

BEFORE THE DEPARTMENT OF LABOR AND INDUSTRY
AND THE BOARD OF SPEECH-LANGUAGE
PATHOLOGISTS AND AUDIOLOGISTS
STATE OF MONTANA

In the matter of the amendment of) NOTICE OF AMENDMENT AND
ARM 24.101.413 renewal dates and) REPEAL
requirements, 24.222.301 definitions,)
24.222.701 supervisor responsibility,)
24.222.703 functions of speech-)
language pathology aides or)
assistants, 24.222.706 functions of)
audiology aides or assistants,)
24.222.910 delivery of telepractice)
services, 24.222.2102 continuing)
education – speech-language)
pathologists and audiologists,)
24.222.2402 screening panel, and the)
repeal of 24.222.514 license renewal,)
24.222.702 schedule of supervision -)
contents, 24.222.901 definitions)

TO: All Concerned Persons

1. On July 20, 2018, the Board of Speech-Language Pathologists and Audiologists (board) published MAR Notice No. 24-222-28 regarding the public hearing on the proposed amendment and repeal of the above-stated rules, at page 1368 of the 2018 Montana Administrative Register, Issue No. 14.

2. On August 16, 2018, a public hearing was held on the proposed amendment and repeal of the above-stated rules in Helena. Several comments were received by the August 17, 2018, deadline.

3. The board has thoroughly considered the comments received. A summary of the comments and the board responses are as follows:

COMMENT 1: Many commenters generally supported the proposed rule changes, stating they are reasonable and appropriate to regulate speech-language pathology and audiology and ensure clients receive quality services.

RESPONSE 1: The board appreciates all comments received in the rulemaking process.

ARM 24.222.301:

COMMENT 2: Several commenters supported the amendments to the telepractice definitions of "asynchronous" and "synchronous" in ARM 24.222.301. The

commenters believed the clarification will help in regulating both telepractice and telesupervision.

RESPONSE 2: The board appreciates all comments received in the rulemaking process.

COMMENT 3: Several commenters opposed allowing completion of a post-baccalaureate program in communication sciences and disorders to qualify as speech-language aides/assistants. The commenters suggested the board amend ARM 24.222.301(5)(a) to require either a bachelor's or associate degree for support individuals.

RESPONSE 3: The university system currently offers bachelor's and graduate degrees and post-baccalaureate certificates in communication sciences and disorders, but not an associate degree. Because of this and to keep more options open for future licensees, the board is amending this rule exactly as proposed.

ARM 24.222.701, ARM 24.222.703, and ARM 24.222.706:

COMMENT 4: Many commenters supported the amendments to ARM 24.222.701, 24.222.703, and 24.222.706 regarding speech-language pathology and audiology aides/assistants. The commenters specifically favored the limit on supervising up to three aides/assistants and only listing those services prohibited to aides/assistants. The commenters requested the board clarify that the board has authority to regulate and discipline aides/assistants, even though they are not licensed by the board.

RESPONSE 4: While the board appreciates all comments received in the rulemaking process, it is incorrect that the board has regulatory authority over unlicensed aides/assistants.

COMMENT 5: Several commenters opposed the amendments to ARM 24.222.701(3) to require that supervisors provide at least ten percent of services to each client. The commenters requested the board reverse this change to require at least 30 percent supervision for the first 90 workdays, including at least 20 percent direct and 10 percent indirect weekly supervision. The commenters suggested additional situations that would allow adjustment of supervision and recommended requiring 100 percent direct supervision when aides/assistants provide services to medically fragile students, patients, or clients.

RESPONSE 5: The board disagrees with the comment, as the referenced provision provides the minimum amount of client services provided by aide/assistant supervisors, and not a minimum supervision amount. The board intends for the ten percent services requirement to be a minimum standard that will allow supervisors to adjust according to individual supervision and client situations. While the commenters' suggestions may be based on hospital vs. school models, the board concluded that because a large part of supervision is knowing which clients can be

seen by aides, the suggested strict guidelines are less effective in individual treatment programs.

COMMENT 6: Several commenters opposed allowing speech-language pathologists and audiologists to supervise aides/assistants after only one year of licensure. The commenters asserted that a minimum of two years of licensure is necessary due to the complex nature and variety of disorders these licensees address and requested the board further amend ARM 24.222.701(4).

RESPONSE 6: While the rule requires one year of full licensure prior to supervising, the board points out that it is actually two years with the initial limited license period. Further, the board notes that this is not a new requirement, as the provision is only being renumbered and reorganized within the rule.

COMMENT 7: Many commenters objected to amending ARM 24.222.701(5) to allow supervisors to supervise three full-time equivalent aides/assistants and recommended limiting supervisors to no more than two aides/assistants.

RESPONSE 7: The board notes that the amendment does not increase the number of allowable supervisees, but provides a firm limit of three per supervisor. The board concluded there are very few situations where a licensee would supervise even three aides/assistants, and notes that other client safeguards are in place, such as minimum supervisor contact time.

COMMENT 8: Not specifically opposing or supporting ARM 24.222.703, several commenters stated speech-language pathology aides/assistants should be prohibited from providing certain services and provided specific language for inclusion in the rule.

RESPONSE 8: Noting that many of the suggested prohibited services are included in ARM 24.222.703, the board is amending the rule exactly as proposed. The board concluded it is unduly cumbersome to continually amend the rule to accommodate new aide/assistant tasks and believes that tasks should be assigned and monitored under the professional and ethical direction of the supervisor.

COMMENT 9: Numerous commenters objected to ARM 24.222.703(2)(b) which allows speech-language pathology aides/assistants I to perform diagnostic evaluations under supervision once the aide/assistant I has completed 100 graduate-level clinical clock hours or ten semester hours of graduate credits. The commenters suggested the board amend (2)(b)(i) to require a minimum of 100 hours of supervised fieldwork experience, and to strike (2)(b)(ii) entirely. The commenters further opined that licensed assistants should maintain their credential by fulfilling CE like audiologists and speech-language pathologists.

RESPONSE 9: The board notes that most aides/assistants I are on track to become licensed in Montana, and that supervisors ultimately approve all evaluations as the aides/assistants only perform the testing. Additionally, students perform the same

work with clients, and are also under a supervisor's direction and monitoring. The board further notes that aides/assistants are not currently licensed in Montana.

COMMENT 10: Not specifically opposing or supporting ARM 24.222.706, several commenters stated audiology aides/assistants should be prohibited from providing certain services and provided specific language for inclusion in the rule.

RESPONSE 10: Noting that many of the suggested prohibited services are included in ARM 24.222.706, the board is amending the rule exactly as proposed.

ARM 24.222.2102:

COMMENT 11: Several commenters supported the proposed changes to continuing education (CE) at ARM 24.222.2102, believing they will save administrative time and effort. The commenters encouraged the board to audit the allowable 50 percent of renewed licensees to ensure compliance with CE requirements.

RESPONSE 11: The board has a reasonable expectation of 100 percent audit compliance, which was achieved this last audit of 10 percent of renewed licensees. With this amendment, the board can utilize the flexibility to audit a higher percentage if desired.

4. The department has amended ARM 24.101.413 exactly as proposed.

5. The board has amended ARM 24.222.301, 24.222.701, 24.222.706, 24.222.910, 24.222.2102, and 24.222.2402 exactly as proposed.

6. The board has repealed ARM 24.222.514, 24.222.702, and 24.222.901 exactly as proposed.

7. A non-substantive drafting error was discovered in the amendments to ARM 24.222.703(3). Subsection (3)(a) is repeated in (e), and (3)(b) is repeated in (i). To correct this inadvertent duplication of two identical prohibited functions for speech-language pathology aides/assistants II, the board has amended ARM 24.222.703 with the following changes, stricken matter interlined, new matter underlined:

24.222.703 PROHIBITED SERVICES – SPEECH-LANGUAGE PATHOLOGY AIDES/ASSISTANTS (1) and (2) remain as proposed.

- (3) Speech-language pathology aides/assistants II are not allowed to:
- (a) ~~transmit clinical information to anyone other than the aide/assistant supervisor directly supervising the aide/assistant;~~
 - (b) ~~refer clients to outside professionals;~~
 - (c) through (i) remain as proposed but are renumbered (a) through (g).

BOARD OF SPEECH-LANGUAGE
PATHOLOGISTS AND AUDIOLOGISTS
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PRESIDING OFFICER

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Galen Hollenbaugh, Commissioner
DEPARTMENT OF LABOR AND INDUSTRY

Certified to the Secretary of State November 7, 2018.