

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

In the matter of the amendment of )  
ARM 24.222.701 supervisor )  
responsibility, 24.222.702 schedule of )  
supervision, 24.222.703 functions of )  
aides or assistants, 24.222.2301 )  
unprofessional conduct, and the )  
adoption of NEW RULE I functions of )  
audiology aides or assistants )

NOTICE OF PUBLIC HEARING ON  
PROPOSED AMENDMENT AND  
ADOPTION

TO: All Concerned Persons

1. On June 27, 2013, at 10:00 a.m., a public hearing will be held in room 439, 301 South Park Avenue, Helena, Montana, to consider the proposed amendment and adoption of the above-stated rules.

2. The Department of Labor and Industry (department) will make reasonable accommodations for persons with disabilities who wish to participate in this public hearing or need an alternative accessible format of this notice. If you require an accommodation, contact the Board of Speech-Language Pathologists and Audiologists (board) no later than 5:00 p.m., on June 21, 2013, to advise us of the nature of the accommodation that you need. Please contact Cyndi Breen, Board of Speech-Language Pathologists and Audiologists, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513; telephone (406) 841-2392; Montana Relay 1 (800) 253-4091; TDD (406) 444-2978; facsimile (406) 841-2305; dlilbdsplp@mt.gov (board e-mail).

3. The rules proposed to be amended provide as follows, stricken matter interlined, new matter underlined:

24.222.701 SUPERVISOR RESPONSIBILITY (1) ~~All persons working in the capacity of a speech-language or audiology aide or assistant must be working directly under the supervision of a fully licensed speech-language pathologist or audiologist.~~ Speech-language aides and assistants must work directly under the supervision of a Montana licensed speech-language pathologist. Audiology aides and assistants must work directly under the supervision of a Montana licensed audiologist. All supervisors must have been fully licensed in Montana or another state or jurisdiction for at least one full year to qualify as a supervisor.

(2) This supervisor assumes full legal and ethical responsibility for the tasks performed by the aide or assistant and for any services or related interactions with a client.

(2) and (3) remain the same, but are renumbered (3) and (4).

(5) Speech-language pathology and audiology supervisors shall be required to provide ten percent of direct services to each individual client.

(6) The board or board designee shall review and approve all registration forms that indicate the supervision of three or more speech-language pathology or audiology aides or assistants.

(7) The supervisor is responsible for keeping records to demonstrate compliance with the supervision schedule and must provide proof of compliance to the board upon request.

(8) The supervisor must complete and submit to the board a midyear verification form by February 25 of each year, on the supervisor's renewal form, to indicate continuing compliance with the schedule of supervision previously filed under ARM 24.222.702(1).

AUTH: 37-1-131, 37-15-202, MCA  
IMP: 37-15-102, 37-15-313, MCA

**REASON:** The board determined it is reasonably necessary to amend this rule to clarify the requirements for supervisors of aides and assistants as set forth in 37-15-102, MCA. In response to questions and to align with the statutory requirements, the board is amending this rule to specify that audiology aides must be directly supervised by Montana licensed audiologists, and speech-language pathology aides must be supervised by Montana licensed speech-language pathologists.

The board is also specifying that supervisors must have at least one year of licensure in their field prior to serving as a supervisor. The board concluded that this requirement is necessary to ensure that supervisors have a minimal level of practical experience prior to supervising unlicensed aides and assistants.

The board is adding (5) to require that all supervisors provide a minimum of ten percent of direct services to each client. The board believes it is crucial to quality client services and public safety to ensure that each client receives at least this minimum amount of care directly from a licensed provider.

The board is adding (6) through (8) to incorporate requirements previously found in ARM 24.222.702, as they are more properly included with supervisor duties rather than supervision schedule requirements.

24.222.702 SCHEDULE OF SUPERVISION - CONTENTS (1) For monitoring purposes, the supervisor must complete an aide registration form supplied by the board, including a schedule of supervision. This must include an acceptable schedule of supervision. The board or board designee shall review and approve all schedules of supervision.

(2) remains the same.

(a) aide or assistant I shall be supervised on-site a minimum of ~~40~~ ten percent of total client contact time. At the discretion of the supervising speech-language pathologist, the on-site supervision requirement may be reduced to ~~2~~ two percent after the first year of supervision.

(i) remains the same.

(b) aide or assistant II shall be supervised on-site ~~40~~ ten percent of client contact time; and

(c) and (3) remain the same.

(a) audiology aides or assistants shall be supervised under a proposed plan to be submitted by the supervisor with the aide application, ~~but which shall include that includes~~ a minimum of ~~40~~ ten percent of client contact time; and

(b) remains the same.

(4) The schedule of supervision must be signed by the proposed supervisor and by a responsible representative of the employing agency and submitted to the board on or before October 31. ~~The schedule must be reviewed and approved by the board annually by October 31.~~ Aides employed after October 31 shall work no more than 30 calendar days without registering with the board.

~~(5) Each supervisor must also submit a supervisor summary form, as prescribed by the board, which lists the following:~~

~~(a) each speech or audiology aide or assistant;~~

~~(b) number of hours of supervision; and~~

~~(c) other information as required by the board.~~

~~(d) The board will review all supervisor summary forms indicating the supervision of three or more speech or audiology aides or assistants.~~

~~(6) The supervisor must complete and submit to the board a midyear verification form by February 25 of each year, on the supervisor's renewal form, to indicate continuing compliance with the schedule of supervision previously filed under (1).~~

AUTH: 37-1-131, 37-15-202, MCA

IMP: 37-15-102, 37-15-313, MCA

REASON: The board is reorganizing this rule to address licensee confusion by more clearly setting forth the requirements for aide/assistant supervision schedules, including the October 31 statutory deadline for schedule submission.

The board is eliminating the requirement for submission of a separate supervisor summary in (5) and (6) since the information is now contained within the initial and annual aid registration form materials.

24.222.703 FUNCTIONS OF SPEECH-LANGUAGE PATHOLOGY AIDES OR ASSISTANTS (1) The supervisor is obligated to ensure that the aide assist only in the provision of those services, which are within the abilities of the aide as determined by the training and experience of that aide or assistant. The supervisor is directly responsible for all decisions affecting the client in all phases of diagnosis, treatment, and disposition. It is recognized that administrative responsibilities for an aide or assistant may be with other than the professional supervisor and those responsibilities are not included in this regulation.

(2) through (2)(a)(i) remain the same.

(ii) conduct speech-language evaluations, and write evaluation reports, which have been properly signed off by the supervisor;

(iii) through (v) remain the same.

(vi) write or plan individual or group therapy/rehabilitation plans, which have been properly signed off by the supervisor;

(vii) through (b)(i) remain the same.

(ii) conduct speech-language evaluations under the supervision of the supervisor, and write evaluation reports, which have been properly signed off by the supervisor;

(iii) remains the same.

(iv) interpret data or clinical experience into diagnostic statements of clinical management policies, with the supervisor present, or available, for the purpose of immediate communication and consultation;

(v) write or plan individual or group therapy/rehabilitation plans with supervisor review and sign off; and

(vi) and (c) remain the same.

(i) perform tasks identified by the speech-language pathology supervisor according to the therapy plan, which do not violate any provision of Title 37, chapter 15, MCA, or these rules; and

(ii) remains the same.

(3) Speech-language pathology aides or assistants shall comply with the following guidelines on functions, which are not allowed for the appropriate aide category:

(a) and (b) remain the same.

(i) transmit clinical information to anyone other than the professional directly supervising the aide or assistant; or

(ii) through (c)(ii) remain the same.

(iii) transmit clinical information, except to the professional directly supervising the aide or assistant;

(iv) and (v) remain the same.

(vi) attend child study or IEP meetings, except with the permission of the supervisor; or

(vii) through (4) remain the same.

~~(5) Audiology aides or assistants and industrial audiology aides or assistants shall comply with the supervision plan and functions submitted by the supervisor at the time of application, and with all other statutory or rule requirements.~~

AUTH: 37-1-131, 37-15-202, MCA

IMP: 37-15-102, 37-15-313, MCA

REASON: The board is amending the title of this rule to clarify that this rule addresses speech pathology aides and assistants only. The board is proposing New Rule I in this notice to separately address the functions of audiology aides and assistants. The board is incorporating the provisions of (5) into New Rule I.

24.222.2301 UNPROFESSIONAL CONDUCT (1) The board defines "unprofessional conduct" for licensees as follows:

(a) and (b) remain the same.

(c) accepting and performing occupational responsibilities, which the licensee knows or has reason to know that the licensee is not competent to perform;

(d) through (g) remain the same.

(h) failing to report the unsafe practice of speech-language pathology or audiology to the board, or to the appropriate facility; ~~or~~

(i) failing to report unlicensed practice of speech-language pathology or audiology to the board, or to the appropriate facility;

(j) allowing aides and assistants to perform functions not allowed under the board's rules; and

(k) failing to provide appropriate supervision to aides and assistants and services to clients.

AUTH: 37-1-131, 37-1-319, 37-15-202, MCA

IMP: 37-1-131, 37-1-316, 37-15-202, MCA

**REASON:** The board has rules describing qualifications for supervisors, amount and type of supervision required, and both allowable and prohibited duties of aides and assistants. To ensure the board's ability to protect the public and discipline licensees who fail to follow the guidelines pertaining to aide/assistant supervision, the board is adding such conduct as unprofessional conduct.

4. The proposed new rule provides as follows:

**NEW RULE I FUNCTIONS OF AUDIOLOGY AIDES OR ASSISTANTS**

(1) The supervisor is obligated to ensure that the aide assist only in the provision of those services that are within the abilities of the aide as determined by the training and experience of that aide or assistant. The supervisor is directly responsible for all decisions affecting the client in all phases of diagnosis, treatment, and disposition. It is recognized that administrative responsibilities for an aide or assistant may be with other than the professional supervisor and those responsibilities are not included in this regulation.

(2) Audiology aides or assistants shall not perform any task without the expressed knowledge and approval of the supervising audiologist.

(3) All audiology aides or assistants shall be under appropriate supervision. Each aide or assistant shall comply with the following function guidelines:

(a) audiology aide or assistant may:

(i) greet, escort, and schedule patients;

(ii) package and mail earmold orders, device repairs, and factory returns;

(iii) perform inventories of equipment and supplies;

(iv) enter clinic supply orders;

(v) perform checks on hearing aids and other amplification devices;

(vi) clean hearing aids and other amplification devices;

(vii) perform troubleshooting and minor repairs to hearing aids, earmolds, and other amplification devices;

(viii) perform electroacoustic analysis of hearing aids and other amplification devices;

(ix) instruct patients in proper use and care of hearing aids and other amplification devices;

(x) demonstrate alerting and assistive listening devices;

(xi) instruct patients in proper ear hygiene;

(xii) assist audiologists in treatment programs;

(xiii) assist audiologists with setup and technical tasks;

- (xiv) prepare materials for ear impressions;
  - (xv) maintain and restock test and treatment rooms;
  - (xvi) perform equipment maintenance and biological checks;
  - (xvii) conduct but not interpret hearing and tympanometric screening for children aged three and older and adults;
  - (xviii) conduct otoacoustic emission screening;
  - (xix) perform nondiagnostic otoscopy;
  - (xx) perform, but not interpret, audiologic and vestibular tests;
  - (xxi) assist audiologists in hearing testing of pediatric patients;
  - (xxii) perform pure-tone hearing screening;
  - (xxiii) perform universal newborn hearing screening tests;
  - (xxiv) perform infection control duties within the clinic/service; and
  - (xxv) assist patients in completing case history or other relevant forms.
- (4) Audiology aides or assistants shall comply with the following guidelines on functions that are not allowed:
- (a) audiology aide or assistant may not:
    - (i) determine case selection or evaluation protocols;
    - (ii) interpret observations or data into diagnostic statements of clinical management strategies or procedures;
    - (iii) participate in team or case conferences, or any interdisciplinary team, without the presence of the supervising audiologist or an audiologist designated by the supervising audiologist;
    - (iv) write, develop, or modify a patient's individualized treatment plan;
    - (v) assist with patients without following the treatment plan prepared by the audiologist or without proper supervision;
    - (vi) compose or sign any formal documents (e.g., treatment plans, reimbursement forms, or reports); progress notes written by audiology assistants may be reviewed and cosigned by the supervising audiologist, subject to local facility policy;
    - (vii) transmit clinical information either orally or in writing to anyone, including the patient, without the approval of the supervising audiologist;
    - (viii) select patients for treatment services or discharge patients from treatment services;
    - (ix) disclose clinical or confidential information either orally or in writing to anyone other than the supervising audiologist;
    - (x) counsel or consult with the patient, family, or others regarding the patient status or service, or make referrals for additional services;
    - (xi) refer to themselves either orally or in writing with a title other than one determined by the supervising audiologist;
    - (xii) make ear impressions;
    - (xiii) fit hearing aids or other amplification devices; or
    - (xiv) map cochlear implants.
- (5) Audiology aides or assistants and industrial audiology aides or assistants shall comply with the supervision plan and functions submitted by the supervisor at the time of application, and with all other statutory or rule requirements.

AUTH: 37-1-131, 37-15-202, MCA

IMP: 37-15-102, 37-15-313, MCA

REASON: The board is proposing New Rule I to clearly and specifically set forth the allowable and prohibited functions of audiology aides and assistants in a separate rule so aides and licensees can guide their actions accordingly. The board has already set forth the functions for speech-language pathology aides and assistants in ARM 24.222.703.

5. Concerned persons may present their data, views, or arguments either orally or in writing at the hearing. Written data, views, or arguments may also be submitted to the Board of Speech-Language Pathologists and Audiologists, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513, by facsimile to (406) 841-2305, or by e-mail to [dlibsdsplp@mt.gov](mailto:dlibsdsplp@mt.gov), and must be received no later than 5:00 p.m., July 8, 2013.

6. An electronic copy of this Notice of Public Hearing is available at [www.slpaud.mt.gov](http://www.slpaud.mt.gov) (department and board's web site). The department strives to make the electronic copy of this notice conform to the official version of the notice, as printed in the Montana Administrative Register, but advises all concerned persons that in the event of a discrepancy between the official printed text of the notice and the electronic version of the notice, only the official printed text will be considered. In addition, although the department strives to keep its web site accessible at all times, concerned persons should be aware that the web site may be unavailable during some periods, due to system maintenance or technical problems, and that technical difficulties in accessing or posting to the e-mail address do not excuse late submission of comments.

7. The board maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by this board. Persons who wish to have their name added to the list shall make a written request that includes the name, e-mail, and mailing address of the person to receive notices and specifies the person who wishes to receive notices regarding all board administrative rulemaking proceedings or other administrative proceedings. The request must indicate whether e-mail or standard mail is preferred. Such written request may be sent or delivered to the Board of Speech-Language Pathologists and Audiologists, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513; faxed to the office at (406) 841-2305; e-mailed to [dlibsdsplp@mt.gov](mailto:dlibsdsplp@mt.gov); or made by completing a request form at any rules hearing held by the agency.

8. The bill sponsor contact requirements of 2-4-302, MCA, do not apply.

9. Darcee Moe, attorney, has been designated to preside over and conduct this hearing.

BOARD OF SPEECH-LANGUAGE  
PATHOLOGISTS AND AUDIOLOGISTS  
LYNN HARRIS, CHAIRPERSON

/s/ DARCEE L. MOE  
Darcee L. Moe  
Rule Reviewer

/s/ PAM BUCY  
Pam Bucy, Commissioner  
DEPARTMENT OF LABOR AND INDUSTRY

Certified to the Secretary of State May 28, 2013