

Filed
DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS

Amendment and Compilation of Chapter 16-100
Hawaii Administrative Rules

March 1, 2013

SUMMARY

1. §16-100-2 is amended.
2. §16-100-3 is amended.
3. §16-100-19 is amended.
4. §16-100-20 is amended.
5. A new §16-100-22.1 is added.
6. §16-100-25 is amended.
7. §16-100-31 is amended.
8. Subchapter 10 title is amended.
9. §16-100-57 is amended.
10. Chapter 100 is compiled.

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HAWAII ADMINISTRATIVE RULES

TITLE 16

DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS

CHAPTER 100

SPEECH PATHOLOGISTS AND AUDIOLOGISTS

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§16-100-62 Administrative practice and procedure

SUBCHAPTER 1

OBJECTIVE

§16-100-1 Repealed. [R 5/13/82]

§16-100-2 Objective. This chapter is intended to clarify and implement chapter 468E, Hawaii Revised Statutes (HRS), to the end that the provisions thereunder may be best effectuated and the public interest most effectively served. [Eff 1/16/76; am and ren §16-100-2, 6/25/81; am and comp 5/13/82; comp 2/16/85; comp 3/8/90; comp 6/1/93; comp 5/26/01; am and comp 5/23/13] (Auth: HRS §468E-7) (Imp: HRS §468E-7)

§16-100-3 Definitions. As used in this chapter:

"ABA" means the American Board of Audiology.

"Board" means the state board of speech pathology and audiology established under chapter 468E, HRS.

"Written examination" means the National Examination in Speech Pathology or the National Examination in Audiology administered by the Educational Testing Service of Princeton, New Jersey. [Eff 1/16/76; am and ren §16-100-3, 6/25/81; am and comp 5/13/82; am and comp 2/16/85; am and comp 3/8/90; comp 6/1/93; am and comp 5/26/01; am and comp 5/23/13] (Auth: HRS §468E-7) (Imp: HRS §§468E-3, 468E-10, 468E-11, 468E-13)

SUBCHAPTER 2

LICENSES

§16-100-4 Types of license. The board shall issue two kinds of licenses:

- (1) Speech pathologist; and
- (2) Audiologist.

A person may be licensed in both categories if the person meets the respective qualifications for each. Each license shall be maintained separately.[Eff

16-100-4

1/16/76; am and ren §16-100-4, 6/25/81; am and comp 5/13/82; comp 2/16/85; comp 3/8/90; comp 6/1/93; comp 5/26/01; comp 5/23/13] (Auth: HRS §468E-7) (Imp: HRS §§468E-8, 468E-12)

§16-100-5 Use of business name or trade name. Use of a fictitious name or "dba" by a speech pathologist or audiologist shall be registered with the board. [Eff 1/16/76; am and ren §16-100-5, 6/25/81; comp 5/13/82; comp 2/16/85; comp 3/8/90; comp 6/1/93; comp 5/26/01; comp 5/23/13] (Auth: HRS §468E-7) (Imp: HRS §468E-7)

§16-100-6 Display of license certificate. Evidence of licensure shall be displayed in the licensee's office of practice or filed with the licensee's employer. [Eff 1/16/76; am and ren §16-100-6, 6/25/81; comp 5/13/82; comp 2/16/85; am and comp 3/8/90; comp 6/1/93; comp 5/26/01; comp 5/23/13] (Auth: HRS §468E-7) (Imp: HRS §468E-7)

§16-100-7 Change of address. A licensee shall notify the board in writing of any change of address within thirty days of the change. [Eff 1/16/76; am and ren §16-100-7, 6/25/81; am and comp 5/13/82; comp 2/16/85; am and comp 3/8/90; comp 6/1/93; comp 5/26/01; comp 5/23/13] (Auth: HRS §468E-7) (Imp: HRS §468E-7)

SUBCHAPTER 3

EXEMPTION

§16-100-11 Persons not affected. A physician or surgeon licensed to practice medicine in this State, a licensed hearing aid dealer, or any person engaged in the profession or occupation for which the person is licensed in this State, is exempted from the requirements of chapter 468E, HRS, provided the person does not mislead the public by any title or offering any of the services as described under section 468E-3, HRS. [Eff 1/16/76; am and ren §16-100-11, 6/25/81; am and comp 5/13/82; comp 2/16/85; comp 3/8/90; comp 6/1/93; comp 5/26/01; comp 5/23/13] (Auth: HRS §468E-7) (Imp: HRS §468E-4)

§16-100-12 Registration required. Any person who is not a resident of the

State and not licensed under chapter 468E, HRS, and who meets the requirements for the performance of temporary services in speech pathology or audiology as described in section 468E-4(8), HRS, shall register that temporary service with the board, which shall be certified by the sponsoring licensee. [Eff 1/16/76; am and ren §16-100-12, 6/25/81; am and comp 5/13/82; comp 2/16/85; comp 3/8/90; comp 6/1/93; comp 5/26/01; comp 5/23/13] (Auth: HRS §468E-7) (Imp: HRS §468E-7)

§16-100-13 Persons deemed to be in compliance. All speech pathologists and audiologists employed by or under contract to a local government agency on or before October 1, 1981, shall:

- (1) Submit evidence of being employed by or under contract to a county or state government agency on or before October 1, 1981, and of continuous employment with that agency since that date and the employment shall be verified by the employing agency;
- (2) Remain in the specialty area (either speech pathology or audiology) and remain in county or state government employment without termination;
- (3) Provide information on forms provided by the board that those persons are deemed to be in compliance with the licensure requirements of chapter 468E, HRS, and pay an administrative fee to maintain those records; and
- (4) Biennially reconfirm continuing employment with a county or state government agency on forms provided by the board. The completed forms shall be verified by the employing agency and accompanied by an administrative fee every two years. [Eff and comp 2/16/85; am and comp 3/8/90; am and comp 6/1/93; comp 5/26/01; comp 5/23/13] (Auth: HRS §§26-9, 468E-7) (Imp: HRS §468E-8)

SUBCHAPTER 4

REQUIREMENTS FOR LICENSE

§16-100-16 General requirements. An application for license filed with the board shall be prepared in accordance with and contain all the information called for in the application form provided by the board. The board may request additional verification of an applicant's qualifications. Each application shall be accompanied by the application fee. [Eff 1/16/76; am and ren §16-100-16, 6/25/81; am and comp 5/13/82; comp 2/16/85; am and comp 3/8/90; comp 6/1/93; comp 5/26/01; comp 5/23/13] (Auth: HRS §§26-9, §468E-7) (Imp: HRS §§468E-5,

16-100-16

468E-9, 468E-12)

§16-100-17 Repealed. [R 5/26/01]

§16-100-18 Repealed. [R 3/8/90]

§16-100-19 Means of licensure. A person may be licensed as a speech pathologist or audiologist, or both, by any of the following means:

- (1) By examination as provided for in section 16-100-20;
- (2) By meeting the requirements established by section 468E-11, HRS; or
- (3) By qualifying on the basis of the certificate of clinical competence awarded the person by the American Speech-Language-Hearing Association (ASHA). [Eff 1/16/76; am and ren §16-100-19, 6/25/81; am and comp 5/13/82; am and comp 2/16/85; am and comp 3/8/90; comp 6/1/93; comp 5/26/01; am and comp 5/23/13] (Auth: HRS §468E-7) (Imp: HRS §§468E-8, 468E-9, 468E-11)

§16-100-20 Requirements for license by examination. (a) In addition to the requirements of section 16-100-16, an applicant for license by examination shall comply with the requirements of this section.

(b) The applicant shall be a graduate of a college or university that is accredited by a regional or specialized accrediting body recognized by the United States Department of Education.

(c) The applicant shall submit evidence of eligibility for meeting the requirements of ASHA for a certificate of clinical competence in speech pathology, or audiology, or both. The evidence of eligibility shall verify that the applicant has completed:

- (1) A minimum of three hundred seventy-five hours of supervised clinical observation and clinical practicum with individuals who present a variety of communication disorders, which experience shall have been obtained within the applicant's training institution or in one of its cooperating programs; and
- (2) A clinical fellowship which shall have:
 - (A) Begun after completion of academic coursework and clinical observation and clinical practicum;
 - (B) Consisted of at least thirty-six weeks of full-time

- professional experience or its part-time equivalent;
 - (C) Been completed under the supervision of an individual who holds the certificate of clinical competence in the area of practice for which the certificate is sought, or board certification in audiology from the ABA for an audiologist applicant;
 - (D) Consisted of primarily clinical activities; and
 - (E) Required the supervisor to periodically conduct a formal evaluation of the applicant's progress in development of professional skills.
- (d) The applicant shall arrange with the college or university to send directly to the board an official transcript to verify the applicant's master's degree or its equivalent in speech pathology or audiology. The equivalent of a master's degree is defined as a bachelor's degree from an accredited college or university and evidence of at least seventy-five semester hours which shall consist of:
- (1) At least twenty-seven semester hours in basic science coursework, which include:
 - (A) At least six semester hours in the biological or physical sciences, or both, and mathematics;
 - (B) At least six semester hours in the behavioral or social sciences, or both; and
 - (C) At least fifteen semester hours in the basic human communication processes, to include coursework in each of the following three areas of speech, language, and hearing:
 - (i) The anatomic and physiologic bases;
 - (ii) The physical and psychophysical bases; and
 - (iii) The linguistic and psycholinguistic aspects;
 - (2) For speech pathologist applicants, at least thirty-six semester hours in professional coursework, which include:
 - (A) At least thirty semester hours in courses for which graduate credit was received, twenty-one of which shall be in the area of speech pathology;
 - (B) At least thirty semester hours in speech pathology, at least six of which shall be in speech disorders and at least six in language disorders;
 - (C) At least six semester hours in audiology, at least three of which shall be in hearing disorders and hearing evaluation and at least three in habilitative or rehabilitative procedures, or both, with individuals who have hearing impairment; and
 - (D) A maximum of six academic semester hours associated with clinical practicum may be counted toward the minimum of

thirty-six semester hours of professional coursework, but those hours may not be used to satisfy the minimum of six semester hours in speech disorders, six semester hours in language disorders, or six semester hours in audiology; and

- (3) For audiologist applicants, at least thirty-six semester hours in professional coursework, which include;
- (A) At least thirty semester hours in courses for which graduate credit was received, twenty-one of which shall be in the area of audiology;
 - (B) At least thirty semester hours in audiology, at least six of which shall be in hearing disorders and hearing evaluation and at least six in habilitative or rehabilitative procedures, or both, with individuals who have hearing impairment;
 - (C) At least six semester hours in speech pathology, at least three of which shall be in speech disorders and at least three in language disorders. This coursework in speech pathology shall concern the nature, prevention, evaluation, and treatment of speech and language disorders not associated with hearing impairment; and
 - (D) A maximum of six academic semester hours associated with clinical practicum may be counted toward the minimum of thirty-six semester hours of professional coursework, but those hours may not be used to satisfy the minimum of six semester hours in hearing disorders and evaluation, six hours in habilitative or rehabilitative procedures, or both, or six hours in speech pathology.

(e) The applicant shall arrange to have sent directly to the board an official verification of passing the written examination.

(f) The applicant shall submit three letters of recommendation from the applicant's supervisors or colleagues, or both, on the applicant's work experience or university training in speech pathology or audiology.

(g) A doctor of audiology (AuD) degree or a board certification in audiology from the ABA meets the eligibility requirements of an ASHA certificate of clinical competence in audiology. [Eff 1/16/76; am and ren §16-100-20, 6/25/81; am and comp 5/13/82; am and comp 2/16/85; comp 3/8/90; am and comp 6/1/93; am and comp 5/26/01; am and comp 5/23/13] (Auth: HRS §468E-7) (Imp: HRS §§468E-5, 468E-9, 468E-10)

§16-100-21 Requirements for license for a person actually engaged in the practice of speech pathology or audiology on the effective date of chapter 468E,

HRS. An applicant for license who on July 24, 1974, was actually engaged in the practice of speech pathology or audiology in this State may be licensed without taking the board's examination, provided the applicant meets the requirements under section 16-100-16, and submits satisfactory evidence that on July 24, 1974, the applicant was actually engaged in that practice for a minimum of fifteen hours per week, or was on formal leave from employment in that practice, or was engaged in that practice at least nine of the previous fourteen months and was actively seeking reemployment.

June 30, 1984, shall be the last day for filing an application for a license under section 468E-11, HRS. [Eff 1/16/76; am and ren §16-100-21, 6/25/81; am and comp 5/13/82; am and comp 2/16/85; am and comp 3/8/90; comp 6/1/93; am and comp 5/26/01; comp 5/23/13] (Auth: HRS §468E-7) (Imp: HRS §468E-11)

§16-100-22 Requirements for license for a holder of the certificate of clinical competence awarded by ASHA. In addition to meeting the requirements under section 16-100-16, an applicant for licensure who holds a certificate of clinical competence issued by ASHA shall arrange to have sent directly to the board a letter from ASHA, dated within six months of the date of the application, indicating the applicant possesses the certificate of clinical competence, the date issued, and the individual's ASHA account number. [Eff 1/16/76; am 12/9/78; am and ren §16-100-22, 6/25/81; am and comp 5/13/82; am and comp 2/16/85; comp 3/8/90; comp 6/1/93; am and comp 5/26/01; comp 5/23/13] (Auth: HRS §468E-7) (Imp: HRS §§468E-5, 468E-9)

§16-100-22.1 Requirements for license for a holder of a board certification awarded by the ABA. In addition to meeting the requirements under section 16-100-20, an applicant for licensure who holds a board certification issued by the ABA shall arrange to have sent directly to the board a credential verification letter from the ABA, dated within six months of the date of the application, indicating the applicant possesses the board certification in audiology, the date the certification was issued, and the applicant's ABA certification number. [Eff and comp 5/23/13] (Auth: HRS§468E-7) (Imp: HRS §§ 468E-5, 468E-9)

§16-100-23 Repealed. [R 3/8/90]

§16-100-23.1 Repealed. [R 2/16/85]

§16-100-24 Demand for hearing. Any person whose application for license has been denied by the board shall be entitled to a hearing pursuant to chapter 91, HRS, provided that the demand for hearing is filed with the board within sixty days of the date of the letter informing the applicant of the denial. [Eff 1/16/76; am and ren §16-100-24, 6/25/81; am and comp 5/13/82; am and comp 2/16/85; am and comp 3/8/90; comp 6/1/93; comp 5/26/01; comp 5/23/13] (Auth: HRS §468E-7) (Imp: HRS §468E-7)

§16-100-25 Abandonment of application. An application shall be deemed to have been abandoned if all requirements, including the filing of forms and payment of fees, have not been completed within one year from the date first filed. [Eff 1/16/76; am and ren §16-100-25, 6/25/81; am and comp 5/13/82; comp 2/16/85; comp 3/8/90; comp 6/1/93; comp 5/26/01; am and comp 5/23/13] (Auth: HRS §468E-7) (Imp: HRS §468E-9)

SUBCHAPTER 5

EXAMINATIONS

§16-100-29 Registration for examination. (a) Upon satisfactorily meeting the requirements of section 16-100-20, an applicant shall apply directly to Educational Testing Service (ETS) for a registration form for the written examination. Examination fees shall be paid directly to ETS.

(b) The applicant shall arrange to have sent directly to the board an official verification of the applicant's examination result showing the score and date of the examination taken. [Eff 1/16/76; am and ren §16-100-29, 6/25/81; am and comp 5/13/82; am and comp 2/16/85; comp 3/8/90; comp 6/1/93; am and comp 5/26/01; comp 5/23/13] (Auth: HRS §468E-7) (Imp: HRS §§468E-9, 468E-10)

§16-100-30 Repealed. [R 5/13/82]

§16-100-31 Passing score. The passing score in each examination shall be determined by ASHA's Council for Clinical Certification in Audiology and Speech-Language Pathology. [Eff 1/16/76; am and ren §16-100-31, 6/25/81; comp 5/13/82; am and comp 2/16/85; am and comp 3/8/90; comp 6/1/93; comp 5/26/01; am and comp 5/23/13] (Auth: HRS §468E-7) (Imp: HRS §468E-10)

§16-100-32 Reapplication for license by written examination. An applicant may take the written examination as often as the applicant wishes within a three-year period. If the written examination has not been passed within that time period, an extension shall be obtained from the board.

An applicant shall register for reexamination directly with ETS and pay to ETS the examination fee. [Eff 1/16/76; am and ren §16-100-32, 6/25/81; am and comp 5/13/82; am and comp 2/16/85; comp 3/8/90; comp 6/1/93; comp 5/26/01; comp 5/23/13] (Auth: HRS §468E-7) (Imp: HRS §468E-9)

§16-100-33 Repealed. [R 5/13/82]

SUBCHAPTER 6

§16-100-37 Repealed. [R 2/16/85]

§16-100-38 Repealed. [R 2/16/85]

SUBCHAPTER 7

LICENSE RENEWAL

§16-100-42 Payment. (a) Licenses shall expire on December 31 of each odd-numbered year and shall be renewed biennially thereafter. Application for renewal shall be made on a form provided by the board and accompanied by the prescribed fee as provided by the department of commerce and consumer affairs in chapter 16-53.

(b) Renewal fees paid by mail shall be considered paid when due if the envelope transmitting the fee bears a postmark of December 31 or any prior date.

(c) A fee paid by check which is later returned by the bank for insufficient funds or other reasons shall be considered not paid on the date first remitted. [Eff 1/16/76; am and ren §16-100-42, 6/25/81; am and comp 5/13/82; am and comp 2/16/85; am and comp 3/8/90; comp 6/1/93; comp 5/26/01; comp 5/23/13] (Auth: HRS §468E-7) (Imp: HRS §§468E-7, 468E-14)

§16-100-43 Failure to renew. If a licensee fails to renew a license within two years from the date of expiration the licensee shall submit an application for

renewal with the appropriate fees and may be required to be reexamined by the board. [Eff 1/16/76; am and ren §16-100-43, 6/25/81; am and comp 5/13/82; am and comp 2/16/85; comp 3/8/90; comp 6/1/93; comp 5/26/01; comp 5/23/13] (Auth: HRS §468E-7) (Imp: HRS §468E-14)

SUBCHAPTER 8

PROFESSIONAL MISCONDUCT

§16-100-47 Repealed. [R 3/8/90]

§16-100-48 Misconduct in the practice. Disciplinary actions may be taken by the board for conduct that may result from but not necessarily be limited to:

- (1) Fraudulently or deceptively obtaining or using a license;
- (2) Altering a license;
- (3) Directly or indirectly employing any unlicensed person or any person whose license has been suspended, revoked, or expired;
- (4) Permitting another person to use the license of the licensee;
- (5) Using or promoting or causing the use of any misleading, deceiving, improbable or untruthful advertising matter, promotional literature, testimonial, guarantee, warranty, label, brand, insignia, title, or any other representation;
- (6) Falsely representing the use or availability of services or advice of a physician;
- (7) Violating a federal or state law against discrimination;
- (8) Being professionally incompetent;
- (9) Committing fraud or deceit in the practice of speech pathology or audiology;
- (10) Providing professional services to a person while the speech pathologist or audiologist is using any narcotic or controlled dangerous substance or other drug that is in excess of therapeutic amounts or without valid medical indication;
- (11) Prescribing devices, appliances, or products to a person so as to improperly or unnecessarily treat the person for financial gain;
- (12) Wilfully making or filing a false report or record in the practice of speech pathology or audiology;
- (13) Submitting a false statement to collect a fee;
- (14) Obtaining a fee through fraud or misrepresentation;
- (15) Being convicted of, or pleading guilty or nolo contendere to, a

- felony or a crime involving moral turpitude, whether or not any appeal or other proceeding is pending to have the conviction or plea set aside;
- (16) Being disciplined by a licensing or disciplinary authority of any other state or country or convicted or disciplined by a court of any state or country for an act that would be grounds for disciplinary action under this section;
 - (17) Falsely representing degrees and credentials;
 - (18) Offering, performing services, or both, without having the appropriate training, education and clinical experience; and
 - (19) Engaging in conduct or practice contrary to recognized standards of ethics of the speech pathology and audiology professions as adopted. [Eff and comp 3/8/90; comp 6/1/93; am and comp 5/26/01; comp 5/23/13] (Auth: HRS §468E-7) (Imp: HRS §§468E-7, 468E-13)

SUBCHAPTER 9

ORAL TESTIMONY

§16-100-52 Oral testimony. (a) The board shall accept oral testimony on any item which is on the board's agenda, provided that the testimony shall be subject to the following conditions:

- (1) Each person seeking to present oral testimony is requested to notify the board not later than forty-eight hours prior to the meeting, and at that time, to state the item on which testimony is to be presented;
- (2) Persons presenting oral testimony shall, at the beginning of the testimony, identify themselves and the organization, if any, that they represent;
- (3) The board may request that any person providing oral testimony submit the remarks, or a summary of the remarks, in writing to the board;
- (4) The board may rearrange the items on the agenda for the purpose of providing for the most efficient and convenient presentation of oral testimony;
- (5) The board may limit oral testimony to a specified time period but in no case shall the period be less than five minutes, and the person testifying shall be informed prior to the commencement of the testimony of the time constraints to be imposed; and
- (6) The board may refuse to hear any testimony which is irrelevant,

immaterial, or unduly repetitious to the agenda item on which it is presented.

(b) Nothing in this section shall require the board to hear or receive any oral or documentary evidence from a person on any matter which is the subject of another proceeding pending subject to the hearings relief, declaratory relief, or rule relief provisions of the rules of administrative procedure.

(c) Nothing in this section shall prevent the board from soliciting oral remarks from persons present at the meeting or from inviting persons to make presentations to the board on any particular matter on the board's agenda. [Eff and comp 3/8/90; am and comp 6/1/93; comp 5/26/01; comp 5/23/13] (Auth: HRS §468E-7) (Imp: HRS §92-3)

SUBCHAPTER 10

GROUNDINGS FOR REFUSAL TO ISSUE LICENSE, REVOCATION, SUSPENSION, OR REFUSAL TO RENEW

§16-100-57 Grounds for refusal to issue license, revocation, suspension, or refusal to renew. Failure of any licensee to comply with chapter 468E, HRS, or this chapter shall be grounds for the board to refuse to issue a license, suspend or revoke a license, fine a licensee, or refuse to renew a license. [Eff and comp 3/8/90; comp 6/1/93; comp 5/26/01; am and comp 5/23/13] (Auth: HRS §468E-7) (Imp: HRS §468E-13)

SUBCHAPTER 11

PRACTICE AND PROCEDURE

§16-100-62 Administrative practice and procedure. The rules of practice and procedure for speech pathologists and audiologists shall be as provided in chapter 16-201, the rules of practice and procedure of the department of commerce and consumer affairs which are incorporated by reference and made a part of this chapter. [Eff and comp 3/8/90; comp 6/1/93; comp 5/26/01; comp 5/23/13] (Auth: HRS §§91-2, 468E-7) (Imp: HRS §§91-2, 468E-7)

