) require no more than a specifically-elicited single response; and
 - 14 (D) require no clinical interpretation by the assistant;
- 15 (3) Preparing or positioning patients for evaluation or treatment following guidelines of the supervising
16 audiologist and of the facility;
- 17 (4) Direct patient services for evaluation are not within the approved scope of responsibilities for
18 assistants who are not Certified Occupational Hearing Conservationists (COHC). Audiology
19 assistants who are not COHC may assist in the evaluation of both pediatric and adult patients, but
20 only under the supervision of the supervising audiologist who is present in the room and attending
21 to the assistant's activities 100 percent of the time. Audiology Assistants who are COHC may
22 conduct unmasked pure-tone audiometry under supervision by the licensee for adult patients. Direct
23 patient services to children under the age of 21 years old are not within the approved scope of
24 activities for assistants unless under the supervision of the supervising audiologist who is physically
25 present in the room and attending to 100 percent of the assistant's activities;
- 26 (5) Basic hearing device repair and trouble shooting;
- 27 (6) Assistance with procedures related to the fitting and dispensing of hearing devices, not to include
28 cerumen management. Ear mold impressions must be conducted with the supervision of an
29 audiologist;
- 30 (7) Instructing patients in care and use of devices dispensed by the supervising audiologist; and
- 31 (8) Providing services previously mentioned through telehealth to extend access to clinical care.

32 (b) An audiology assistant may engage in the following indirect patient services:

- 33 (1) Reporting any workplace conduct that appears to be unethical in violation of Section .0300 of this
34 Chapter or illegal to the supervising audiologist or to the Board of Examiners;
- 35 (2) Requesting assistance from the supervising audiologist, as needed, in order to ensure continuous
36 service quality;
- 37 (3) Observing universal precautions and safety procedures;

- 1 (4) Releasing patients only to the care of care-givers of record; and
2 (5) Participating in research activities as approved by an Institutional Review Board and oversight
3 committees.

4
5 *History Note: Authority G.S. 90-298.1; 90-304(a)(3);*
6 *Emergency Adoption Eff. April 24, 2020;*
7 *Temporary Adoption Eff. June 26, ~~2020~~, 2020;*
8 *Eff. June 1, 2021.*

1 21 NCAC 64 .1105 is adopted as published in 35:14 NCR 1583-1586 as follows:

2

3 **21 NCAC 64 .1105 SUPERVISION AND CONTINUING COMPETENCE REQUIREMENTS**

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

5 (1) discuss job expectations with the supervising audiologist(s) in order to have a mutual understanding
6 of job scope and responsibilities;

7 (2) participate in a specified amount of supervised training according to a written plan for all tests and
8 clinical equipment that will be used for assessment and treatment of the patient;

9 (3) receive employment evaluations on a scheduled basis from the supervising audiologist(s) to assess
10 the assistant's performance, strengths, and weaknesses of the assistant and to establish development
11 goals for continuous performance improvement;

12 (4) request assistance, additional instruction, and additional supervision from the supervising
13 audiologist, when needed;

14 (5) participate in various types of educational activities in order to enhance skill and knowledge, as
15 assigned by the supervising audiologist; and

16 (6) read information assigned by the audiologist.

17

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