



STATE OF NORTH CAROLINA
OFFICE OF ADMINISTRATIVE HEARINGS

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January 16, 2014

Nahale Freeland Kalfas
Board of Examiners for Speech and Language Pathologists and Audiologists
4311 Forest Edge Trail
Durham NC 27705

Re: Rule 21 NCAC 64 .0206, .0219 and .0307

Dear Mrs. Kalfas:

At its meeting this morning, the Rules Review Commission objected to the above-captioned rules in accordance with G.S. 150B-21.10.

The Commission objected to all of the Rules because the agency failed to comply with the Administrative Procedure Act, as it adopted the Rules before the close of the comment period.

The Commission also objected to Rule .0219 on the grounds of ambiguity. It is unclear in Paragraph (d) what the "requirements of the patient site" are.

The Commission additionally objected to Rule .0307 based upon ambiguity, as it is unclear what the Board meant to references to the "Article" in this context, and ambiguity regarding what will constitute "inconsistent and in conflict"

Please respond to this letter in accordance with the provisions of G.S. 150B-21.12. If you have any questions regarding the Commission's action, please let me know.

Sincerely,

Amanda J. Reeder
Commission Counsel

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1 21 NCAC 64 .0206 is amended as published in 28:08 NCR 735 as follows:

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3 **21 NCAC 64 .0206 SUPERVISION OF PROFESSIONAL EXPERIENCE**

4 (a) The Board interprets G.S. 90-298(c) to mean that supervision satisfactory to the Board ~~includes, monthly~~
5 ~~supervision totaling a minimum of 12 hours per 3 month segment of the supervised experience year~~ requires four
6 hours each month of direct, on-site observation of the applicant's work with patients, in addition to other methods of
7 supervision such as review of tape recordings, review of records, and review of staff meetings.

8 (b) A temporary license issued pursuant to G.S. 90-298 shall be suspended upon the termination of approved
9 supervision, and any period of practice without approved supervision shall not be deemed to comply with the
10 practical experience requirements of G.S. 90-295(4).

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12 *History Note: Authority G.S. 90-304(a)(3); 90-295, 90-298;*

13 *Amended Eff. March 1, 2014.*

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1 21 NCAC 64 .0219 is amended as published in 28:08 NCR 735 as follows:

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3 **21 NCAC 64 .0219 TELEPRACTICE**

4 ~~(a) Licensees may evaluate and treat patients receiving clinical services in North Carolina by utilizing~~
5 ~~telepractice.~~

6 ~~(b) patient data, obtained through real time interaction, from one site to another for the provision of speech and~~
7 ~~language pathology and audiology services to patients through hardwire or internet connection.~~

8 (a) For purposes of this rule, the following words shall have the following meanings:

9 (1) “Patient site” means the patient’s physical location at the time of the receipt of the telepractice
10 services.

11 (2) “Provider” means a licensed speech and language pathologist or audiologist who provides
12 telepractice services.

13 (3) “Provider site” means the licensee’s physical location at the time of the provision of the
14 telepractice services.

15 (4) “Telepractice” means the use of telecommunications and information technologies for the
16 exchange of encrypted patient data, obtained through real-time interaction, from patient site to
17 provider site for the provision of speech and language pathology and audiology services to
18 patients through hardwire or internet connection. Telepractice also includes the interpretation of
19 patient information provided to the licensee via store and forward techniques.

20 (b) Telepractice shall be obtained in real time and in a manner sufficient to ensure patient confidentiality.

21 (c) Telepractice is subject to the same standard of practice stated in 21 NCAC 64 .0205 and 21 NCAC 64 .0216 as if
22 the person being treated were physically present with the licensee. Telepractice is the responsibility of the licensee
23 and shall not be delegated.

24 (d) Providers must hold a license in the state of the provider site and be in compliance with the requirements of the
25 patient site.

26 ~~(e)~~ (e) Licensees and staff involved in telepractice must be trained in the use of telepractice equipment.

27 (f) Notification of telepractice services shall be provided to the patient or guardian if the patient is a minor. The
28 notification shall include, but not be limited to: the right to refuse telepractice services and options for alternate
29 service delivery.

30 (g) Telepractice constitutes the practice of Speech and Language Pathology and Audiology whether in the patient
31 site or provider site.

32 *History note: Authority G.S. 90-304-(a)(3); Eff. July 1, 2010;*

33 *Amended Eff. March 1, 2014.*

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1 21 NCAC 64 .0307 is adopted as published in 28:08 NCR 736 as follows:

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3 **21 NCAC 64 .0307 GOOD MORAL CONDUCT**

4 In addition to the Principles of Ethics and Ethical Proscriptions enumerated above, Licensees shall engage
5 in good moral conduct under all conditions of professional activity. Good moral conduct shall be defined
6 as conduct in keeping with the then-current Code of Ethics of American Speech and Hearing Association,
7 except as the provisions of such code of ethics may be inconsistent and in conflict with the provisions of
8 this Article, in which case, the provisions of this Article control.

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10 *Authority G.S. 90-304(a)(3); 90-295(a)(6); 90-295(b)(6); 90-301(3);*

11 *Effective March 1, 2014.*

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