

Department of Health
Notice of Rulemaking Hearing
Board of Communications Disorders and Sciences
Division of Health Related Boards

There will be a hearing before the Tennessee Board of Communications Disorders and Sciences to consider the promulgation of amendments to rules pursuant to T.C.A. §§ 4-5-202, 4-5-204, and 63-17-105. The hearing will be conducted in the manner prescribed by the Uniform Administrative Procedures Act, Tennessee Code Annotated, Section 4-5-204 and will take place in the Magnolia Room of the Cordell Hull Building located at 425 Fifth Avenue North, Nashville, TN at 2:30 p.m. (CST) on the 1st day of November, 2005.

Any individuals with disabilities who wish to participate in these proceedings (review these filings) should contact the Department of Health, Division of Health Related Boards to discuss any auxiliary aids or services needed to facilitate such participation or review. Such initial contact may be made no less than ten (10) days prior to the scheduled meeting date (the date such party intends to review such filings), to allow time for the Division to determine how it may reasonably provide such aid or service. Initial contact may be made with the ADA Coordinator at the Division of Health Related Boards, First Floor, Cordell Hull Building, 425 Fifth Avenue North, Nashville, TN 37247-1010, (615) 532-4397.

For a copy of the entire text of this notice of rulemaking hearing contact:

Jerry Kosten, Regulations Manager, Division of Health Related Boards, 425 Fifth Avenue North, First Floor, Cordell Hull Building, Nashville, TN 37247-1010, (615) 532-4397.

Substance of Proposed Rules

Amendments

Rule 1370-1-.01, Definitions, is amended by deleting paragraphs (11), (28), and (29) in their entirety and substituting instead the following language, so that as amended, the new paragraphs (11) and (29) shall read:

- (11) Clinical Fellow – A Speech Language Pathologist or Audiologist who is in the process of obtaining his paid professional experience, as defined by a Board-approved accreditation agency, before being qualified for licensure. For the purposes of this chapter, a Clinical Fellow includes audiology students who are in their fourth (4) year of doctoral studies.
- (28) Speech Language Pathology Assistant – An individual who has registered with the Board pursuant to Rule .14, and who meets minimum qualifications as provided in Rule .14 which are less than those established for licensure as a speech

language pathologist, and who works under the supervision of a Speech Language Pathologist or Audiologist.

(29) Supervising Licensee

- (a) The term used to designate any Tennessee licensed Speech Language Pathologist or Audiologist, or ASHA certified Speech Language Pathologist or Audiologist who provides supervision of a Clinical Fellow, unlicensed Speech Language Pathologist, or unlicensed Audiologist; or
- (b) The term used to designate any Tennessee licensed Speech Language Pathologist or Audiologist who provides supervision of a Speech Language Pathology Assistant.

Authority: T.C.A. §§ 4-5-202, 4-5-204, 63-17-103, 63-17-105, 63-17-114, and Public Chapter 330 of the Public Acts of 2005.

Rule 1370-1-.03, Necessity of Licensure or Registration, is amended by adding the following language as new paragraph (6):

(6) Use of Titles

- (a) Any person who possesses a valid, unsuspended and unrevoked license issued by the Board has the right to use the title "Speech Language Pathologist" and to practice speech language pathology, as defined in T.C.A. § 63-17-103.
- (b) Any person who possesses a valid, unsuspended and unrevoked license issued by the Board has the right to use the title "Audiologist" and to practice audiology, as defined in T.C.A. § 63-17-103.
- (c) Any person who possesses a valid, unsuspended and unrevoked registration issued by the Board has the right to use the title "Speech Language Pathology Assistant" and to practice under supervision as a Speech Language Pathology Assistant, as defined in T.C.A. § 63-17-103.
- (d) Violation of this rule regarding use of titles shall constitute unprofessional conduct and subject the licensee or certificate holder to disciplinary action.

Authority: T.C.A. §§ 4-5-202, 4-5-204, 63-17-103, 63-17-105, 63-17-117, and Public Chapter 467 of the Public Acts of 2005.

Rule 1370-1-.05, Licensure Process, is amended by deleting paragraphs (1), (2), and (3) in their entirety and substituting instead the following language, and is further amended

by adding the following language as new paragraphs (4), (5), (6), (7), (8), (9) and (10), so that as amended, the new paragraphs (1) through (10) shall read:

- (1) An applicant shall download a current application from the Board's Internet Web page or shall obtain a current application packet from the Board's Administrative Office, respond truthfully and completely to every question or request for information contained in the application form, and submit it, along with all documentation and fees required, to the Board's Administrative Office. It is the intent of this Rule that all steps necessary to accomplish the filing of the required documentation be completed prior to filing an application and that all materials be filed simultaneously.
- (2) An applicant shall submit with his application a certified birth certificate or a notarized photocopy of a certified birth certificate.
- (3) An applicant shall submit with his application a "passport" style photograph taken within the preceding twelve (12) months and attach it to the appropriate page of the application.
- (4) An applicant shall disclose the circumstances surrounding any of the following:
 - (a) Conviction of a crime in any country, state, or municipality, except minor traffic violations;
 - (b) The denial of certification or licensure application by any other state or country, or the discipline of the certificate holder or licensee in any state or country.
 - (c) Loss or restriction of certification or licensure privileges.
 - (d) Any judgment or settlement in a civil suit in which the applicant was a party defendant, including malpractice, unethical conduct, breach of contract, or any other civil action remedy recognized by the country's or state's statutory, common law, or case law.
- (5) An applicant shall cause to be submitted to the Board's administrative office directly from the vendor identified in the Board's licensure application materials, the result of a criminal background check.
- (6) An applicant shall file with his application documentation that he possesses a current Certificate of Clinical Competence (CCC) issued through the American Speech Language Hearing Association (ASHA) in the area of requested licensure (speech language pathology and/or audiology).

- (7) An applicant shall have successfully completed the following requirements and cause the supporting documentation to be provided to the Board's Administrative Office:
- (a) A master's or doctorate degree in speech language pathology or audiology. Unless already submitted pursuant to rule 1370-1-.10, it is the applicant's responsibility to request that a graduate transcript be submitted directly from the educational institution to the Board's Administrative Office. The transcript must show that graduation with at least a master's level degree has been completed, and must carry the official seal of the institution.
 - (b) A minimum of three hundred and seventy-five (375) clock hours of supervised clinical experience (practicum) with individuals having a variety of communications disorders, as required by ASHA. The experience shall have been obtained through an accredited college or university which is recognized by ASHA. Unless already provided pursuant to rule 1370-1-.10, the applicant shall cause the Department Chair or other program head to provide directly to the Board's Administrative Office a letter attesting to the standards of the practicum and the applicant's successful completion.
 - (c) A Clinical Fellowship in the area in which licensure is being sought. The applicant shall cause the supervising Speech Language Pathologist or Audiologist to submit directly to the Board's Administrative Office a letter which attests to the Clinical Fellowship pursuant to Rule 1370-1-.10.
 - (d) The examination for licensure pursuant to Rule 1370-1-.08. When the examination has been successfully completed, the applicant shall cause the examining agency to submit directly to the Board's Administrative Office documentation of the successful completion of the examination.
- (8) When necessary, all required documents shall be translated into English and such translation, together with the original document, shall be certified as to authenticity by the issuing source. Both versions must be submitted simultaneously.
- (9) Reciprocity – If the applicant is licensed or was ever licensed in another state, the applicant shall cause the appropriate licensing Board in each state in which he holds or has held a license to send directly to the Board an official statement which indicates the condition of his license in such other state, including the date on which he was so licensed and under what provision such license was granted (i.e. certificate of clinical competence, examination, reciprocity, grandfathering, etc.)

- (10) A speech language pathologist or audiologist who holds an ASHA certification or equivalent, or holds a doctor of audiology degree (AuD) from an accredited institution of higher learning and has passed the examination required for licensure under § 63-17-110 (b) (2), or is licensed in another state and who has made application to the Board for a license in the State of Tennessee, may perform activities and services of a speech language pathology or audiological nature without a valid license pending disposition of the application. For purposes of this rule, “pending disposition of the application” shall mean a Board member or the Board’s designee has determined the application is complete and the applicant has received written authorization from the Board member or the Board designee to commence practice, pursuant to T.C.A. § 63-1-142.

Authority: T.C.A. §§ 4-5-202, 4-5-204, 63-17-105, 63-17-110, 63-17-111, 63-17-112, 63-17-113, 63-17-115, and 63-17-117.

Rule 1370-1-.06, Fees, is amended by deleting parts (3) (d) 4. and (3) (d) 5. in their entirety and substituting instead the following language, and is further amended by adding the following language as new parts (3) (d) 6. and (3) (d) 7., so that as amended, the new parts (3) (d) 4., (3) (d) 5., (3) (d) 6. and (3) (d) 7. shall read:

(3) (d) 4.	Initial Registration Fee	10.00
(3) (d) 5.	Late Renewal Fee	25.00
(3) (d) 6.	Registration Renewal Fee	25.00
(3) (d) 7.	State Regulatory Fee (initial and biennial)	10.00

Authority: T.C.A. § 4-3-1011, 4-5-202, 4-5-204, 63-17-105, and Public Chapter 330 of the Public Acts of 2005.

Rule 1370-1-.08, Examinations, is amended by deleting paragraph (3) in its entirety and substituting instead the following language, and is further amended by deleting paragraph (5) in its entirety, so that as amended, the new paragraph (3) shall read:

- (3) The Board adopts the Specialty Area Tests in Speech-Language Pathology and Audiology of the Professional Assessments for Beginning Teachers (Praxis Test), or its successor examination, as its licensure examination. Successful completion of examination is a prerequisite to licensure, pursuant to Rule 1370-1-.05.

Authority: T.C.A. §§ 4-5-202, 4-5-204, 63-17-105, and 63-17-110.

Rule 1370-1-.09, Renewal of License, is amended by deleting the catchline in its entirety and substituting instead the following language, and is further amended by deleting subparagraph (1) (a), and part (1) (b) 2. in their entirety and substituting instead the

following language, and is further amended by deleting subparagraph (1) (c) but not its parts and substituting instead the following language, and is further amended by deleting subparagraph (1) (d) and paragraph (2) in their entirety and substituting instead the following language, and is further amended by deleting paragraph (3) but not its subparagraphs and substituting instead the following language, and is further amended by deleting subparagraph (3) (a) in its entirety and substituting instead the following language, and is further amended by subparagraph (3) (b) but not is parts and substituting instead the following language, and is further amended by deleting parts (3) (b) 3. and (3) (b) 4. in their entirety and substituting instead the following language, and is further amended by deleting subparagraph (3) (c) in its entirety, so that as amended, the new catchline, subparagraph (1) (a), part (1) (b) 2. subparagraph (1) (c) but not its parts, subparagraph (1) (d), paragraph (2), paragraph (3) but not its subparagraphs, subparagraph (3) (a), subparagraph (3) (b) but not is parts, and parts (3) (b) 3. and (3) (b) 4. shall read:

1370-1-.09 Renewal of License or Registration.

- (1) (a) The due date for license and registration renewal is the expiration date indicated on the renewal certificate.
- (1) (b) 2. Paper Renewals - For individuals who have not renewed their license or registration online via the Internet, a renewal application form will be mailed to each individual licensed or registered by the Board to the last address provided to the Board. Failure to receive such notification does not relieve the licensee or registrant from the responsibility of meeting all requirements for renewal.
- (1) (c) To be eligible for license or registration renewal, an individual must submit to the Board's Administrative Office on or before the due date for renewal all of the following:
 - (1) (d) Licensees and registrants who fail to comply with the renewal rules or notification received by them concerning failure to timely renew shall have their licenses or registrations processed pursuant to rule 1200-10-1-.10.
- (2) Exemption from Licensure or Registration Renewal - A licensee or registrant who does not plan to practice in Tennessee and who therefore does not intend to use the applicable titles "speech language pathologist," "audiologist," "speech language pathology assistant," or any title which conveys to the public that he/she is currently licensed or registered by the Board may apply to convert an active license or registration to retired, or inactive, status. These licensees and registrants must comply with the requirements of Rule 1370-1-.11.
- (3) Reinstatement of an Expired License or Registration.

- (3) (a) Licensees and registrants who fail to comply with the renewal rules or notification received by them concerning failure to timely renew shall have their licensure or registration processed pursuant to Rule 1200-10-1-.10.
- (3) (b) Reinstatement of a license or registration that has expired for less than five (5) years may be accomplished upon meeting the following conditions:
 - (3) (b) 3. Provide documentation of successfully completing continuing education requirements for every year the license or registration was expired, pursuant to Rule 1370-1-.12.
 - (3) (b) 4. License and registration reinstatement applications hereunder shall be treated as license and registration applications, and review and decisions shall be governed by Rule 1370-1-.07.

Authority: T.C.A. §§ 4-5-202, 4-5-204, 63-17-105, 63-17-116, and Public Chapter 330 of the Public Acts of 2005.

Rule 1370-1-.10, Clinical Fellowships and Supervision, is amended by adding the following language as new subparagraphs (5) (d), (5) (e), and (5) (f):

- (5) (d) A licensee who supervises three (3) individuals may provide alternate supervision to one (1) additional Speech Language Pathology Assistant or Clinical Fellow.
- (5) (e) A licensee who supervises two (2) individuals may provide alternate supervision to two (2) additional Speech Language Pathology Assistants or Clinical Fellows.
- (5) (f) A licensee who supervises one (1) individual may provide alternate supervision to three (3) additional Speech Language Pathology Assistants or Clinical Fellows.

Authority: T.C.A. §§ 4-5-202, 4-5-204, 63-17-103, 63-17-105, and 63-17-114.

Rule 1370-1-.10, Clinical Fellowships and Supervision, is amended by deleting paragraph (1) but not its subparagraphs, and substituting instead the following language, and is further amended by deleting paragraph (4) in its entirety and renumbering the present paragraph (5) as paragraph (4), so that as amended, the new paragraph (1) but not its subparagraphs shall read:

- (1) Clinical Fellows must work under the supervision of a licensed or ASHA certified Speech Language Pathologist or Audiologist ('supervising licensee').

Authority: T.C.A. §§ 4-5-202, 4-5-204, 63-17-103, 63-17-105, and 63-17-114.

Rule 1370-1-.11, Retirement and Reactivation of License, is amended by deleting the catchline in its entirety and substituting instead the following language, and is further

amended by designating the language of paragraph (1) as subparagraph (1) (a), and is further amended by adding the following language as subparagraph (1) (b), and is further amended by deleting paragraph (2) but not its subparagraphs and substituting instead the following language, and is further amended by deleting paragraphs (3) and (4) in their entirety and substituting instead the following language, so that as amended, the new catchline, subparagraph (1) (b), paragraph (2) but not its subparagraphs, paragraph (3), and paragraph (4) shall read:

1370-1-.11 Retirement and Reactivation of License or Registration.

- (1) (b) A registrant who holds a current registration and does not intend to practice as a Speech Language Pathology Assistant may apply to convert an active registration to an Inactive-Retired status. Such registrant who holds a retired registration may not practice and will not be required to pay the renewal fee.
- (2) A person who holds an active license or registration may apply for retired status in the following manner:
- (3) A licensee or registrant who holds a retired license or registration may apply to reactivate his license or registration in the following manner:
 - (a) Submit a written request for licensure or registration reactivation to the Board's Administrative Office;
 - (b) Pay the licensure or registration renewal fee and state regulatory fee as provided in Rule 1370-1-.06; and
 - (c) Provide documentation of successfully completing continuing education requirements, pursuant to Rule 1370-1-.12.
- (4) License and registration reactivation applications shall be treated as licensure and registration applications, and review decisions shall be governed by Rule 1370-1-.07.

Authority: T.C.A. §§ 4-5-202, 4-5-204, 63-17-105, 63-17-116, 63-17-124, and Public Chapter 330 of the Public Acts of 2005.

Rule 1370-1-.12, Continuing Education, is amended by deleting the introductory sentence and substituting instead the following language, and is further amended by deleting subparagraph (1) (b) but not its parts and substituting instead the following language, and is further amended by deleting part (1) (e) 1. in its entirety and substituting instead the following language, and is further amended by adding the following language as part (1) (e) 2. and renumbering the present part (1) (e) 2. as (1) (e) 3., and is further amended by deleting subparagraph (1) (g), paragraph (2), subparagraph (3) (a), and paragraph (4) in their entirety and substituting instead the following language, so that as amended, the new

introductory sentence, subparagraph (1) (b) but not its parts, part (1) (e) 1., part (1) (e) 2., subparagraph (1) (g), paragraph (2), subparagraph (3) (a), and paragraph (4) shall read:

1370-1-.12 Continuing Education. All Speech Language Pathologists, Audiologists, and Speech Language Pathology Assistants must comply with the following continuing education rules as a prerequisite to licensure and registration renewal.

(1) (b) The Board does not pre-approve continuing education programs. It is the responsibility of the licensee or registrant, using his/her professional judgment, to determine whether or not the continuing education course is applicable and appropriate and meets the guidelines specified in this rule. Continuing education credit will not be allowed for the following:

(1) (e) 1. For Speech Language Pathologists and Audiologists, a maximum of five (5) hours of the ten (10) hours required in subparagraph (a) may be granted for multi-media courses during each calendar year.

(1) (e) 2. For Speech Language Pathology Assistants, all of the hours required in subparagraph (b) may be granted for multi-media courses during each calendar year.

(1) (g) To be considered for a waiver of continuing education requirements, or for an extension of the deadline to complete the continuing education requirements, a licensee or registrant must request such in writing with supporting documentation before the end of the calendar year in which the continuing education requirements were not met.

(2) Documentation - Proof of Compliance.

(a) Each licensee and registrant must retain documentation of attendance and completion of all continuing education. If asked by the Board for inspection and/or verification purposes, the licensee or registrant must produce one (1) of the following:

1. Verification of continuing education by evidencing certificates which verify attendance at continuing education program(s); or
2. An original letter on official stationery from the continuing education's program's sponsor verifying the continuing education and specifying date, hours of actual attendance, program title, licensee or registrant name and number.

(b) Each licensee and registrant on the biennial renewal form must attest to completion of the required continuing education hours and that such hours

were obtained during the two (2) calendar years (January 1 - December 31) that precede the licensure or registration renewal year.

- (c) Each licensee and registrant shall maintain, for a period of not less than four (4) years, all documentation pertaining to continuing education.
- (3) (a) Any licensee or registrant who falsely certifies attendance and completion of the required hours of continuing education requirements, or who does not or can not adequately substantiate completed continuing education hours with the required documentation, may be subject to disciplinary action pursuant to Rule 1370-1-.13.
- 1. Prior to the institution of any disciplinary proceedings, a letter shall be issued to the last known address of the individual stating the facts or conduct which warrants the intended action.
 - 2. The licensee or registrant has thirty (30) days from the date of notification to show compliance with all lawful requirements for the retention of the license or registration.
 - 3. Any licensee or registrant who fails to show compliance with the required continuing education hours in response to the notice contemplated by part (3) (a) 1. above may be subject to disciplinary action.
- (4) Continuing Education for Reactivation of Retired or Expired Licenses and Registrations.
- (a) Reactivation of a Retired License or Registration. An individual whose license or registration has been retired must complete continuing education requirements for each year the license or registration was retired as a prerequisite to reinstatement. Those hours will be considered replacement hours and cannot be counted during the next licensure or registration renewal period.
 - (b) Reactivation of an Expired License or Registration. Continuing education hours obtained as a prerequisite for reactivating an expired license or registration may not be counted toward the current calendar year continuing education requirement.

Authority: T.C.A. §§ 4-5-202, 4-5-204, 63-17-105, 63-17-116, 63-17-124, and Public Chapter 330 of the Public Acts of 2005.

Rule 1370-1-.12, Continuing Education, is amended by adding the following language as new subparagraph (1) (b) and renumbering the remaining subparagraphs accordingly:

- (1) (b) All Speech Language Pathology Assistants must complete a minimum of five (5) hours of continuing education during each calendar year. For new registrants, submitting proof of successful completion during the twelve (12) months preceding registration of all education and training requirements required for registration in Tennessee, pursuant to Rule 1730-1-.14, shall be considered proof of sufficient preparatory education to constitute continuing education credit for the initial period of registration.

Authority: T.C.A. §§ 4-5-202, 4-5-204, 63-17-105, 63-17-116, 63-17-124, and Public Chapter 330 of the Public Acts of 2005.

Rule 1370-1-.13, Unprofessional and Unethical Conduct, is amended by deleting the introductory language and substituting instead the following language, and is further amended by deleting paragraphs (1), (8), (9), and (13) in their entirety and substituting instead the following language, so that as amended, the new introductory language and the new paragraphs (1), (8), (9), and (13) shall read:

1370-1-.13 Unprofessional and Unethical Conduct. The Board has the authority to refuse to issue a license or registration, or may suspend, revoke, or condition a license or registration for a period of time, or assess by monetary fine any person holding license to practice as a Speech Language Pathologist, or Audiologist, or registration as a Speech Language Pathology Assistant. In addition to the statute at T.C.A. § 63-17-117, unprofessional and/or unethical conduct, shall include, but not be limited to the following:

- (1) Engaging in clinical work when the licensee or registrant is not properly qualified to do so, pursuant to Rules 1370-1-.04 and 1370-1-.14, by successful completion of training, course work and/or supervised practicum;
- (8) Making false statements or representations, being guilty of fraud or deceit in obtaining admission to practice, or being guilty of fraud or deceit in the practice as a Speech Language Pathologist, Audiologist, or Speech Language Pathology Assistant;
- (9) Engaging in the practice as a Speech Language Pathologist, Audiologist, or Speech Language Pathology Assistant under a false or assumed name, or the impersonation of another practitioner under a like, similar or different name;
- (13) Supervising a quantity of assistants or clinical fellows inconsistent with the provisions of Rules 1370-1-.10 and/or 1370-1-.14.

Authority: T.C.A. §§ 4-5-202, 4-5-204, 63-17-105, 63-17-114, 63-17-117, and Public Chapter 330 of the Public Acts of 2005.

Rule 1370-1-.14, Speech Language Pathology Assistants and Supervision, is amended by

adding the following language as new parts (2) (h) 4., (2) (h) 5., and (2) (h) 6.

- (2) (h) 4. A licensee who supervises three (3) individuals may provide alternate supervision to one (1) additional Speech Language Pathology Assistant or Clinical Fellow.
- (2) (h) 5. A licensee who supervises two (2) individuals may provide alternate supervision to two (2) additional Speech Language Pathology Assistants or Clinical Fellows.
- (2) (h) 6. A licensee who supervises one (1) individual may provide alternate supervision to three (3) additional Speech Language Pathology Assistants or Clinical Fellows.

Authority: T.C.A. §§ 4-5-202, 4-5-204, 63-17-103, 63-17-105, and 63-17-114.

Rule 1370-1-15 Disciplinary Actions, Civil Penalties, Assessment of Costs, and Subpoenas, is amended by deleting paragraph (1) but not its subparagraphs and substituting instead the following language, and is further amended by deleting subparagraphs (1) (a), (1) (b), (1) (c), (1) (d), (1) (e) and (4) (b) in their entirety and substituting instead the following language, so that as amended, the new paragraph (1) but not its subparagraphs, and the new subparagraphs (1) (a), (1) (b), (1) (c), (1) (d), (1) (e) and (4) (b) shall read:

- (1) Upon a finding by the Board that the Speech Language Pathologist, Audiologist, or Speech Language Pathology Assistant has violated any provision of the Tennessee Code Annotated §§ 63-17-101, et seq., or the rules promulgated thereto, the Board may impose any of the following actions separately or in any combination deemed appropriate to the offense:
 - (1)(a) Advisory Censure - This is a written action issued to the Speech Language Pathologist, Audiologist or Speech Language Pathology Assistant for minor or near infractions. It is informal and advisory in nature and does not constitute a formal disciplinary action.
 - (1)(b) Formal Censure or Reprimand - This is a written action issued to a Speech Language Pathologist, Audiologist or Speech Language Pathology Assistant for one (1) time and less severe violations. It is a formal disciplinary action which must be accepted by the Speech Language Pathologist, Audiologist or Speech Language Pathology Assistant and ratified by the Board.
 - (1)(c) Probation - This is a formal disciplinary action which places a Speech Language Pathologist, Audiologist or Speech Language Pathology Assistant on close scrutiny for a fixed period of time. This action may be combined with conditions

which must be met before probation will be lifted and/or which restrict the individual's activities during the probationary period.

- (1) (d) Licensure or Registration Suspension - This is a formal disciplinary action which suspends the right to practice for a fixed period of time. It contemplates the re-entry into practice under the licensure or registration previously issued.
- (1) (e) Licensure or Registration Revocation - This is the most severe form of disciplinary action which removes an individual from the practice of the profession and terminates the license or registration previously issued. If revoked, it relegates the violator to the status he possessed prior to application for licensure or registration. An application for the reinstatement of a revoked license or registration shall be treated as a new application for licensure or registration which shall not be considered by the Board prior to the expiration of at least one (1) year, unless otherwise stated in the Board's revocation order.

(4) (b) Schedule of Civil Penalties.

1. A Type A Civil Penalty may be imposed whenever the Board finds a person who is required to be licensed or registered by the Board guilty of a willful and knowing violation of the Act, or regulations pursuant thereto, to such an extent that there is, or is likely to be, an imminent substantial threat to the health, safety, and welfare of an individual client or the public. For purposes of this section, willfully and knowingly practicing as a Speech Language Pathologist, Audiologist or Speech Language Pathology Assistant without a license, registration, or an exempted classification, constitutes a violation for which a Type A Civil Penalty shall be assessed.
2. A Type B Civil Penalty may be imposed whenever the Board finds a person who is required to be licensed or registered by the Board guilty of a violation of the Act, or regulations pursuant thereto, in such a manner as to impact directly on the care of clients or the public.
3. A Type C Civil Penalty may be imposed whenever the Board finds a person who is required to be licensed or registered by the Board guilty of a violation of the Act, or regulations pursuant thereto, which is neither directly detrimental to the client or the public, nor directly impacts their care, but which only has an indirect relationship to the care of clients or the public.

Authority: T.C.A. §§ 4-5-202, 4-5-204, 63-1-134, 63-17-105, 63-17-117, 63-17-118, 63-17-119, 63-17-120, and Public Chapter 330 of the Public Acts of 2005.

Rule 1370-1-.16, Display/Replacement of Licenses, is amended by deleting the catchline and paragraph (1) in their entirety and substituting instead the following language, so that as amended, the new catchline and the new paragraph (1) shall read:

1370-1-.16 Display/Replacement of License or Registration.

- (1) Display of License or Registration- Every person licensed or registered by the Board shall display his license or registration in a conspicuous place in his office and, whenever required, exhibit such license or registration to the Board or its authorized representative.

Authority: T.C.A. §§ 4-5-202, 4-5-204, 63-1-109, 63-17-105, and Public Chapter 330 of the Public Acts of 2005.

Rule 1370-1-.17, Change of Address and/or Name, is amended by deleting paragraphs (1), (2), and (3) in their entirety and substituting instead the following language, so that as amended, the new paragraphs (1), (2), and (3) shall read:

- (1) Before practicing as a Speech Language Pathologist, Audiologist or Speech Language Pathology Assistant, the licensee or registrant shall notify the Board's Administrative Office, in writing, of the address of his/her primary business.
- (2) If any changes occur in the address of his/her place of business, the licensee or registrant must notify the Board's Administrative Office, in writing, within thirty (30) days of such change; such written notification must reference the licensee' or registrant name, profession, and number. Failure to give such notice of business address change shall be deemed just cause for disciplinary action by the Board.
- (3) If any changes occur in the licensee's or registrant's name, the licensee or registrant must notify the Board's Administrative Office within thirty (30) days of the name change. Said notification must be made in writing and must also reference the licensee or registrant prior name and number. A copy of the official document evidencing the name change must be forwarded with the written notification.

Authority: T.C.A. §§ 4-5-202, 4-5-204, 63-1-106, 63-1-108, 63-17-105, and Public Chapter 330 of the Public Acts of 2005.

Rule 1370-1-.19 Board Meetings, Officers, Consultants, and Declaratory Orders, is amended by deleting the catchline in its entirety and substituting instead the following language, and is further amended by adding the following language as new paragraph (5), so that as amended, the new catchline and the new paragraph (5) shall read:

1370-1-.19 Board Meetings, Officers, Consultants, Declaratory Orders, and Screening Panels.

- (5) Screening Panels - The Board adopts, as if fully set out herein, rule 1200-10-1-.13, of the Division of Health Related Boards and as it may from time to time be amended, as its rule governing the screening panel process.

Authority: T.C.A. §§ 4-5-202, 4-5-204, 63-1-138, 63-17-105, 63-17-117, 63-117-118, and Public Chapter 234 of the Public Acts of 2005.

Rule 1370-1-.20, Advertising, is amended by deleting the language of this rule in its entirety and substituting instead the following language as new paragraph (1), (2), (3), (4), (5), and (6):

- (1) Policy Statement. The lack of sophistication on the part of many of the public concerning communications disorder services, the importance of the interests affected by the choice of a Speech Language Pathologist or Audiologist and the foreseeable consequences of unrestricted advertising by Speech Language Pathologists or Audiologists which is recognized to pose special possibilities for deception, require that special care be taken by Speech Language Pathologists or Audiologists to avoid misleading the public. The Speech Language Pathologist or Audiologist must be mindful that the benefits of advertising depend upon its reliability and accuracy. Since advertising by Speech Language Pathologists or Audiologists is calculated and not spontaneous, reasonable regulation designed to foster compliance with appropriate standards serves the public interest without impeding the flow of useful, meaningful, and relevant information to the public.
- (2) Definitions
 - (a) Advertisement. Informational communication to the public in any manner designed to attract public attention to the practice of a Speech Language Pathologist or Audiologist who is licensed to practice in Tennessee.
 - (b) Licensee - Any person holding a license to practice speech language pathology and/or audiology in the State of Tennessee. Where applicable this shall include partnerships and/or corporations.
 - (c) Material Fact - Any fact which an ordinary reasonable and prudent person would need to know or rely upon in order to make an informed decision concerning the choice of practitioners to serve his or her particular needs.
 - (d) Bait and Switch Advertising - An alluring but insincere offer to sell a product or service which the advertiser in truth does not intend or want to sell. Its purpose is to switch consumers from buying the advertised service or merchandise, in order to sell something else, usually for a higher fee or

on a basis more advantageous to the advertiser.

- (e) Discounted Fee - Shall mean a fee offered or charged by a person or product or service that is less than the fee the person or organization usually offers or charges for the product or service. Products or services expressly offered free of charge shall not be deemed to be offered at a "discounted fee".

(3) Advertising Fees and Services

- (a) Fixed Fees - Fixed fees may be advertised for any service. It is presumed unless otherwise stated in the advertisement that a fixed fee for a service shall include the cost of all professional recognized components within generally accepted standards that are required to complete the service.
- (b) Range of Fees. A range of fees may be advertised for services and the advertisement must disclose the factors used in determining the actual fee, necessary to prevent deception of the public.
- (c) Discount Fees. Discount fees may be advertised if:
 - 1. The discount fee is in fact lower than the licensee's customary or usual fee charged for the service; and
 - 2. The licensee provides the same quality and components of service and material at the discounted fee that are normally provided at the regular, non-discounted fee for that service.
- (d) Related Services and Additional Fees. Related services which may be required in conjunction with the advertised services for which additional fees will be charged must be identified as such in any advertisement.
- (e) Time Period of Advertised Fees.
 - 1. Advertised fees shall be honored for those seeking the advertised services during the entire time period stated in the advertisement whether or not the services are actually rendered or completed within that time.
 - 2. If no time period is stated in the advertisement of fees, the advertised fee shall be honored for thirty (30) days from the last date of publication or until the next scheduled publication whichever is later whether or not the services are actually rendered or completed within that time.

- (4) Advertising Content. The following acts or omissions in the context of advertisement by any licensee shall constitute unprofessional conduct, and subject the licensee to disciplinary action pursuant to T.C.A. § 63-17-214 (a) (2).
- (a) Claims that the services performed, personnel employed, materials or office equipment used are professionally superior to that which is ordinarily performed, employed, or used, or that convey the message that one licensee is better than another when superiority of services, personnel, materials or equipment cannot be substantiated.
 - (b) The misleading use of an unearned or non-health degree in any advertisement.
 - (c) Promotion of professional services which the licensee knows or should know is beyond the licensee's ability to perform.
 - (d) Techniques of communication which intimidate, exert undue pressure or undue influence over a prospective client.
 - (e) Any appeals to an individual's anxiety in an excessive or unfair manner.
 - (f) The use of any personal testimonial attesting to a quality of competency of a service or treatment offered by a licensee that is not reasonably verifiable.
 - (g) Utilization of any statistical data or other information based on past performances for prediction of future services, which creates an unjustified expectation about results that the licensee can achieve.
 - (h) The communication of personal identifiable facts, data, or information about a patient without first obtaining patient consent.
 - (i) Any misrepresentation of a material fact.
 - (j) The knowing suppression, omission or concealment of any material fact or law without which the advertisement would be deceptive or misleading.
 - (k) Statements concerning the benefits or other attributes of medical procedures or products that involve significant risks without including:
 - 1. A realistic assessment of the safety and efficiency of those procedures or products; and
 - 2. The availability of alternatives; and

3. Where necessary to avoid deception, descriptions or assessment of the benefits or other attributes of those alternatives.
 - (l) Any communication which creates an unjustified expectation concerning the potential results of any treatment.
 - (m) Failure to comply with the rules governing advertisement of fees and services, or advertising records.
 - (n) The use of "bait and switch" advertisements. Where the circumstances indicate "bait and switch" advertising, the Board may require the licensee to furnish data or other evidence pertaining to those sales at the advertised fee as well as other sales.
 - (o) Misrepresentation of a licensee's credentials, training, experience, or ability.
 - (p) Failure to include the corporation, partnership or individual licensee's name, address, and telephone number in any advertisement. Any corporation, partnership or association which advertises by use of a trade name or otherwise fails to list all licensees practicing at a particular location shall:
 1. Upon request provide a list of all licensees practicing at that location; and
 2. Maintain and conspicuously display at the licensee's office, a directory listing all licensees practicing at that location.
 - (q) Failure to disclose the fact of giving compensation or anything of value to representative of the press, radio, television or other communicative medium in anticipation of or in return for any advertisement (for example, newspaper article) unless the nature, format or medium of such advertisement make the fact of compensation apparent.
 - (r) After thirty (30) days of the licensee's departure, the use of the name of any licensee formerly practicing at or associated with any advertised location or on office signs or buildings. This rule shall not apply in the case of a retired or deceased former associate who practiced in association with one or more of the present occupants if the status of the former associate is disclosed in any advertisement or sign.
 - (s) Stating or implying that a certain licensee provides all services when any such services are performed by another licensee.

- (t) Directly or indirectly offering, giving, receiving, or agreeing to receive any fee or other consideration to or from a third party for the referral of a patient in connection with the performance of professional services.
- (5) Advertising Records and Responsibility
- (a) Each licensee who is a principal partner, or officer of a firm or entity identified in any advertisement, is jointly and severally responsible for the form and content of any advertisement. This provision shall also include any licensed professional employees acting as an agent of such firm or entity.
 - (b) Any and all advertisement are presumed to have been approved by the licensee named therein.
 - (c) A recording of every advertisement communicated by electronic media, and a copy of every advertisement communicated by print media, and a copy of any other form of advertisement shall be retained by the licensee for a period of two (2) years from the last date of broadcast or publication and be made available for review upon request by the Board or its designee.
 - (d) At the time any type of advertisement is placed, the licensee must possess and rely upon information which, when produced, would substantiate the truthfulness of any assertion, omission or representation of material fact set forth in the advertisement or public information.
- (6) Severability. It is hereby declared that the sections, clauses, sentences and part of these rules are severable, are not matters of mutual essential inducement, and any of them shall be rescinded if these rules would otherwise be unconstitutional or ineffective. If any one or more sections, clauses, sentences or parts shall for any reason be questioned in court, and shall be adjudged unconstitutional or invalid, such judgment shall not affect, impair or invalidate the remaining provisions thereof, but shall be confined in its operation to the specific provision or provisions so held unconstitutional or invalid, and the in applicability or invalidity of any section, clause, sentence or part in any one or more instance shall not be taken to affect or prejudice in any way its applicability or validity in any other instance.

Authority: T.C.A. §§4-5-202, 4-5-204, 63-17-105, 63-17-214 (a) (2), and Public Chapter 467 of the Public Acts of 2005.

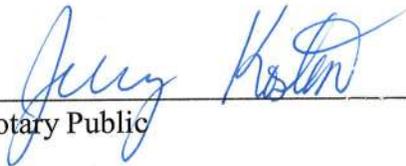
Contact who can answer questions concerning this notice of rulemaking hearing, technical contact for disk acquisition, and person who will approve final copy for publication: Jerry Kosten, Regulations Manager, Division of Health Related Boards, First Floor, Cordell Hull Building, 425 Fifth Avenue North, Nashville, TN 37247-1010 615-532-4397.

I certify that this is an accurate and complete representation of the intent and scope of rulemaking proposed by the Tennessee Board of Communications Disorders and Sciences.



Robbie H. Bell, Director
Health Related Boards

Subscribed and sworn to before me this the 30th day of August, 2005.

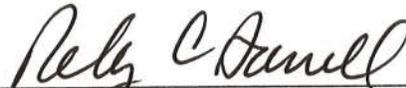


Notary Public

My commission expires on the 25th day of March, 2006.

The notice of rulemaking set out herein was properly filed in the Department of State on the 31 day of August, 2005.

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Riley C. Darnell
Secretary of State

By: 