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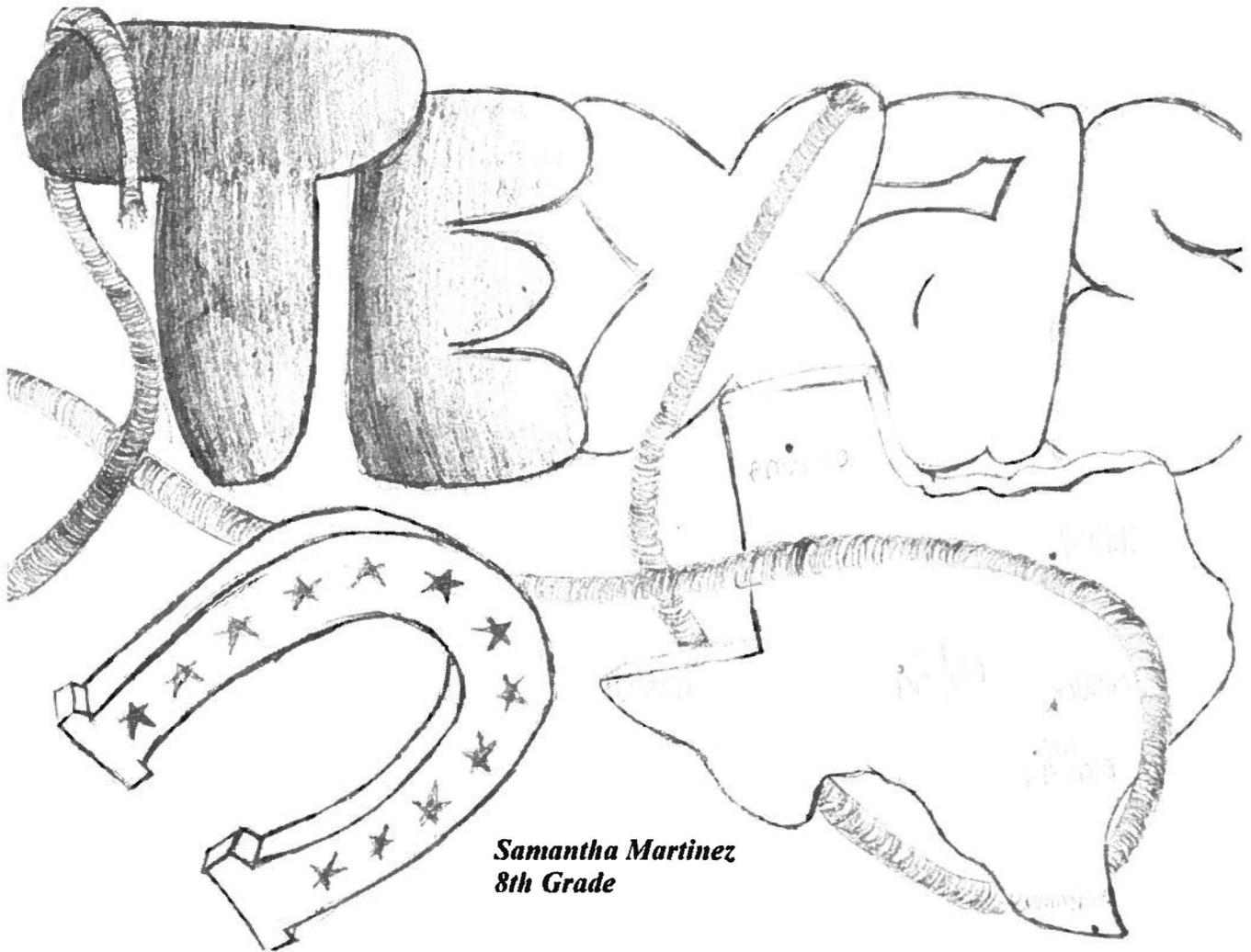
# TEXAS REGISTER

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*Samantha Martinez  
8th Grade*

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PROPOSED  
RULES FOR  
PUBLIC  
COMMENT

## PART 32. STATE BOARD OF EXAMINERS FOR SPEECH-LANGUAGE PATHOLOGY AND AUDIOLOGY

### CHAPTER 741. SPEECH-LANGUAGE PATHOLOGISTS AND AUDIOLOGISTS SUBCHAPTER P. JOINT RULES FOR FITTING AND DISPENSING OF HEARING INSTRUMENTS BY TELEPRACTICE

#### 22 TAC §§741.231 - 741.233

The State Board of Examiners for Speech-Language Pathology and Audiology (board) proposes new §§741.231 - 741.233, concerning the regulation and licensure of speech-language pathologists and audiologists.

#### BACKGROUND AND PURPOSE

The new rules are necessary to comply with Section 2 of Senate Bill (SB) 312, 83rd Legislature, Regular Session, 2013, which adds new §401.2022, to the Texas Occupations Code, requiring the board and the State Committee of Examiners in the Fitting and Dispensing of Hearing Instruments (committee) to jointly adopt rules, with the assistance of the Department of State Health Services (department), to establish requirements for the fitting and dispensing of hearing instruments by the use of telepractice.

The proposed new rules in Subchapter P are proposed under Texas Occupations Code, §401.2022, which, together with a corresponding new rule proposed for 22 TAC §141.30, pursuant to Texas Occupations Code, §402.1023, were jointly approved by the board and committee for publication as proposed new joint rules for the fitting and dispensing of hearing instruments by telepractice. The rules being proposed in new Subchapter P are in the format jointly approved for publication by the board and committee, and previously published by the board in the June 6, 2014, issue of the *Texas Register* (39 TexReg 4387). The board has withdrawn the previously published proposed Subchapter P rules and is now re-publishing these rules in coordination with publication of the corresponding proposed new joint rule 22 TAC §140.30 under Texas Occupations Code, §402.1023, to allow for all comments on the proposed new joint rules, whether submitted to the board or to the committee, based upon their respective publication of proposed new joint rules in 22 TAC Chapter 741, Subchapter P, or in 22 TAC §141.30, to be considered before the board and committee each act to jointly adopt rules establishing requirements for the fitting and dispensing of hearing instruments by telepractice. Comments submitted in response to publication of the same proposed new joint rules on June 6, 2014, may be resubmitted for consideration during the comment period for this re-published proposed new joint rule.

#### SECTION-BY-SECTION SUMMARY

New §741.231 sets forth the purpose of the joint rules between the board and the committee regarding the fitting and dispensing of hearing instruments by telepractice.

New §741.232 defines the terms applicable to the rules in new Subchapter P.

New §741.233 sets forth the requirements for the fitting and dispensing of hearing instruments using telepractice.

#### FISCAL NOTE

Stewart Myrick, Interim Executive Director, has determined that for each year of the first five years the sections are in effect, there will be no fiscal implications to state or local governments as a result of enforcing or administering the sections as proposed.

#### SMALL AND MICRO-BUSINESS ECONOMIC STATEMENT AND REGULATORY FLEXIBILITY ANALYSIS

Mr. Myrick has also determined that there will be no adverse economic impact to small businesses or micro-businesses required to comply with the sections as proposed. This was determined by interpretation of the rules that small businesses and micro-businesses will not be required to alter their business practices in order to comply with the sections. Therefore, an economic impact statement and regulatory flexibility analysis for small businesses and micro-businesses is not required.

#### ECONOMIC COSTS TO PERSONS AND IMPACT ON LOCAL EMPLOYMENT

There are no anticipated economic costs to persons who are required to comply with the sections as proposed. The new rules do not impose additional fees. There is no anticipated impact on local employment.

#### PUBLIC BENEFIT

Mr. Myrick has also determined that for each year of the first five years the sections are in effect, the public benefit anticipated as a result of enforcing or administering the sections will be to ensure the effective and consistent regulation of the fitting and dispensing of hearing instruments by telepractice from, or to a person in Texas, which will protect and promote public health, safety, and welfare when telepractice is used for the fitting and dispensing of hearing instruments.

#### REGULATORY ANALYSIS

The board has determined that this proposal is not a "major environmental rule" as defined by Government Code, §2001.0225. "Major environmental rule" is defined to mean a rule the specific intent of which is to protect the environment or reduce risk to human health from environmental exposure and that may adversely affect, in a material way, the economy, a sector of the economy, productivity, competition, jobs, the environment or the public health and safety of a state or a sector of the state. This proposal is not specifically intended to protect the environment or reduce risks to human health from environmental exposure.

#### TAKINGS IMPACT ASSESSMENT

The board has determined that the proposed rules do not restrict or limit an owner's right to his or her property that would otherwise exist in the absence of government action and, therefore, do not constitute a taking under Government Code, §2007.043.

#### PUBLIC COMMENT

Comments on the proposal may be submitted to Stewart Myrick, Interim Executive Director, State Board of Examiners for Speech-Language Pathology and Audiology, Mail Code 1982, P.O. Box 149347, Austin, Texas 78714-9347. Comments may also be sent through email to [speech@dshs.state.tx.us](mailto:speech@dshs.state.tx.us). Please write "Comments on Proposed Rules" in the subject line. Comments will be accepted for 30 days following publication of the proposal in the *Texas Register*.

#### STATUTORY AUTHORITY

The new rules are authorized under Texas Occupations Code, §401.202, which provides the State Board of Examiners for Speech-Language Pathology and Audiology with the authority to adopt rules necessary to administer and enforce Texas Occupations Code, Chapter 401; as well as Texas Occupations Code, §401.2022, which specifically authorizes and requires the board to jointly adopt, with the committee, and with the assistance of the department, rules establishing requirements for the fitting and dispensing of hearing instruments using telepractice.

The new rules affect Texas Occupations Code, Chapter 401.

§741.231. Purpose.

Pursuant to Texas Occupations Code, §401.2022 and §402.1023, the State Board of Examiners for Speech-Language Pathology and Audiology (board) and the State Committee of Examiners in the Fitting and Dispensing of Hearing Instruments (committee), with the assistance of the department, are to adopt rules jointly to establish requirements for the fitting and dispensing of hearing instruments through the use of telepractice. The rules in this subchapter contain joint rules that set forth the requirements for the fitting and dispensing of hearing instruments through the use of telepractice.

§741.232. Definitions.

Unless the context clearly indicates otherwise, the following words and terms, when used in this subchapter, shall have the following meanings:

(1) Acts--Texas Occupations Code, Chapter 401, relating to Speech-Language Pathologists and Audiologists, and Texas Occupations Code, Chapter 402, relating to Hearing Instrument Fitters and Dispensers.

(2) Board--The State Board of Examiners for Speech-Language Pathology and Audiology.

(3) Client--A consumer or proposed consumer of services.

(4) Client site--The site at which the client is physically located.

(5) Committee--The State Committee of Examiners in the Fitting and Dispensing of Hearing Instruments.

(6) Facilitator--The individual at the client site who assists with the delivery of telehealth services.

(7) Fitting and dispensing hearing instruments--The measurement of human hearing by the use of an audiometer or other means to make selections, adaptations, or sales of hearing instruments. The term includes the making of impressions for earmolds to be used as a part of the hearing instruments and any necessary post fitting counseling for the purpose of fitting and dispensing hearing instruments.

(8) Hearing instrument--Any wearable instrument or device designed for, or represented as, aiding, improving or correcting defective human hearing. This includes the instrument's parts and any attachment, including an earmold, or accessory to the instrument. The term does not include a battery or cord.

(9) Provider--An individual who holds a current, renewable, unrestricted audiology license under Texas Occupations Code, §401.302 and §401.304; an individual who holds an audiology intern license under Texas Occupations Code, §401.311; or an individual who holds a current, renewable, unrestricted license under Texas Occupations Code, Chapter 402, that authorizes the individual to fit and dispense hearing instruments without supervision.

(10) Provider site--The physical location of the provider of telehealth services which is distant or remote from the client site.

(11) Telecommunications--Interactive communication at a distance by concurrent two-way transmission, using telecommunications technology, of information, including, without limitation, sound, visual images, and/or computer data, between the client site and the provider site, and required to occur without a change in the form or content of the information, as sent and received, other than through encoding or encryption of the transmission itself for purposes of and to protect the transmission.

(12) Telecommunications technology--Computers and equipment, other than telephone, email or facsimile technology and equipment, used or capable of use for purposes of telecommunications. For purposes of this subchapter, the term includes, without limitation:

(A) compressed digital interactive video, audio, or data transmission;

(B) clinical data transmission using computer imaging by way of still-image capture and storage and forward; and

(C) other technology that facilitates the delivery of telehealth services.

(13) Telehealth services--The fitting and dispensing of hearing instruments through telepractice to a client who is physically located at a site other than the site where the provider is located.

(14) Telepractice--The use of telecommunications technology for the fitting and dispensing of hearing instruments.

§741.233. Requirements for Providing Telehealth Services for the Fitting and Dispensing of Hearing Instruments.

(a) Unless otherwise legally authorized to do so, an individual shall not render telehealth services from the State of Texas or to a client in the State of Texas, unless the individual qualifies as a provider as that term is defined in this subchapter and renders only those telehealth services that are within the course and scope of the provider's licensure and competence, and delivered in accordance with the requirements of that licensure and pursuant to the terms and conditions set forth in this section.

(b) The provider shall use only telecommunications technology that meets the definition of that term, as defined in this subchapter, to render telehealth services. Modes of communication that do not utilize such telecommunications technology, including telephone, facsimile, and email, may be used only as adjuncts.

(c) Subject to the requirements and limitations of this section, a provider may utilize a facilitator at the client site to assist the provider in rendering telehealth services.

(d) The provider shall be present at the provider site and shall be visible and audible to, and able to see and hear the client and the facilitator via telecommunications technology in synchronous, real-time interactions, even when receiving or sending data and other telecommunication transmissions in carrying out the telehealth services. The provider is responsible for the actions of the facilitator and shall monitor the client and oversee and direct the facilitator at all times during the telehealth session.

(e) The provider of telehealth services, prior to allowing a facilitator to assist the provider in rendering telehealth services, shall verify and document the facilitator's qualifications, training, and competence in each task the provider directs the facilitator to perform at the client site, and in the methodology and equipment the facilitator is to use at the client site.

(f) The facilitator may perform at the client site only the following tasks:

(1) those physical, administrative, and other tasks for which the provider has trained the facilitator in connection with the fitting or dispensing of hearing instruments for which no form of license, permit, authorization or exemption under either of the Acts is required; and

(2) a task for which the facilitator holds and acts in accordance with any license, permit, authorization or exemption required under either of the Acts to perform the task.

(g) A provider shall not render telehealth services to a client in those situations in which the presence of a facilitator is required for safe and effective service to the client and no qualified facilitator is available to the client during the telepractice session.

(h) The scope, nature, and quality of the telehealth services provided, including the assistance provided by the facilitator, shall be commensurate with the services the provider renders in person at the same physical location as the client.

(i) The provider shall not render telehealth services unless the telecommunications technology and equipment located at the client site and at the provider site are appropriate to the telehealth services to be rendered; are properly calibrated and in good working order; and are of sufficient quality to allow the provider to deliver equivalent fitting and dispensing service and quality to the client as if those services were provided in person at the same physical location. The provider shall only utilize telecommunications technology and other equipment for the provider's telepractice which the provider is competent to use.

(j) The initial professional contact between the provider and client shall be at the same physical location.

(k) Providers and facilitators involved in the provider's delivery of telehealth services shall comply with all laws, rules, and regulations governing the maintenance of client records, including client confidentiality requirements. Documentation of telehealth services shall include documentation of the date and nature of services performed by the provider by telepractice and of the assistive tasks of the facilitator.

(l) Except to the extent it imposes additional or more stringent requirements, this section does not affect the applicability of any other requirement or provision of law to which an individual is otherwise subject under this chapter or other law.

The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

Filed with the Office of the Secretary of State on August 11, 2014.

TRD-201403772

Vickie Dionne, Au.D.

Presiding Officer

State Board of Examiners for Speech-Language Pathology and Audiology

Earliest possible date of adoption: September 21, 2014

For further information, please call: (512) 776-6972



## PART 40. ADVISORY BOARD OF ATHLETIC TRAINERS

### CHAPTER 871. ATHLETIC TRAINERS SUBCHAPTER A. GENERAL GUIDELINES AND REQUIREMENTS

## 22 TAC §871.12, §871.20

The Advisory Board of Athletic Trainers (board) proposes an amendment to §871.12 and new §871.20, concerning the licensure and regulation of athletic trainers.

### BACKGROUND AND PURPOSE

The proposed amendments increase the continuing education requirement for renewal of a license and specify the level of emergency cardiac care certification required for renewal, and to be maintained throughout each licensure period, in order to ensure training adequate to the needs and context of Athletic Trainers' professional practice, and consistent with the level required for national certification.

The proposed new rule implements the requirements of Senate Bill (SB) 162 and House Bill (HB) 2254, 83rd Legislature, Regular Session, 2013, which amended Texas Occupations Code, Chapter 55, which addresses the licensing of military service members, military veterans, and military spouses.

### SECTION-BY-SECTION SUMMARY

The amendments to §871.12 propose an increase in the number of continuing education hours required to renew a license on or after September 1, 2015, from twenty to forty, which is more closely aligned to national continuing education standards for Athletic Trainers and better ensures that licensees will remain knowledgeable of current trends and developments in the industry and keep their practices aligned with current industry standards. The amendments also describe with greater specificity the level of emergency cardiac care certification required for renewal of the license, and to be maintained throughout each licensure period, in order to ensure training adequate to the needs and context of Athletic Trainers' professional practice, and consistent with the level required for national certification.

New §871.20 is proposed to implement the requirements of SB 162 and HB 2254, relating to the occupational licensing of spouses of members of the military and the eligibility requirements for certain occupational licenses issued to applicants with military experience, and apprenticeship requirements for occupational licenses issued to applicants with military experience.

### FISCAL NOTE

Stewart Myrick, Program Director, has determined that for each year of the first five years the sections are in effect, there will be no fiscal implications to the state or local governments as a result of enforcing or administering the sections as proposed.

### SMALL AND MICRO-BUSINESS IMPACT ANALYSIS

Mr. Myrick has also determined that there will be no effect on small businesses or micro-businesses required to comply with the sections as proposed. This was determined by interpretation of the rules that small businesses and micro-business will not be required to alter their business practices in order to comply with the sections.

### ECONOMIC COST TO PERSONS AND IMPACT ON LOCAL EMPLOYMENT

There are no anticipated economic costs to persons who are required to comply with the sections as proposed. Although the number of continuing education hours required for renewal is being increased, there are sufficient continuing education resources available at no cost for any licensee who chooses to fulfill the requirement without additional cost to do so. There is no anticipated negative impact on local employment.

# ADOPTED RULES

warranted by any reasonable argument for the extension, modification, or reversal of commission precedent;

(5) rate-case expenses as a whole were disproportionate, excessive, or unwarranted in relation to the nature and scope of the rate case addressed by the evidence pursuant to subsection (b)(5) of this section; or

(6) the utility or municipality failed to comply with the requirements for providing sufficient information pursuant to subsection (b) of this section.

(d) Calculation of allowed or disallowed rate-case expenses.

(1) Based on the factors and criteria in subsections (b) and (c) of this section, the presiding officer shall allow or recommend allowance of recovery of rate-case expenses equal to the amount shown in the evidentiary record to have been actually and reasonably incurred by the requesting utility or municipality. The presiding officer shall disallow or recommend disallowance of recovery of rate-case expenses equal to the amount shown to have been not reasonably incurred under the criteria in subsection (c) of this section. A disallowance may be based on cost estimates in lieu of actual costs if reasonably accurate and supported by the evidence.

(2) A disallowance pursuant to subsection (c)(5) of this section may be calculated as a proportion of a utility's or municipality's requested rate-case expenses using the following methodology or any other appropriate methodology:

(A) For utilities, the ratio of:

(i) the amount of the increase in revenue requirement requested by the utility that was denied, to

(ii) the total amount of the increase in revenue requirement requested in a proceeding by the utility.

(B) For municipalities, the ratio of:

(i) the amount of the increase in revenue requirement requested by the utility unsuccessfully challenged by the municipality, to

(ii) the total amount of the increase in revenue requirement challenged by the municipality.

(3) If the evidence presented pursuant to subsection (b)(6) of this section does not enable the presiding officer to determine the appropriate disallowance of rate-case expenses reasonably associated with an issue with certainty and specificity, then the presiding officer may disallow or deny recovery of a proportion of a utility's or municipality's requested rate-case expenses using the following methodology or any other appropriate methodology:

(A) For utilities, the ratio of:

(i) the amount of the increase in revenue requirement requested by the utility in the rate case related to the issue(s) not reasonably supported by evidence of certainty and specificity, to

(ii) the total amount of the increase in revenue requirement requested in a proceeding by the utility.

(B) For municipalities, the ratio of:

(i) the amount of the increase in revenue requirement requested by the utility in the rate case challenged by the municipality relating to the issue(s) not reasonably supported by evidence of certainty and specificity, to

(ii) the total amount of the increase in revenue requirement challenged by the municipality.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

Filed with the Office of the Secretary of State on August 6, 2014.

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Adriana A. Gonzales

Rules Coordinator

Public Utility Commission of Texas

Effective date: August 26, 2014

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For further information, please call: (512) 936-7223

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**TITLE 22. EXAMINING BOARDS**

**PART 32. STATE BOARD OF EXAMINERS FOR SPEECH-LANGUAGE PATHOLOGY AND AUDIOLOGY**

**CHAPTER 741. SPEECH-LANGUAGE PATHOLOGISTS AND AUDIOLOGISTS**

The State Board of Examiners for Speech-Language Pathology and Audiology (board) adopts amendments to §§741.1, 741.13, 741.61, 741.62, 741.64, 741.81, 741.84, 741.141, 741.161, 741.162, 741.164, and 741.211 - 741.215; the repeal of §741.66 and §741.86; and new §§741.66, 741.86, and 741.216, concerning the regulation and licensure of speech-language pathologists and audiologists. Sections §§741.66, 741.86, 741.162, 741.213, 741.214, and 741.216 are adopted with changes to the proposed text as published in the June 6, 2014, issue of the *Texas Register* (39 TexReg 4387). The amendments to §§741.1, 741.13, 741.61, 741.62, 741.64, 741.81, 741.84, 741.141, 741.161, 741.164, 741.211, 741.212, and 741.215 and the repeals of §741.66 and §741.86 are adopted without changes, and, therefore, the sections will not be republished. The board is withdrawing proposed new Subchapter P, §§741.231 - 741.233, concerning Joint Rules for Fitting and Dispensing of Hearing Instruments by Telepractice, to be subsequently republished for proposal in coordination with publication of a corresponding proposal for a new joint rule under 22 TAC Chapter 141, by the State Committee of Examiners in the Fitting and Dispensing of Hearing Instruments.

**BACKGROUND AND PURPOSE**

In accordance with Texas Occupations Code, Chapter 401, the adopted amendments update the board's rules to reflect current operational procedures in processing and approving licensure applications and provide clarification of the rules' intent for license holders and the public. The amendments and addition to Subchapter O, amendments to §§741.61, 741.66 and 741.86, and the adopted new §741.81(f) are necessary to comply with Senate Bill (SB) 312, 83rd Legislature, Regular Session, 2013, an Act which amended and added new provisions to Texas Occupations Code, Chapter 401, regarding the practice of speech-language pathology and audiology.

SB 312 authorizes the board to adopt rules for the practice of speech-language pathology and audiology using telecommunications technology. In implementing this provision, the board has modified existing Subchapter O so that the defini-

tions in §741.211 apply to both audiologists and speech-language pathologists; §§741.212 through 741.215 apply only to speech-language pathologists; and §741.216 sets forth the requirements applicable only to audiologists engaging in telepractice.

The repeal of, and adoption of new, §§741.66 and 741.86, are necessary to implement legislation concerning the licensing of military service members, military veterans, and military spouses from SB 312, SB 162 (83rd Legislature, Regular Session, 2013), and HB 2254 (83rd Legislature, Regular Session, 2013), and incorporate existing requirements concerning licensing while on military duty and for military spouses from Texas Occupations Code Chapter 55. SB 312 also removes a six-hour course requirement for licensure, which an amendment to §741.61 was made to implement, and provides for the renewal of certain lapsed audiology licenses issued between September 1, 2007 and 2011, to audiologists holding master's degrees, which the amendment to §741.81(f) implement.

The adopted rule changes to the following sections of Chapter 741 clarify, correct, or update various rules to improve understanding and better reflect the licensing processes and procedures currently in place: §§741.1, 741.13, 741.62, 741.64, 741.84, 741.141, 741.161, 741.162, and 741.164.

#### SECTION-BY-SECTION SUMMARY

The amendments to §741.1 clarify certain existing definitions and to define new terms used in new rule sections.

The amendment to §741.13 deletes obsolete language.

The amendment to §741.61 identifies the specific time frame for applications to which one of the educational requirements for licensure applies.

The amendment to §741.62 corrects a grammatical error.

The amendments to §741.64 correct an exception to a paragraph and clarify the requirements for signatures that are needed on formal documentation relating to the reimbursement of services rendered.

The amendment to §741.81 adds a new subsection (f), to comply with SB 312, to set forth the conditions under which a lapsed license of an audiologist who was licensed between September 1, 2007 and September 1, 2011, may renew his or her audiology license, including the requirement that an application for such renewal must be filed before September 1, 2014.

The amendment to §741.84 corrects a grammatical error.

The amendments to §741.141 clarify the types and expiration periods of licenses issued by the board.

The amendments to §741.161 clarify how renewal documentation can be submitted to the board.

The amendments to §741.162 clarify the areas in which continuing education credits may be earned; the number of continuing education hours that can be used for university and/or college course work; that continuing education hours can rollover to the next consecutive renewal period; that the board will accept continuing education registries as proof of completion of continuing education credits; and deletes obsolete language regarding American Medical Association Category I continuing education events.

The amendments to §741.164 correct grammatical errors.

The amendments to §741.211 add new terms and clarify existing definitions relating to telehealth.

The amendment to §741.212, which enumerates examples of different models of service delivery by telehealth, revises the title of the rule to particularize its applicability to speech-language pathologists.

The amendments to §741.213 provide that this particular telehealth rule applies only to speech-language pathologists and clarifies the requirements of the rule.

The amendment to §741.214 provides that this particular telehealth rule applies only to speech-language pathologists and clarifies the limitations on the use of telecommunications technology by speech-language pathologists.

The amendment to §741.215 provides that this particular telehealth rule applies only to speech-language pathologists.

New §741.216 creates a new rule applicable to audiologists, which sets forth all of the requirements particular to providing audiology services by telepractice. The first reference to the "State of Texas" was capitalized for grammatical consistency in adoption.

The repeal of and new §741.66 implement SB 312, 83rd Legislature, Regular Session, 2013, SB 162 (83rd Legislature, Regular Session, 2013), and HB 2254 (83rd Legislature, Regular Session, 2013), and incorporate existing requirements from Texas Occupations Code, Chapter 55, regarding licensing in speech-language pathology of military service members, military veterans, and military spouses. Revisions were made to the §741.66 title, subsection (f), and subsection (i), to provide for clearer and more thorough implementation of 2013 legislative requirements and incorporation of existing provisions in Texas Occupations Code, Chapter 55.

The repeal of and new §741.86 implement SB 312, 83rd Legislature, Regular Session, 2013, SB 162 (83rd Legislature, Regular Session, 2013), and HB 2254 (83rd Legislature, Regular Session, 2013), and incorporate existing requirements from Texas Occupations Code Chapter 55, regarding licensing in audiology of military service members, military veterans, and military spouses. Revisions were made to the §741.86 title, subsection (f), and subsection (i), to provide for clearer and more thorough implementation of 2013 legislative requirements and incorporation of existing provisions in Texas Occupations Code, Chapter 55.

#### COMMENTS

The board, and its Rules, Audiology Scope of Practice, and Speech-Language Pathology Scope of Practice committees, have reviewed comments received during the public comment period regarding the proposed amendments, repeal, and new rules, and each received public comments on the proposed rules during their respective committee meetings, held on July 17, 2014, and at the meeting of the full board, held on July 18, 2014. The board's responses to comments are based upon recommendations from the committees and additional consideration of comments and recommended amendments by the full board. Comments were received from multiple licensed Speech-Language Pathologists and from individuals on behalf of, or associated with, the following groups and associations: National Alliance for Medicaid In Education, PresenceLearning, Texas Charter Schools Association, Texas Council of Administrators of Special Education, Inc. (TCASE), Texas Hearing Aid Association (THAA), Texas Speech-Language-Hearing

Association (TSHA), Texas Speech-Language-Hearing Association/Texas Council of Administrators of Special Education Joint Committee, Texas Tech University Health Sciences Center, Big Spring Independent School District. The commenters were not against the rules in their entirety, and some commenters expressed support for particular rules. However, the commenters made recommendations for changes as discussed in the summary of comments.

**Comment:** Regarding §741.162(g), a commenter requested clarification of the amended rule language proposed.

**Response:** The board agrees that the reference to "semester year" in the proposed rule amendment is unclear, and revised §741.162(g) to provide that the referenced university or college course work "shall be approved for 10 continuing education hours per semester hour, with a maximum of 20 continuing education hours per course."

**Comment:** Regarding §741.211(5), a commenter questioned the rationale for permitting an audiology intern, but not a speech-pathology intern, to be a telehealth provider, and expressed opposition to either being allowed.

**Response:** The board disagrees that the rule needs to be changed to prohibit both speech-pathology and audiology interns from acting as telehealth providers. The nature of telehealth services provided by audiology interns would be primarily in the nature of assessment and evaluation in most cases, and would be permissible only to the extent that supervisors themselves have the requisite competence to supervise an intern's telepractice, and have verified that an intern has the requisite qualifications to perform the service provided. While speech-language pathology interns and supervisors would be subject to the same limitations, the nature of a speech-language pathology intern's telehealth services would be providing therapy primarily. Given that telepractice is a relatively new method of service delivery, with industry standards and education for it still evolving, and more variability in skill, training, and experience levels among supervisors, the board considers requiring interns in speech-language pathology to develop their initial therapy skills and experience using a less fluid method of service delivery to best serve the health and welfare of clients at this time. The board, therefore, adopts §741.211(5) as proposed, but will continue to monitor developments in the field in an effort to ensure that its rules continue to serve those interests.

**Comment:** Regarding §741.211(6), a commenter pointed out a grammatical error in number agreement.

**Response:** The board agrees that the first "are" in §741.211(6) should be changed to "is," and has revised the rule accordingly.

**Comment:** Regarding §741.213(h), formerly §741.213(g), commenters for or associated with TCASE, TSHA, TSHA/Texas Council of Administrators of Special Education Joint Committee, and Texas Tech University Health Sciences Center proposed that the language in §741.213(h) referring to "[t]he initial contact between the speech-language pathologist and the client" be amended to refer to "[t]he initial contact between a speech-language pathologist and the client" (italics added), in order to allow a licensed speech-language pathologist who is not the telehealth provider to fulfill the "initial contact" requirement.

Commenters for or associated with the Texas Charter Schools Association, PresenceLearning, and Big Spring Independent School District requested amendments to the requirement that

the initial contact with a client to assess the client's candidacy for telehealth must be in person, at the same physical location as the client, prior to providing telehealth services. There was some variation in the specific suggestions for amendment, but all sought some form of exception in school settings, where the commenters contended that the Admission, Review and Dismissal (ARD) process and participants could collect the information necessary to adequately determine, or to allow a remote speech-language pathologist to determine, a client's candidacy for telehealth. The commenters' contentions included that the "initial in-person contact" requirement was cost-prohibitive, reduced client choice and access, especially in remote areas, to speech-language pathology and bilingual services, and erected an unnecessary barrier to the use of telepractice in schools to address shortages in, and uneven geographic distribution of, speech-language pathologists.

A commenter for or associated with National Alliance for Medicaid In Education expressed support for telehealth, without making a specific suggestion for changes.

**Response:** The board agrees with the suggested change from "the" to "a" in §741.213(h), but has added the term "licensed" after "a," so that the rule now refers to the initial contact between "a licensed speech-language pathologist" and the client, which had been the language the board had originally intended to publish for proposal, but "the" was published in error. This wording change clarifies that the initial in-person contact with a licensed speech-language pathologist does not have to be with the same licensed speech-language pathologist who would provide telehealth services for any client determined to be an appropriate candidate for telehealth, and could help to guard against unconscious bias toward overidentification of suitable candidates for telehealth by speech-language pathologists who would also be the telehealth provider if a client were determined to be a suitable candidate for telehealth.

The board recognizes the valuable and effective role that the availability of telehealth can play in the field of speech-language pathology for appropriate candidates, improving client access to services, including bilingual services, and reducing speech-language pathologists' caseloads in areas of the state most affected by a shortage of licensed speech-language pathologists. The board disagrees, however, with the commenters opposing the initial in-person contact requirement. Determining the services and method of service delivery that are best-suited to a client's capacities and potential, and which will be most effective to meet a client's needs, will often require tactile interaction with the client and/or close examination of a client, including, for example, trained examination of the inside of a client's mouth. Moreover, although all of the commenters were licensed professionals or individuals associated with organizations involved in the profession, there was no consensus that initial in-person contact to determine a student's candidacy for telepractice was not needed to ensure an appropriate determination of suitable candidacy, and one commenter noted during public comment before the Rules Committee that a survey conducted by TCASE reflected that most school districts could presently meet this requirement with staff or contracted Speech-Language Pathologists licensed in Texas.

Studies cited by the commenters or otherwise reviewed by members of the board primarily addressed the efficacy of telehealth, without addressing the methods for determining the client's candidacy for services by telepractice. Moreover, commenters requesting some form of exception to the initial in-person con-

tact requirement in school settings generally supported maintaining that requirement in other settings, implicitly recognizing that there presently is not sufficient evidence that a remote evaluation of a client through telepractice for suitable candidacy is as reliable and effective as an in-person evaluation. Other participants in the ARD process do not have the training or license to make this determination, or to ensure identification and consideration of all facts relevant to a licensed speech-language pathologist's determination concerning suitable candidacy. Without a clear evidence-based rationale for making exceptions for the initial in-person contact in the school context, the board considers clients to be best protected by maintaining the rule requirement for an in-person contact to assess a client's telehealth candidacy.

Although commenters seeking a school-based exception argued that the rule, as proposed, with its initial in-person contact requirement to determine a client's candidacy for telepractice, created a rule that was cost-prohibitive, the substance of that requirement is not new. It has existed in rule in §741.213(g), which will now become §741.213(h) under the adopted rules, since 2011, so would impose no new costs. In fact, explicitly permitting a licensed speech-language pathologist other than the licensee who would provide any telehealth services to a suitable candidate could actually reduce costs for schools by not requiring a remote provider to travel to where the client is for the initial in-person contact, and will thus increase the flexibility schools have under existing rule. Moreover, a school district with a shortage of licensed speech-language pathologists would be required to contract with licensed providers at additional cost to the district, whether the service were in person or remote and would still have to service students in person who were not good candidates for telepractice.

One commenter from the Big Spring Independent School District made reference to out-of-state providers of telehealth without indicating whether the out-of-state providers also hold a Texas license as speech-language pathologists. The existing requirement in §741.215(a) that a provider of telehealth services who practices in the State must be licensed by the board was not proposed for amendment and remains unchanged in the adopted rule.

After consideration of the comments submitted, therefore, the board adopts §741.213(h), formerly §741.213(g), as revised, which maintains the initial in-person contact required under existing rule, while adding the flexibility for the in-person contact to be by a licensed speech-language pathologist who is not the provider of telehealth services. The board will continue to monitor studies relating to telepractice and the selection of clients for telepractice in an effort to keep its rules consistent with evidence-based standards and findings.

Comment: One commenter pointed out a grammatical or typographical error in §741.214(a), which was proposed to be corrected by changing "speech-language pathologist" to the plural form.

Response: The board agrees, and revises §741.214(a) to read, "The limitations of this section apply to the use of telecommunications technology by speech-language pathologists."

## SUBCHAPTER A. DEFINITIONS

### 22 TAC §741.1

#### STATUTORY AUTHORITY

The amendment is authorized under Texas Occupations Code, §401.202, which provides the State Board of Examiners for

Speech-Language Pathology and Audiology with the authority to adopt rules necessary to administer and enforce Texas Occupations Code, Chapter 401; Texas Occupations Code, §401.405, which specifically authorizes the board to adopt telepractice rules for the practice of audiology and speech-language pathology by a person licensed under Texas Occupations Code Chapter 401; and Texas Occupations Code, §§55.002, 55.004, 55.005, 55.007, and SB 162, 83rd Legislature, Regular Session, 2013, which provide rulemaking authority and requirements concerning licensing of military service members, military veterans, and military spouses; and SB 312, which authorizes the board by rule to establish a procedure to license as audiologists certain individuals with lapsed licensed who meet certain eligibility requirements and submit an application prior to September 1, 2014.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

Filed with the Office of the Secretary of State on August 8, 2014.

TRD-201403625

Vickie Dionne, Au.D.

Presiding Officer

State Board of Examiners for Speech-Language Pathology and Audiology

Effective date: August 28, 2014

Proposal publication date: June 6, 2014

For further information, please call: (512) 776-6972



## SUBCHAPTER B. THE BOARD

### 22 TAC §741.13

#### STATUTORY AUTHORITY

The amendment is authorized under Texas Occupations Code, §401.202, which provides the State Board of Examiners for Speech-Language Pathology and Audiology with the authority to adopt rules necessary to administer and enforce Texas Occupations Code, Chapter 401; Texas Occupations Code, §401.405, which specifically authorizes the board to adopt telepractice rules for the practice of audiology and speech-language pathology by a person licensed under Texas Occupations Code Chapter 401; and Texas Occupations Code, §§55.002, 55.004, 55.005, 55.007, and SB 162, 83rd Legislature, Regular Session, 2013, which provide rulemaking authority and requirements concerning licensing of military service members, military veterans, and military spouses; and SB 312, which authorizes the board by rule to establish a procedure to license as audiologists certain individuals with lapsed licensed who meet certain eligibility requirements and submit an application prior to September 1, 2014.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

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Vickie Dionne, Au.D.  
Presiding Officer  
State Board of Examiners for Speech-Language Pathology and  
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**SUBCHAPTER E. REQUIREMENTS FOR  
LICENSURE OF SPEECH-LANGUAGE  
PATHOLOGISTS**

**22 TAC §§741.61, 741.62, 741.64, 741.66**

**STATUTORY AUTHORITY**

The amendments and new rule are authorized under Texas Occupations Code, §401.202, which provides the State Board of Examiners for Speech-Language Pathology and Audiology with the authority to adopt rules necessary to administer and enforce Texas Occupations Code, Chapter 401; Texas Occupations Code, §401.405, which specifically authorizes the board to adopt telepractice rules for the practice of audiology and speech-language pathology by a person licensed under Texas Occupations Code Chapter 401; and Texas Occupations Code, §§55.002, 55.004, 55.005, 55.007, and SB 162, 83rd Legislature, Regular Session, 2013, which provide rulemaking authority and requirements concerning licensing of military service members, military veterans, and military spouses; and SB 312, which authorizes the board by rule to establish a procedure to license as audiologists certain individuals with lapsed licenses who meet certain eligibility requirements and submit an application prior to September 1, 2014.

*§741.66. Licensing in Speech-Language Pathology for Military Service Members, Military Veterans, and Military Spouses.*

(a) This section sets out the speech-language pathology licensing process and procedures for military service members, military veterans, and military spouses required under Texas Occupations Code, Chapter 55 (relating to Licensing of Military Service Members, Military Veterans, and Military Spouses) and Texas Occupations Code, §401.315 (relating to Licensing for Military Spouses as speech-language pathologists or audiologists). For purposes of this section:

(1) Military service member means a person who is currently serving in the armed forces of the United States, in a reserve component of the armed forces of the United States, including the National Guard, or in the state military service of any state.

(2) Military spouse means a person who is married to a military service member who is currently on active duty.

(3) Military veteran means a person who has served in the army, navy, air force, marine corps, or coast guard of the United States, or in an auxiliary service of one of those branches of the armed forces.

(b) An applicant shall provide to the board documentation of the applicant's status as a military service member, military veteran, or military spouse. Acceptable documentation includes, but is not limited to, copies of official documents such as military service orders, marriage licenses, and military discharge records. The application of a person who fails to provide documentation of his or her status shall not be processed under the requirements of this section.

(c) An applicant shall provide to the board acceptable proof of current licensure issued by another jurisdiction. Upon request, the

applicant shall provide proof that the licensure requirements of that jurisdiction are substantially equivalent to the licensure requirements of this state.

(d) The board's authority to require an applicant to undergo a criminal history background check, and the timeframes associated with that process, are not affected by the requirements of this section.

(e) For an application for a license submitted by a verified military service member or military veteran, the applicant shall receive credit towards any licensing requirements, except an examination requirement, for verified military service, training, or education that is relevant to the occupation, unless he or she holds a restricted license issued by another jurisdiction or if he or she has an unacceptable criminal history as described by Texas Occupations Code, Chapter 53.

(f) The board shall issue, as soon as practicable, a license to a verified military spouse who has completed and submitted the application and required fee(s) to the board and meets the following requirements:

(1) for a military spouse applying for a license as a speech-language pathologist:

(A) was licensed in good standing as a speech-language pathologist in another state as of the date of the application; and

(B) holds a master's degree in at least one of the areas of communicative sciences or disorders from a program accredited by a national accrediting organization that is:

(i) approved by the board; and

(ii) recognized by the United States Secretary of Education under the Higher Education Act of 1965 (20 U.S.C. §1001, *et seq.*);

(2) for a military spouse applying for any other category of speech-language pathology license, holds a current license in good standing issued by another state that has licensing requirements that are substantially equivalent to the requirements for the license for which the military spouse is applying; and

(3) for any applicant under paragraph (1) or (2) of this subsection:

(A) has not been the subject of a disciplinary action in any jurisdiction in which the applicant is or has been licensed; and

(B) has no criminal history that would preclude issuance of the license pursuant to Texas Occupations Code, Chapter 53.

(g) If the board issues an initial license to an applicant who is a verified military spouse in accordance with subsection (f) of this section, the board shall assess whether the applicant has met all licensing requirements of this state by virtue of the current license issued by another jurisdiction. The board shall provide this assessment in writing to the applicant at the time the license is issued. If the applicant has not met all licensing requirements of this state, the applicant must provide to the board proof of completion of those requirements at the time of the first renewal of the license. A license shall not be renewed, shall be allowed to expire, and shall become ineffective if the applicant does not provide proof of completion at the time of the first renewal of the license.

(h) A military spouse who within the five years preceding the application date held the license in this state that expired while the applicant lived in another state for at least six months is qualified for licensure based on the previously held license, if there are no unresolved complaints against the applicant and if there is no other bar to licensure, such as a criminal background or non-compliance with a board order.

(i) In accordance with Texas Occupations Code, §55.004(c), the executive director may waive any prerequisite for a military spouse to obtain a license under subsection (f) of this section after reviewing the applicant's credentials and determining that the applicant holds a license issued by another jurisdiction that has licensing requirements substantially equivalent to those of this state.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

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## 22 TAC §741.66

### STATUTORY AUTHORITY

The repeal is authorized under Texas Occupations Code, §401.202, which provides the State Board of Examiners for Speech-Language Pathology and Audiology with the authority to adopt rules necessary to administer and enforce Texas Occupations Code, Chapter 401; Texas Occupations Code, §401.405, which specifically authorizes the board to adopt telepractice rules for the practice of audiology and speech-language pathology by a person licensed under Texas Occupations Code Chapter 401; and Texas Occupations Code, §§55.002, 55.004, 55.005, 55.007, and SB 162, 83rd Legislature, Regular Session, 2013, which provide rulemaking authority and requirements concerning licensing of military service members, military veterans, and military spouses; and SB 312, which authorizes the board by rule to establish a procedure to license as audiologists certain individuals with lapsed licensed who meet certain eligibility requirements and submit an application prior to September 1, 2014.

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## SUBCHAPTER F. REQUIREMENTS FOR LICENSURE OF AUDIOLOGISTS

### 22 TAC §§741.81, 741.84, 741.86

### STATUTORY AUTHORITY

The amendments and new rule are authorized under Texas Occupations Code, §401.202, which provides the State Board of Examiners for Speech-Language Pathology and Audiology with the authority to adopt rules necessary to administer and enforce Texas Occupations Code, Chapter 401; Texas Occupations Code, §401.405, which specifically authorizes the board to adopt telepractice rules for the practice of audiology and speech-language pathology by a person licensed under Texas Occupations Code Chapter 401; and Texas Occupations Code, §§55.002, 55.004, 55.005, 55.007, and SB 162, 83rd Legislature, Regular Session, 2013, which provide rulemaking authority and requirements concerning licensing of military service members, military veterans, and military spouses; and SB 312, which authorizes the board by rule to establish a procedure to license as audiologists certain individuals with lapsed licensed who meet certain eligibility requirements and submit an application prior to September 1, 2014.

§741.86. *Licensing in Audiology for Military Service Members, Military Veterans, and Military Spouses.*

(a) This section sets out the audiology licensing process and procedures for military service members, military veterans, and military spouses required under Texas Occupations Code, Chapter 55 (relating to Licensing of Military Service Members, Military Veterans, and Military Spouses) and Texas Occupations Code, §401.315 (relating to Licensing for Military Spouses as speech-language pathologists or audiologists). For purposes of this section.

(1) Military service member means a person who is currently serving in the armed forces of the United States, in a reserve component of the armed forces of the United States, including the National Guard, or in the state military service of any state.

(2) Military spouse means a person who is married to a military service member who is currently on active duty.

(3) Military veteran means a person who has served in the army, navy, air force, marine corps, or coast guard of the United States, or in an auxiliary service of one of those branches of the armed forces.

(b) An applicant shall provide to the board documentation of the applicant's status as a military service member, military veteran, or military spouse. Acceptable documentation includes, but is not limited to, copies of official documents such as military service orders, marriage licenses, and military discharge records. The application of a person who fails to provide documentation of his or her status shall not be processed under the requirements of this section.

(c) An applicant shall provide to the board acceptable proof of current licensure issued by another jurisdiction. Upon request, the applicant shall provide proof that the licensure requirements of that jurisdiction are substantially equivalent to the licensure requirements of this state.

(d) The board's authority to require an applicant to undergo a criminal history background check, and the timeframes associated with that process, are not affected by the requirements of this section.

(e) For an application for a license submitted by a verified military service member or military veteran, the applicant shall receive credit towards any licensing requirements, except an examination requirement, for verified military service, training, or education that is relevant to the occupation, unless he or she holds a restricted license issued by another jurisdiction or if he or she has an unacceptable criminal history as described by Texas Occupations Code, Chapter 53.

(f) The board shall issue, as soon as practicable, a license to a verified military spouse who has completed and submitted the application and required fee(s) to the board and meets the following requirements:

(1) for a military spouse applying for a license as an audiologist:

(A) was licensed in good standing as an audiologist in another state as of the date of the application; and

(B) holds a master's degree in at least one of the areas of communicative sciences or disorders from a program accredited by a national accrediting organization that is:

(i) approved by the board; and

(ii) recognized by the United States Secretary of Education under the Higher Education Act of 1965 (20 U.S.C. §1001 *et seq.*);

(2) for a military spouse applying for any other category of audiology license, holds a current license in good standing issued by another state that has licensing requirements that are substantially equivalent to the requirements for the license for which the military spouse is applying; and

(3) for any applicant under paragraph (1) or (2) of this subsection:

(A) has not been the subject of a disciplinary action in any jurisdiction in which the applicant is or has been licensed; and

(B) has no criminal history that would preclude issuance of the license pursuant to Texas Occupations Code, Chapter 53.

(g) If the board issues an initial license to an applicant who is a verified military spouse in accordance with subsection (f) of this section, the board shall assess whether the applicant has met all licensing requirements of this state by virtue of the current license issued by another jurisdiction. The board shall provide this assessment in writing to the applicant at the time the license is issued. If the applicant has not met all licensing requirements of this state, the applicant must provide to the board proof of completion of those requirements at the time of the first renewal of the license. A license shall not be renewed, shall be allowed to expire, and shall become ineffective if the applicant does not provide proof of completion at the time of the first renewal of the license.

(h) A military spouse who within the five years preceding the application date held the license in this state that expired while the applicant lived in another state for at least six months is qualified for licensure based on the previously held license, if there are no unresolved complaints against the applicant and if there is no other bar to licensure, such as criminal background or non-compliance with a board order.

(i) In accordance with Texas Occupations Code, §55.004(c), the executive director may waive any prerequisite for a military spouse to obtain a license under subsection (f) of this section after reviewing the applicant's credentials and determining that the applicant holds a license issued by another jurisdiction that has licensing requirements substantially equivalent to those of this state.

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## 22 TAC §741.86

### STATUTORY AUTHORITY

The repeal is authorized under Texas Occupations Code, §401.202, which provides the State Board of Examiners for Speech-Language Pathology and Audiology with the authority to adopt rules necessary to administer and enforce Texas Occupations Code, Chapter 401; Texas Occupations Code, §401.405, which specifically authorizes the board to adopt telepractice rules for the practice of audiology and speech-language pathology by a person licensed under Texas Occupations Code Chapter 401; and Texas Occupations Code, §§55.002, 55.004, 55.005, 55.007, and SB 162, 83rd Legislature, Regular Session, 2013, which provide rulemaking authority and requirements concerning licensing of military service members, military veterans, and military spouses; and SB 312, which authorizes the board by rule to establish a procedure to license as audiologists certain individuals with lapsed licensed who meet certain eligibility requirements and submit an application prior to September 1, 2014.

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## SUBCHAPTER K. ISSUANCE OF LICENSE

### 22 TAC §741.141

The amendment is authorized under Texas Occupations Code, §401.202, which provides the State Board of Examiners for Speech-Language Pathology and Audiology with the authority to adopt rules necessary to administer and enforce Texas Occupations Code, Chapter 401; Texas Occupations Code, §401.405, which specifically authorizes the board to adopt telepractice rules for the practice of audiology and speech-language pathology by a person licensed under Texas Occupations Code Chapter 401; and Texas Occupations Code, §§55.002, 55.004, 55.005, 55.007, and SB 162, 83rd Legislature, Regular Session, 2013, which provide rulemaking authority and requirements concerning licensing of military service members, military veterans, and military spouses; and SB 312, which authorizes the board by rule to establish a procedure to license as audiologists certain individuals with lapsed licensed who

meet certain eligibility requirements and submit an application prior to September 1, 2014.

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## SUBCHAPTER L. LICENSE RENEWAL AND CONTINUING PROFESSIONAL EDUCATION

22 TAC §§741.161, 741.162, 741.164

### STATUTORY AUTHORITY

The amendments are authorized under Texas Occupations Code, §401.202, which provides the State Board of Examiners for Speech-Language Pathology and Audiology with the authority to adopt rules necessary to administer and enforce Texas Occupations Code, Chapter 401; Texas Occupations Code, §401.405, which specifically authorizes the board to adopt telepractice rules for the practice of audiology and speech-language pathology by a person licensed under Texas Occupations Code Chapter 401; and Texas Occupations Code, §§55.002, 55.004, 55.005, 55.007, and SB 162, 83rd Legislature, Regular Session, 2013, which provide rulemaking authority and requirements concerning licensing of military service members, military veterans, and military spouses; and SB 312, which authorizes the board by rule to establish a procedure to license as audiologists certain individuals with lapsed licenses who meet certain eligibility requirements and submit an application prior to September 1, 2014.

#### §741.162. *Requirements for Continuing Professional Education.*

(a) Continuing professional education in speech-language pathology and audiology as required by the Act consists of a series of planned individual learning experiences beyond the basic educational program which has led to a degree or qualifies one for licensure.

(b) A continuing education unit (CEU) is the basic unit of measurement used to credit individuals with continuing education activities for licensure. One CEU is defined as 10 contact hours of participation in an approved continuing education experience.

(c) A minimum of twenty clock hours (two CEUs) shall be required to renew a license issued for a two-year term. The holder of dual licenses, meaning both a speech-language pathology license and an audiology license, shall be required to earn 30 clock hours (three CEUs) to renew a license issued for a two-year term. Effective April 30, 2009, a license holder must complete a minimum of 2.0 clock hours (0.2 CEUs) in ethics as part of the continuing education requirement each renewal term.

(d) When renewing an initial license, the licensee shall submit 10 continuing education hours if the initial license was issued for less than 12 months and 20 continuing education hours if the initial li-

cense was issued for more than 12 months. Continuing education hours earned before the original effective date of a license are not acceptable.

(e) Continuing professional education shall be earned in one of the following areas:

(1) basic communication processes;

(2) speech-language pathology;

(3) audiology;

(4) ethics; or

(5) an area of study related to the areas listed in paragraphs (1) - (4) of this subsection.

(f) Any continuing education activity shall be provided by a board approved sponsor with the exception of activities referenced in subsections (g) - (i) of this section. A list of approved sponsors designated by the board shall be made available to all licensees on the board's website.

(g) University or college course work completed with a grade of at least a "C" or for credit from an accredited college or university in the areas listed in subsection (e)(1) - (4) of this section shall be approved for 10 continuing education hours per semester hour, with a maximum of 20 continuing education hours per course.

(h) For any coursework that is offered by a sponsor that is not board approved, the licensee shall submit by email the course brochure or syllabus 30 days prior to the event for consideration for approval. Partial credit may be awarded.

(i) Earned continuing education hours exceeding the minimum requirement in a previous renewal period shall first be applied to the continuing education requirement for the current renewal period.

(1) A maximum of 10 additional clock hours may be accrued during a license period to be applied to the next consecutive renewal period. Two of the 10 additional clock hours of the rollover hours may be in ethics.

(2) A maximum of 15 additional clock hours may be accrued by dual speech-language pathology and audiology licensees during a license period to be applied to the next consecutive renewal period.

(j) The licensee shall be responsible for maintaining a record of his or her continuing education experiences for a period of at least three years.

(k) Proof of completion of a valid continuing education experience shall include the name of the licensee, the sponsor of the event, the title and date of the event, and the number of continuing education hours earned. Acceptable verification shall be:

(1) a letter, Continuing Education (CE) registry, or form bearing a valid signature or verification as designated by the board approved sponsor;

(2) in the event verification referenced in paragraph (1) of this subsection cannot be obtained, the board may accept verification from the presenter of an approved event if the presenter can also provide proof that the event was acceptable to an approved sponsor; or

(3) an original or certified copy of the university or college transcript if earned under subsection (g) of this section.

(l) The documentation, certificates, diplomas, or other documentation verifying earning of continuing education hours shall not be forwarded to the board at the time of renewal unless the board selected the licensee for audit.

(m) The audit process shall be as follows.

(1) The board shall select for audit a random sample of licensees for each renewal month. The renewal form shall indicate whether the licensee has been selected for audit.

(2) A licensee selected for audit shall submit documentation defined in subsections (k) and (l) of this section at the time the renewal form and fee are submitted to the board.

(3) Failure to furnish this information in a timely manner or providing false information during the audit or renewal process are grounds for disciplinary action against the licensee.

(4) A licensee who is selected for continuing education audit may renew through the online renewal process. However, the license will not be considered renewed until required continuing education documents are received, accepted and approved by the board office.

(n) Completion of the jurisprudence examination shall count as one hour of the continuing education requirement for professional ethics, as referenced in subsection (c) of this section per renewal period.

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## SUBCHAPTER O. TELEHEALTH

### 22 TAC §§741.211 - 741.216

#### STATUTORY AUTHORITY

The amendments and new rule are authorized under Texas Occupations Code, §401.202, which provides the State Board of Examiners for Speech-Language Pathology and Audiology with the authority to adopt rules necessary to administer and enforce Texas Occupations Code, Chapter 401; Texas Occupations Code, §401.405, which specifically authorizes the board to adopt telepractice rules for the practice of audiology and speech-language pathology by a person licensed under Texas Occupations Code Chapter 401; and Texas Occupations Code, §§55.002, 55.004, 55.005, 55.007, and SB 162, 83rd Legislature, Regular Session, 2013, which provide rulemaking authority and requirements concerning licensing of military service members, military veterans, and military spouses; and SB 312, which authorizes the board by rule to establish a procedure to license as audiologists certain individuals with lapsed license who meet certain eligibility requirements and submit an application prior to September 1, 2014.

§741.213. *Requirements for the Use of Telehealth by Speech-Language Pathologists.*

(a) The requirements of this section apply to the use of telehealth by speech-language pathologists.

(b) A provider shall comply with the board's Code of Ethics and Scope of Practice requirements when providing telehealth services.

(c) The scope, nature, and quality of services provided via telehealth are the same as that provided during in-person sessions by the provider.

(d) The quality of electronic transmissions shall be equally appropriate for the provision of telehealth services as if those services were provided in person.

(e) A provider shall only utilize technology which they are competent to use as part of their telehealth services.

(f) Equipment used for telehealth services at the clinician site shall be maintained in appropriate operational status to provide appropriate quality of services.

(g) Equipment used at the client/patient site at which the client or consultant is present shall be in appropriate working condition and deemed appropriate by the provider.

(h) The initial contact between a licensed speech-language pathologist and client shall be at the same physical location to assess the client's candidacy for telehealth, including behavioral, physical, and cognitive abilities to participate in services provided via telecommunications prior to the client receiving telehealth services.

(i) A provider shall be aware of the client or consultant level of comfort with the technology being used as part of the telehealth services and adjust their practice to maximize the client or consultant level of comfort.

(j) When a provider collaborates with a consultant from another state in which the telepractice services are delivered, the consultant in the state in which the client receives services shall be the primary care provider for the client.

(k) As pertaining to liability and malpractice issues, a provider shall be held to the same standards of practice as if the telehealth services were provided in person.

(l) A provider shall be sensitive to cultural and linguistic variables that affect the identification, assessment, treatment, and management of the clients.

(m) Upon request, a provider shall submit to the board data which evaluates effectiveness of services provided via telehealth including, but not limited to, outcome measures.

(n) Telehealth providers shall comply with all laws, rules, and regulations governing the maintenance of client records, including client confidentiality requirements, regardless of the state where the records of any client within this state are maintained.

(o) Notification of telehealth services shall be provided to the client, the guardian, the caregiver, and the multi-disciplinary team, if appropriate. The notification shall include, but not be limited to: the right to refuse telehealth services, options for service delivery, and instructions on filing and resolving complaints.

§741.214. *Limitations on the Use of Telecommunications Technology by Speech-Language Pathologists.*

(a) The limitations of this section apply to the use of telecommunications technology by speech-language pathologists.

(b) Supervision of a licensed assistant and/or intern in speech-language pathology shall not be undertaken through the use of telecommunications technology unless an exception to this prohibition is secured pursuant to the terms of this section.

(c) An exception to subsection (b) of this section shall be requested by the speech-language pathologist submitting the prescribed alternate supervision request form for review by the board's designee, within 15 working days of receipt of the request. The board's designee shall approve or not approve the plan. The plan shall be for not more than one year's duration.

(d) If the exception referenced in subsection (c) of this section is approved and the reason continues to exist, the licensed supervising speech-language pathologist shall annually resubmit a request to be evaluated by the board's designee. Within 15 working days of receipt of the request, the board's designee shall approve or not approve the plan.

(e) Telehealth services may not be provided by correspondence only, e.g., mail, email, faxes, although they may be adjuncts to telepractice.

**§741.216. Requirements for Providing Telepractice Services in Audiology.**

(a) Unless otherwise legally authorized to do so, an individual shall not render telepractice services in audiology from the State of Texas or to a client in the State of Texas, unless the individual qualifies as a provider as that term is defined in this subchapter and renders only those telepractice services that are within the course and scope of the provider's licensure and competence, and delivered in accordance with the requirements of that licensure and pursuant to the terms and conditions set forth in this section.

(b) The provider shall use only telecommunications technology that meets the definition of that term, as defined in this subchapter, to render telepractice services. Modes of communication that do not utilize such telecommunications technology, including telephone, facsimile, and email, may be used only as adjuncts.

(c) Subject to the requirements and limitations of this section, a provider may utilize a facilitator at the client site to assist the provider in rendering telepractice services.

(d) The provider shall be present at the provider site and shall be visible and audible to, and able to see and hear the client and the facilitator via telecommunications technology in synchronous, real-time interactions, even when receiving or sending data and other telecommunication transmissions in carrying out the telepractice services. The provider is responsible for the actions of the facilitator and shall monitor the client and oversee and direct the facilitator at all times during the telepractice session.

(e) The provider of telepractice services, prior to allowing a facilitator to assist the provider in rendering telepractice services, shall verify and document the facilitator's qualifications, training, and competence in each task the provider directs the facilitator to perform at the client site, and in the methodology and equipment the facilitator is to use at the client site.

(f) The facilitator may perform at the client site only the following tasks:

(1) Those physical, administrative, and other tasks for which the provider has trained the facilitator in connection with the rendering of audiology services for which no form of license, permit, authorization or exemption under the Texas Occupations Code is required; and

(2) a task for which the facilitator holds and acts in accordance with any license, permit, authorization or exemption required under the Texas Occupations Code to perform the task.

(g) A provider shall not render telepractice services to a client in those situations in which the presence of a facilitator is required for

safe and effective service to the client and no qualified facilitator is available to the client during the telepractice session.

(h) The scope, nature, and quality of the telepractice services provided, including the assistance provided by the facilitator, shall be commensurate with the services the provider renders in person at the same physical location as the client.

(i) The provider shall not render telepractice services unless the telecommunications technology and equipment located at the client site and at the provider site are appropriate to the telepractice services to be rendered; are properly calibrated and in good working order; and are of sufficient quality to allow the provider to deliver equivalent audiology service and quality to the client as if those services were provided in person at the same physical location. The provider shall only utilize telecommunications technology and other equipment for the provider's telepractice which the provider is competent to use.

(j) Providers and facilitators involved in the provider's delivery of telepractice services shall comply with all laws, rules, and regulations governing the maintenance of client records, including client confidentiality requirements. Documentation of telepractice services shall include documentation of the date and nature of services performed by the provider by telepractice and of the assistive tasks of the facilitator.

(k) Except to the extent it imposes additional or more stringent requirements, this section does not affect the applicability of any other requirement or provision of law to which an individual is otherwise subject under this chapter or other law.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

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**TITLE 25. HEALTH SERVICES**

**PART 1. DEPARTMENT OF STATE  
HEALTH SERVICES**

**CHAPTER 73. LABORATORIES**

**25 TAC §§73.31, 73.41, 73.51, 73.54, 73.55**

The Executive Commissioner of the Health and Human Services Commission (commission), on behalf of the Department of State Health Services (department), adopts amendments to §§73.31, 73.41, 73.51, 73.54, and 73.55 concerning fee schedules for clinical testing, newborn screening, and chemical analysis without changes to the proposed text as published in the May 2, 2014, issue of the *Texas Register* (39 TexReg 3541) and, therefore, the sections will not be republished.

**BACKGROUND AND PURPOSE**