

DEPARTMENT OF HEALTH, DIVISION OF HEALTH-RELATED BOARDS AND COMMISSIONS, ARKANSAS BOARD OF EXAMINERS IN SPEECH-LANGUAGE PATHOLOGY AND AUDIOLOGY

SUBJECT: Arkansas Board of Examiners in Speech-Language Pathology and Audiology Rules

DESCRIPTION: The Arkansas Board of Examiners in Speech-Language Pathology and Audiology is amending its rules concerning licensure and regulation of speech-language pathology and audiology. Changes are being made to the rules in response to new legislation and in order to amend portions of the rule to better serve consumers. The agency provided the following summary of substantive changes made in the proposed rules:

- Provides automatic licensure to certain military applicants, pursuant to Act 820 of 2019
- Delegates to the Board's Director, the authority to issue licenses
- Lowers licensure fee
- Removes the 30-day grace period for licensure
- In compliance with Act 990, and using the Attorney General's model language, adds provisions for a pre-licensure criminal background checks and waiver requests
- Amends the Board's current license reinstatement provision to comply with Ark. Code Ann. § 17-1-107
- Updates the Code of Ethics
- Requires that first time hearing aid users under the age of 18 receive medical evaluation and clearance from an otolaryngologist within 6 months prior to being fitted with a hearing aid.
- Updates telepractice provisions to comply with most recent changes to the Telemedicine Act and the Medical Board's Rules
- Clarifies licensure requirements for speech-language pathology assistants who work in public schools
- "Housekeeping matters," such as replacing "regulation" with rule pursuant to Act 315 of 2019, deleting obsolete requirement, and updating/clarifying terminology

The board submitted a revised markup after the expiration of the public comment period, along with the following summary of changes:

- ABESPA voted to separately promulgate the substantive changes to Section 12. Telepractice. The Board is proceeding with one change to Section 12.1.H. pursuant to Act 315.
- ABESPA voted not to make changes to Section 13. Rules Governing Registration of Speech-Language Pathology Assistants, except for changes required by Acts 315 and 910. The Board received comments that suggested extensive revisions to this section, so the Chair has appointed a committee to study substantive revisions to Section 13 and make recommendations to the Board.

- The Board voted not to make the changes in Section 2.5. Due to the COVID-19 crisis, the Board believes that now is not the time to implement a significant change in the licensure process.
- In Section 7.2, the Board added “language” between “speech” and “pathology” and the end of the sentence.
- In Section 7.3, the Board added “speech-language pathology assistant” in the first line.
- The Board replaced the following phrase, which was accidentally omitted from Section 2.11: Application must be made within thirty days of beginning the professional experience.
- The previous draft contained numbering/lettering errors in Section 8. Code of Ethics, and these errors have been corrected

PUBLIC COMMENT: A public hearing was not held in this matter. The public comment period was expired on May 4, 2020. The Arkansas Board of Examiners in Speech-Language Pathology and Audiology provided the following summary of public comments received and its responses thereto:

Commenter	#	Comment	Board Response
Anonymous, submitted by Rachel Glade, president of ArkSHA	1	<p>COMMENT: The Medicaid therapy manual and ABESPA rules and regs differ with ABESPA being more stringent. I have no problems with the more stringent regulations, however, there is one difference (below) that we may be able to come together on.</p> <p>Medicaid 203.000 B: When therapy services are provided by a licensed therapy assistant or speech-language pathology assistant who is supervised by a licensed therapist or speech-language pathologist, the supervising therapist or speech-language pathologist must observe a therapy session with a child and review the treatment plan and progress notes at a minimum of every 30 calendar days.</p> <p>RULE PROVISION: Section 13;.12. A. (middle of paragraph) [p. 33 of markup]: Supervision days and time of day (morning/afternoon) must be alternated to ensure that all patients/clients receive direct contact with the speech-language pathologist at least once every two (2) weeks.</p>	The Board Chair will appoint a committee to study SLPA registration and standards and to make recommendations to the Board. This comment will be submitted to the committee for consideration.

	2	<p>COMMENT: Also, 13.12 D could be updated by eliminating "pager" and maybe adding online platforms.</p> <p>RULE PROVISION [p. 34 of markup]: D. A supervising speech-language pathologist must be able to be reached by personal contact, phone, pager, or other immediate means at all times when direct patient/client care is being rendered.</p>	<p>The Board Chair will appoint a committee to study SLPA registration and standards and to make recommendations to the Board. This comment will be submitted to the committee for consideration.</p>
Madi Littlefield	3	<p>COMMENT: I am a second year SLP graduate student graduating in May. The removal of the 30 day grace period is concerning to me as someone who is hoping to start my clinical fellowship as soon as possible. As a soon to be SLP-CF, I will be unable to submit my provisional license application until I have a job with a supervisor, due to needing to fill out the CF plan and have my supervisor sign. If the 30 day grace period is removed, I would be unable to start practicing until I received my provisional license back instead of being able to work during the process.</p> <p>While I do support removing the 30 day grace period to ensure that practicing SLP-CCCs do not practice without a license, I feel as though there should be an exception for SLP-CFs who are obtaining a provisional license for the first time.</p> <p>RULE PROVISION: See Section 2.5 on p. 4 of the markup.</p>	<p>Due to the COVID-19 crisis, the Board believes that now is not the time to implement a significant change in the licensure process. Therefore, the board will retain the 30-day grace period.</p> <p>The Board will also add back in the following phrase, which was accidentally omitted from Section 2.11: Application must be made within thirty days of beginning the professional experience.</p>

<p>Natalie Benafield</p>	<p>4</p>	<p>COMMENT: I am the graduate program coordinator at UCA for the Speech Pathology Master's Program. I'm seeking clarification on Section 2.5. I am unsure if the deletion of the "30 day grace period" will affect students graduating with their master's degrees. For example, we have told our graduates that they must apply for their PROVISIONAL LICENSE within 30 days of beginning their CFY. So do they now need to apply BEFORE they graduate? The section on Provisional Licensure does not specific when they should apply for their provisional license.</p> <p>RULE PROVISION: See Section 2.5 on p. 4 of the markup.</p>	<p>Due to the COVID-19 crisis, the Board believes that now is not the time to implement a significant change in the licensure process. Therefore, the board will retain the 30-day grace period.</p> <p>The Board will also add back in the following phrase, which was accidentally omitted from Section 2.11: Application must be made within thirty days of beginning the professional experience.</p>
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<p>Shelly Wier, ADE</p>	<p>5</p>	<p>COMMENT: Did you know this section (below) is being removed from the ABESPA rules? What's the status of the annual interagency agreement with ABESPA re: use of SLPAs?</p> <p>RULE PROVISION: [p. 28 of markup] 13.3 This document also provides for the Arkansas Department of Education (ADE), in accordance with its statutory, general supervision authority over public agencies which provide educational services to children with disabilities birth to twenty one years of age, in conjunction with the Department of Human Services (DHS), Developmental Disabilities Services (DDS), to regulate speech language pathology assistants and aides performing duties in such programs. ABESPA approved the 1999 ADE guidelines for registration, training, scope of responsibilities, supervision, and review of these individuals. Any proposed revisions to the guidelines will be submitted to ABESPA for approval. The ADE will provide ABESPA, upon request, any reports and/or records with regard to these individuals in the performance of their duties as may be necessary to ensure compliance with established standards.</p> <p>ADDITIONAL NOTE FROM STAFF: Board Chair Elizabeth Williams called Ms. Wier and explained that ABESPA's rules cannot bind ADE and that the Board is not making any substantive changes to the provisions re ADE and SLPA's.</p>	<p>The Board voted not to make this change at this time. The interagency agreement is no longer necessary since Sharon Ross retired and the board now has a contract with another person who serves as SLPA Coordinator.</p>
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	<p>6 COMMENT: This (below) isn't being edited. I just don't understand it. Does this just mean ABESPA can revoke ADE's role in approving and monitoring SLPAs in the schools when/if it wants to?</p> <p>RULE PROVISION: [p. 28 of markup]: 13.6 For all purposes, ABESPA retains regulatory authority for speech-language pathology services, unless specifically exempted by statute. The Board may at any time, for good cause, revoke all exceptions and exemptions, granted in these rules; and at such time may require registration of all SLP-Assistants and SLP-Aides through ABESPA.</p> <p>ADDITIONAL NOTE FROM STAFF: Board Chair Elizabeth Williams called Ms. Wier and explained that ABESPA's rules cannot bind ADE and that the Board is not making any substantive changes to the provisions re ADE and SLPA's.</p>	<p>No. ABESPA has no authority over ADE/DESE. Furthermore, there is a specific exemption in Ark. Code Ann. § 17-100-104: Nothing in this chapter shall be construed as preventing or restricting: ... (4)(A) A person from performing speech-language pathology or audiology services solely within the confines or under the jurisdiction of a public school system if that person holds a valid and current certificate as a speech therapist or speech-language pathologist issued by the Division of Elementary and Secondary Education.</p>
	<p>7 COMMENT: Why only "since January 1, 1993?"</p> <p>RULE PROVISION: [p. 5 of markup] 2.8 The Board will accept proof of ASHA Certificate of Clinical Competence granted since January 1, 1993, as evidence of the required degree (Section 2.7).</p>	<p>This date was updated in 1993 - the previous date was January 1, 1971.</p>

	8	<p>COMMENT: I understand the need to expedite the licensure process, but this dilutes the Board's responsibilities. The Director isn't an SLP or audiologist.</p> <p>RULE PROVISION: [p. 8 of markup] 3.2 A quorum of the Board as required by Ark. Code Ann. §17-100-203 shall deliberate on each application for licensure. Action on the application shall require a majority vote of the members present. <u>To expedite the licensure process, the Board delegates to its Director the authority to issue licenses to applicants who meet the requirements of the Board's statutes and rules. When necessary, the Director may refer certain applications to the Board for decision.</u></p>	<p>The Board does not agree with the commenter's opinion. The Board believes that licenses should be issued as soon as possible without applicants having to wait on a board meeting. Board members are available to answer questions and for clarification if necessary. Furthermore, most board directors are not licensees of the boards they work for.</p>
	9	<p>COMMENT: Shouldn't "speech-language pathology assistant" be added to 7.3 as well?</p> <p>RULE PROVISION: [p. 10 of markup] 7.3 Charges against a licensed speech-language pathologist or audiologist shall be in the form of a written statement describing the specific violations of ethical practice, or of the provisions of the Act, or of these Rules and Regulations.</p>	<p>The board agrees and will add "speech-language pathology assistant."</p>
	10	<p>COMMENTS: I thought "aides" were under AR Dept of Ed's oversight... nonexistent to ABESPA, non-licensed. Also, "support personnel" represents both aides and assistants. Redundant?</p> <p>RULE PROVISION: [p. 12 of markup, under 8.1 Principle of Ethics I.] D. Individuals shall not misrepresent the credentials of <u>aides</u>, assistants, technicians, or support personnel, <u>students, research interns, Clinical Fellows, or any others under their supervision,</u> and <u>they</u> shall inform those they serve professionally of the name, role, and professional credentials of persons providing services.</p>	<p>The language is being updated to match ASHA's Rules of Ethics. Under Ark. Code Ann. 17-100-202, ABESPA is required to "promulgate rules regarding the use of speech-language pathology support personnel by practitioners of speech-language pathology." Th Board believes it has the statutory</p>

			authority to promulgate this rule and is comfortable with the language as presented.
	11	<p>COMMENT: Same as previous comment.</p> <p>RULE PROVISION: [p. 12 of markup, under 8.1 Principle of Ethics I.] <u>E. Individuals who hold an Arkansas license may delegate tasks related to the provision of clinical services to aides, assistants, technicians, support personnel, or any other persons only if those persons are adequately prepared and are appropriately supervised. The responsibility for the welfare of those being served remains with the licensed individual.</u></p>	<p>The language is being updated to match ASHA's Rules of Ethics. Under Ark. Code Ann. 17-100-202, ABESPA is required to "promulgate rules regarding the use of speech-language pathology support personnel by practitioners of speech-language pathology." Th Board believes it has the statutory authority to promulgate this rule and is comfortable with the language as presented.</p>
	12	<p>COMMENT: Same as previous comment.</p> <p>RULE PROVISION: [p. 12 of markup, under 8.1 Principle of Ethics I.] <u>F. Individuals who hold an Arkansas license shall not delegate tasks that require the unique skills, knowledge, judgment, or credentials that are within the scope of their profession to aides, assistants, technicians, support personnel, or any nonprofessionals over whom they have supervisory responsibility.</u></p>	<p>The language is being updated to match ASHA's Rules of Ethics. Under Ark. Code Ann. 17-100-202, ABESPA is required to "promulgate rules regarding the use of speech-language pathology support personnel by practitioners of speech-language pathology." Th Board believes it has the statutory authority to promulgate this rule</p>

			and is comfortable with the language as presented.
	13	<p>COMMENT: If "aides" is added previously, shouldn't it be added here as well?</p> <p>RULE PROVISION: [p. 17 of markup, under 8.1 Principle of Ethics IV.] <u>F.G. Individuals shall not discriminate in their relationship with colleagues, assistants, students, support personnel, and members of allied other professions and disciplines on the basis of race, or ethnicity, sex, gender/identity, gender/expression, age, religion, national origin, sexual orientation, culture, language, dialect, socioeconomic status, or disability.</u></p>	The language is being updated to match ASHA's Rules of Ethics and the Board is comfortable with the language as written.
	14	<p>COMMENT: Same as previous comment.</p> <p>RULE PROVISION: [p. 17 of markup, under 8.4 Principle of Ethics IV.] <u>M. Individuals shall not engage in sexual activities with individuals (other than a spouse or other individual with whom a prior consensual relationship exists) over whom they exercise professional authority or power, including persons receiving services, assistants, students, or research participants.</u></p>	The language is being updated to match ASHA's Rules of Ethics and the Board is comfortable with the language as written.

	<p>15 COMMENT: Determining the type of service delivery most appropriate for clients is part of Content Area I (g): "Principles and procedures in habilitation and rehabilitation of communication disorders...." and should be added/included as such. Expansion of service delivery options in recent years has created a need for professional development regarding their selection and implementation.</p> <p>RULE PROVISION: [p. 19 of markup] CONTENT AREA II: (Must relate to the practice of Speech-Language Pathology and/or Audiology)</p> <p>...</p> <p>(b) service <u>Service</u> delivery such as telepractice, group versus individual services, use of support staff, service to underserved populations;</p>	<p>The Board is comfortable with service delivery remaining in Content Area II for now but is open to discussions on future changes.</p>
	<p>16 COMMENT: insert "randomly"</p> <p>RULE PROVISION: [p. 19 of markup] 9.3 Annually, the Board will select licensees for audit.</p>	<p>The Board may choose to audit licensees both randomly and if a licensee's CPE report is suspect.</p>
	<p>17 COMMENTS: Shouldn't A. read "live" webinars since pre-recorded sessions are considered self-study (B)?</p> <p>RULE PROVISION: [p. 20 of markup] 9.6 The Board will accept, but not be limited to the following activities, that fall within Content Areas I and II: A. Attending scientific or educational lectures, workshops, teleseminars <u>webinars</u>, seminars, college courses, interactive videos, or online courses. B. Independent study of journals, books, videotapes, audiotapes, or online courses.</p>	<p>The Board is comfortable with the language as it is. The distinction is irrelevant since all methods described are acceptable.</p>
	<p>18 COMMENTS: "...stated for assistants [add] providing services in person/on-site."</p> <p>RULE PROVISION: [p. 27 of markup] B. Supervision rules shall remain the same as those stated for assistants.</p>	<p>The Board has decided to separately promulgate substantive changes to Section 12. Telepractice. This comment will be</p>

			considered by the Board at that time.
	19	<p>COMMENTS: How does "in person" work for out-of-state distant providers? Most are providing evaluations via telepractice.</p> <p>RULE PROVISION: [p. 27 of markup] <u>C. For purposes of this rule, a professional relationship, at a minimum requires that:</u> <u>i. (a) The provider performs an "in person" evaluation of the patient adequate to establish a recommended treatment, OR</u></p>	<p>The Board has decided to separately promulgate substantive changes to Section 12. Telepractice. This comment will be considered by the Board at that time.</p>
	20	<p>COMMENTS: This conflicts with 12.4.</p> <p>RULE PROVISION: [p. 28 of markup] D. DIRECT SUPERVISION - Direct supervision means on-site, in-view observation and guidance by a speech-language pathologist while an assigned clinical activity is performed by speech language pathology assistant or speech-language pathology aide. [Emphasis added in comment.]</p> <p>12.4 Supervision A. Supervision of assistants may be done through telepractice as long as client confidentiality can be maintained. B. Supervision rules shall remain the same as those stated for assistants.</p>	<p>The Board Chair will appoint a committee to study SLPA registration and standards and to make recommendations to the Board. This comment will be submitted to the committee for consideration.</p>

21	<p>COMMENT: You might want to add "and/or education service cooperatives" after "public school systems" since a lot of 3-5 services are provided via the co-ops and fall under DESE.</p> <p>RULE PROVISION: [p. 29 of markup] <u>A. Individuals desiring to register as a speech-language pathology assistant under Act 826 of 1995, § 2, codified at Ark. Code Ann. § 17-100-202(b)(2) must submit an application for registration to ABESPA, except that, individuals who desire to perform the duties of a speech-language pathology assistant in Arkansas public school systems will register with the Division of Elementary and Secondary Education-ADE who desire to perform the duties of a speech-language pathology assistant in a public agency, or a community program licensed by DHS, DDS, which provides educational services to children with disabilities birth to twenty-one years of age under the general supervision of the ADE.</u> Further, Section 13.9, subsections B, C, and D shall not apply to those individuals. Therefore, if an assistant is working in a public <u>agency school</u> only, the assistant will register with the <u>Division of Elementary and Secondary Education ADE.</u></p>	Ark. Code Ann. 17-100-104(4)(A) only exempts from licensure individuals who work in a public school system. The requested language would have to be added to the statute before it could be added to the rule.
22	<p>COMMENT: Same as previous comment.</p> <p>RULE PROVISION: [p. 29 of markup] <u>B. If an assistant is working in a public <u>agency school</u> and another agency, the assistant will register with <u>the Division of Elementary and Secondary Education and ABESPA.</u> In this instance, ABESPA will collaborate with ADE to determine approval.</u></p>	Ark. Code Ann. 17-100-104(4)(A) only exempts from licensure individuals who work in a public school system. The requested language would have to be added to the statute before it could be added to the rule.

	<p>23 COMMENT: FYI: Currently only applicants from out-of-state SLP Assistant programs typically have acquired clinical practicum hours. Even AR Bachelor's programs in SLP (except maybe Harding starting this Fall) do not require clinical practicum hours so no AR Bachelor's grads would be qualified to apply as an assistant, which defeats the purpose of allowing their use in AR to begin with. SLP students in AR don't acquire clinical practicum hours until grad school.</p> <p>RULE PROVISION: [p. 29 of markup] (c) Documentation of thirty (30) clinical practicum hours as a SLP-Assistant trainee signed by the Chair of the speech-language pathology department at the educational institution that provided this training. This requirement is applicable only to individuals without a bachelor's degree in speech-language pathology.</p>	<p>The Board Chair will appoint a committee to study SLPA registration and standards and to make recommendations to the Board. This comment will be submitted to the committee for consideration.</p>
	<p>24 COMMENT: Number of clients to be served may be more valuable than number of practice sites.</p> <p>RULE PROVISION: [p. 30 of markup] (d) Aa list of facilities in which the SLP-Assistant will be utilized. The location of work settings must be kept current. Any change must be reported in writing to ABESPA within twenty-one (21) days. Based on information received, the Board may limit the number of practice sites.</p>	<p>The Board Chair will appoint a committee to study SLPA registration and standards and to make recommendations to the Board. This comment will be submitted to the committee for consideration.</p>

	<p>25</p> <p>COMMENT: 1) Again, an AR bachelor's degree in SLP/CSD does not include any clinical practicum hours. 2) Harding is working on it (and maybe SAU), but otherwise there are no accredited institutions for Associate's degrees for SLP Assistants in AR right now. My suggestion: Remove the required clinical practicum hours. OJT with a supervising SLP is just as valuable and more specific to duties to be assigned.</p> <p>RULE PROVISION: [p. 30 of markup] A. A speech-language pathology assistant must: ... 2. Complete a speech-language pathology assistant training program culminating in an Associate Degree from an institution accredited by the Arkansas Department <u>Division</u> of Higher Education. Programs must meet the specified curriculum content and fieldwork experience listed below. Applicants from out of state will be reviewed on a case-by-case basis to ensure equivalency.</p>	<p>The Board Chair will appoint a committee to study SLPA registration and standards and to make recommendations to the Board. This comment will be submitted to the committee for consideration.</p>
	<p>26</p> <p>COMMENT: ASHA is launching SLPA certification this Fall. https://www.ashaassistants.org/pathways-speech-language-pathology-assistant</p> <p>RULE PROVISION: [p. 30 of markup] The curriculum must be consistent with the ASHA-approved Criteria for the Registration of Speech-Language Pathology Assistants (Section III-A)</p>	<p>This comment does not seem to require a response, but the Board is aware.</p>

	27	<p>COMMENT: See previous comments.</p> <p>RULE PROVISION: [p. 31 of markup] *Fieldwork Experience The minimum of 100 hours of fieldwork experience must provide the student with opportunities for carrying out speech-language pathology assistant responsibilities. This training must be supervised by a speech-language pathologist who holds a current and valid license from ABESPA or the ASHA Certificate of Clinical Competence (CCC) in Speech-Language Pathology. These experiences are not intended to develop independent practice.</p>	<p>The Board Chair will appoint a committee to study SLPA registration and standards and to make recommendations to the Board. This comment will be submitted to the committee for consideration.</p>
	28	<p>COMMENT: See previous comment re: moving service delivery models to Content Area I.</p> <p>RULE PROVISION: [p. 32 of markup] Content Area II for Assistants ... (b) Service delivery models</p>	<p>The Board is comfortable with service delivery remaining in Content Area II for now but is open to discussions on future changes.</p>
Rachel Glade, Ph.D., CCC-SLP, LSLS Cert. AVT President of ArkSHA	29	<p>COMMENT: One area of concern for us is that the telepractice rules may be too restrictive in requiring an established professional relationship and not providing some leeway for out-of-state practitioners, especially in emergency situations like COVID. Is there a way to consider addressing this concern?</p> <p>ADDITIONAL NOTE FROM STAFF: Board Chair Elizabeth Williams called Ms. Glade for clarification on her comment. Ms. Glade said she doesn't want to limit the telehealth provider. She also said she may supplement her comment.</p>	<p>The Board has decided to separately promulgate changes to Section 12. Telepractice. This comment will be considered by the Board at that time.</p>

	30	COMMENT: What will be needed to apply for a provisional license? There may be delays in graduation and will likely be delays for Praxis testing (especially for the 2018-2020 cohort that is graduating this year). We noticed there is a plan to remove the 30-day grace period for licensure. What does this mean for 2020 graduates?	<p>Due to the COVID-19 crisis, the Board believes that now is not the time to implement a significant change in the licensure process. Therefore, the board will retain the 30-day grace period.</p> <p>The Board will also add back in the following phrase, which was accidentally omitted from Section 2.11: Application must be made within thirty days of beginning the professional experience.</p>
Donna Smiley Ark. Children's Hospital	31	COMMENT: I have read through the proposed revisions and do not see any big issues. I do think that in section 12.1 with the deletion of C, that the following items will have to be re-lettered. BUT otherwise, I am comfortable with the revisions. Thanks to everyone who contributed to this much needed update of our rules.	The Board decided to separately promulgate substantive changes to Section 12 and is not deleting subsection 12.1.C at this time, but the Board appreciates your thanks.
Gretchen Hicks, Board SLPA Coordinator, and other SLP's at Easter Seals	32	COMMENT re Section 1.9: Should leave something about having access to amendments - or is this only talking about applicants and is access to amendments for licensed folks?	Amendments are included in the Board's statutes and rules, and everyone will have access.
	33	COMMENT re Section 2.5: 2.5 Delete on of the "Practice" s	The Board voted not to proceed with the change in 2.5 that lead to the typo referenced in the comment.

	34 COMMENT re Section 7: This section is very similar with few changes to original	No response required.
	35 COMMENT re Section 8.1.C [this provision has been correctly re-numbered as 8.1.C.]: How are these things different? “Sex” “sexual orientation” “gender” “identity/gender expression”	These terms are not defined in the proposed rule. The language is being updated to match ASHA's Rules of Ethics and will be given their commonly understood meaning.
	36 COMMENT re Section 8.A.1.G [this provision has been correctly re-numbered as 8.1.G.]: How does the SLP ensure these training/skills??	The language is being updated to match ASHA's Rules of Ethics. An SLP must use her training, experience, and professional judgment.
	37 COMMENT re Section 8.A.1.L [this provision has been correctly re-numbered as 8.1.M.]: How does one determine if a clinical judgement is evidence- based? Wording might need to be adjusted on this? clinical judgment???	The language is being adopted to match ASHA's Rules of Ethics an SLP must use her training, experience, and professional judgment.
	38 COMMENT re Sections 8.A.1.N. and O. [these provisions have been correctly re-numbered as 8.1.O. and 8.1.P.]: How are the diff [sic]?	The Board assumes the commenter is asking how these two provisions differ from each other. The language is being adopted to match ASHA's Rules of Ethics 8.A.1.N. protects the confidentiality of records of the activities specified. while 8.A.1.O. protects personal information.

	<p>39 COMMENT re Section 8.A.1.N. [this provision has been correctly re-numbered as 8.1.O.]: "records shall be allowed only when doing so is necessary to protect the welfare of the person or of the community, is legally authorized, or is otherwise required by law."-- ---maybe clarify for -IEP teams or does IDEA law cover this.</p>	<p>The language is being updated to match ASHA's Rules of Ethics . The Board considered this comment and made no change.</p>
	<p>40 COMMENT re Section 8.A.1.S. [this provision has been correctly re-numbered as 8.1.T.]: "Individuals shall provide reasonable notice and information about alternatives for obtaining care in the event that they can no longer provide professional services." Can you clarify "reasonable notice"? Ex. SLP in another state sent to ethics board due to only giving 1 months notice? 1 month seems reasonable but not how it was interpreted by person turning in.</p>	<p>The language is being adopted to match ASHA's Rules of Ethics. The licensee must use her best professional judgment to decide what constitutes "reasonable notice" based on the situation presented.</p>
	<p>41 COMMENT re Section 8.2.Q. [this provision has been correctly re-numbered as 8.2.A.]: "Individuals who hold an Arkansas license shall engage in only those aspects of the professions that are within the scope of their professional practice and competency" What defines competency for different areas in scope? For example. SLPs say they cannot work with aug [sic] communication because they aren't competent, but they could and should be able to be competent bc it is under scope of practice and mandated in public school where SLP working. Some SLPs use competency for to excuse not providing service for difficult kids.</p>	<p>As noted in Board Rule 1, section 11. Scope of Practice, there is "a broad range of services offered within" the scope of practice of speech-language pathology and of audiology. Section 11 further notes that, "[i]t is recognized, however, that levels of experience, skill and proficiency with respect to the activities identified within the scope of practice will vary among the individual providers." ABESPA expects each licensee to use her professional judgment,</p>

			experience, and training to determine and accurately represent her competency.
	42	COMMENT re Section 8.A.4.K. [this provision has been correctly re-numbered as 8.4.K.]: CAN YOU MANDATE THIS?	Yes
	43	COMMENT re Section 8: Ethics sections are very long, wordy, and in some cases redundant. Did these statements come from ASHA? If not, where? May need to be looked over and vetted by several other professionals.	The language is being updated to match ASHA's Rules of Ethics. The Board considered this comment and made no change.
	44	COMMENT re Section 12: Commenters provided six comments regarding the proposed changes on section 12. Telepractice.	The Board has decided to separately promulgate changes to Section 12. Telepractice. These comments will be considered by the Board at that time.
Gretchen Hicks, Board SLPA Coordinator	45	COMMENTS re Section 13: Commenter suggested extensive revisions to Section 13. Rules Governing Registration of Speech-Language Pathology Assistants.	The Board Chair will appoint a committee to study SLPA registration and standards and to make recommendations to the Board. This comment will be submitted to the committee for consideration.
Rachel Glade, Ph.D., CCC-SLP, LSLS Cert. AVT President of ArkSHA	46	COMMENTS re Section 12. Commenter updated previous comments to request additional changes to Section 12. Telepractice.	The Board has decided to separately promulgate changes to Section 12. Telepractice. These comments will be considered by the Board at that time.

Emily Earnest, MA, CCC-A Audiologist President Elect Arkansas Academy of Audiology	47	COMMENT: Commenter submitted a letter of support for the licensure or registration of Audiology Assistants in the state of Arkansas	The Board does not have the statutory authority to regulate Audiology Assistants.
Gretchen Hicks, Board SLPA Coordinator, and other SLP's at Easter Seals	48	COMMENT: [re 8.1.E] responsibility for the welfare of those being served remains with the licensed individual. WOW Add or address this elsewhere only if personnel are adequately prepared/trained and are appropriately supervised	The Board does not understand this comment.

Suba Desikan, an attorney at the Bureau of Legislative Research, asked the following question and received the following response thereto:

QUESTION 1: Could you please provide a breakdown of the estimated costs to private individuals, entities and businesses listed in Item 5 of the financial impact statement?

RESPONSE: The Board of Examiners in Speech-Language Pathology and Audiology is in the process of promulgating new rules. One of the changes that is being proposed is a reduction in fees for our constituents.

The new fee structure will include the following reductions:

	<u>Old Fees</u>	<u>Proposed Fees</u>	<u>Proposed Savings</u>
Application fees	\$140.00	\$100.00	\$40.00
Standard renewal fees	\$80.00	\$60.00	\$20.00
Dually licensed renewal fees	\$120.00	\$85.00	\$35.00

Late renewal penalties will also undergo a reduction. Those reductions are as follows:

	<u>Old Fee</u>	<u>Proposed Fees</u>	<u>Proposed Savings</u>
One month late renewing	\$180.00	\$160.00	\$20.00
Two months late renewing	\$280.00	\$160.00	\$120.00
Three months late renewing	\$380.00	\$160.00	\$220.00
Four months late renewing	\$480.00	\$160.00	\$320.00

Five months or later renewing	\$580.00	\$160.00	\$420.00
If renewing six to 12 months late	\$580.00	\$260.00	\$320.00
If renewing 13 months late	\$580.00	\$360.00	\$220.00

QUESTION 2: On Item 6 of the financial impact statement, the board lists a total estimated cost of \$62,560 for the next fiscal year. Could you please provide some background/explanation of how the board calculated this amount? **RESPONSE:** The Board is reducing general licensure fees for speech pathologists and audiologists by \$20.00. This will be the largest impact. The reduction in the general licensure (speech pathologists and audiologists) would result in a reduction of approximately \$58,750.00 (that would be the \$80 to \$60). Calculated using an approximation of about 3000 licensees, but this number does vary some, so \$58,750.00 + \$3810 (estimate for fines and new licenses) = \$62,560.

The proposed effective date of this rule is August 1, 2020.

FINANCIAL IMPACT: The agency indicated that the amended rules have a financial impact. Specifically, any new applicant to the Board for licensure will experience a reduction in the application fee. All licensees will experience a reduction in the renewal fees and late fees associated with late renewal. The total estimated cost to state, county and municipal government to implement this rule for the next fiscal year is estimated to be \$62,560.00.

LEGAL AUTHORIZATION: The Board of Examiners in Speech Pathology and Audiology is authorized to adopt rules relating to professional conduct commensurate with the policy of Ark. Code Ann. § 17-100-101 et. seq., including, but not limited to, rules which establish ethical standards of practice necessary to the enforcement and orderly administration of this chapter. In addition, the board is authorized to promulgate rules regarding the use of speech-pathology support personnel by practitioners of speech-language pathology. See Ark. Code Ann. § 17-100-202(b)(1) and (b)(2).

The proposed rules implement the following acts of the 2019 Regular Session:

Act 315 of 2019, sponsored by Representative Jim Dotson, provides for the uniform use of the term “rule” for an agency statement of general applicability and future effect that implements, interprets, or prescribes law or policy, or describes the organization, procedure, or practice of an agency and includes, but is not limited to, the amendment or repeal of a prior rule throughout the Arkansas Code as envisioned by defining the term in the Arkansas Administrative Procedure Act. See Act 315 of 2019, § 1(a)(4).

Act 820 of 2019, sponsored by Senator Missy Irvin, amended the law concerning the occupational licensure of active duty service members, returning military veterans, and their spouses to provide for automatic licensure. The Act required occupational licensing agencies, to grant automatic occupational licensure to certain individuals. See Act 820, § 2(b).

Act 990 of 2019, sponsored by Senator John Cooper, amended the law regarding criminal background checks for professions and occupations to obtain consistency regarding criminal background checks and disqualifying offenses for licensure. The Act required licensing entities to promulgate rules to implement the Act. See Act 990, § 2.

QUESTIONNAIRE
FOR FILING PROPOSED RULES WITH THE
ARKANSAS LEGISLATIVE COUNCIL

DEPARTMENT/AGENCY Department of Health
DIVISION Division of Health related Board and Commissions/ Arkansas Board of Examiners in Speech-Language Pathology and
DIVISION DIRECTOR Matt Gilmore
CONTACT PERSON Sara Farris, Assistant AG
ADDRESS 323 Center St., Suite 200, Little Rock, AR 72201
PHONE NO. 501-682-3643 **FAX NO.** _____ **E-MAIL** sara.farris@arkansasag.gov
NAME OF PRESENTER AT COMMITTEE MEETING Elizabeth Williams
PRESENTER E-MAIL Elizabeth.williams@g.fayar.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
- D. Rule" below.
- E. Submit two (2) copies of the Questionnaire and Financial Impact Statement attached to the front of two (2) copies of the proposed rule and required documents. Mail or deliver to:

Jessica C. Sutton
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? Arkansas Board of Examiners in Speech-Language Pathology and Audiology Rules

2. What is the subject of the proposed rule? Licensing and regulation of speech-language pathology and audiology

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 rule.

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."

See attached

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

A.C.A. §17-100-202(b)

7. What is the purpose of this proposed rule? Why is it necessary?

- Provide automatic licensure to certain military applicants, pursuant to Act 820 of 2019;
- Delegate to the Board's director the authority to issue licenses;
- Lower licensure fees
- Remove the 30-day grace period for licensure
- In compliance with Act 990, and using the Attorney General's model language, adds provisions for a pre-criminal background check and waiver request;
- Amends the Board's current license reinstatement provision to comply with Ark. Code Ann. § 17-1-107.
- Updates the Code of Ethics;
- Requires that first time hearing aid users under the age of 18 years must receive medical evaluation and clearance from an otolaryngologist within 6 months prior to being fitted with a hearing aid;
- Updates telepractice provisions to comply with most recent changes to Telemedicine Act and the Medical Board's rules;
- Clarifies licensure requirements for speech-language pathology assistants who work in public schools;

The proposed changes also include "housekeeping" matters, such as replacing "regulation" with rule, pursuant to act 315; deleting obsolete requirements; updating and clarifying terminology.

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: _____

Time: _____

Place: _____

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

May 4, 2020

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

August 1, 2020

12. Please provide a copy of the notice required under Ark. Code Ann. § 25-15-204(a), and proof of the publication of said notice. attached -proof will be sent

13. Please provide proof of filing the rule with the Secretary of State as required pursuant to Ark. Code Ann. § 25-15-204(e). attached

14. 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.

N/A

Question 5 Box 3

Additions and c- Provide automatic licensure to certain military applicants, pursuant to Act 820 of 2019;

-Delegate to the Board's director the authority to issue licenses;

-Lower licensure fees

-Remove the 30-day grace period for licensure

- In compliance with Act 990, and using the Attorney General's model language, adds provisions for a pre-criminal background check and waiver request;- Provide automatic licensure to certain military applicants, pursuant to Act 820 of 2019;

-Delegate to the Board's director the authority to issue licenses;

-Lower licensure fees

-Remove the 30-day grace period for licensure

- In compliance with Act 990, and using the Attorney General's model language, adds provisions for a pre-criminal background check and waiver request;

- Amends the Board's current license reinstatement provision to comply with Ark. Code Ann. § 17-1-107.

-Updates the Code of Ethics;

-Requires that first time hearing aid users under the age of 18 years must receive medical evaluation and clearance from an otolaryngologist within 6 months prior to being fitted with a hearing aid;

-Updates telepractice provisions to comply with most recent changes to Telemedicine Act and the Medical Board's rules;

-Clarifies licensure requirements for speech-language pathology assistants who work in public schools;

The proposed changes also include "housekeeping" matters, such as replacing "regulation" with rule, pursuant to act 315; deleting obsolete requirements; updating and clarifying terminology.

- Amends the Board's current license reinstatement provision to comply with Ark. Code Ann. § 17-1-107.

-Updates the Code of Ethics;

-Requires that first time hearing aid users under the age of 18 years must receive medical evaluation and clearance from an otolaryngologist within 6 months prior to being fitted with a hearing aid;

-Updates telepractice provisions to comply with most recent changes to Telemedicine Act and the Medical Board's rules;

-Clarifies licensure requirements for speech-language pathology assistants who work in public schools;

The proposed changes also include "housekeeping" matters, such as replacing "regulation" with rule, pursuant to act 315; deleting obsolete requirements; updating and clarifying terminology.

changes are being made to our Rule in order to meet new legislation and amend portions of the rule to better serve our consumers.

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

Current Fiscal Year

Next Fiscal Year

General Revenue \$0.00 _____
 Federal Funds _____
 Cash Funds _____
 Special Revenue _____
 Other (Identify) _____
 Total \$0.00 _____

General Revenue \$0.00 _____
 Federal Funds _____
 Cash Funds _____
 Special Revenue _____
 Other (Identify) _____
 Total \$0.00 _____

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

\$ 140.00 _____
 \$ 80.00 _____
 \$ 120.00 _____
 \$ 180.00 _____
 \$ 280.00 _____
 \$ 380.00 _____
 \$ 480.00 _____
 \$ 580.00 _____
 \$ 580.00 _____
 \$ 580.00 _____

\$ 100.00 _____
 \$ 60.00 _____
 \$ 85.00 _____
 \$ 160.00 _____
 \$ 160.00 _____
 \$ 160.00 _____
 \$ 160.00 _____
 \$ 160.00 _____
 \$ 260.00 _____
 \$ 360.00 _____

Any new applicant to the Board for licensure will experience a reduction in the application fee. All licensee will experience a reduction in the renewal fees and late fees associated with late renewal.

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

\$ 0 _____

\$ 62,560.00 _____

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.

Arkansas Board of Examiners in Speech-Language Pathology and Audiology
("ABESPA")

Summary of changes made after public comment period

1. ABESPA voted to separately promulgate the substantive changes to Section 12. Telepractice. The Board is proceeding with one change to Section 12.1.H. pursuant to Act 315.
2. ABESPA voted not to make changes to Section 13. Rules Governing Registration of Speech-Language Pathology Assistants, except for changes required by Acts 315 and 910. The Board received comments that suggested extensive revisions to this section, so the Chair has appointed a committee to study substantive revisions to Section 13 and make recommendations to the Board.
3. The Board voted not to make the changes in Section 2.5. Due to the COVID-19 crisis, the Board believes that now is not the time to implement a significant change in the licensure process.
4. In Section 7.2, the Board added "language" between "speech" and "pathology" and the end of the sentence.
5. In Section 7.3, the Board added "speech-language pathology assistant" in the first line.
6. The Board replaced the following phrase, which was accidentally omitted from Section 2.11: Application must be made within thirty days of beginning the professional experience.
7. The previous draft contained numbering/lettering errors in Section 8. Code of Ethics, and these errors have been corrected

