

DEPARTMENT OF STATE
DIVISION OF PROFESSIONAL REGULATION
3700 BOARD OF SPEECH/LANGUAGE PATHOLOGISTS, AUDIOLOGISTS AND HEARING AID DISPENSERS
Statutory Authority: 24 Delaware Code, Section 3706(a)(1) (24 Del.C. §3706(a)(1))
24 DE Admin. Code 3700

PROPOSED

PUBLIC NOTICE

3700 Board of Examiners of Speech/Language Pathologists, Audiologists & Hearing Aid Dispensers

Pursuant to 24 Del.C. §3706(a)(1), the Board of Speech/Language Pathologists, Audiologists and Hearing Aid Dispensers ("Board") proposes revisions to its rules and regulations.

On October 1, 2015, proposed revisions to the rules and regulations were published in the Delaware *Register of Regulations*, Vol. 19, Issue 4. Specifically, the Board's proposed amendments struck the current Section 9.2.1.4, which addresses practice by telecommunications, and added a new Section 10.0, pertaining to telepractice. The new Section 10.0 sets forth standards and requirements in order to allow licensees to engage in telepractice while protecting the public.

A public hearing was held on November 17, 2015. The Board deliberated on January 19, 2016, and based on those deliberations, made substantive revisions to the proposed rules and regulations, which were published in the August 1, 2016 *Register of Regulations*, Volume 20, Issue 2. A second public hearing took place on February 21, 2017 at 2:00 p.m., and the Board deliberated on March 21, 2017. Once again, the Board made substantive changes to the proposed rules and regulations. Therefore, the Board strikes the rules and regulations as proposed in the August 1, 2016 *Register of Regulations* and proposes revised rules and regulations attached hereto as Exhibit A.

A public hearing has been scheduled for June 20, 2017 at 2:00 p.m. in the second floor conference room B of the Cannon Building, 861 Silver Lake Boulevard, Dover, Delaware, where members of the public can offer comments. Anyone wishing to receive a copy of the proposed rules and regulations may obtain a copy from the Board of Speech/Language Pathologists, Audiologists and Hearing Aid Dispensers, 861 Silver Lake Boulevard, Dover, Delaware 19904. Persons wishing to submit written comments may forward these to the Board at the above address.

In accordance with 29 Del.C. §10118(a), the final date to receive written comments will be July 5, 2017, which is 15 days following the public hearing. The Board will deliberate on all of the public comment at its next regularly scheduled meeting, at which time it will determine whether to adopt the rules and regulations as proposed or make additional changes due to the public comment.

Nature of the Proceedings

A public hearing was held before the Board on February 21, 2017 in the Cannon Building, 861 Silver Lake Boulevard, Dover, Delaware where members of the public were invited to offer comments on the proposed amendments to the rules and regulations. Members of the public were also invited to submit written comments. In accordance with 29 Del.C. §10118(a), the written public comment period was held open until March 8, 2017, which was 15 days following the public hearing. The Board deliberated on the proposed revisions at its regularly scheduled meeting on March 21, 2017.

Summary of the Evidence

At the February 21, 2017 hearing, the following exhibits were made part of the record:

Exhibit 1: *News Journal* Affidavit of Publication.

Exhibit 2: *Delaware State News* Affidavit of Publication.

Exhibit 3: Written comments from Leia Heckman, President of the Delaware Speech Language Hearing Association, objecting to subsection 10.2.1.2, outlining that the client shall be located within the borders of the State of Delaware during the telepractice treatment session. Ms. Heckman requested a change to the language to reflect the client's legal status as a Delaware resident in order to ensure continuity of care.

Exhibit 4: October 5, 2016 letter from Allison Wils of ERISA Industry Committee. Ms. Wils stated that ERISA is a national association that advocates for large employers on health, retirement and compensation public policies. Ms. Wils noted the benefits of telepractice, including flexibility and accessibility. Ms. Wils requested that the Board strike the proposed requirement that initial evaluations be performed face to face and not through telepractice in favor of permitting licensees to exercise their professional judgment. Ms. Wils also asked that the Board strike the requirement that a patient be located within the boundaries of Delaware during treatment.

Exhibit 5: November 29, 2016 letter from the Federal Trade Commission. The FTC objected to the provision requiring that initial evaluations be performed face to face. The FTC noted the benefits of telepractice in Delaware in terms of

increasing competition and access to speech and hearing services and commented that certain health services are unevenly distributed throughout the state, in particular, audiology services. The FTC stated that telepractice can be used for the diagnostic evaluation of infants who failed a newborn hearing screening test at the birth hospital. This use of telepractice could enhance quality of care and yield benefits for children with hearing loss. The FTC noted that the proposed regulations hold licensees to in-person standards of care and, with the exception of the initial evaluation, entrusts the decision whether to use telepractice to the professional judgment of the licensee. The FTC continued that the proposed restriction on telepractice could discourage the use of telepractice and noted that of the 19 states and District of Columbia with laws, regulations or policies on speech/language pathology or audiology telepractice, only three require an in-person initial evaluation. Finally, the FTC noted that Delaware's Board of Occupational Therapy Practice declined to include an initial in-person evaluation requirement.

Exhibit 6: February 21, 2017 comments to the Board, from Kathryn Tullis, PhD, Delaware Division of Public Health. Dr. Tullis noted the need for infant hearing screening and stated that often families cannot receive the required screening by three months of age due to issues related to access, particularly in Kent and Sussex counties. Dr. Tullis requested that the Board permit audiological testing on infants via telepractice.

Exhibit 7: February 21, 2017 comments from Yell Inverso, AudD, PhD, CCC-A, of Nemours/A.I. duPont Hospital for Children. Dr. Inverso expressed concern with proposed Section 10.2.4.2 stating that initial evaluations must be performed face to face. She continued that because audiologists primarily provide diagnostic services, most evaluations are initial evaluations that may not result in the need to see the patient for further visits. Dr. Inverso stated that initial evaluations are critical, particularly for newborn infants who either did not receive a newborn hearing screening at birth or who failed the newborn screening. Further testing is needed, which is provided at only one location in Kent and Sussex counties. Families are required to travel 2-3 hours to New Castle County for the necessary screening, a trip that may not be feasible given lack of transportation or lost wages with the result of infants lost to follow up. Dr. Inverso further stated that consequences are serious for these infants in terms of potential hearing loss. She concluded that the quality of this screening is comparable to a face to face visit.

Exhibit 8: February 21, 2017 comments from J. Heather Northam, MA, CCC-SLP addressing the shortage of speech and language pathologists in Delaware. She stated that providing services by telehealth provides an excellent method for addressing shortages by "extending the geographic reach" of licensed professionals. Ms. Northam objected to inclusion of the requirement that initial evaluations be performed face to face, stating that in some situations telehealth is not appropriate. However, licensed professionals can exercise professional judgment in deciding whether either initial evaluations or subsequent care can be provided by telehealth.

In addition, testimony was presented, as follows:

Jacqueline Truluck, Director of Clinical Education at the new Graduate Program at the University of Delaware, stated that she has been embracing telehealth for her students. She understands the need to follow the Board's licensing law. However, access is important. Telehealth is not a lesser service. She noted that Regulation 10.2.2.1 pertaining to informed consent mentions "risks and limitations." There are benefits to telehealth too. She is training her students to be professionals who can think critically.

Mike Kurland from Nemours noted that in terms of payment, telehealth is not treated any differently. Clinical care can be provided through telehealth at the same level. Professionals should have the decision making power with respect to the use of telehealth.

Findings and Conclusions

The public was given notice and an opportunity to provide the Board with comments in writing and by testimony at the public hearing on the proposed amendments to the Board's rules and regulations.

Pursuant to 24 **Del.C.** §3706(a)(1), the Board has statutory authority to promulgate rules and regulations. The proposed changes seek to establish standards for the delivery of services by telepractice for the professions regulated by the Board. During deliberations, the Board considered the testimony of witnesses and the documents marked as exhibits. The Board addressed the concerns presented through this evidence. The Board discussed the objection to proposed Section 10.2.1, which requires that the licensee shall have an active Delaware license, and during telepractice treatment, the client shall be located within the borders of the State of Delaware. Certain individuals offering public comment expressed reservations with respect to continuity of care and limiting access to needed services.

As previously stated in the Public Notice published in the August 1, 2016, *Register of Regulations*, Volume 20, Issue 2, the Board declines to amend Section 10.2.1. Care occurs where the client is physically located. A licensee who is licensed in Delaware only would be engaging in unlicensed practice if permitted to treat a client who has left Delaware and is located in another state. The Board would have no jurisdiction with respect to care provided in another state. Section 10.2.1 serves the interests of public protection by ensuring that clients located in Delaware receive care from practitioners properly licensed by the Board.

The Board also addressed the public comments regarding Section 10.2.4.2, which requires that first time evaluations be done in a face to face setting. The Board weighed the benefits and disadvantages of this requirement. On the benefits side, the practitioner may have enhanced ability to evaluate and make a treatment determination in a face to face setting.

There was also discussion to the effect that an access to care problem does not mean that the Board should lessen treatment standards. However, on balance, the Board determined that the decision to use telepractice for an initial evaluation should be left to the professional judgment of the practitioner, as is the case for all further evaluations or treatment sessions. Telepractice will not be appropriate for all service recipients and individuals always have the option of declining to participate in telepractice. However, as highlighted by the members of the public presenting written comment, telepractice can result in making critical care available to underserved areas in Delaware, in particular, care related to infant hearing screening. Further, as noted by the FTC, provision of services by telepractice has a broader impact in increasing competition and access to services. The Board, in their review of the proposed regulations, as published August 1, 2016, decided to strike "only after an initial face to face evaluation," at the end of subsection 10.2.4.1, and subsection 10.2.4.2 in its entirety.

3700 Board of Examiners of Speech/Language Pathologists, Audiologists & Hearing Aid Dispensers

1.0 General

- 1.1 Applications and other forms may be obtained from and be returned to the Division of Professional Regulation (Division). Please address correspondence to the Board: ATTN: SLP-AUD-HAD and mail to 861 Silver Lake Blvd., Ste. 203, Dover, DE 19904-2467. Information and forms are also available on the Division's web site dpr.delaware.gov.
- 1.2 Fees required by statute shall be made payable to: "State of Delaware" and remitted to the Division. No license shall be issued until all required fees are paid.
- 1.3 The Administrative Specialist assigned to the Board by the Division performs support functions and serves as the contact person for the Board.

6 DE Reg. 1340 (04/01/03)

11 DE Reg. 814 (12/01/07)

2.0 Licensure Requirements for Speech-Language Pathologists and Audiologists

- 2.1 Education
 - 2.1.1 To be eligible for a license as a Speech/Language Pathologist, the applicant must submit verification by an official transcript of completion of at least a master's degree or its equivalent, from an accredited college or university with major emphasis in speech-language pathology, communication disorders or speech-language and hearing science.
 - 2.1.2 To be eligible for a license as an Audiologist, the applicant must submit verification by an official transcript of completion of a doctoral degree from an accredited college or university.
- 2.2 Clinical Practicum for Speech/Language Pathologists
 - 2.2.1 The Speech/Language Pathology applicant must have completed a minimum of 400 clock hours of supervised clinical practicum. Clinical observation may qualify for up to 25 of the hours in the supervised clinical practicum.
 - 2.2.2 A minimum of 250 clock hours in the area of specialty of the supervised clinical practicum must have been obtained at the graduate level.
- 2.3 Clinical Fellowship (CF) for Speech/Language Pathologists
 - 2.3.1 The Speech/Language Pathology or Audiology applicant must have the equivalent of nine (9) months of full-time or eighteen (18) months of part time (defined as 15-20 hours per week) supervision in the major professional area in which the license is being sought. The CFY must start after completion of the academic and clinical practicum requirements.

* Supervision is defined as direct observation consisting of 36 supervisory activities, including 18 one hour on-site observations and 18 other monitoring activities. (From standards adopted by the American Speech-Language-Hearing Association (ASHA) in 1985 and revised in 2009, which can be found at www.asha.org)
- 2.4 National Examination
 - 2.4.1 The Speech/Language Pathology and Audiology applicant must have completed and passed the national examination approved by the Division of Professional Regulation for the area of specialty with at least the minimum nationally recommended score. Scores must be sent directly from the testing service to the Division of Professional Regulation.
 - 2.4.2 A Speech/Language Pathology or Audiology applicant with a temporary license is permitted to complete the appropriate national examination during the period of the temporary license.
- 2.5 Application Process-Temporary Licensure

- 2.5.1 An applicant must complete a notarized application for temporary licensure. Items which must be provided to the Division of Professional Regulation include:
 - 2.5.1.1 Official Transcript(s);
 - 2.5.1.2 Payment of appropriate fees.
 - 2.5.1.3 In addition, Speech/Language Pathologist applicants must also provide:
 - 2.5.1.3.1 Documents verifying the appropriate number and level of supervised clinical practicum hours;
 - 2.5.1.3.2 A CF plan on a form approved by the Board, signed by the licensed professional who will provide the supervision;
- 2.5.2 A temporary license is valid for one year from the date of issuance and may be renewed for one year in extenuating circumstances upon application to the Board. The licensee shall take the examination at least once prior to submitting a request for renewal of the temporary license. Requests for Board consideration of a renewal shall be made in writing and sent to the Division of Professional Regulation 60 days prior to expiration.

2.6 Application Process -Permanent Licensure

- 2.6.1 Speech/Language Pathology and Audiology applicants must complete the application on a form approved by the Board and submit the appropriate fee.
- 2.6.2 An applicant who has ASHA Certification must comply with §subsection 2.6.1 and submit a copy of current ASHA certification.
- 2.6.3 An applicant who is currently licensed in another state, the District of Columbia, or territory of the United States whose standards for licensure are substantially similar to those of this state, must comply with 24 **Del.C.** §3710. Applicants for reciprocal licensure from states not substantially similar to this state shall provide proof of practice for a minimum of five years after licensure in addition to meeting the other qualifications in 24 **Del.C.** §3710. Verification of practice shall be by notarized letter from the employer(s).
- 2.6.4 A Speech/Language Pathologist applicant who has completed the supervised CF in Delaware and has a current temporary license, must submit the following documentation to the Division of Professional Regulation 30 days prior to expiration of the temporary license:
 - 2.6.4.1 proof of completion of the CF,
 - 2.6.4.2 national examination score unless previously provided, and
 - 2.6.4.3 licensure fee.

6 DE Reg. 1340 (04/01/03)

13 DE Reg. 1097 (02/01/10)

3.0 Licensure Requirements for Hearing Aid Dispensers

- 3.1 Delaware-licensed Audiologists are authorized to dispense hearing aids, pursuant to 24 **Del.C.** §3702(9), and are not required to obtain a separate Hearing Aid Dispensing license. All other applicants shall meet the following requirements:
- 3.2 Original Licensure
 - 3.2.1 Education: Applicants must have earned a high school diploma or its equivalent.
 - 3.2.2 Training:
 - 3.2.2.1 Applicants shall complete six (6) months of training. The Board will not authorize applicants to take the exam until the training is complete.
 - 3.2.2.2 Training shall be completed under the direct supervision of a Delaware-licensed Hearing Aid Dispenser or Delaware-licensed Audiologist. "**Direct supervision**" means direct, on-site observations of the applicant by the supervisor. Applicants shall be under direct supervision for 100% of the time during the first two (2) months, 50% of the time during the subsequent two (2) months, and 25% of the time during the final two (2) months of the training period.
 - 3.2.2.3 Applicants shall hold a valid, active temporary license during the training period. Training conducted while the applicant is without a valid, active temporary license will not count toward fulfillment of the six-month training requirement.
 - 3.2.2.4 Upon completion of the training period, temporary Hearing Aid Dispensing licensees must submit verification of completion of the training period on a Board-approved form, which shall include the notarized signature of the Delaware-licensed sponsor stating that the training was completed under his or her direct supervision in accordance with Regulation subsection 3.2.2.2. Upon receipt and approval of the training verification, the Board will authorize the applicant to take the examination.
 - 3.2.3 National Examination

3.2.3.1 Applicants for Hearing Aid Dispensing licensure must have completed and passed the national examination approved by the Division, in accordance with scores as recommended by the national testing service, National Institute for Hearing Instruments Studies (NIHIS), or its successor. Upon confirmation from the testing service that an applicant has passed the exam, the Board will issue a Hearing Aid Dispensing license to the applicant.

3.2.3.2 Applicants who fail two (2) examinations may not be reexamined for a period of one (1) year following the second failure. After a second exam failure, an applicant must complete an additional training period pursuant to ~~Regulation~~ subsection 3.2.2 before the Board will grant authorization to retake the exam.

3.3 Temporary Licensure

3.3.1 To obtain a temporary license, applicants must complete the Board-approved licensure application and submit:

3.3.1.1 verification of a high school diploma or its equivalent,

3.3.1.2 payment of the appropriate fees, and

3.3.1.3 a plan for completing the six (6) month training period, which shall include the notarized signature of a Delaware-licensed sponsor stating a willingness to provide direct supervision and training.

3.3.2 A temporary license is valid for one (1) year from the date of issuance and may be renewed once for an additional one-year period in extenuating circumstances upon approval by the Board. Requests for Board consideration of a renewal shall be made in writing and sent to the Division at least 60 days prior to expiration.

3.34 Reciprocal Licensure

An applicant who is currently licensed in another state, the District of Columbia, or territory of the United States, whose standards for licensure are substantially similar to those of this state, must comply with 24 Del.C. §3710. Applicants for reciprocal licensure from states not substantially similar to this state shall provide proof of practice for a minimum of five years after licensure in addition to meeting the other qualifications in 24 Del.C. §3710. Verification of practice shall be by notarized letter from the employer(s).

11 DE Reg. 814 (12/01/07)

13 DE Reg. 1097 (02/01/10)

4.0 Expired Licenses and Inactive Status

4.1 Expired Licenses

4.1.1 A holder of an expired license may renew the license within one year of the date the renewal was due by fulfilling all of the renewal requirements and paying the late fee established by the Division of Professional Regulation.

4.2 Inactive Status

4.2.1 A licensee may apply to the Board for inactive status for up to five years. The license may be reactivated upon application on a form approved by the Board and proof of CEs completed within the preceding 24 months as required by ~~Regulation~~ subsection 8.2.3, and payment of the fee established by the Division of Professional Regulation.

13 DE Reg. 1097 (02/01/10)

5.0 Requirements for Audiology Aides

5.1 Certification

5.1.1 Certification of the Audiology Aide must be by the Council of Accreditation of Occupational Hearing Conservationists, or its equivalent, with documentation. The supervising Delaware-licensed audiologist must annually register each Audiology Aide using a form approved by the Board.

5.2 Direct Supervision

5.2.1 An Audiology Aide assists a licensed audiologist in professional activities with direct supervision by the audiologist. Direct supervision requires the presence of the supervising audiologist on the premises when the aide is performing professional activities.

5.3 Duties of the Audiology Aide

5.3.1 Duties of the Audiology Aide must be specified by the supervising audiologist and may include the following:

5.3.1.1 Air conduction pure tone assessment and data recording.

5.3.1.2 Hearing screenings.

- 5.3.1.3 Assisting with conditioning techniques.
- 5.3.1.4 Cursory otoscopy.
- 5.3.1.5 Basic hearing aid maintenance.
- 5.3.1.6 Routine instrument sterilization.
- 5.3.1.7 Biologic and electroacoustic assessment of the audiometer.
- 5.3.1.8 Clerical support.
- 5.3.1.9 Participation with the professional in research projects, in service training, or similar endeavors.
- 5.3.1.10 Other duties as may be appropriately determined with training from and direct supervision of the Delaware licensed audiologist.

6.0 Requirements for Speech/Language Pathology Aides

6.1 Education

- 6.1.1 A Speech/Language Pathology Aide must have a minimum of a high school diploma or its equivalent.

6.2 Direct Supervision

- 6.2.1 A Speech/Language Pathology Aide assists a licensed Speech/Language Pathologist in professional activities with direct supervision of the Speech/Language Pathologist. Direct supervision requires the presence of the supervising Speech/Language Pathologist at all times where an aide is assisting with testing, and/or treatment.

6.3 Duties of the Speech/Language Pathology Aide

- 6.3.1 Duties of the Speech/Language Pathology Aide must be specified by the supervising Speech/Language Pathologist and may include the following:
 - 6.3.1.1 Assisting with testing or treatment.
 - 6.3.1.2 Clerical support.
 - 6.3.1.3 Client escort.
 - 6.3.1.4 Preparation of therapeutic materials
 - 6.3.1.5 Equipment maintenance.
 - 6.3.1.6 Participation with the professional in research projects, in service training, or similar endeavors.
 - 6.3.1.7 Other duties as may be appropriately determined with training from and direct supervision of the Delaware licensed Speech/Language Pathologist.

13 DE Reg. 1097 (02/01/10)

7.0 Electronic Equipment Calibration

- 7.1 Audiologists and Hearing Aid Dispensers shall ensure the annual calibration of the electronic equipment they use to assess hearing. Calibration shall be performed by a certified professional consistent with the standards set by the American National Standards Institute (ANSI).
- 7.2 Audiologists and Hearing Aid Dispensers shall indicate by attestation in the course of license renewal whether they have complied with regulation subsection 7.1 Audiologists who do not have such equipment shall attest to that fact during the course of renewal.

11 DE Reg. 814 (12/01/07)

8.0 Continuing Education For All Licensees:

8.1 Philosophy

- 8.1.1 Continuing education is required by the Board to maintain professional licensure in the fields of Speech/Language Pathology, Audiology and Hearing Aid Dispensing. Continuing education requirements arise from an awareness that these fields are in a continual state of transition due to the introduction of new philosophies and the refinement of already existing knowledge. Speech/Language Pathologists, Audiologists and Hearing Aid Dispensers should continually strive to update their clinical skills in an effort to deliver high quality services.
- 8.1.2 The Board is keenly aware of existing educational opportunities in Delaware and neighboring states and has established regulations which will provide continuing education credit as effortlessly as possible while assuring quality instruction. Credit will be given for participation in a variety of activities that increase knowledge and enhance professional growth.
- 8.1.3 These regulations recognize the financial and time limitations of Delaware's professionals while assuring continued appropriate services to those individuals who require them.

8.2 Continuing Education Criteria

- 8.2.1 One continuing education contact hour (CE) is defined as 60 minutes of attendance/participation in an approved continuing education activity unless otherwise stated. (Therefore, credits and continuing education units (CEUs) issued by various organizations must be translated. e.g., 1.0 ASHA CEU = 10 CE's)
- 8.2.2 The required number of CEs varies with the date of issuance of license, certification and/or professional status. Effective as of the license renewal period beginning August 1, 2009, licensees must meet the following CE requirements:
- 8.2.2.1 New License: There is no CE requirement for a license issued for less than one year. If a license would cover more than one year, but less than 2 years, the licensee is required to obtain 15 CEs or one-half of the required total hours.
 - 8.2.2.2 Single License: Individuals with a license in only one (1) area of specialty must obtain a minimum of 30 CEs each two-year license renewal period.
 - 8.2.2.3 Dual License: Individuals with licenses in two (2) areas of specialty must obtain a minimum of 30 CEs during each two-year license renewal period, with 15 CEs obtained in each specialty area. One course may be split between specialty areas to fulfill multiple CE requirements. Content must be shown to be relevant to those areas.
 - 8.2.2.4 Temporary License: All CE requirements will be waived for temporary licensees; however, individuals are encouraged to participate in continuing education activities during their CFY period.
 - 8.2.2.5 Hardship. An applicant for license renewal may be granted an extension of time in which to complete CE hours or a total or partial waiver of CE requirements upon a showing of hardship. Hardship may include, but is not limited to, disability, illness, extended absence from the country and exceptional family responsibilities. No extension of time or waiver shall be granted unless the licensee submits a written request to the Board prior to the expiration of the license.
- 8.2.3 CE courses must focus on the enhancement of clinical skills and professional growth as defined below.
- 8.2.3.1 Clinical Skills: conferences, workshops, courses, etc., that expand a licensee's scope of practice by enhancing skills in the areas of prevention, assessment, diagnosis, and treatment of the client (minimum of 20 CEs per licensure renewal period).
 - 8.2.3.2 Professional Growth: conferences, workshops, courses, etc., that may not directly impact on clinical services to the population being served but are of interest to the licensee and will allow the licensee the opportunity to stay abreast of current trends in the profession or related fields of interest (maximum of 10 CEs per licensure renewal period).
- 8.2.4 All CE activities must be approved by the Board. A licensee or CE course sponsor may request advance approval from the Board by submitting a completed Board Approval form. Approval may be requested after the conclusion of a course, but there is no guarantee the course will be approved.
- 8.2.5 CE is required for license renewal and shall be completed by July 31 of odd-numbered years.
- 8.2.5.1 Proof of continuing education is satisfied with an attestation by the licensee that he or she has satisfied the requirements of Rule Section 8.0
 - 8.2.5.2 Attestation may be completed online. In the alternative, paper renewal documents that contain the attestation of completion can be submitted.
- 8.2.6 Random audits will be performed by the Board to ensure compliance with the CE requirements. The Board will determine the percentage of licensees to be audited.
- 8.2.6.1 The Board will notify licensees within sixty (60) days after July 31 of each biennial renewal period that they have been selected for audit.
 - 8.2.6.2 Licensees selected for random audit shall be required to submit verification within twenty (20) days of receipt of notification of selection for audit.
- 8.2.7 Verification shall include such information necessary for the Board to assess whether the course or other activity meets the CE requirements in Section 8.0. While course brochures may be used to verify CE hours, they are not considered to be acceptable proof for use of verification of course attendance. Verification must include, but is not limited to, the following information:
- 8.2.7.1 Date of CE course;
 - 8.2.7.2 Instructor of CE course;
 - 8.2.7.3 Sponsor of CE course;
 - 8.2.7.4 Title of CE course; and
 - 8.2.7.5 Number of hours of CE course.

8.2.7.6 Certificate of completion and/or ASHA or American Academy of Audiology (AAA) continuing education registry documenting course completion.

8.2.8 In response to the audit, audiologists and hearing aid dispensers shall submit documentation of calibration of electronic equipment used to assess hearing, as set forth in ~~Rule~~ Section 7.0.

8.2.9 Licensees who are not audited shall retain their CE documentation for three (3) years after renewal.

8.2.10 Licensees who renew their license under the late renewal provision shall be audited for CE completion (and equipment calibration, if applicable). These licensees shall submit documents that evidence satisfactory completion of their CE requirements (and annual equipment calibration pursuant to ~~regulation~~ Section 7.0, if applicable) for the prior licensure period.

8.2.11 The Board shall review all documentation submitted by licensees pursuant to the CE audit. If the Board determines that the licensee has met the CE requirements, his or her license shall remain in effect. If the Board determines that the licensee has not met the CE requirements, the licensee shall be notified and a hearing may be held pursuant to the Administrative Procedures Act. The hearing will be conducted to determine if there are any extenuating circumstances justifying the noncompliance with the CE requirements. Unjustified noncompliance with the CE requirements set forth in these rules and regulations shall constitute a violation of 24 **Del.C.** §3715(a)(7) and the licensee may be subject to one or more of the disciplinary sanctions set forth in 24 **Del.C.** §3716.

8.3 Acceptable CE Courses/Activities

8.3.1 CE activities sponsored by accredited professional organizations, such as ASHA or AAA, are acceptable, provided the topics are relevant to the improvement of the licensee's clinical skills or professional growth as defined in Rule subsection 8.2.3.

8.3.2 A licensee may receive up to three (3) CE's for training obtained from a colleague who, after attending a professional conference, gives a formal presentation of the information from the conference after developing an agenda and outline.

8.3.3 University/College coursework for academic credit in the field of Speech/ Language Pathology, Audiology, or Hearing Aid Dispensing. A course description must be submitted to the Board for approval. (1 undergraduate credit = minimum of 3 CE's; 1 graduate credit = minimum of 5 CE's)

8.3.4 Professional presentations. A presentation summary must be submitted to the Board for approval. Credit may be given for a presentation only once during a licensure period. (1 hour of presentation = 3 CE's)

8.3.5 Professional publication in related specialty journals. A reprint of the publication must be submitted to the Board for approval.

8.3.6 Other continuing education may be approved by the Board with documentation of content.

8.3.7 Excluded are any job related duties in the workplace such as staff meetings, CPR, etc.

10 DE Reg. 1830 (06/01/07)

11 DE Reg. 814 (12/01/07)

12 DE Reg. 1525 (06/01/09)

13 DE Reg. 1097 (02/01/10)

9.0 Code of Ethics for Speech-Language Pathologists, Audiologists, and Hearing Aid Dispensers

9.1 PREAMBLE. The preservation of the highest standards of conduct and integrity is vital to achieving the statutory declaration of objectives in 24 **Del.C.** §3701. Adopting a code of ethics by regulation puts licensees on notice of the kinds of activity that violate the level of care and protection to which the clients are entitled. The provisions are not intended to be all-inclusive but rather they should serve as examples of obligations that must be satisfied to maintain minimum standards.

9.2 Standards of Professional Conduct

9.2.1 A licensee who violates the following Standards of Professional Conduct may be guilty of illegal, negligent, or incompetent practice and disciplined pursuant to 24 **Del.C.** §3715(a)(2).

9.2.1.1 Licensees shall provide all services competently. Competent service refers to the use of reasonable care and diligence ordinarily employed by similarly licensed individuals.

9.2.1.2 Licensees shall use every resource, including referral, to provide quality service.

9.2.1.3 Licensees shall maintain reasonable documentation of professional services rendered.

9.2.1.4 ~~Licensees shall not evaluate or treat a client with speech, language, or hearing disorders solely by correspondence. Correspondence includes telecommunication.~~

~~9.2.1.5~~ Licensees shall delegate responsibility only to qualified individuals as permitted by law with appropriate supervision.

9.2.1.65 Licensees who have evidence that a practitioner has violated the Code of Ethics or other law or regulation shall present that information by complaint to the Division of Professional Regulation for investigation.

9.3 Standards of Professional Integrity.

9.3.1 A licensee who violates the following Standards of Professional Integrity may be guilty of consumer fraud, deception, restraint of competition, or price-fixing and disciplined pursuant to 24 **Del.C.** §3715(a)(6).

9.3.1.1 Licensees shall not charge for services not rendered nor misrepresent the services or products dispensed.

9.3.1.2 Licensees shall inform clients of the nature and possible effects of services. Care must be taken to speak to a client in lay terms that he or she can understand.

9.3.1.3 Licensees may use clients in research or as subjects of teaching demonstrations only with their informed consent. An informed consent must be explained and written in lay terms.

9.3.1.4 Licensees shall inform clients in any matter where there is or may be a conflict of interest. Conflicts of interest may be found when a client is steered to a particular provider by one with an expectation of financial gain (kickbacks) or a provider is involved in double dipping by providing services in a private practice that he or she is obligated to provide through public employment (double-dipping).

9.3.1.5 Licensees shall make no guarantees of the results of any product or procedure but may make a reasonable statement of prognosis.

9.3.1.6 Licensees shall provide services or dispense products only when benefits can reasonably be expected.

9.3.1.7 Licensees shall not engage in misrepresentation, dishonesty, fraud, or deceit. Misrepresentation includes statements likely to mislead or an omission of material information.

9.3.1.8 Licensees who advertise shall provide information in a truthful manner that is direct and not likely to mislead the public. Any written disclaimer or condition that limits or modifies an offer of services or merchandise must be provided in a clear and conspicuous manner in a type size that is at least one-half the size of the type used in making the offer of services or merchandise.

9.3.2 A licensee who violates the following Standards of Professional Integrity may be guilty of misrepresentation, impersonation, or facilitating unlawful practice and disciplined pursuant to 24 **Del.C.** §3715(a)(1).

9.3.2.1 Licensees shall accurately represent any credentials, education, and experience to the public.

9.3.2.2 A licensee who has evidence that an individual is practicing the profession without a license in violation of 24 **Del.C.** §3707 has a duty to report that information to the Division of Professional Regulation.

9.4 Miscellaneous Professional Standards

9.4.1 A licensee who violates the following Professional Standards may be subject to disciplinary action under 24 **Del.C.** §3715(a)(7)

9.4.1.1 Licensees shall respect the privacy of clients and not reveal, without written authorization, any professional or personal information unless required by law.

9.4.1.2 Licensees shall not discriminate on the basis of race, sex, age, religion, national origin, sexual orientation, or disability.

9.4.1.3 Licensees shall offer services and products on their merits and should refrain from making disparaging comments about competing practitioners or their services and products.

8 DE Reg. 1106 (02/01/05)

9 DE Reg. 1267 (02/01/06)

13 DE Reg. 1097 (02/01/10)

10.0 Telepractice

10.1 Telepractice is the application of telecommunications technology to the delivery of speech/language pathology, audiology and hearing aid dispensing professional services at a distance by linking clinician to client or clinician to clinician for intervention and/or consultation, subject to subsection 10.2.4.5, intervention and/or consultation.

10.2 The Speech/Language Pathologist, Audiologist, or Hearing Aid Dispenser (referred to as "licensee" for the purpose of this section) who provides treatment through telepractice shall meet the following requirements:

10.2.1 Location of client during treatment through telepractice.

10.2.1.1 The licensee shall have an active Delaware license in good standing to provide services through telepractice in the state of Delaware.

10.2.1.2 During the telepractice treatment session, the client shall be located within the borders of the State of Delaware.

10.2.2 Informed consent.

10.2.2.1 Before services are provided through telepractice, the licensee shall obtain written, informed consent from the client, or other appropriate person with authority to make health care treatment decisions for the client. At minimum, the informed consent shall inform the client and document acknowledgement of the risk and limitations of:

10.2.2.1.1 The use of electronic communications in the provision of care;

10.2.2.1.2 The potential breach of confidentiality, or inadvertent access, of protected health information using electronic communication in the provision of care; and

10.2.2.1.3 The potential disruption of electronic communication in the use of telepractice.

10.2.3 Confidentiality: The licensee shall ensure that the electronic communication is secure to maintain confidentiality of the client's health and/or educational information as required by the Health Insurance Portability and Accountability Act (HIPAA) and other applicable Federal and State laws. Confidentiality shall be maintained through appropriate processes, practices and technology, including disposal of electronic equipment and data.

10.2.4 Competence and scope of practice.

10.2.4.1 The licensee shall be responsible for determining and documenting that telepractice is an appropriate level of care for the client.

10.2.4.2 The licensee shall comply with the Board's law and rules and regulations and all current standards of care requirements applicable to onsite care.

10.2.4.3 The licensee shall limit the practice of telepractice to the area of competence in which proficiency has been gained through education, training and experience.

10.2.4.4 Licensees who deliver telepractice services must possess specialized knowledge and skills in selecting interventions that are appropriate to the technology and that take into consideration client and disorder variables.

10.2.4.5 The licensee shall document in the file or record which services were provided by telepractice.

4011.0 Voluntary Treatment Option for Chemically Dependent or Impaired Professionals

4011.1 If the report is received by the chairperson of the regulatory Board, that chairperson shall immediately notify the Director of Professional Regulation or his/her designate of the report. If the Director of Professional Regulation receives the report, he/she shall immediately notify the chairperson of the regulatory Board, or that chairperson's designate or designates.

4011.2 The chairperson of the regulatory Board or that chairperson's designate or designates shall, within 7 days of receipt of the report, contact the individual in question and inform him/her in writing of the report, provide the individual written information describing the Voluntary Treatment Option, and give him/her the opportunity to enter the Voluntary Treatment Option.

4011.3 In order for the individual to participate in the Voluntary Treatment Option, he/she shall agree to submit to a voluntary drug and alcohol screening and evaluation at a specified laboratory or health care facility. This initial evaluation and screen shall take place within 30 days following notification to the professional by the participating Board chairperson or that chairperson's designate(s).

4011.4 A regulated professional with chemical dependency or impairment due to addiction to drugs or alcohol may enter into the Voluntary Treatment Option and continue to practice, subject to any limitations on practice the participating Board chairperson or that chairperson's designate or designates or the Director of the Division of Professional Regulation or his/her designate may, in consultation with the treating professional, deem necessary, only if such action will not endanger the public health, welfare or safety, and the regulated professional enters into an agreement with the Director of Professional Regulation or his/her designate and the chairperson of the participating Board or that chairperson's designate for a treatment plan and progresses satisfactorily in such treatment program and complies with all terms of that agreement. Treatment programs may be operated by professional Committees and Associations or other similar professional groups with the approval of the Director of Professional Regulation and the chairperson of the participating Board.

4011.5 Failure to cooperate fully with the participating Board chairperson or that chairperson's designate or designates or the Director of the Division of Professional Regulation or his/her designate in regard to the Voluntary Treatment Option or to comply with their requests for evaluations and screens may disqualify the regulated professional from the provisions of the Voluntary Treatment Option, and the participating Board chairperson or that chairperson's designate or designates shall cause to be activated an immediate investigation and institution of disciplinary proceedings, if appropriate, as outlined in subsection ~~40-8 of this section~~ 11.8.

~~4011.6~~ The Voluntary Treatment Option may require a regulated professional to enter into an agreement which includes, but is not limited to, the following provisions:

~~4011.6.1~~ Entry of the regulated professional into a treatment program approved by the participating Board. Board approval shall not require that the regulated professional be identified to the Board. Treatment and evaluation functions must be performed by separate agencies to assure an unbiased assessment of the regulated professional's progress.

~~4011.6.2~~ Consent to the treating professional of the approved treatment program to report on the progress of the regulated professional to the chairperson of the participating Board or to that chairperson's designate or designates or to the Director of the Division of Professional Regulation or his/her designate at such intervals as required by the chairperson of the participating Board or that chairperson's designate or designates or the Director of the Division of Professional Regulation or his/her designate, and such person making such report will not be liable when such reports are made in good faith and without malice.

~~4011.6.3~~ Consent of the regulated professional, in accordance with applicable law, to the release of any treatment information from anyone within the approved treatment program.

~~4011.6.4~~ Agreement by the regulated professional to be personally responsible for all costs and charges associated with the Voluntary Treatment Option and treatment program(s). In addition, the Division of Professional Regulation may assess a fee to be paid by the regulated professional to cover administrative costs associated with the Voluntary Treatment Option. The amount of the fee imposed under this subparagraph shall approximate and reasonably reflect the costs necessary to defray the expenses of the participating Board, as well as the proportional expenses incurred by the Division of Professional Regulation in its services on behalf of the Board in addition to the administrative costs associated with the Voluntary Treatment Option.

~~4011.6.5~~ Agreement by the regulated professional that failure to satisfactorily progress in such treatment program shall be reported to the participating Board's chairperson or his/her designate or designates or to the Director of the Division of Professional Regulation or his/her designate by the treating professional who shall be immune from any liability for such reporting made in good faith and without malice.

~~4011.6.6~~ Compliance by the regulated professional with any terms or restrictions placed on professional practice as outlined in the agreement under the Voluntary Treatment Option.

~~4011.7~~ The regulated professional's records of participation in the Voluntary Treatment Option will not reflect disciplinary action and shall not be considered public records open to public inspection. However, the participating Board may consider such records in setting a disciplinary sanction in any future matter in which the regulated professional's chemical dependency or impairment is an issue.

~~4011.8~~ The participating Board's chairperson, his/her designate or designates or the Director of the Division of Professional Regulation or his/her designate may, in consultation with the treating professional at any time during the Voluntary Treatment Option, restrict the practice of a chemically dependent or impaired professional if such action is deemed necessary to protect the public health, welfare or safety.

~~4011.9~~ If practice is restricted, the regulated professional may apply for unrestricted licensure upon completion of the program.

~~4011.10~~ Failure to enter into such agreement or to comply with the terms and make satisfactory progress in the treatment program shall disqualify the regulated professional from the provisions of the Voluntary Treatment Option, and the participating Board shall be notified and cause to be activated an immediate investigation and disciplinary proceedings as appropriate.

~~4011.11~~ Any person who reports pursuant to this section in good faith and without malice shall be immune from any civil, criminal or disciplinary liability arising from such reports, and shall have his/her confidentiality protected if the matter is handled in a nondisciplinary matter.

~~4011.12~~ Any regulated professional who complies with all of the terms and completes the Voluntary Treatment Option shall have his/her confidentiality protected unless otherwise specified in a participating Board's rules and regulations. In such an instance, the written agreement with the regulated professional shall include the potential for disclosure and specify those to whom such information may be disclosed.

4412.0 Crimes substantially related to the practice of speech/language pathology, audiology, and hearing aid dispensing.

~~4412.1~~ Conviction of any of the following crimes, or of the attempt to commit or of a conspiracy to commit or conceal or of the solicitation to commit any of the following crimes, is deemed to be a crime substantially related to the practice of speech/language pathology, audiology, and hearing aid dispensing in the State of Delaware without regard to the place of conviction:

~~4412.1.1~~ Assault in the second degree. 11 Del.C. §612.

- 4412.1.2 Assault in the first degree. 11 **Del.C.** §613.
- 4412.1.3 Assault by abuse or neglect. 11 **Del.C.** §615.
- 4412.1.4 Terroristic threatening; felony. 11 **Del.C.** §621
- 4412.1.5 Murder by abuse or neglect in the second degree. 11 **Del.C.** §633.
- 4412.1.6 Murder by abuse or neglect in the first degree. 11 **Del.C.** §634.
- 4412.1.7 Murder in the second degree. 11 **Del.C.** §635.
- 4412.1.8 Murder in the first degree. 11 **Del.C.** §636.
- 4412.1.9 Unlawful Sexual Contact in the first degree. 11 **Del.C.** 769
- 4412.1.10 Rape in the fourth degree. 11 **Del.C.** §770
- 4412.1.11 Rape in the third degree. 11 **Del.C.** §771
- 4412.1.12 Rape in the second degree. 11 **Del.C.** §772
- 4412.1.13 Rape in the first degree. 11 **Del.C.** §773
- 4412.1.14 Sexual extortion. 11 **Del.C.** §776
- 4412.1.15 Continuous sexual abuse of a child. 11 **Del.C.** §778
- 4412.1.16 Dangerous crime against a child. 11 **Del.C.** §777
- 4412.1.17 Sex offender unlawful sexual conduct against a child. 11 **Del.C.** §777A
- 4412.1.18 Sexual abuse of a child by a person in a position of trust, authority or supervision in the first degree. 11 **Del.C.** §778
- 4412.1.19 Sexual abuse of a child by a person in a position of trust, authority or supervision in the second degree. 11 **Del.C.** §778A
- 4412.1.20 Kidnapping in the second degree. 11 **Del.C.** §783
- 4412.1.21 Kidnapping in the first degree. 11 **Del.C.** §783A
- 4412.1.22 Identity theft. 11 **Del.C.** §854
- 4412.1.23 Forgery. 11 **Del.C.** §861
- 4412.1.24 Insurance fraud. 11 **Del.C.** §913
- 4412.1.25 Health care fraud. 11 **Del.C.** §913A
- 4412.1.26 Dealing in children. 11 **Del.C.** §1100A
- 4412.1.27 Endangering the welfare of a child. 11 **Del.C.** §1102
- 4412.1.28 Crime against vulnerable adult. 11 **Del.C.** §1105
- 4412.1.29 Sexual exploitation of a child. 11 **Del.C.** §1108
- 4412.1.30 Unlawful dealing in child pornography. 11 **Del.C.** §1109
- 4412.1.31 Possession of child pornography. 11 **Del.C.** §1111
- 4412.1.32 Sexual offenders; prohibitions from school zones. 11 **Del.C.** §1112
- 4412.1.33 Sexual solicitation of a child. 11 **Del.C.** §1112A
- 4412.1.34 Perjury in the first degree. 11 **Del.C.** §1223
- 4412.1.35 Hate crimes (felony). 11 **Del.C.** §1304(a)
- 4412.1.36 Stalking; felony. 11 **Del.C.** §1312A
- 4412.1.37 Duty to report child abuse or neglect. 16 **Del.C.** §903
- 4412.1.38 Abuse, neglect, mistreatment or financial exploitation of residents or patients. 16 **Del.C.** §1136.
- 4412.1.39 Trafficking in marijuana, cocaine, illegal drugs, methamphetamines, L.S.D., or designer drugs. 16 **Del.C.** §4753A
- 4412.1.40 Distribution, delivery or possession of a controlled substance within 1,000 feet of school property. Formerly 16 **Del.C.** §4767
- 4412.1.41 Distribution, delivery or possession of a controlled substance within 300 feet of park, recreation area, church, synagogue or other place of worship. Formerly 16 **Del.C.** §4768
- 4412.1.42 Abuse, neglect, mistreatment or financial exploitation of an ~~infirm~~ adult who is impaired. 31 **Del.C.** §3913
- 4412.2 Crimes substantially related to the practice speech/language pathology, audiology, and hearing aid dispensing shall be deemed to include any crimes under any federal law, state law, or valid town, city or county ordinance, that are substantially similar to the crimes identified in this rule.

8 DE Reg. 1106 (02/01/05)

15 DE Reg. 373 (09/01/11)

20 DE Reg. 885 (05/01/17) (Prop.)

