



Oregon Board of Examiners for Speech-Language Pathology & Audiology

Established in 1973

Telepractice and COVID-19, Oregon Board's Experience

Presentation to NCSB, October 8, 2021

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Pictured: South Santiam River near Lebanon, Oregon, Photo by Gary Halvorson

Disclosure

- Presenter Erin K. Haag is the full time Executive Director of the Oregon Board of Examiners for Speech-Language Pathology & Audiology. Her salary is paid by the State of Oregon.

The Board's Mission and Makeup

- The Oregon Board of Examiners was established in 1973 to license and regulate the performance of speech-language pathologists and audiologists for consumer protection.
- Board is comprised of two public members, two audiologists, two speech-language therapists and one otolaryngologist (ENT physician).
- The 2020 legislature approved, SB 124 which added an additional board position to be filled by a speech-language pathology assistant (SLPA). Target date: February 2022
- Efforts are made to have a diversified board including representation from both urban and rural areas of Oregon.
- Three full time staff (director, Investigator, administrative assistant)
- Licensees: about 400 audiologists, 350 SLPs, 2800 SLPs

A Perfect Storm

- 2015 – Oregon legislature passes universal licensure. Explosion in out of state applicants for licensure.
- September 9, 2019 – Telepractice rules went into effect.
- December 1, 2019- Board rolled out new online licensing system for biennial licensure renewals.
- January 1, 2020 – New SLPA rules went into effect.
- February 28, 2020 – First case of Covid-19 in Oregon.
- March 8, 2020 – Governor Brown declares state of emergency.
- March 10, 2020 – Oregon Board began working remotely.
- March 19, 2020 – Due to PPE shortage, Governor Brown issues EO postponing elective medical care that uses PPE.
- March 16, 2020 Governor closes schools, reopened 3/12/2021
- February 12, 2021 – Board adopts rules requiring licensees to follow EOs

Telepractice rules implemented in 2019

- Prior to 2019, the rules were silent, so only requirement was to be licensed if working from Oregon or with Oregon patients/clients/students.
- Process – committee of SLPs and Audiologists including academia, K-12 and clinical settings. Membership included licensees skilled in telepractice.
- Rules passed by Board and implemented with an effective date of September 5, 2019
- Since 2015 when Oregon adopted universal licensure, massive increase in out-of-state applicants.

Telepractice rule language

OAR 335-005-0010 Professional and Ethical Standards

(3) "Telepractice" is the application of telecommunications technology to delivery of professional services at a distance for assessment, intervention, and/or consultation. "Telepractice" means, but is not limited to, telehealth, telespeech, teleSLP, telehear, telerehab, teletherapy, teleswallow, teleaudiology when used separately or together.

(a) "Patient" or "client" means a consumer of telepractice services.

(b) "Telepractice service" means the application of telecommunication technology to deliver audiology and/or speech-language pathology services at a distance for assessment, intervention and/or consultation.

(c) "Client/patient site" means the location of the patient or client at the time the service is being delivered via telecommunications.

(d) "Clinician site" means the site at which the audiologist or speech-language pathologist delivering the service is located at the time the service is provided via telecommunications.

Telepractice rule language

OAR 335-005-0010 Professional and Ethical Standards 335-005-0016 Tele-practice

- (1) Audiologists and speech-language pathologists who hold an Oregon license can provide telepractice services through telephonic, electronic, or other means, including diagnosis, consultation, treatment, transfer of health care information. Telepractice, whether the service is rendered from Oregon or delivered to Oregon, constitutes the practice of audiology or speech-language pathology and shall require state licensure.
- (2) Services delivered via telecommunication technology must be equivalent to the quality of services delivered face-to-face (i.e. in-person).
- (3) The telepractitioner is responsible for assessing the client's candidacy for telepractice, including behavioral, physical, and cognitive abilities to participate in services provided via telecommunications.
- (4) Telepractice services must conform to professional standards including but not limited to ethical practice, scope of practice, professional policy documents, and other relevant federal, state, and institutional policies and requirements.
- (5) Telepractitioners must have the knowledge and skills to competently deliver services via telecommunication technology by virtue of education, training, and/or experience.

Telepractice rule language

Professional and Ethical Standards 335-005-0016

- (6) The use of technology—e.g., equipment, connectivity, software, hardware must be appropriate for the service being delivered and must be able to address the unique needs of each client.
- (7) Audio and video quality shall be sufficient to deliver services that are equivalent to in-person service delivery.
- (8) Telepractice service delivery includes the responsibility to ensure calibration of clinical instruments in accordance with standard operating procedures and the manufacturer's specifications.
- (9) Prior to the initiation of telehealth services, a Licensee shall obtain the patient/client and if applicable, their parent or guardian's consent to receive the services via telepractice. The consent may be verbal, written, or recorded and must be documented in the patient/client's permanent record. The notification will include, but not be limited to, the right to refuse telepractice services, options for service delivery to the extent compliant with applicable Federal laws and regulations, and instructions on filing and resolving complaints.
- (10) Telepractitioners shall comply with all laws, rules, and regulations governing the maintenance of client records, including but not limited to HIPAA and FERPA, and client confidentiality requirements in the state where the client is receiving services, regardless of the state where the records of any client within this state are maintained.

Telepractice rule language

Professional and Ethical Standards 335-005-0016

- (11) Telepractice services may not be provided by correspondence only—e.g., mail, e-mail, fax—although these may be used in connection with telepractice.
- (12) When providing services via telepractice, the Licensee shall have procedures in place to address remote medical or clinical emergencies at the patient/client's location.

Telepractice Issues

- According to our workforce data in 2018, only 4.3% of audiologists, and 5.9% of SLPs were utilizing telepractice.
- Governor Brown closed schools for in-person learning March 16, 2020 and they did not re-open until March 12, 2021. As such, all school based audiologists and SLPs had to move to telepractice immediately. Deepening disparity in services especially for non-white and those with disabilities.
- Clinical fellowship supervision - Oregon Board adopted ASHA's guideline to allow tele-supervision of clinical fellows during the shutdown.
- SLPA rules already allowed live tele-supervision of SLPAs to be considered "direct" supervision.

Telepractice Challenges & Concerns

- To obtain the SLPA certificate (license), they must successfully complete 100 directly supervised fieldwork. Unfortunately nothing in our rules currently prevents that being 100% telepractice.
- What about evaluations? FTC ruled that Delaware and Texas may not require a first visit to be in person. There are no normed evaluation instruments for tele-evaluation. Various sources say that at least 10-15% of people cannot be properly evaluated or treated via telepractice. Union SLPs challenged that figure, stating that it was more like 90% based on their own questionnaire of 80 SLPs in Portland.

Telepractice and Licensing

- Online system implemented 4 months before COVID-19 allowed us to move to almost-paperless licensing. Still primary source, but accept e-transcripts. No more checks, all payments must be online.
- From 5/1 to 7/26/21, 49% of new licensees were from out of state.
- From 2/1 to 4/30/21, 75% of new licensees were from out of state.
- In total, for 2021 56.6% of new licensees are from out of state. Raises significant concerns about evaluations and whether they are following rules regarding fitness of the patient/client/student for tele-therapy.

Rules adopted requiring licensees to comply with Executive Orders of the Governor

OAR 333-005-0010(2)(p) During a declared emergency, unprofessional conduct includes failing to comply with any applicable provision of a Governor's Executive Orders or any provision of this rule. This includes, but is not limited to:

- (A) Operating a business required by an Executive Order to be closed;
- (B) Providing services at a business required by an Executive Order to be closed;
- (C) Failing to comply with Oregon Health Authority (OHA) guidance implementing an Executive Order, including but not limited to:
 - (i) Failing to satisfy required criteria in OHA guidance prior to resuming elective and non-emergent procedures;
 - (ii) Failing to implement a measured approach when resuming elective and non-emergent procedures in accordance with OHA guidance;
- (D) Failing to comply with any Oregon State agency guidance implementing an Executive Order;
