

**Note from the Codifier:** The OAH website includes notices and the text of proposed temporary rules as required by G.S. 150B-21.1(a1). Prior to the agency adopting the temporary rule, the agency must hold a public hearing no less than five days after the rule and notice have been published and must accept comments for at least 15 business days. For questions, you may contact the Office of Administrative Hearings at 919.431.3000 or email oah.postmaster@oah.nc.gov.

## TITLE 21 - OCCUPATIONAL LICENSING BOARDS AND COMMISSIONS

### CHAPTER 64 – BOARD OF EXAMINERS FOR SPEECH AND LANGUAGE PATHOLOGISTS AND AUDIOLOGISTS

*Notice is hereby given in accordance with G.S. 150B-21.1 that the Board of Examiners for Speech and Language Pathologists and Audiologists intends to adopt the rules cited as 21 NCAC 64 .0108 and .1101-.1105.*

**Codifier of Rules** approved these rules as emergency rules effective April 24, 2020 and received for publication the following notice and proposed temporary rule on April 16, 2020.

#### **Public Hearing:**

**Date:** May 29, 2020

**Time:** 9:00 a.m.

**Location:** Virtual, Call in number (646) 558-8656, Meeting ID 959 2426 0484, Password 572358; Please contact Board staff at (336) 272-1828 if you have any problem accessing the virtual hearing.

**Reason for Proposed Temporary Action:** A serious and unforeseen threat to the public health, safety or welfare. On March 10, 2020, the Governor of North Carolina, by issuing Executive Order No. 116, declared a state of emergency to coordinate a response and enact protective measures to help prevent the spread of COVID-19. The COVID-19 is a respiratory disease that can result in serious illness or death. The COVID-19, previously unidentified in humans, spreads easily from person to person. Once an outbreak of the COVID-19 begins, it is difficult to contain. The World Health Organization, the Center for Disease Control and Prevention, and the United States Department of Health and Human Services have declared COVID-19 a public health threat and emergency. On March 12, 2020, the Governor of North Carolina and the NC Department of Health and Human Services recommended high risk persons stay at home, that schools implement plans for distance or e-learning, that employers and employees use teleworking technologies, and that mass gatherings should cancel, postpone, and modify these events or offer online streaming services. Additionally, it is in the public's best interest to expand the pool of healthcare providers, especially in settings where there are high risk individuals (nursing homes, assisted living facilities, etc.) and allow audiology assistants to perform limited tasks that are generally performed by audiologists. This rule alleviates access to health care concerns during the COVID-19 outbreak and promotes the public safety of patients.

**Comment Procedures:** Comments from the public shall be directed to: Denise Sherwood Brown, Executive Director, P.O. Box 16885, Greensboro, NC 27416; phone (336) 272-1828; fax (336) 262-4353; email dbrown@ncboeslpa.org. The comment period begins April 23, 2020 and ends May 29, 2020.

### SECTION .0100 - GENERAL PROVISIONS

#### **21 NCAC 64 .0108 WAIVER**

The Board may waive any rule in this Chapter that is not statutorily required if a licensee submits a written request. The Board may also waive any rule in 21 NCAC 64 that is not statutorily required upon its own initiative. Factors the Board shall use in determining whether to grant the waiver are:

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

*Authority G.S. 90-304; 150B-19(6).*

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

#### **21 NCAC 64 .1101 DEFINITIONS**

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

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

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

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

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

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

*Authority G.S. 90-298.1; 90-304(a)(3).*

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

(a) For registration, Assistants must present:

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

(2) Evidence of training provided by a supervising audiologist or education including specific instruction and demonstration of each task the assistant is to perform.

(b) Authority to approve the curriculum or the equivalent courses for audiology assistants is vested in the Board of Examiners.

(c) Assistants who conduct pure tone audiometry under general supervision by the licensee must have completed a board approved certificate program such as Certified Occupational Hearing Conservationists (COHC).

(d) A Licensee who is employed full-time (30 hours/week or more) may register to be primary supervisor of no more than two Assistants at any one time. A Licensee who is employed part-time (less than 30 hours/week) may register to supervise no more than one Assistant at any one time. The Primary Supervising Licensee shall be responsible for assuring compliance with the registration process, these rules, and with ethical standards. Secondary Supervising Licensees in the same practice may also supervise the Assistant, allowing for flexibility in scheduling.

(e) The Primary Supervising Licensee must keep the Board apprised of any changes in registration information.

(1) Changes of supervising licensee(s) will require prior written approval of the Board and should be requested in writing at least 10 days prior to the effective date.

(2) Changes that do not directly relate to patient care, such as change of address, must be reported to the Board in writing within 10 business days of the effective change.

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

*Authority G.S. 90-298.1; 90-304(a)(3).*

## **21 NCAC 64 .1103 LICENSEE REQUIREMENTS**

(a) Licensees who register an Assistant must have held a current, permanent license in North Carolina for two years or equivalent qualifications from another state. Temporary license holders shall not register Assistants.

(b) Licensees who register an Assistant must demonstrate understanding of the basic elements of the registration and supervision process (scope of practice, ethics, written protocols, record keeping), and should satisfactorily complete a demonstration of knowledge and skills of tasks on the registration/supervision process.

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

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

(e) Tasks and duties that are within the scope of responsibilities for an Assistant are listed in Rules .1104 and .1105 of this Section. The standards for all patient services provided by the Assistant are the full responsibility of the Supervising Licensee and cannot be delegated. Therefore, the assignment of tasks and the amount and type of supervision must be determined by the Supervising Licensee to ensure quality of care considering: the skills of the Assistant, needs of the patient, the service-setting, the tasks assigned, and any other relevant factors. Before assigning treatment tasks to an Assistant, the Licensee must have first evaluated the patient files and developed a plan for the care and/or follow an established protocol.

(f) For every patient encounter (screening or treatment) in which an Assistant provides service, there must be documentation of the Assistant's services provided in the patient's medical record and co-signed by a Supervising Licensee 100 percent of the time. The Supervising Licensee has full responsibility for the accuracy and compliance of the documentation. These signed and dated patient encounter records must be retained as part of the patient's file for the time period specified in Rule .0209 of this Chapter and may be requested by the Board.

(g) The Board may do random audits of records to determine compliance with its rules.

(h) When patient services are being rendered by an Assistant, the Supervising Licensee must be accessible to the Assistant in order to assure that direct observation and supervision can occur when necessary.

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

(j) Any attempt to engage in those activities and responsibilities reserved solely for the Supervising Licensee shall be regarded as the unlicensed practice of Audiology.

*Authority G.S. 90-298.1; 90-304(a)(3).*

## **21 NCAC 64 .1104 AUTHORIZED TASKS OF AUDIOLOGY ASSISTANTS**

(a) Direct Patient Services:

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

- (2) Administering audiologic screening protocols, as directed by the supervising audiologist. These screening procedures, including tests and checklists or parts of tests and checklists, will have the purpose of determining the need for further (diagnostic) testing by the supervising audiologist and must meet the following criteria:
    - (A) Have unambiguous administration protocols and methods.
    - (B) Consist of test items which require no more than a binary judgment (i.e., yes-no, present-absent).
    - (C) Require no more than a specifically-elicited single response.
    - (D) Require no clinical interpretation by the assistant.
  - (3) Preparing or positioning patients for evaluation or treatment following specific guidelines of the supervising audiologist and of the facility.
  - (4) Direct patient services for evaluation are not within the approved scope of responsibilities for assistants who are not Certified Occupational Hearing Conservationists (COHC). Audiology assistants who are not COHC may assist in the evaluation of both pediatric and adult patients, but only under the direct supervision of the supervising audiologist who is present in the room and attending to the assistant's activities 100 percent of the time. Audiology Assistants who are COHC may conduct unmasked pure-tone audiometry under general supervision by the licensee for adult patients. Direct patient services to children under the age of 21 years old are not within the approved scope of activities for assistants unless under the direct supervision of the supervising audiologist who is physically present in the room and attending to 100 percent of the assistant's activities.
  - (5) Basic hearing device repair and trouble shooting.
  - (6) Assistance with procedures related to the fitting and dispensing of hearing devices.
  - (7) Instructing patients in care and use of devices dispensed by the supervising audiologist.
  - (8) Providing services previously mentioned through telehealth to extend access to clinical care.
- (b) Indirect Patient Services:
- (1) Respecting the rights and dignity of all individuals.
  - (2) Reporting any workplace conduct which appears to be unethical or illegal to the supervising audiologist or to the Board of Examiners.
  - (3) Requesting assistance from the supervising audiologist, as needed, in order to ensure continuous service quality.
  - (4) Observing universal precautions and safety procedures.
  - (5) Releasing patients only to the care of appropriate care-givers.
  - (6) Participating in research activities as approved by the institution's Institutional Review Board and oversight committees.

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

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

Discussing job expectations with the supervising audiologist(s) and having mutual understanding of job scope and specific responsibilities.

- (1) Participating in a specified amount of supervised training according to a written plan for all tests and clinical equipment which will be used for assessment and treatment.
- (2) Receiving regular, formal employment evaluations on a scheduled basis from the supervising audiologist(s) to assess one's performance, strengths, and weaknesses and to establish development goals for continuous performance improvement.
- (3) Requesting assistance, additional instruction, and/or additional supervision from the supervising audiologist, when needed.
- (4) Participating in various types of educational activities in order to enhance skill and knowledge, as assigned by the supervising audiologist.
- (5) Reading information assigned by the audiologist.

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