

EXHIBIT D

EXAMINERS IN SPEECH-LANGUAGE PATHOLOGY AND AUDIOLOGY (2712)

SUBJECT: ABESPA Rules and Regulations

DESCRIPTION: The substantive changes follow:

Section 1.9-Added wording to show that statues and rules shall be made available via the internet.

Section 2.5.C & D.-Added wording to clarify how an applicant for a license in Audiology may practice during the application process prior to approval and issuance of a license.

Section 2.9-Section added to clarify that a person with less than a doctorate in audiology (at least a Master's degree) must submit evidence of no less than 36 weeks of full-time professional experience or its part-time equivalent under the supervision of a licensed audiologist.

Section 2.12-Changed to update the minimum score required on the national test due to changes made by Educational Test Service effective September 1, 2014.

Section 2.13-Added wording to allow licensure for those audiologists who hold either the American Academy of Audiology or the American Board of Audiology certification. This is an alternative to the national certification granted by the American Speech and Hearing Association.

Section 3.3-Deleted this section since the \$80.00 licensure fee was removed by law changes effective 8/16/13.

Section 4.1-Application fee was changed from \$100.00 to \$140.00 due to removal of the \$80.00 licensure fee in section above.

Section 4.3-Added a fifteen day grace period (to July 15) to allow for renewal of the license which expires on June 30 of each year.

Section 4.4-Clarification of late penalty due dates due to addition of a grace period.

Section 4.5-Removed the fee for reprinting a license wall certificate.

Section 5-Further clarification of requirements for completion and submission of continuing education in order to renew a license.

Section 7.5-Section added to outline disciplinary actions that can be taken by the Board.

Section 7.9-Requires an individual to wait five years following revocation to reapply for a license.

Section 7.11.D.-Added to allow minor infractions of the law or rules to be removed from a licensee's record.

Section 9.1-Revision of acceptable continuing educational activities and subject matter.

Section 11.2.I.-Advocating and promoting the elimination of societal barriers for hearing impaired individuals was added to the practice of audiology.

Section 12.1 through 12.4-Added sections regarding guidelines, limitations, service delivery models, and supervision when using telepractice for the delivery of speech pathology and/or audiology.

Section 13.9-Added requirement for attendance of an initial training session prior to registration of a speech assistant and the designated speech pathology supervisor.

Section 13.14.A.4.- Clarification of late penalty due dates in light of the addition of a renewal grace period.

PUBLIC COMMENT: A public hearing was held on January 16, 2015. The public comment period expired on January 21, 2015. Public comments were as follows:

COMMENT: Should those earning a Doctor of Audiology (Au.D.) degree be considered for a provisional license in the fourth year externship? Speech-Language Pathologists are granted a provisional license during the post graduate experience known as a clinical fellowship year. **RESPONSE:** Persons in the process of earning the Au.D. are still students during the fourth year externship and are still under the liability of the university and therefore not eligible for a license until after the degree is fully earned.

COMMENT: Section 2.3 of the ABESPA rules list various designations for a degree, i.e., Speech-Language and Hearing or Communicative Disorders. Should other permutations be listed as well? **RESPONSE:** Universities have many designations for a degree in either speech pathology or audiology. The Board believes this section thoroughly addresses this concern with the present language.

COMMENT: The American Academy of Audiology and the American Board of Audiology are mutually exclusive. One can be ABA certified and not a member of AAA. **RESPONSE:** ABA is the certifying body for AAA. Wording may be changed to strike ABA since they are mutually exclusive and AAA does not offer certification.

Jessica Sutton, an attorney with the Bureau of Legislative Research, asked the following questions:

(1) Section 2.5. Is this section in reference to only those with provisional licenses while completing their postgraduate professional experience under § 17-100-302.

RESPONSE: In addition to allowing new graduates to begin practice, under supervision, prior to issuance of a license, this provision allows those who are either certified by the national certifying body (ASHA) or in the case of audiologists, certification from

AAA/ABA to practice during the application process. This is because the requirements for these national certifying bodies are the same as the requirements for Arkansas state licensure. As long as they provide evidence of one of these certifications, they are allowed to practice until the board meets to determine eligibility for licensure.

(2) Section 2.9. I see that a doctorate is required under § 17-100-302. Is this also in reference to provisional license under § 17-100-302? **RESPONSE:** No, if a person has a doctorate, they will be issued a full license. Some universities grant a master's degree prior to the last year of study culminating in a doctorate. In that case, a person would need to apply for a provisional license until the doctorate is earned and granted.

(3) Section 2.12. Is the score going down from 600 to 162 (speech language pathologists) and 170 (audiologists)? I'm probably missing something here, but why the huge drop in score? **RESPONSE:** The Praxis test and scoring was completely revised by the Educational Testing Service effective 9/1/14. They are not on the same scale and are based on different models.

(4) Section 10. Arkansas Code Annotated § 17-100-207 authorizes the Board to promulgate regulations governing dispensing of hearing aids by audiologists, provided that the regulations are no less stringent than those adopted by the Board of Hearing Instrument Dispensers. Were those rules reviewed when promulgating the changes to Section 10? **RESPONSE:** Yes.

(5) Section 14. Where is your statutory authority for the fees listed in Section 14 for the speech language pathology assistants? The board shall promulgate rules pertaining to these personnel, but I don't see anything that gives your board fee authority regarding the registration of these individuals. The only fee authority appears to be licensure fees (license, renewal, reactivation, etc.) for speech language pathologists and audiologists. **RESPONSE:** Ark. Code Ann. § 17-100-206(e) grants to the board the authority to establish and change fees, but does not refer to either licensure or registration (as in a speech assistant).

FOLLOW-UP COMMENT: The fees authorized under § 17-100-206 arise from your licensure authority. Pursuant to Ark. Code Ann. § 17-100-101 et seq., the Licensure Act of Speech-Language Pathologists and Audiologists, your board is only given statutory licensure authority over speech-language pathologists and audiologists. That statute does not authorize the creation of a new licensure that is not otherwise allowed by statute.

RESPONSE: In 1995, the agency added language in the statute to allow speech-language pathology assistants in our state. Rules and regulations were promulgated at that time and reviewed by the Bureau of Legislative Research and the Committee on Public, Welfare and Labor. We believe that § 17-100-206(e) can be interpreted to include fees for speech-language pathology assistants. This section nor any other section identifies whether it is referring to licensure or in the case of assistants, a registration process regarding the charging of fees.

FOLLOW-UP COMMENT: Act 1159 of 2011 (now § 25-15-105) requires an agency to have specific statutory authority to impose a fee or penalty. Fees that were established

prior to that act that lacked statutory authority were permitted to remain in effect until July 1, 2013 to allow time for agencies to obtain the requisite statutory authority.

RESPONSE: The board agreed to remove those fees for speech language pathology assistants.

The proposed effective date is August 1, 2015.

CONTROVERSY: This is not expected to be controversial.

FINANCIAL IMPACT: The application fee is currently \$100 and the proposed change increases the fee to \$140 since the licensure fee of \$80 has been eliminated in statutory changes effective August, 2014. This is the only cost to individuals applying for a new license.

LEGAL AUTHORIZATION: The Board of Examiners in Speech-Language Pathology and Audiology shall administer, coordinate, and enforce the provisions of this chapter [the Licensure Act of Speech-Language Pathologists and Audiologists] and evaluate the qualifications and supervise the examinations of applicants for licensure under this chapter. Ark. Code Ann. § 17-100-202(a). The board shall adopt rules and regulations pertaining to professional conduct commensurate with the policy of this chapter, including, but not limited to, regulations which establish ethical standards of practice necessary to the enforcement and orderly administration of this chapter and, for other purposes, may amend or repeal the same in accordance with the Administrative Procedure Act. Ark. Code Ann. § 17-100-202(b)(1). The board shall promulgate regulations regarding the use of speech-language pathology support personnel by practitioners of speech-language pathology. Ark. Code Ann. § 17-100-202(b)(2).

The board shall have the authority to adopt rules and regulations regarding the term and conditions for which a provisional license is granted. Ark. Code Ann. § 17-100-302(f).

The supervision of bachelor's level personnel shall be in accordance with the rules adopted by the board. The board shall adopt rules that set forth the scope and restrictions relating to bachelor's level personnel. Ark. Code Ann. § 17-100-104(8).

The board shall prescribe fees in amounts determined by the board for the following purposes: (1) application for initial license; (2) renewal of license; (3) late penalty per month; (4) inactivation; and (5) reactivation. Ark. Code Ann. § 17-100-308(a). The board will have the authority to establish and change fees for application, examination, renewal, inactivation, reactivation, and delinquency purposes. Ark. Code Ann. § 17-100-206(e).

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**QUESTIONNAIRE FOR FILING PROPOSED RULES AND REGULATIONS
WITH THE ARKANSAS LEGISLATIVE COUNCIL AND JOINT INTERIM COMMITTEE**

DEPARTMENT/AGENCY Board of Examiners in Speech-Language Pathology and Audiology
DIVISION _____
DIVISION DIRECTOR _____
CONTACT PERSON Betty Bass
ADDRESS 101 E. Capitol, Ste. 103, Little Rock, AR 72201
PHONE NO. 682-9180 FAX NO. 682-9181 E-MAIL abespa@ipa.net
NAME OF PRESENTER AT COMMITTEE MEETING Betty Bass
PRESENTER E-MAIL abespa@ipa.net

INSTRUCTIONS

- A. Please make copies of this form for future use.
- B. Please answer each question completely using layman terms. You may use additional sheets, if necessary.
- C. If you have a method of indexing your rules, please give the proposed citation after "Short Title of this Rule" below.
- D. Submit two (2) copies of this questionnaire and financial impact statement attached to the front of two (2) copies of the proposed rule and required documents. Mail or deliver to:

**Donna K. Davis
Administrative Rules Review Section
Arkansas Legislative Council
Bureau of Legislative Research
One Capitol Mall, 5th Floor
Little Rock, AR 72201**

- 1. What is the short title of this rule? ABESPA Rules and Regulations
 - 2. What is the subject of the proposed rule? Revisions due to Act 219 of 2013
 - 3. Is this rule required to comply with a federal statute, rule, or regulation? Yes No
If yes, please provide the federal rule, regulation, and/or statute citation. _____
 - 4. Was this rule filed under the emergency provisions of the Administrative Procedure Act? Yes No
If yes, what is the effective date of the emergency rule? _____
- When does the emergency rule expire? _____

Will this emergency rule be promulgated under the permanent provisions of the Administrative Procedure Act? Yes No

5. Is this a new rule? Yes No

If yes, please provide a brief summary explaining the regulation. Adding requirements for persons conducting business by telepractice to obtain an Arkansas license.

Does this repeal an existing rule? Yes No

If yes, a copy of the repealed rule is to be included with your completed questionnaire. If it is being replaced with a new rule, please provide a summary of the rule giving an explanation of what the rule does. _____

Is this an amendment to an existing rule? Yes No

If yes, please attach a mark-up showing the changes in the existing rule and a summary of the substantive changes. **Note: The summary should explain what the amendment does, and the mark-up copy should be clearly labeled "mark-up."**

6. Cite the state law that grants the authority for this proposed rule? If codified, please give the Arkansas Code citation. 17-100-202

7. What is the purpose of this proposed rule? Why is it necessary? Changes are being made to update educational requirements matching university programs for audiologists as well as updating the passing score for speech pathologists and audiologists according to changes made by the National Testing Service (Praxis). Also added definition of telepractice and telepractice service. All changes are being made according to Act 219 of 2013.

8. Please provide the address where this rule is publicly accessible in electronic form via the Internet as required by Arkansas Code § 25-19-108(b). www.abespa.com

9. Will a public hearing be held on this proposed rule? Yes No

If yes, please complete the following:

Date: January 16, 2015

Time: 10:00 am

Place: Conference Room B, 101 E. Capitol,

Little Rock, AR

10. When does the public comment period expire for permanent promulgation? (Must provide a date.)

January 21, 2015

11. What is the proposed effective date of this proposed rule? (Must provide a date.)

August 1, 2015

12. Do you expect this rule to be controversial? Yes No

If yes, please explain. _____

13. Please give the names of persons, groups, or organizations that you expect to comment on these rules?

Please provide their position (for or against) if known.

Total NA

Total NA

(b) What is the additional cost of the state rule?

Current Fiscal Year

Next Fiscal Year

General Revenue _____
Federal Funds _____
Cash Funds _____
Special Revenue _____
Other (Identify) _____

General Revenue _____
Federal Funds _____
Cash Funds _____
Special Revenue _____
Other (Identify) _____

Total NA

Total NA

5. What is the total estimated cost by fiscal year to any private individual, entity and business subject to the proposed, amended, or repealed rule? Identify the entity(ies) subject to the proposed rule and explain how they are affected.

Current Fiscal Year

Next Fiscal Year

\$ \$100.00

\$ \$140.00

Persons doing business by means of telepractice will be required to obtain an Arkansas license. The application fee and subsequent renewal fee is the only cost.

6. What is the total estimated cost by fiscal year to state, county, and municipal government to implement this rule? Is this the cost of the program or grant? Please explain how the government is affected.

Current Fiscal Year

Next Fiscal Year

\$ 300.00

\$ 100.00

FY 2014 cost of newspaper legal ad and posting rules on web. FY 2015 cost to post final rules board website.

7. With respect to the agency's answers to Questions #5 and #6 above, is there a new or increased cost or obligation of at least one hundred thousand dollars (\$100,000) per year to a private individual, private entity, private business, state government, county government, municipal government, or to two (2) or more of those entities combined?

Yes No

If YES, the agency is required by Ark. Code Ann. § 25-15-204(e)(4) to file written findings at the time of filing the financial impact statement. The written findings shall be filed simultaneously with the financial impact statement and shall include, without limitation, the following:

- (1) a statement of the rule's basis and purpose;
- (2) the problem the agency seeks to address with the proposed rule, including a statement of whether a rule is required by statute;
- (3) a description of the factual evidence that:

- (a) justifies the agency's need for the proposed rule; and
 - (b) describes how the benefits of the rule meet the relevant statutory objectives and justify the rule's costs;
- (4) a list of less costly alternatives to the proposed rule and the reasons why the alternatives do not adequately address the problem to be solved by the proposed rule;
- (5) a list of alternatives to the proposed rule that were suggested as a result of public comment and the reasons why the alternatives do not adequately address the problem to be solved by the proposed rule;
- (6) a statement of whether existing rules have created or contributed to the problem the agency seeks to address with the proposed rule and, if existing rules have created or contributed to the problem, an explanation of why amendment or repeal of the rule creating or contributing to the problem is not a sufficient response; and
- (7) an agency plan for review of the rule no less than every ten (10) years to determine whether, based upon the evidence, there remains a need for the rule including, without limitation, whether:
- (a) the rule is achieving the statutory objectives;
 - (b) the benefits of the rule continue to justify its costs; and
 - (c) the rule can be amended or repealed to reduce costs while continuing to achieve the statutory objectives.