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Section 2530.2 of the Business and Professions Code is amended to read:

As used in this chapter, unless the context otherwise requires:

(a) “Board” means the Speech-Language Pathology and Audiology and Hearing Aid Dispensers Board. As used in this chapter or any other provision of law, “Speech-Language Pathology and Audiology Board” shall be deemed to refer to the Speech-Language Pathology and Audiology and Hearing Aid Dispensers Board or any successor.

(b) “Person” means any individual, partnership, corporation, limited liability company, or other organization or combination thereof, except that only individuals can be licensed under this chapter.

(c) A “speech-language pathologist” is a person who practices speech-language pathology.

(d) The practice of speech-language pathology means all of the following:

(1) The application of principles, methods, instrumental procedures, and noninstrumental procedures for measurement, testing, screening, evaluation, identification, prediction, and counseling related to the development and disorders of speech, voice, language, or swallowing.

(2) The application of principles and methods for preventing, planning, directing, conducting, and supervising programs for habilitating, rehabilitating, ameliorating, managing, or modifying disorders of speech, voice, language, or swallowing in individuals or groups of individuals.

(3) Conducting hearing screenings.

(4) Performing suctioning in connection with the scope of practice described in paragraphs (1) and (2), after compliance with a medical facility's training protocols on suctioning procedures.

(e)(1) Instrumental procedures referred to in subdivision (d) are the use of rigid and flexible endoscopes to observe the pharyngeal and laryngeal areas of the throat in order to observe, collect data, and measure the parameters of communication and swallowing as well as to guide communication and swallowing assessment and therapy.

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(2) Nothing in this subdivision shall be construed as a diagnosis. Any observation of an abnormality shall be referred to a physician and surgeon.

(f) A licensed speech-language pathologist shall not perform a flexible fiberoptic nasendoscopic procedure unless he or she has received written verification from an otolaryngologist certified by the American Board of Otolaryngology that the speech-language pathologist has performed a minimum of 25 flexible fiberoptic nasendoscopic procedures and is competent to perform these procedures. The speech-language pathologist shall have this written verification on file and readily available for inspection upon request by the board. A speech-language pathologist shall pass a flexible fiberoptic nasendoscopic instrument only under the direct authorization of an otolaryngologist certified by the American Board of Otolaryngology and the supervision of a physician and surgeon.

(g) A licensed speech-language pathologist shall only perform flexible endoscopic procedures described in subdivision (e) in a setting that requires the facility to have protocols for emergency medical backup procedures, including a physician and surgeon or other appropriate medical professionals being readily available.

(h) “Speech-language pathology aide” means any person meeting the minimum requirements established by the board, who works directly under the supervision of a speech-language pathologist.

(i)(1) “Speech-language pathology assistant” means a person who meets the academic and supervised training requirements set forth by the board and who is approved by the board to assist in the provision of speech-language pathology under the direction and supervision of a speech-language pathologist who shall be responsible for the extent, kind, and quality of the services provided by the speech-language pathology assistant.

(2) The supervising speech-language pathologist employed or contracted for by a public school may hold a valid and current license issued by the board, a valid, current, and professional clear clinical or rehabilitative services credential in language, speech, and hearing issued by the Commission on Teacher Credentialing, or other credential authorizing service in language, speech, and hearing issued by the Commission on Teacher Credentialing that is not issued on the basis of an emergency permit or waiver of requirements. For purposes of this paragraph, a “clear” credential is a credential that is not issued pursuant to a waiver or emergency permit and is as otherwise defined by the Commission on

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Teacher Credentialing. Nothing in this section referring to credentialed supervising speech-language pathologists expands existing exemptions from licensing pursuant to [Section 2530.5](#).

(j) An “audiologist” is one who practices audiology.

(k) “The practice of audiology” means the application of principles, methods, and procedures of measurement, testing, appraisal, prediction, consultation, counseling, instruction related to auditory, vestibular, and related functions and the modification of communicative disorders involving speech, language, auditory behavior or other aberrant behavior resulting from auditory dysfunction; and the planning, directing, conducting, supervising, or participating in programs of identification of auditory disorders, hearing conservation, cerumen removal, aural habilitation, and rehabilitation, including, hearing aid recommendation and evaluation procedures including, but not limited to, specifying amplification requirements and evaluation of the results thereof, auditory training, and speech reading, and the selling of hearing aids.

(l) “A dispensing audiologist” is a person who is authorized to sell hearing aids pursuant to his or her audiology license.

~~(m)~~(m) “Audiology aide” means any person, meeting the minimum requirements established by the board. An audiology aide may not perform any function that constitutes the practice of audiology unless he or she is under the supervision of an audiologist. The board may by regulation exempt certain functions performed by an industrial audiology aide from supervision provided that his or her employer has established a set of procedures or protocols that the aide shall follow in performing these functions.

~~(m)~~(n) “Medical board” means the Medical Board of California.

~~(n)~~(o) A “hearing screening” performed by a speech-language pathologist means a binary puretone screening at a preset intensity level for the purpose of determining if the screened individuals are in need of further medical or audiological evaluation.

~~(o)~~(p) “Cerumen removal” means the nonroutine removal of cerumen within the cartilaginous ear canal necessary for access in performance of audiological procedures that shall occur under physician and surgeon supervision. Cerumen removal, as provided by this section, shall only be performed by a licensed audiologist. Physician and surgeon supervision shall not be construed to require

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the physical presence of the physician, but shall include all of the following:

- (1) Collaboration on the development of written standardized protocols. The protocols shall include a requirement that the supervised audiologist immediately refer to an appropriate physician any trauma, including skin tears, bleeding, or other pathology of the ear discovered in the process of cerumen removal as defined in this subdivision.
- (2) Approval by the supervising physician of the written standardized protocol.
- (3) The supervising physician shall be within the general vicinity, as provided by the physician-audiologist protocol, of the supervised audiologist and available by telephone contact at the time of cerumen removal.
- (4) A licensed physician and surgeon may not simultaneously supervise more than two audiologists for purposes of cerumen removal.

Section 2539.1 of the Business and Professions Code is amended to read:

2539.1. (a) (1) On ~~and~~ or after January 1, 2010, in addition to satisfying the licensure and examination requirements described in Sections 2532 and 2532.2, no licensed audiologist shall sell hearing aids unless he or she has completed an application for a dispensing audiologist ~~certificate~~license, ~~paid~~pays all applicable fees, and ~~passed~~passes an examination, approved by the board, relating to selling hearing aids.

(2) The board shall issue a dispensing audiologisty ~~certificate~~ license to a licensed audiologist who meets the requirements of paragraph (1).

(b) On and after January 1, 2010, a licensed audiologist with an unexpired license to sell hearing aids pursuant to Chapter 7.5 (commencing with Section 3300) may continue to sell hearing aids pursuant to that license until that license expires pursuant to Section 3451, and upon that expiration the licensee shall be deemed to have satisfied the requirements described in subdivision (a) and may continue to sell hearing aids pursuant to his or her audiology license subject to the provisions of this chapter. Upon the expiration of the audiologist's hearing aid license, the Board shall issue him or her a dispensing audiologyt ~~certificate~~ license pursuant to subdivision (a), paragraph (2). This provision does not prevent an audiologist who also has a hearing aid dispensing license from

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maintaining dual or separate licenses if he or she chooses to do so. A licensed audiologist whose license to sell hearing aids, issued pursuant to Chapter 7.5 (commencing with Section 3300), is suspended, surrendered, or revoked shall not be authorized to sell hearing aids pursuant to this subdivision and he or she shall be subject to the requirements described in subdivision (a) as well as the other provisions of this chapter.

(c) A licensed hearing aid dispenser who meets the qualifications for licensure as an audiologist shall be deemed to have satisfied the provisions of subdivision (a)(1) for the purposes of obtaining the dispensing audiology license.

(d) For purposes of subdivision (a), the board shall provide the hearing aid dispenser's examination provided by the former Hearing Aid Dispensers Bureau until such time as the next examination validation and occupational analysis is completed by the Department of Consumer Affairs pursuant to Section 139 and a determination is made that a different examination is to be administered.

Hearing Aid Dispensing

Business and Professions Code Chapter 7.5, Article 3, Section 3365.5

Conditions for Referral

3365.5. Whenever any of the following conditions are found to exist either from observations by the licensee or on the basis of information furnished by the prospective hearing aid user, a licensee shall, prior to fitting or selling a hearing aid to any individual, suggest to that individual in writing that his best interests would be served if he would consult a licensed physician specializing in diseases of the ear or if no such licensed physician is available in the community then to a duly licensed physician:

- (1) Visible congenital or traumatic deformity of the ear.
- (2) History of, or active drainage from the ear within the previous 90 days.
- (3) History of sudden or rapidly progressive hearing loss within the previous 90 days.
- (4) Acute or chronic dizziness.
- (5) Unilateral hearing loss of sudden or recent onset within the previous 90 days.
- (6) Significant air-bone gap (when generally acceptable standards have been established).
- (7) Visible evidence of significant cerumen accumulation or a foreign body in the ear canal.
- (8) Pain or discomfort in the ear.

No such referral for medical opinion need be made by any licensee in the instance of replacement only of a hearing aid which has been lost or damaged beyond repair within one year of the date of purchase. A copy of the written recommendation shall be retained by the licensee for the period provided for in Section 3366. A person receiving the written recommendation who elects to purchase a hearing aid shall sign a receipt for the same, and the receipt shall be kept with the other papers retained by the licensee for the period provided for in Section 3366. Nothing in this section required to be performed by a licensee shall mean that the licensee is engaged in the diagnosis of illness or the practice of medicine or any other activity prohibited by the provisions of this code.

(Amended by Stats. 1979, Ch. 970.)

TITLE 16 CALIFORNIA CODE OF REGULATIONS

ARTICLE 1. GENERAL PROVISIONS

§ 1399.150.3. Delegation of Functions.

(a) Except for those powers reserved exclusively to the "agency itself" under the Administrative Procedure Act (Section 11500 et seq. of the Government Code), the board delegates and confers upon the executive officer of the board, or in his or her absence, the executive director of the Medical Board, all functions necessary to the dispatch of the board in connection with investigative and administrative proceedings under the jurisdiction of the board including the authority to approve settlement agreements for the revocation, surrender or interim suspension of a license.

(b) The executive officer is further authorized, subject to the approval of the board, to investigate and evaluate each applicant for licensure under the Act; and to issue a license in conformance with the provisions of the Act and this chapter.

Authority cited: Sections 2018, 2531.4, 2531.5 and 2531.25, Business and Professions Code. Reference: Sections 2531.4 and 2533, Business and Professions Code.

History

1. Change without regulatory effect renumbering former section 1399.153 to section 1399.150.3 filed 12-6-99 pursuant to section 100, title 1, California Code of Regulations (Register 99, No. 50).

ARTICLE 2. APPLICATION

§ 1399.151. Applications for License.

(a) An application for a license as a speech-language pathologist or audiologist shall be filed with the board at its principal office.

(b) Every application shall be typed or written in ink, signed under the penalty of perjury and accompanied by the appropriate application fee and by such evidence, statements, or documents as therein required.

(c) The applicant shall be notified, in writing, of the results of the evaluation of the application for license if the application is rejected.

(d) An applicant shall be deemed to have abandoned his or her licensure application if the requirements for licensure are not completed within two years from the date on which application was filed unless the applicant has requested extension by the board. An application submitted subsequent to an abandoned application shall be treated as a new application.

(e) In addition to any other requirements for licensure, whenever it appears that an applicant for a license may be unable to practice speech-language pathology and/or audiology safely because the applicant's ability to practice may be impaired due to mental illness, or physical illness affecting competency, the board may require the applicant to be examined by one or more physicians and surgeons or psychologists designated by the board. The board shall pay the full cost of such examination. An applicant's failure to comply with the requirement shall render his or her application incomplete.
The report of the evaluation shall be made available to the applicant.

Authority cited: Section 2531.95, Business and Professions Code.
Reference: Sections 2531.4 and 2532.1, Business and Professions Code.

History

1. Renumbering of former section 1399.151 to section 1399.152, and renumbering of former section 1399.150(b) to section 1399.151 filed 8-9-83; effective thirtieth day thereafter (Register 83, No. 33)
2. Change without regulatory effect amending section filed 11-1-91 pursuant to section 100, title 1, California Code of Regulations (Register 92, No. 8).
3. Change without regulatory effect amending section filed 4-27-98 pursuant to section 100, title 1, California Code of Regulations (Register 98, No. 18).
4. Change without regulatory effect renumbering former section 1399.151 to section 1399.150.1 and renumbering former section 1399.154 to section 1399.151 filed 12-6-99 pursuant to section 100, title 1, California Code of Regulations (Register 99, No. 50).

ARTICLE 7.

DENIAL, SUSPENSION AND REVOCATION OF LICENSURE

§ 1399.156. Unprofessional Conduct.

Unprofessional conduct as set forth in Section 2533 of the code includes, but is not limited to the following:

- (a) Violating or conspiring to violate or aiding or abetting any person to violate the provisions of the Act or these regulations.
- (b) Committing any corrupt act, or any abusive act against a patient, which is substantially related to the qualifications, functions or duties of a speech-language pathologist or audiologist.
- (c) Incompetence or negligence in the practice of speech-language pathology or audiology which has endangered or is likely to endanger the health, welfare, or safety of the public.
- (d) Commission of an act of sexual abuse or misconduct with a patient or client.

(e) Including or permitting to be included any of the following provisions in an agreement to settle a civil dispute arising from the licensee's practice, whether the agreement is made before or after the filing of an action:

(1) A provision that prohibits another party to the dispute from contacting, cooperating, or filing a complaint with the board.

(2) A provision that requires another party to the dispute to attempt to withdraw a complaint the party has filed with the board.

(f) Failure to provide to the board, as directed, lawfully requested copies of documents within 15 days of receipt of the request or within the time specified in the request, whichever is later, unless the licensee is unable to provide the documents within this time period for good cause, including but not limited to, physical inability to access the records in the time allowed due to illness or travel. This subsection shall not apply to a licensee who does not have access to, and control over, medical records.

(g) Failure to cooperate and participate in any board investigation pending against the licensee. This subsection shall not be construed to deprive a licensee of any privilege guaranteed by the Fifth Amendment to the Constitution of the United States, or any other constitutional or statutory privileges. This subsection shall not be construed to require a licensee to cooperate with a request that would require the licensee to waive any constitutional or statutory privilege or to comply with a request for information or other matters within an unreasonable period of time in light of the time constraints of the licensee's practice. Any exercise by a licensee of any constitutional or statutory privilege shall not be used against the licensee in a regulatory or disciplinary proceeding against the licensee.

(h) Failure to report to the board within 30 days any of the following:

(1) The bringing of an indictment or information charging a felony against the licensee.

(2) The arrest of the licensee.

(3) The conviction of the licensee, including any verdict of guilty, or pleas of guilty or no contest, of any felony or misdemeanor.

(4) Any disciplinary action taken by another licensing entity or authority of this state or of another state or an agency of the federal government or the United States military.

(i) Failure or refusal to comply with a court order, issued in the enforcement of a subpoena, mandating the release of records to the board.

Authority cited: Section 726 and 2531.95, Business and Professions Code. Reference: Section 2533, Business and Professions Code.

History

1. Renumbering and amendment of former section 1399.156 to section 1399.15, and renumbering and amendment of former section 1399.157(a) to section 1399.156 filed 8-9-83; effective thirtieth day thereafter (Register 83, No. 33).

2. Change without regulatory effect amending section filed 11-1-91 pursuant to section 100, title 1, California Code of Regulations (Register 92, No. 8).

3. Change without regulatory effect amending first and last paragraphs filed 4-27-98 pursuant to section 100, title 1, California Code of Regulations (Register 98, No. 18).

4. Change without regulatory effect renumbering former section 1399.156 to section 1399.152 and renumbering former section 1399.180 to section 1399.156 filed 12-6-99 pursuant to section 100, title 1, California Code of Regulations (Register 99, No. 50).

§ 1399.156.5. Required Actions Against Registered Sex Offenders

(a) Except as otherwise provided, if an individual is required to register as a sex offender pursuant to Section 290 of the Penal Code, or the equivalent in another state or territory, or military or federal law, the board shall:

(1) Deny an application by the individual for licensure, in accordance with the procedures set forth in Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code.

(2) Promptly revoke the license of the individual, in accordance with the procedures set forth in Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, and shall not stay the revocation nor place the license on probation.

(3) Deny any petition to reinstate or reissue the individual's license.

(b) This section shall not apply to any of the following:

(1) An individual who has been relieved under Section 290.5 of the Penal Code of his or her duty to register as a sex offender, or whose duty to register has otherwise been formally terminated under California law or the law of the jurisdiction that required registration.

(2) An individual who is required to register as a sex offender pursuant to Section 290 of the Penal Code solely because of a misdemeanor conviction under Section 314 of the Penal Code; provided, however, that nothing in this paragraph shall prohibit the board from exercising its discretion to discipline a licensee under any other provision of state law based upon the licensee's conviction under section 314 of the Penal Code.

(3) Any administrative proceeding that is fully adjudicated prior to the effective date of this regulation. A petition for reinstatement of a revoked or surrendered license shall be considered a new proceeding for purposes of this paragraph, and the prohibition in subsection (a) against reinstating a license shall govern.

Authority cited: Section 2531.95, Business and Professions Code.
Reference: Section 2533, Business and Professions Code.

http://info.sen.ca.gov/pub/09-10/bill/asm/ab_2051-2100/ab_2072_bill_20100427_amended_asm_v96.html

DRAFT



Speech-Language Pathology and Audiology and Hearing Aid Dispensers Board

**UNIFORM STANDARDS RELATED TO SUBSTANCE ABUSE AND
DISCIPLINARY GUIDELINES**

July 16, 2004-May 2010



Speech-Language Pathology and Audiology and
Hearing Aid Dispensers Board

**UNIFORM STANDARDS RELATED TO SUBSTANCE ABUSE AND
DISCIPLINARY GUIDELINES**

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UNIFORM STANDARDS RELATED TO SUBSTANCE ABUSE AND DISCIPLINARY GUIDELINES

SPEECH-LANGUAGE PATHOLOGISTS, AUDIOLOGISTS AND HEARING AID DISPENSERS

Section 1399.155 of Division 13.4 of Title 16, Article 6 entitled "Disciplinary Guidelines" of the California Code of Regulations is amended to read:

Article 6. Uniform Standards Related to Substance Abuse and Disciplinary Guidelines

1399.155. Uniform Standards Related to Substance Abuse and Disciplinary Guidelines.

In reaching a decision on a disciplinary action under the Administrative Procedure Act (Section 11400 et seq. of the Government Code) the board shall ~~consider the disciplinary guidelines entitled~~ comply with the "Uniform Standards Related to Substance Abuse and Disciplinary Guidelines Revised [Insert New Revision Date July 16, 2004](#)," that are hereby incorporated by reference. Deviation from these disciplinary guidelines and orders, including the standard terms of probation, is appropriate where the board, in its sole discretion, determines that the facts of the particular case warrant such a deviation – for example: the presence of mitigating factors; the age of the case; and evidentiary problems. Neither the board nor an administrative law judge may impose any conditions or terms of probation that are less restrictive than the Uniform Standards Related to Substance Abuse.

Notwithstanding the Disciplinary Guidelines, any proposed decision issued in accordance with the procedures set forth in Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code that contains any finding of fact that the licensee engaged in any act of sexual contact, as defined in subdivision (c) of Section 729 of the Code, with a patient, or has committed an act or been convicted of a sex offense as defined in Section 44010 of the Education Code, shall contain an order revoking the license. The proposed decision shall not contain an order staying the revocation of the license.

Note: Authority cited: Sections 2531.95, Business and Professions Code; and Sections 11400.20, Government Code. Reference: Sections 2533 and 2533.1, Business and Professions Code; and Sections 11400.20 and 11425.50(e), Government Code.

UNIFORM STANDARDS FOR THOSE LICENSEES WHOSE LICENSE IS ON PROBATION DUE TO A SUBSTANCE ABUSE PROBLEM

The following standards shall be adhered to in all cases when a licensee's license is placed on probation due to a substance abuse problem. These standards are not guidelines and shall be followed in all instances, however, the Board may impose more restrictive conditions if necessary to protect the public.

Clinical Diagnostic Evaluations:

Whenever a licensee is ordered to undergo a clinical diagnostic evaluation, the evaluator shall be a licensed practitioner who holds a valid, unrestricted license to conduct clinical diagnostic evaluations, has three (3) years experience in providing evaluations of health professionals with substance abuse disorders, and is approved by the Board. The evaluations shall be conducted in accordance with acceptable professional standards for conducting substance abuse clinical diagnostic evaluations.

Clinical Diagnostic Evaluation Report:

The clinical diagnostic evaluation report shall set forth, in the evaluator's opinion, whether the licensee has a substance abuse problem, whether the licensee is a threat to himself or herself or others, and recommendations for substance abuse treatment, practice restrictions, or other recommendations related to the licensee's rehabilitation and safe practice.

The evaluator shall not have a financial, personal, or business relationship with the licensee within the last five (5) years. The evaluator shall provide an objective, unbiased, and independent evaluation.

If the evaluator determines during the evaluation process that a licensee is a threat to himself or herself or others, the evaluator shall notify the board within 24 hours of such a determination.

For all evaluation, a final written report shall be provided to the board no later than ten (10) days from the date the evaluator is assigned the matter unless the evaluator requests additional information to complete the evaluation, not to exceed 30 days.

The Board shall review the clinical diagnostic evaluation to determine whether or not the licensee is safe to return to either part-time or full-time practice and what restrictions or recommendations should be imposed on the licensee based on the application of the following criteria:

License type, licensee's history, documented length of sobriety, scope and pattern of substance abuse, treatment history, medical history, current medical condition, nature, duration and severity of substance abuse problem, and whether the licensee is a threat to himself or herself or others.

When determining if the licensee should be required to participate in inpatient, outpatient or any other type of treatment, the Board shall take into consideration the recommendation of the clinical diagnostic evaluation, license type, licensee's history, length of sobriety, scope and pattern of substance abuse, treatment history, medical history, current medical condition, nature, duration and severity of substance abuse and whether the licensee is a threat to himself or herself or others.

Work Site Monitor Requirements:

If a Board determines that a worksite monitor is necessary for a particular licensee, the worksite monitor must meet the following requirements to be considered for approval by the Board:

The worksite monitor shall not have financial, personal, or familial relationship with the licensee, or other relationship that could reasonably be expected to compromise the ability of the monitor to render impartial and unbiased reports to the board. If it is impractical for anyone but the licensee's employer to serve as the worksite monitor, this requirement may be waived by the board; however, under no circumstances shall a licensee's worksite monitor be an employee of the licensee.

The worksite monitor's license scope of practice shall include the scope of practice of the licensee that is being monitored or be another health care professional if no monitor with like practice is available.

The worksite monitor shall have an active unrestricted license, with no disciplinary action within the last five (5) years.

The worksite monitor shall sign an affirmation that he or she has reviewed the terms and conditions of the licensee's disciplinary order and agrees to monitor the licensee as set forth by the Board.

The worksite monitor must adhere to the following required methods of monitoring the licensee:

- a) Have face-to-face contact with the licensee in the work environment on a frequent basis as determined by the Board, at least once per week.
- b) Interview other staff in the office regarding the licensee's behavior, if applicable.
- c) Review the licensee's work attendance.

Reporting by the worksite monitor to the Board shall be as follows:

Any suspected substance abuse must be verbally reported to the Board and the licensee's employer within one (1) business day of occurrence. If occurrence is not during the Board's normal business hours the verbal report must be within one (1) hour of the next business day. A written report shall be submitted to the Board within 48 hours of occurrence.

The worksite monitor shall complete and submit a written report monthly or as directed by the board. The report shall include: the licensee's name; license number; worksite monitor's name and signature; worksite monitor's license number; worksite location(s); dates licensee had face-to-face contact with monitor; staff interviewed if applicable; attendance report; any change in behavior and/or personal habits; any indicators that can lead to suspected substance abuse.

The licensee shall complete the required consent forms and sign an agreement with the worksite monitor and the Board to allow the Board to communicate with the worksite monitor.

If a licensee tests positive for a banned substance, the Board shall order the order the Respondent to cease practice during the clinical diagnostic evaluation, immediately contact the licensee and inform him or her that their license has been suspended and that they may not work until the order is lifted. The Board shall also immediately notify the licensee's employer that the licensee may not work until the order is lifted.

Major and Minor Violations

Major Violations include, but are not limited to, the following:

1. Failure to complete a board-ordered program;
2. Failure to undergo a required clinical diagnostic evaluation;
3. Committing multiply minor violations of probation conditions and terms;

4. Treating a patient while under the influence of drugs or alcohol;
5. Committing any drug or alcohol offense that is a violation of the Business and Professions Code or state or federal law;
6. Failure to obtain biological testing for substance abuse;
7. Testing positive for a banned substance;
8. Knowingly using, making, altering or possessing any object or product in such a way as to defraud a drug test designed to detect the presence of alcohol or a controlled substance.

Consequences for major violations include, but are not limited to:

1. Licensee will be ordered to cease practice.
 - a. The licensee must undergo a new clinical diagnostic evaluation, and
 - b. The licensee must test negative for at least a month of continuous drug testing before being allowed to go back to work.
2. Termination of a contract/agreement.
3. Referral for disciplinary action, such a suspension, revocation, or other action as determined by the Board.

Minor Violations include, but are not limited to, the following:

1. Failure to submit required documentation in a timely manner;
2. Unexcused attendance at required meetings;
3. Failure to contact a monitor as required;
4. Any other violations that do not present an immediate threat to the licensee or to the public.

Consequences for minor violations include, but are not limited to:

1. Removal from practice;
2. Practice limitations;
3. Required supervision;
4. Increased documentation;
5. Issuance of citation and fine or a warning notice;
6. Required re-evaluation or testing;
7. Other action as determined by the Board.

DRUG TESTING STANDARDS

The following drug testing standards shall apply to each licensee subject to drug testing:

1. Licensees shall be randomly drug tested at least 104 times per year for the first year and at any time as directed by the board. After the first year, licensees, who are practicing, shall be randomly drug tested at least 50 times per year, and at any time as directed by the board.
2. Drug testing may be required on any day, including weekends and holidays.
3. The scheduling of drug tests shall be done on a random basis, preferably by a computer program.
4. Licensees shall be required to make daily contact to determine if drug testing is required.
5. Licensees shall be drug tested on the date of notification as directed by the board.
6. Specimen collectors must either be certified by the Drug and Alcohol Testing Industry Association or have completed the training required to serve as a collector for the U.S. Department of Transportation.
7. Specimen collectors shall adhere to the current U.S. Department of Transportation Specimen Collection Guidelines.
8. Testing locations shall comply with the Urine Specimen Collection Guidelines published by the U.S. Department of Transportation, regardless of the type of test administered.
9. Collection of specimens shall be observed.
10. Prior to vacation or absence, alternative drug testing location(s) must be approved by the board.
11. Laboratories shall be certified and accredited by the U.S. Department of Health and Human Services.

A collection site must submit a specimen to the laboratory within one (1) business day of receipt. A chain of custody shall be used on all specimens. The laboratory shall process results and provide legally defensible test results within seven (7) days of receipt of the specimen. The appropriate board will be notified of non-negative test results within one (1) business day and will be notified of negative test results within seven (7) business days.

DISCIPLINARY GUIDELINES

The Board recognizes that these penalties and conditions of probation are guidelines, and that each disciplinary case must be assessed individually. If individual circumstances exist that justify omissions or deviations from these guidelines, the Board asks that these be explained by the Administrative Law Judge hearing the case. This will help the Board to better evaluate proposed decisions and to make decisions that accurately reflect the facts of each specific disciplinary matter.

Except where otherwise indicated, the following terms and conditions apply to speech-language pathologists, ~~and audiologists, dispensing audiologists as well as~~ speech-language pathology assistants and hearing aid dispensers.

STANDARD TERMS AND CONDITIONS OF PROBATION (1-13)

1. OBEY ALL LAWS:

Respondent shall obey all federal, state, and local laws, including all statutes and regulations governing the practice of the licensee.

Further, respondent shall, within five (5) days of any arrest, submit to the Board in writing a full and detailed account of such arrest.

2. COMPLY WITH PROBATION PROGRAM

Respondent shall fully comply with the probation program established by the Board and shall cooperate with the representatives of the Board.

3. CHANGE OF ADDRESS NOTIFICATION

Respondent shall, within five (5) days of a change of residence or mailing address, notify the Board in writing of the new address.

4. OUT-OF-STATE RESIDENCY

Respondent shall notify the Board immediately in writing if he or she leaves California to reside or practice in another state.

Respondent shall notify the Board immediately upon return to California.

The period of probation shall be tolled during the time respondent is residing or practicing outside California.

5. SUBMIT QUARTERLY WRITTEN DECLARATIONS

Respondent shall submit to the Board quarterly written declarations and verification of actions signed under penalty of perjury. These declarations shall certify and document compliance with all the conditions of probation.

6. NOTIFY EMPLOYER OF PROBATION TERMS AND RESTRICTIONS

[Complies with Uniform Standard #3]

When currently employed, ~~or~~ applying for employment, or contracted to provide services as a speech-language pathologist, audiologist, dispensing audiologist, or speech-language pathology assistant, respondent shall notify his or her employer and supervisor or contractor of the probationary status of respondent's license. This notification to the respondent's current employer and supervisor, or contractor shall occur no later than the effective date of the Decision placing respondent on probation. The respondent shall notify any prospective employer and supervisor or contractor of his or her probationary status with the Board prior to accepting such employment. This notification shall ~~be by~~ include providing the employer or prospective employer with a copy of the Board's Decision placing respondent on probation.

The respondent shall provide to the Board the names, physical addresses, and telephone numbers of all employers, supervisors and contractors.

The respondent shall complete the required consent forms and sign an agreement with the employer and supervisor, or contractor, and the Board to allow the Board to communicate with the employer and supervisor or contractor.

Respondent shall cause each employer and supervisor or contractor to submit quarterly written declarations to the Board. These declarations shall include a performance evaluation.

Respondent shall notify the Board, in writing, of any change in his or her employment status, within ten (10) days of such change.

7. INTERVIEWS WITH BOARD REPRESENTATIVES

Respondent shall appear in person for interviews with the Board, or its designee, upon request at various intervals and with reasonable notice. An initial probation visit will be required within sixty (60) days of the effective date of the Decision. The purpose of this initial interview is to introduce Respondent to the Board's

representatives and to familiarize Respondent with specific probation conditions and requirements. Additional meetings may be scheduled as needed.

8. EMPLOYMENT LIMITATIONS

While on probation, Respondent may not work as a faculty member in an accredited or approved school of speech-language pathology or school of audiology.

9. EDUCATIONAL COURSE

Respondent shall take and successfully complete course work substantially related to the violation. Within sixty (60) days of the effective date of the Decision, Respondent shall submit a plan to comply with this requirement. Respondent must obtain approval of such plan by the Board prior to enrollment in any course of study.

Respondent shall successfully complete the required remedial education no later than the end of the first year of probation. Upon successful completion of the course, Respondent shall cause the instructor to furnish proof to the Board immediately.

9. CONSUMER RESTITUTION

Respondent shall make restitution to consumer(s) named in the decision in the amount of damage specified within one (1) year of the effective date of the decision.

10. FUNCTION IN LICENSED CAPACITY

During probation, Respondent shall work in his or her capacity in the State of California. If respondent is unable to secure employment in his or her capacity or his or her license is temporarily suspended, the period of probation shall be tolled during that time.

11. MAINTAIN A VALID LICENSE

Respondent shall, at all times while on probation, maintain an active current license with the Board, including any period during which suspension or probation is tolled.

~~Should Respondent's license, by operation of law or otherwise, expire, upon renewal or reinstatement, Respondent's license shall be subject to any and all~~

~~terms of this probation not previously satisfied.~~

12. VOLUNTARY LICENSE SURRENDER

Following the effective date of this probation, if Respondent ceases practicing for any reason, or is otherwise unable to satisfy the terms and conditions of probation, Respondent may voluntarily surrender his/her license to the Board. The Board reserves the right to evaluate Respondent's request and to exercise its discretion whether to grant the request, or to take any other action deemed appropriate and reasonable under the circumstances. Upon formal acceptance of the surrendered license, Respondent will no longer be subject to the terms and conditions of probation.

123. VIOLATION OF PROBATION

If Respondent violates probation in any respect, the Board may seek to revoke probation and carry out the disciplinary order that was stayed. The Respondent shall receive prior notice and the opportunity to be heard. If a Petition to Revoke Probation, an Accusation, a Petition to Vacate Stay or other formal disciplinary action is filed against Respondent during probation, the Board shall have continuing jurisdiction and the period of probation shall be extended and Respondent shall comply with all probation conditions until the matter is final.

134. COMPLETION OF PROBATION

Respondent's license will be fully restored upon successful completion of probation.

OPTIONAL TERMS AND CONDITIONS OF PROBATION (14-28)

145. SUBMIT TO EXAMINATION BY PHYSICIAN

Within sixty (60) days of the effective date of the Decision, Respondent shall submit to a physical examination by a physician and surgeon of his or her choice who meets minimum criteria established by the Board. The physician and surgeon shall must be licensed in California and Board certified in Family Practice, Internal Medicine, or a related specialty. The purpose of this examination shall be to determine Respondent's ability to safely perform all professional duties with safety to self and to the public. Respondent shall provide the examining physician and surgeon with a copy of the Board's Decision prior to the examination. Cost of such examination shall be paid by Respondent.

Respondent shall cause the physician and surgeon to complete a written medical

report. This report shall be submitted by the physician and surgeon to the Board within ninety (90) days of the effective date of the Decision. If the examining physician and surgeon finds that Respondent is not physically fit to practice or can only practice with restrictions, the ~~examining~~ physician and surgeon shall notify the Board within three (3) working days. The Board shall notify the respondent in writing of the ~~examining~~ physician's and surgeon's determination of unfitness to practice and shall order the Respondent to cease practice or place restrictions on Respondent's practice. ~~licensed activities as a condition of probation.~~ Respondent shall comply with any order to cease practice or restriction of his or her practice ~~this condition~~ until the Board is satisfied of Respondent's fitness to practice safely and has so notified the Respondent in writing. ~~Respondent shall document compliance in the manner required by the Board.~~

156. PSYCHOLOGICAL EVALUATION

Respondent shall participate in a psychiatric or psychological evaluation. This evaluation shall be for the purpose of determining Respondent's current mental, psychological and emotional fitness to safely perform all professional duties with safety to self and to the public. Respondent shall provide the evaluator with a copy of the Board's Decision prior to the evaluation. The evaluation shall be performed by a ~~psychiatrist~~ physician and surgeon licensed in California and Board certified in psychiatry or by a clinical psychologist licensed in California approved by the Board.

Within twenty (20) days of the effective date of the Decision, ~~Respondent shall submit to the Board~~ shall provide to the Respondent, the name of one or more proposed evaluators ~~for prior approval by the Board~~ approved to conduct the psychological evaluation.

Respondent shall fully cooperate with the provision and undergo a psychiatric or psychological evaluation within thirty (30) days of the effective date of the Decision. ~~The cause the evaluator to~~ shall submit to the Board a written psychiatric or psychological report evaluating Respondent's status and progress as well as such other information as may be requested by the Board. This report shall be submitted within ~~ninety (90)~~ sixty (60) days from the effective date of the Decision. Cost of ~~such~~ the evaluation shall be paid by the Respondent.

If the evaluator finds that Respondent is not psychologically fit to practice safely, or can only practice safely with restrictions, the evaluator shall verbally notify the Board within ~~three (3)~~ one (1) working days. The Board shall notify the Respondent in writing of the evaluator's determination of unfitness to practice and shall notify the Respondent to cease or restrict licensed activities as a

condition of probation. Respondent shall comply with this condition until the Board is satisfied of Respondent's fitness to practice safely and has so notified the Respondent. Respondent shall document compliance in the manner required by the Board.

If the evaluator finds that psychotherapy is required, Respondent shall participate in a therapeutic program at the Board's discretion. Cost of such therapy shall be paid for by Respondent.

167. PSYCHOTHERAPY

Respondent shall participate in ongoing psychotherapy with a California licensed ~~psychiatrist~~ physician and surgeon who is Board certified in Psychiatry, clinical psychologist, marriage, family, and child counselor, or licensed clinical social worker approved by the Board. Counseling shall be at least once a week unless otherwise determined by the Board. Respondent shall continue in such therapy at the Board's discretion. Cost of such therapy shall be paid for by Respondent.

Within twenty (20) days of the effective date of the Decision, ~~Respondent shall submit to the Board~~ shall submit to the Respondent the name of one or more proposed therapists ~~for prior approval~~. to provide on-going therapy ~~Upon approval by the Board,~~ Respondent shall commence psychotherapy within ten (10) days of receiving notification by the Board of the name's of approved therapists. Respondent shall provide the therapist with a copy of the Board's Decision no later than the first counseling session.

If the therapist finds that Respondent is not psychologically fit to practice safely, or can only practice safely with restrictions, the therapist shall notify the Board within three (3) working days. The Board shall notify the Respondent in writing of the therapist's determination of unfitness to practice and shall notify the Respondent to cease or restrict licensed activities as a condition of probation. Respondent shall comply with this condition until the Board is satisfied of Respondent's fitness to practice safely and has so notified the Respondent.

~~Respondent shall cause~~ The therapist shall ~~to~~ submit quarterly written declarations to the Board concerning Respondent's fitness to practice and progress in treatment.

178. CLINICAL DIAGNOSTIC EVALUATION- [Complies with Uniform Standards 1&2]

Within twenty (20) days of the effective date of the Decision and at any time upon order of the Board, Respondent shall undergo a clinical diagnostic evaluation.

Respondent shall provide the evaluator with a copy of the Board's Decision prior to the clinical diagnostic evaluation being performed.

Respondent shall cause the evaluator to submit to the Board a written clinical diagnostic evaluation report within ten (10) days from the date the evaluation was completed, unless an extension, not to exceed thirty (30) days, is granted to the evaluator by the Board. Cost of such evaluation shall be paid by the Respondent.

Any time the Respondent is ordered to undergo a clinical diagnostic evaluation, Respondent shall cease practice during the clinical diagnostic evaluation and review of the evaluation by Board staff.

While awaiting the results of the clinical diagnostic evaluation, the Respondent shall be randomly drug tested at least two (2) times per week.

17. REHABILITATION PROGRAM

~~Within thirty (30) days of the effective date of the Decision, Respondent shall enter a rehabilitation and monitoring program specified by the Board. Respondent shall successfully complete such treatment contract as may be recommended by the program and approved by the Board.~~

~~Components of the treatment contract shall be relevant to the violation and to the Respondent's current status in recovery or rehabilitation. The components may include, but are not limited to: restrictions on practice and work setting, random bodily fluid testing, abstention from drugs and alcohol, use of worksite monitors, participation in chemical dependency rehabilitation programs or groups, psychotherapy, counseling, psychiatric evaluations, and other appropriate rehabilitation or monitoring programs.~~

~~The cost for participation in this program shall be paid for by Respondent.~~

189. ATTEND CHEMICAL DEPENDENCY SUPPORT AND RECOVERY GROUPS- [Complies with Uniform Standard #5]

Within five (5) days of the effective date of the Decision, Respondent shall begin attendance at a chemical dependency support group (e.g., Alcoholics Anonymous, Narcotics Anonymous). Documentation of attendance shall be submitted by the Respondent with each quarterly written report. Respondent shall continue attendance in such a group for the duration of probation unless notified by the Board in writing that attendance is no longer required.

1920. ABSTAIN FROM CONTROLLED SUBSTANCES

Respondent shall completely abstain from the personal use or possession of controlled substances as defined in the California Uniform Controlled Substances Act and dangerous drugs as defined in Section 4022 of the Business and Professions Code, except when lawfully prescribed by a licensed practitioner for a bonafide illness.

201. ABSTAIN FROM USE OF ALCOHOL

Respondent shall completely abstain from the intake use of alcoholic beverages during the period of probation.

242. SUBMIT BIOLOGICAL FLUID SAMPLES- [Complies with Uniform Standards #4 & #8]

Respondent shall immediately submit to random and directed biological fluid testing paid for by Respondent, at the request of the Board or its designee. The Respondent shall be subject to a minimum of one-hundred and four (104) random tests per year within the first year of probation and at minimum of fifty (50) random tests per year thereafter for the duration of the probationary term. Positive test results will be reported to the Board

Respondent shall make daily contact as directed by the Board to determine if he or she must submit to drug testing. Respondent shall submit his or her drug test on the same day that he or she is notified that a test is required. All alternative drug testing sites due to vacation or travel outside of California must be approved by the Board prior to the vacation or travel.

If Respondent tests positive for a banned substance, Respondent shall cease practice upon order of the Board.

223. TAKE AND PASS LICENSURE EXAMINATION

Option #1:

Respondent shall take and pass the first administration after the effective date of this decision of the written and/or practice licensure examination as designated by the Board. If Respondent fails the examination, Respondent must take and pass a re-examination consisting of the written and/or practical licensure examination which is administered for the purpose of licensure. If respondent is required to take and pass both the written and practical examinations, the written

examination must be taken and passed prior to taking the practical examination. The waiting period between repeat written examinations shall be at least two weeks, until the examinations are passed. Respondent shall pay all examination fees and pass the required examinations no later than 100 days prior to the termination date of probation.

Option #2 (Condition Precedent):

Before resuming practice, Respondent shall take and pass the written and/or practical licensure examination(s) currently required of new applicants prior to resuming practice. Respondent shall pay all examination fees.

234. SUPERVISED PRACTICE

The Board shall be informed and approve of the type of supervision or monitoring provided while the Respondent is functioning as a licensed speech-language pathologist, licensed audiologist or dispensing audiologist, or speech-language pathology assistant.

Respondent may not function as a supervisor for any required professional experience (RPE) candidate or any speech-language pathology assistant or aide, during the period of probation or until approved by the Board.

245. WORKSITE MONITOR

Respondent shall submit the name of the proposed worksite monitor within 20 days of the effective date of the Decision. Respondent shall complete any required consent forms and sign an agreement with the worksite monitor and the Board regarding the Respondent and the worksite monitor's requirements and reporting responsibilities. Once a worksite monitor is approved, Respondent may not practice unless the monitor is present at the worksite. If the worksite monitor terminates the agreement with the Board and the Respondent, the Respondent shall not resume practice until another worksite monitor is approved by the Board.

256. RESTRICTIONS ON LICENSED PRACTICE

Respondent shall practice only with a restricted patient population, in a restricted practice setting, or engage in limited practice procedures. These restrictions shall be specifically defined in the Decision and be appropriate to the violation. Respondent shall be required to document compliance in the manner required by the Board.

267. RECOVERY OF COSTS

Where an order for recovery of costs is made, the Respondent shall make timely payments as directed in the Decision.

278. ACTUAL SUSPENSION OF LICENSE

As part of probation, respondent is suspended from practice for ____ months beginning the effective date of this decision. Respondent shall be responsible for informing his or her employer of the Board's decision, the reasons for the length of suspension. Prior to the lifting of the actual suspension of license, the Board shall receive pertinent documentation confirming that respondent is safe to return to practice under specific terms and conditions as determined by the Board. ~~Respondent shall provide documentation of completion of educational courses or treatment rehabilitation if required.~~

RECOMMENDED LANGUAGE FOR ISSUANCE AND PLACEMENT OF A LICENSE ON PROBATION FOR INITIAL LICENSURE AND REINSTATEMENT OF LICENSE

In order to provide clarity and consistency in its decisions, the Speech-Language Pathology and Audiology and Hearing Aid Dispensers Board recommends the following language in proposed decisions or stipulated agreements for applicants who hold a license in another state and for petitioners for reinstatement who are issued a license that is placed on probation.

Suggested language for applicants who are placed on probation:

"The application of respondent _____ for licensure is hereby granted. Upon successful completion of all licensing requirements, a license shall be issued to respondent. Said license shall immediately be revoked, the order of revocation stayed and respondent placed on probation for a period of _____ years on the following terms and conditions:"

Suggested language for applicants who are licensed in another state and are placed on probation:

"The application of respondent for licensure is hereby granted and a license shall be issued to respondent. Said license shall immediately be revoked, the order of revocation stayed and respondent placed on probation for a period of ____ years on the following terms and conditions:"

Suggested language for reinstatement of licensure with conditions of probation:

"The application of respondent _____ for reinstatement of licensure is hereby granted. A license shall be issued to respondent. Said license shall immediately be revoked, the order of revocation stayed and respondent placed on probation for a period of ____ years on the following terms and conditions:"

PENALTIES FOR DISCIPLINARY ACTIONS

Except where otherwise indicated, the following penalties apply to speech-language pathologists, audiologists, dispensing audiologists and speech-language pathology assistants

UNPROFESSIONAL CONDUCT (GENERAL)

Sections 480 & 2533 of the Business and Professions Code
Section 1399.156 of the California Code of Regulations, Title 16

MAXIMUM	Revocation or Denial
MINIMUM	18 Months Probation Standard Terms of Probation (1-134) If warranted: <u>Supervised Practice</u> (23) Psychological Evaluation (15) Restricted Practice (25) Suspension (27)

UNPROFESSIONAL CONDUCT -- CONVICTION OF A CRIME OR ACT INVOLVING DISHONESTY, FRAUD, OR DECEIT

Sections 480(a)(1), 480(a)(2), 490 & 2533(a) of the Business and Professions Code

MAXIMUM	Revocation or Denial
MINIMUM	18 Months Probation Standard Terms of Probation (1-134) If warranted: <u>Supervised Practice</u> (23) Psychological Evaluation (15) Restricted Practice (25) Suspension (27)

UNPROFESSIONAL CONDUCT -- SECURING LICENSE UNLAWFULLY

Sections 498 & 2533(b) of the Business and Professions Code

MINIMUM	Revocation or Denial
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Note: The severity of this offense warrants revocation or denial in all cases.

MENTAL OR PHYSICAL ILLNESS

Section 820 of the Business and Professions Code

<u>MAXIMUM</u>	<u>Revocation</u>
<u>MINIMUM</u>	<u>5 Years Probation</u>
	<u>Standard Terms of Probation (1-134)</u>
	<u>Psychological Evaluation</u>
	<u>Physician Exam</u>
	<u>If warranted, Suspension of 60 Days to 90 Days</u>
	<u>If warranted, Worksite Monitoring</u>

Note: In some instances public safety can only be assured by removing the licensee from practice. Factors to be considered are: denial of problem, unstable employment history, prior disciplinary action, multiple violations, patient harm and danger to self and/or others.

UNPROFESSIONAL CONDUCT -- USE OR ADMINISTERING TO ONESELF ANY CONTROLLED SUBSTANCE

Section 2533(c)(1) of the Business and Professions Code

<u>MAXIMUM</u>	<u>Revocation or Denial</u>
<u>MINIMUM</u>	<u>3 Years Probation</u>
	<u>Standard Terms of Probation (1-134)</u>
	<u>Physician Exam (14)</u>
	<u>Clinical Diagnostic Evaluation (17)</u>
	<u>Support and Recovery Group (18)</u>
	<u>Abstain from Drugs and Alcohol (19-20)</u>
	<u>Submit Biological Fluids (21)</u>
	<u>Worksite Monitor (24)</u>
	<u>Supervised Practice (23)</u>
	<u>Suspension (27)</u>
	<u>If warranted:</u>
	<u>Psychological Evaluation (15)</u>
	<u>Psychotherapy (16)</u>
	<u>Drug and Alcohol Rehabilitation (17-)</u>
	<u>Restricted Practice (25)</u>
	<u>Suspension (26)</u>

Note: In some instances public safety can only be assured by removing the licensee from practice. Factors to be considered are: insufficient evidence of rehabilitation, denial of problem, unstable employment history, significant diversion of patients' medications, prior disciplinary action, multiple violations and patient harm.

UNPROFESSIONAL CONDUCT -- USE OF ANY DANGEROUS DRUGS SPECIFIED IN SECTION 4022 OF BUSINESS AND PROFESSION CODE, OR USE OF ALCOHOLIC BEVERAGES EXTENT IMPAIRS ABILITY TO PRACTICE SAFELY

Section 2533(c)(2) of the Business and Professions Code

MAXIMUM	Revocation or Denial
MINIMUM	3 Years Probation Standard Terms of Probation (1-134) Physician Exam (14) <u>Clinical Diagnostic Evaluation</u> (17) Support and Recovery Group (18) Abstain from Drugs and Alcohol (19-20) Submit Biological Fluids (21) <u>Supervised Practice</u> (23) <u>Worksite Monitor</u> (24) <u>Suspension</u> (27) If warranted: Psychological Evaluation (15) Psychotherapy (16) Drug and Alcohol Rehabilitation (17-) Restricted Practice (25) Suspension (26)

Note: In some instances public safety can only be assured by removing the licensee from practice. Factors to be considered are: insufficient evidence of rehabilitation, denial of problem, unstable employment history, significant diversion of patients' medications, prior disciplinary action, multiple violations and patient harm.

UNPROFESSIONAL CONDUCT -- MORE THAN ONE MISDEMEANOR OR ANY FELONY INVOLVING USE, CONSUMPTION, OR SELF-ADMINISTRATION OF ANY CONTROLLED SUBSTANCES, ALCOHOL, OR DANGEROUS DRUG

Section 2533(c)(3) of the Business and Professions Code

MAXIMUM	Revocation or Denial
MINIMUM	18 Months Probation Standard Terms of Probation (1-134) <u>Clinical Diagnostic Evaluation</u> (17) Support and Recovery Group (18)

Abstain from Drugs and Alcohol (19-20)
 Submit Biological Fluids (21)
Worksite Monitor (24)
 Suspension (27)
 If warranted:
 Physical Examination (14)
 Psychological Evaluation (15)
 ~~Drug and Alcohol Rehabilitation (17)~~
 Supervised Practice (23)
 Restricted Practice (25)
 ~~Suspension (26)~~

Note: In some instances public safety can only be assured by removing the licensee from practice. Factors to consider are; conviction of possession of drugs for sale, contribution to delinquency of minors, and other similar offenses.

UNPROFESSIONAL CONDUCT -- ADVERTISING

Section 1399.156.4 of the California Code of Regulations, Title 16

MAXIMUM	Revocation or Denial
MINIMUM	18 Months Probation Standard Terms of Probation (1-134) If warranted: <u>Supervised Practice</u> (23)

UNPROFESSIONAL CONDUCT -- COMMITTING A DISHONEST OR FRAUDULENT ACT SUBSTANTIALLY RELATED TO QUALIFICATIONS, FUNCTIONS, OR DUTIES OF LICENSEES (Non-Drug Related)

Section 2533(e) of the Business and Professions Code

MAXIMUM	Revocation or Denial
MINIMUM	18 Months Probation Standard Terms of Probation (1-134) <u>Supervised Practice</u> (23) If warranted: Physician Examination (14) Psychological Evaluation (15) Restricted Practice (25) Suspension (<u>27</u>)

**UNPROFESSIONAL CONDUCT AIDING AND ABETTING IN
THE COMMISSION OF A VIOLATION OF
AN ACT OR REGULATION**

Section 1399.156(a) of the California Code of Regulations, Title 16

MAXIMUM	Revocation or Denial
MINIMUM	18 Months Probation Standard Terms of Probation (1- 134)

**UNPROFESSIONAL CONDUCT-CORRUPT OR ABUSIVE
ACT AGAINST A PATIENT**

Section 1399.156(b) of the California Code of Regulations, Title 16

MAXIMUM	Revocation or Denial
MINIMUM	3 Years Probation Standard Terms of Probation (1- 134) <u>Supervised Practice</u> (23) If warranted: Psychological Evaluation (15) Psychotherapy (16) Restricted Practice (25) Suspension (<u>27</u>)

Note: In some instances public safety can only be assured by removing the licensee from practice. Factors to be considered are; insufficient evidence of rehabilitation, denial of problem, prior disciplinary action, multiple violations and patient harm.

UNPROFESSIONAL CONDUCT- INCOMPETENCE OR NEGLIGENCE

Section 1399.156(c) of the California Code of Regulations, Title 16

MAXIMUM	Revocation or Denial
MINIMUM	3 Years Probation Standard Terms of Probation (1- 134) <u>Supervised Practice</u> (23) If warranted: Psychological Evaluation (15) Psychotherapy (16) Restricted Practice (25) Suspension (<u>27</u>)

Note: In some instances public safety can only be assured by removing the licensee from practice. Factors to be considered are; insufficient evidence of rehabilitation, denial of problem, prior disciplinary action, multiple violations and patient harm.

UNPROFESSIONAL CONDUCT BY SPEECH-LANGUAGE PATHOLOGY CORPORATION OR AUDIOLOGY CORPORATION

Section 2537, 2537.2, 2537.3 & 2537.4 of the Business and Professions Code

MAXIMUM Revocation or Denial

MINIMUM 18 Months Probation
Standard Terms of Probation (1-134)

DISCIPLINARY ACT BY FOREIGN JURISDICTION

Section 141 of the Business and Professions Code

MAXIMUM Revocation or Denial

MINIMUM 18 Months Probation
Standard Terms of Probation (1-134)
If warranted:
Support and Recovery Group (18)
Abstain from Drugs and Alcohol (19-20)
Submit Biological Fluids (21)
Physical Examination (14)
Psychological Evaluation (15)
Clinical Diagnostic Evaluation (17)
Drug and Alcohol Rehabilitation (17)
Supervised Practice (23)
Worksite Monitor (24)
Restricted Practice (25)
Suspension (27)

SEXUAL MISCONDUCT

Section 726 of the Business and Professions Code

MAXIMUM Revocation or Denial

MINIMUM 3 Years Probation
Standard Terms of Probation (1-134)
Supervised Practice (23)
If warranted:

Worksite Monitor (24)
Restricted Practice (25)
Suspension (27)

PENALTIES FOR DISCIPLINARY ACTIONS

Except where otherwise indicated, the following terms and conditions apply to hearing aid dispensers and dispensing audiologists unless noted

SEXUAL MISCONDUCT

Section 726 of the Business and Professions Code

<u>MAXIMUM</u>	<u>Revocation or Denial</u>
<u>MINIMUM</u>	<u>3 Years Probation</u> <u>Standard Terms of Probation (1-14)</u> <u>Supervised Practice (24)</u> <u>If warranted:</u> <u> Psychological Evaluation (16)</u> <u> Psychotherapy (17)</u> <u> Restricted Practice (26)</u> <u> Suspension (28)</u>

MENTAL OR PHYSICAL ILLNESS

Section 820 of the Business and Professions Code

<u>MAXIMUM</u>	<u>Revocation or Denial</u>
<u>MINIMUM</u>	<u>5 Years Probation</u> <u>Standard Terms of Probation (1-14)</u> <u>Psychological Evaluation (16)</u> <u>Physician Exam (15)</u> <u>If warranted:</u> <u> Suspension (28)</u> <u> Monitoring (25)</u>

Note: In some instances public safety can only be assured by removing the licensee from practice. Factors to be considered are: denial of problem, unstable employment history, prior disciplinary action, multiple violations, patient harm and danger to self and/or others.

UNLICENSED PRACTICE

Section 3350 of the Business and Professions Code

<u>MAXIMUM</u>	<u>Revocation</u>
<u>MINIMUM</u>	<u>2 Years Probation</u>
	<u>Standard Terms of Probation (1-14)</u>
	<u>If warranted:</u>
	<u>Suspension (28)</u>

TEMPORARY LICENSEE AS SOLE PROPRIETOR, MANAGER, OR OPERATOR OR CLAIMING TO HOLD LICENSE AS A HEARING AID DISPENSER

Section 3359 of the Business and Professions Code

<u>MAXIMUM</u>	<u>License Denied</u>
<u>MINIMUM</u>	<u>License Issued, 2 Years Probation</u>
	<u>Standard Terms of Probation (1-14)</u>

PRACTICING WITHOUT NOTIFYING THE BOARD OF BUSINESS ADDRESS*

Section 3362 of the Business and Professions Code

<u>MAXIMUM</u>	<u>Suspension, Stayed with 2 Years Probation</u>
	<u>Standard Terms of Probation (1-14)</u>
	<u>If warranted:</u>
	<u>Suspension (28)</u>
	<u>Written Examination (23)</u>
<u>MINIMUM</u>	<u>Suspension, Stayed with 1 Year Probation</u>
	<u>Standard Terms of Probation (1-14)</u>

PRACTICING WITHOUT PROPERLY POSTING LICENSE

Section 3363 of the Business and Professions Code

<u>MAXIMUM</u>	<u>Suspension, Stayed with 2 Years Probation</u>
	<u>Standard Terms of Probation (1-14)</u>
	<u>If warranted:</u>
	<u>Suspension (28)</u>
	<u>Written Examination (23)</u>
<u>MINIMUM</u>	<u>Public Repeval</u>

PRACTICING FROM A BRANCH OFFICE WHICH IS NOT LICENSED

Section 3364 of the Business and Professions Code

MAXIMUM _____ Suspension, Stayed with 2 Years Probation
_____ Standard Terms of Probation (1-14)
_____ If warranted:
_____ Suspension (28)
_____ Written Examination (23)

MINIMUM _____ Suspension, Stayed with 1 Year Probation
_____ Standard Terms of Probation (1-14)

FAILURE TO DELIVER PROPER RECEIPT

Section 3365 of the Business and Professions Code

MAXIMUM _____ 1 Year Suspension, Stayed with 3 Years Probation
_____ If warranted:
_____ Standard Terms of Probation (1-14)
_____ Suspension (28)
_____ Written Examination (23)

MINIMUM _____ Public Repeval

FAILURE TO MAKE PHYSICIAN REFERRAL

Section 3365.5 of the Business and Professions Code

MAXIMUM _____ Revocation

MINIMUM _____ 5 Years Probation
_____ Standard Terms of Probation (1-14)
_____ If warranted:
_____ Suspension (28)
_____ Written Examination (23)
_____ Monitoring (25)

**UNAUTHORIZED SELLING OF A HEARING AID TO A PERSON UNDER
SIXTEEN(16) YEARS OF AGE***

Section 3365.6 of the Business and Professions Code

MAXIMUM _____ Revocation

MINIMUM _____ 5 Years Probation
_____ Standard Terms of Probation (1-14)
_____ If warranted:
_____ Suspension (28)
_____ Written Examination (23)

Monitoring (25)

FAILURE TO MAINTAIN REQUIRED RECORDS
Section 3366 of the Business and Professions Code

MAXIMUM 1 year suspension, stayed with 3 years probation
Standard Terms of Probation (1-14)
If warranted:

Suspension (28)

Written Examination (23)

Monitoring (25)

MINIMUM Public Repeoval

THE IMPROPER OR UNNECESSARY FITTING OF A HEARING AID
Section 3401(a) of the Business and Professions Code

MAXIMUM Revocation

MINIMUM 5 Years Probation
Standard Terms of Probation (1-14)
If warranted:

Suspension (28)

Written Examination (23)

Monitoring (25)

GROSS NEGLIGENCE
Section 3401(b) of the Business and Professions Code

MAXIMUM Revocation

MINIMUM 5 Years Probation
Standard Terms of Probation (1-14)
If warranted:

Suspension (28)

Written Examination (23)

Monitoring (25)

REPEATED NEGLIGENT ACTS
Section 3401(c) of the Business and Professions Code

MAXIMUM Revocation

MINIMUM 5 Years Probation
Standard Terms of Probation (1-14)

If warranted:

Suspension (28)

Written Examination (23)

Monitoring (28)

CRIMINAL CONVICTION

Section 3401(d) of the Business and Professions Code

MAXIMUM Revocation

MINIMUM 5 Years Probation

Standard Terms of Probation (1-14)

If warranted:

Suspension (28)

Monitoring (25)

OBTAINING A LICENSE BY FRAUD

Section 3401(e) of the Business and Professions Code

MINIMUM Revocation

**USING THE TERM "DOCTOR", "PHYSICIAN" OR "AUDIOLOGIST" UNLESS
AUTHORIZED**

Section 3401(f) of the Business and Professions Code

MAXIMUM Revocation

MINIMUM 5 Years Probation

Standard Terms of Probation (1-14)

If warranted:

Suspension (28)

Written Examination (23)

Monitoring (25)

FRAUD OR MISREPRESENTATION IN PRACTICE

Section 3401(g) of the Business and Professions Code

MAXIMUM Revocation

MINIMUM 5 Years Probation

Standard Terms of Probation (1-14)

If warranted:

Suspension (28)

Written Examination (23)

Monitoring (25)

EMPLOYING AN UNLICENSED PERSON
Section 3401(h) of the Business and Professions Code

MAXIMUM Revocation

MINIMUM 5 Years Probation
Standard Terms of Probation (1-14)
If warranted:
Suspension (28)
Monitoring (25)

ILLEGAL ADVERTISING*
Section 3401(i) of the Business and Professions Code

MAXIMUM Revocation

MINIMUM Public Repeval

LETTING ANOTHER USE HIS OR HER LICENSE
Section 3401(k) of the Business and Professions Code

MINIMUM Revocation

DOING ANY ACT WHICH WOULD BE GROUNDS FOR LICENSE DENIAL
Section 3401(m) of the Business and Professions Code

MINIMUM Revocation, if facts show false statements were made on the application.

SALE OR BARTER OF A LICENSE OR OFFER TO SELL OR BARTER A LICENSE
Section 3421 of the Business and Professions Code

MAXIMUM Revocation

MINIMUM 5 Years Probation
Standard Terms of Probation (1-14)
If warranted:
Suspension (28)
Written Examination (23)
Monitoring (25)

PURCHASE OR PROCURE BY BARTER A LICENSE WITH THE INTENT TO PRACTICE

Section 3422 of the Business and Professions Code

MINIMUM _____ Denial of right to seek licensure as a hearing aid
_____ dispenser pursuant to B & P 480 (2) (3).

ALTER WITH FRAUDULENT INTENT ANY MATERIAL ISSUED BY THE BOARD

Section 3423 of the Business and Professions Code

If done by a temporary licensee:

MINIMUM _____ Revocation of temporary license and denial of
_____ permanent licensure.

If done by a permanent licensee:

MAXIMUM _____ Revocation

MINIMUM _____ 5 Years Probation
_____ Standard Terms of Probation (1-14)
_____ If warranted:
_____ Suspension (28)
_____ Written Examination (23)
_____ Monitoring (25)

LYING ON THE LICENSE APPLICATION

Section 3426 of the Business and Professions Code

MINIMUM _____ License denial pursuant to B & P 480 (c)

PRACTICING WITHOUT A VALID LICENSE*

Section 3427 of the Business and Professions Code

MAXIMUM _____ Revocation

MINIMUM _____ 2 Years Probation
_____ Standard Terms of Probation (1-14)
_____ If warranted:
_____ Written Examination (23)

UNLAWFUL PRACTICE

Section 3427.5 of the Business and Professions Code

<u>MAXIMUM</u>	<u>Revocation</u>
<u>MINIMUM</u>	<u>5 Years Probation</u>
	<u>Standard Terms of Probation (1-14)</u>
	<u>If warranted:</u>
	<u>Suspension (28)</u>
	<u>Written Examination (23)</u>
	<u>Monitoring (25)</u>

ADVERTISING WITHOUT A VALID LICENSE*

Section 3428 of the Business and Professions Code

<u>MAXIMUM</u>	<u>Revocation</u>
<u>MINIMUM</u>	<u>3 Years Probation</u>
	<u>Standard Terms of Probation (1-14)</u>
	<u>If warranted:</u>
	<u>Suspension (28)</u>
	<u>Written Examination (23)</u>
	<u>Monitoring (25)</u>

PRACTICING WITHOUT A BUSINESS ADDRESS

Section 3429 of the Business and Professions Code

<u>MAXIMUM</u>	<u>Suspension Stayed, with 2 Years Probation</u>
	<u>Suspension Stayed, with 3 Years Probation</u>
<u>MINIMUM</u>	<u>5 Years Probation</u>
	<u>Standard Terms of Probation (1-13)</u>
	<u>If warranted:</u>
	<u>Suspension (28)</u>
	<u>Written Examination (23)</u>

*Does not apply to a Dispensing Audiologist

http://info.sen.ca.gov/pub/09-10/bill/sen/sb_1151-1200/sb_1172_bill_20100511_amended_sen_v96.html

http://info.sen.ca.gov/pub/09-10/bill/sen/sb_1151-1200/sb_1172_bill_20100511_amended_sen_v96.html

http://info.sen.ca.gov/pub/09-10/bill/sen/sb_1251-1300/sb_1282_bill_20100428_amended_sen_v97.html

http://info.sen.ca.gov/pub/09-10/bill/asm/ab_0001-0050/ajr_31_bill_20100406_amended_asm_v98.html

http://info.sen.ca.gov/pub/09-10/bill/asm/ab_0001-0050/ajr_34_bill_20100217_introduced.html



AGENDA ITEM

MEETING DATE:

LICENSE STATISTICAL REPORT

February 1, 2010 through April 30, 2010

TOTAL NUMBER OF LICENSEES

Speech-Language Pathology	18,856
Inactive	1,137
CPD Hold	224
Delinquent	1,821
Cancelled	4,577
Audiology	1,495
Inactive	146
CPD Hold	27
Delinquent	276
Cancelled	856
Speech-Language Pathology Assistants	1,087
Inactive	40
CPD Hold	25
Delinquent	165
Cancelled	51
AA/AS	326
BA/BS	654
BA/BS EQUIVALENT.....	34
(97 SLPA's not in database for degree designation)	
RPE Temporary License	628
Speech-Language Pathology	595
Audiology	33
Registered Aides	221
Speech-Language Pathology	178
Audiology	54

LICENSES ISSUED

Speech-Language Pathology.....	105
Audiologist	9
SLP RPE Applicants	98
AU RPE Applicants	0
Speech-Language Pathology Assistants	46

PENDING APPLICATIONS

Regular / Equivalency Applicants	75
Speech-Language Pathology Assistants	87

LETTERS OF GOOD STANDING



FY 2009-2010 ENFORCEMENT STATISTICS

SPEECH-LANGAUGE PATHOLOGY & AUDIOLOGY
 FEBRUARY 1, 2010 THROUGH APRIL 30, 2010

COMPLAINT ACTIVITY

Opened	36
Closed	16
Pending	58

VIOLATION TYPE OF COMPLAINTS OPENED

Discipline by another State/Agency	0
Incompetence/Negligence	2
Unprofessional Conduct	2
Unlicensed/Unregistered Activity	6
Criminal Charges/Convictions	9
Substance Abuse	0
Fraud	2
Non-Jurisdictional	0
Other	15

Processing Times for Closed Complaints

Months:

0-3	10
4-6	4
7-9	1
10-12	1
12+	0

INVESTIGATION ACTIVITY

Opened	2
Closed	1
Pending	21

Processing Times for Closed Investigations

Months:

0-3	1
4-6	0
7-12	0
13-24	0
25-36	1

DISPOSITION OF COMPLAINTS AND INVESTIGATIONS CLOSED

No Violation	3
Information on File	6
Insufficient Evidence	2
Subject Educated	1
Non-Jurisdictional	0
Compliance Obtained	0
Referral to Government Agency	0
Other	1
Citation	0
Conditional License Issued	0
Referred to AG/DA	3

PROBATION CASES

Open	10
Tolled	6
Conditional Licenses	8

CITATIONS ISSUED 0

ATTORNEY GENERAL (AG) CASE ACTIVITY

Opened	3
Closed	0
Pending	14

Processing Times for Closed AG Cases

Years:

0-1	0
1-2	0
2-3	0
3-4	0
4	0

ADMINISTRATIVE FILINGS

Accusations	0
Statement of Issues	0
Petitions for Penalty Relief	0
Petition for Psychiatric Evaluation	0

ADMINISTRATIVE FINAL DECISIONS

Revocation	0
Revocation, Stayed, Probation	0
Revocation, Stayed, Probation, Suspended	0
License Surrender	0
License Denied	0
Petitions for Penalty Relief Denied	0
Petitions for Penalty Relief Granted	0
Petitions for Penalty Relief Withdrawn	0
Reprimands/Reprovals	0
ISO's Ordered	0
Declined by Attorney General	0
Conditional License Issued	0

DECISIONS - TYPE OF VIOLATION

Discipline by another State/Agency	0
Incompetence/Negligence	0
Unprofessional Conduct	0
Unlicensed/Unregistered Activity	0
Criminal Charges/Convictions	0
Fraud	0
Other	0

Total: 16



ENFORCEMENT STATISTICS

HEARING AID DISPENSING, FY 2009-2010
 FEBRUARY 1 THROUGH APRIL 30, 2010

COMPLAINT ACTIVITY

Opened	41
Closed	32
Pending	69

VIOLATION TYPE OF COMPLAINTS OPENED

Discipline by another State/Agency	0
Incompetence/Negligence	2
Unprofessional Conduct	31
Unlicensed/Unregistered Activity	5
Criminal Charges/Convictions	2
Substance Abuse	0
Fraud	1
Non-Jurisdictional	0
Other	0

Processing Times for Closed Complaints

Months:

0-3	8
4-6	4
7-9	0
10-12	0
12+	0

INVESTIGATION ACTIVITY

Opened	3
Closed	20
Pending	20

Processing Times for Closed Investigations

Months:

0-3	0
4-6	0
7-12	13
13-24	6
25-36	1

DISPOSITION OF COMPLAINTS AND INVESTIGATIONS CLOSED

No Violation	2
Information on File	11
Insufficient Evidence	2
Subject Educated	4
Non-Jurisdictional	1
Compliance Obtained	0
Referral to Government Agency	0
Other	5
Citation	0
Conditional License Issued	0
Referred to AG/DA	5
Mediated	2

<u>PROBATION CASES</u>	3
Open	0
Tolled	0
Conditional Licenses	0

<u>CITATIONS ISSUED</u>	0
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ATTORNEY GENERAL (AG) CASE ACTIVITY

Opened	0
Closed	0
Pending	6

Processing Times for Closed AG Cases

Years:

0-1	0
1-2	0
2-3	0
3-4	0
4	0

ADMINISTRATIVE FILINGS

Accusations	0
Statement of Issues	0
Petitions for Penalty Relief	0
Petition for Psychiatric Evaluation	0

ADMINISTRATIVE FINAL DECISIONS

Revocation	0
Revocation, Stayed, Probation	0
Revocation, Stayed, Probation, Suspended	0
License Surrender	0
License Denied	0
Petitions for Penalty Relief Denied	0
Petitions for Penalty Relief Granted	0
Petitions for Penalty Relief Withdrawn	0
Reprimands/Reprovals	0
ISO's Ordered	0
Declined by Attorney General	0
Conditional License Issued	0

DECISIONS - TYPE OF VIOLATION

Discipline by another State/Agency	0
Incompetence/Negligence	0
Unprofessional Conduct	0
Unlicensed/Unregistered Activity	0
Criminal Charges/Convictions	0
Fraud	0
Other	0

Total: 32