

DEPARTMENT OF CONSUMER AFFAIRS  
SPEECH-LANGUAGE PATHOLOGY AND AUDIOLOGY  
AND HEARING AID DISPENSERS BOARD

**INITIAL STATEMENT OF REASONS**

**Subject Matter of Proposed Regulations:** Required Professional Experience Direct Supervision Requirements and Tele-Supervision

**Sections Affected:** Sections 1399.153 and 1399.153.3 of Division 13.4 of Title 16, California Code of Regulations (CCR)

**Specific purpose of each adoption, amendment, or repeal:**

**1. Background and Statement of the Problem:**

The Speech-Language Pathology and Audiology and Hearing Aid Dispensers Board (Board) is vested with the authority to regulate the practices of speech-language pathology, audiology, and hearing aid dispensing. (Bus. & Prof. Code, § 2530.1.) The Board's mandate and mission is to protect the public. (Bus. & Prof. Code, § 2531.02.)

Business and Professions Code (BPC) section 2532.2 requires speech-language pathology applicants to submit evidence of no less than 36 weeks of supervised professional full-time experience or 72 weeks of supervised professional part-time experience under the supervision of a licensed speech-language pathologist. BPC section 2532.25 requires audiology applicants to submit evidence of no less than 12 months of supervised professional full-time experience or its part-time equivalent obtained under the supervision of a licensed audiologist. The Board issues a temporary license for this Required Professional Experience (RPE) for the practices of speech-language pathology and audiology.

Under the supervision of a licensed speech-language pathologist or licensed audiologist, the Board requires direct supervision of RPE temporary licensees for a minimum of eight hours per month for full-time RPEs and four hours per month for part-time RPEs. There is currently a lack of clear authority for RPE temporary licensees and their supervisors to utilize tele-supervision to meet the direct supervision requirement.

Through this rulemaking, the Board proposes to amend sections 1399.153 and 1399.153.3 of Title 16 in the CCR to allow for the tele-supervision of RPE temporary licensees for up to half of the required monthly supervision hours under specified circumstances. This proposal is necessary to provide clarity to RPE temporary licensees and their supervisors.

## **2. Anticipated Benefits from this Regulatory Action:**

This proposal will provide clarity to the regulated community regarding when and to what extent tele-supervision can be utilized to meet the supervision requirements for RPE temporary licensees. Allowing tele-supervision for up to half of the required monthly supervision hours will allow RPE supervisors and RPE temporary licensees greater flexibility in meeting this requirement. In some instances, RPE supervisors may be supervising RPE temporary licensees in multiple locations. Allowing tele-supervision may reduce travel time, which could help the RPE supervisor better manage other responsibilities.

This proposal will also protect the consumer by requiring an RPE supervisor to inform the patient about the use of tele-supervision and obtain verbal or written consent from the patient, while also ensuring an adequately trained workforce. Grammatical and other clarifying changes will also ensure consistency throughout the regulations.

### **Factual Basis/Rationale:**

#### **Section 1399.153. Definitions**

##### **Subdivision (a)**

The Board proposes to amend subdivision (a) to correct a reference to BPC section 2532.2 and add a citation to BPC section 2532.25.

The amended cross-reference is necessary because BPC section 2532.2(c) relates to requirements for the satisfactory completion of supervised professional experience, not 2532.2(d), as cited. The addition of the citation of section 2532.25(b)(2) is necessary because section 1399.153 defines the term “required professional experience” for audiologists and section 2532.25(b)(2) sets forth the supervised professional experience licensure requirement for audiologists. These amendments will provide clarity in the regulations utilizing the term “required professional experience” in Article 4 of Division 13.4 of the regulations.

##### **Subdivision (d)**

The Board proposes to define “direct supervision” to guide RPE temporary licensees and RPE supervisors regarding the difference between direct supervision and tele-supervision.

Direct supervision means in person, one-on-one audiovisual observation, and guidance as needed by the RPE supervisor of activities related to the practice of speech-language pathology or audiology. This proposed definition differentiates direct supervision from tele-supervision by providing that direct supervision must be in-person

and cannot be conducted via electronic means. This is necessary because there are some functions a RPE temporary license holder will perform that should only be done in-person. Likewise, there are some functions a RPE supervisor will demonstrate to a temporary licensee that should only be done in-person. Furthermore, the Board made a policy decision to limit tele-supervision to up to half of the required monthly supervision hours, making it necessary to distinguish between direct supervision and tele-supervision.

Additionally, this proposed definition specifies that the required monthly supervision hours completed via direct supervision can only be one RPE temporary licensee supervised at a time and the RPE supervisor must be able to see and hear the RPE. In order to ensure an adequately trained workforce and consumer protection, the Board requires one-on-one observation. With the addition of tele-supervision, electronic means provide the ability to supervise multiple RPE temporary licensees. However, since RPE temporary licensees are receiving required experience prior to permanent licensure, it is necessary the workforce is adequately trained by only supervising one RPE temporary licensee via direct supervision at a time. This definition will provide clarity that a RPE supervisor can only supervise the required monthly supervision hours for one RPE temporary licensee at a time. Additionally, to prevent a RPE supervisor from just observing through a window or listening to a live audio stream, the Board requires both audio and video (“audiovisual”) monitoring.

This proposed definition clarifies the RPE supervisor may also provide guidance, as needed, during direct supervision. This is necessary because RPE temporary licensees are receiving required professional experience prior to permanent licensure and may need additional guidance from their supervisor. The term guidance is broad enough to include instruction, observation, and other types of direction. This provision is necessary to ensure an adequately trained workforce and consumer protection.

The Board requires supervised professional experience prior to permanent licensure as a speech-language pathologist or audiologist. (Cal Code Regs., tit. 16, § 1399.153, subd. (a).) This proposed definition clarifies that direct supervision applies to both speech-language pathology and audiology RPE temporary licensees.

### **Subdivision (e)**

The Board proposes to define “tele-supervision” as “synchronous, one-on-one audiovisual observation, and guidance, as needed through electronic audio and video monitoring by the RPE supervisor of activities related to the practice of speech-language pathology or audiology while care is being provided to the patient.”

This proposed definition is necessary to differentiate tele-supervision from direct supervision. Given the lack of clarity whether RPE temporary licensees can be supervised via electronic means, it is necessary for the Board to define “direct

supervision” and “tele-supervision” in order to establish requirements for when and how much tele-supervision can be utilized to meet the monthly supervision requirement.

Additionally, this proposed definition specifies that only one RPE temporary licensee can be supervised via tele-supervision at a time and the RPE supervisor must be able to see and hear the RPE temporary licensee through electronic audio and video (“audiovisual”) monitoring and observation. This proposed definition also clarifies that the RPE supervisor may do more than simply observe the RPE temporary licensee, and may provide guidance, as needed, during tele-supervision. This proposed definition also clarifies that the tele-supervision must be conducted in real-time during the time care is being provided to the patient. The Board requires supervised professional experience prior to permanent licensure as a speech-language pathologist or audiologist. Thus, this proposed definition clarifies that tele-supervision applies to both speech-language pathology and audiology RPE temporary licensees.

### **Section 1399.153.3. Responsibilities of RPE Supervisors**

#### **Subdivision (b)**

The Board proposes to strike “insuring” and replace it with “ensuring.” “Ensuring” is the grammatically correct word based on the context and intended meaning of the subdivision.

#### **Subdivision (c)**

The Board proposes to strike “insuring” and replace it with “ensuring.” “Ensuring” is the grammatically correct word based on the context and intended meaning of the subdivision.

The Board proposes to replace “monitoring” with “supervision.” This amendment is necessary to create consistency throughout the Board’s regulations, as the term “direct supervision” is defined in section 1399.153, and this is the meaning the Board intends with this term in this subdivision.

The Board proposes to insert numerical values before numbers of hours. This is necessary because it enhances clarity and is consistent with the regulations within this division.

#### **Subdivision (c)(1)**

The Board proposes to add subdivision (c)(1) to provide “Tele-supervision of the RPE temporary license holder may be utilized in lieu of direct supervision if it meets the following requirements.”

This language is necessary to inform RPE supervisors of the requirements they must meet in order to utilize tele-supervision of RPE temporary license holders.

### **Subdivision (c)(1)(A)**

The Board proposes to add subdivision (c)(1)(A) to provide that tele-supervision is limited to four (4) hours per month for a full-time RPE temporary licensee and two (2) hours per month for a part-time RPE temporary licensee. The Board made a policy decision at the August 10, 2018, meeting based on discussions from the American Speech-Language-Hearing Association (ASHA) to allow tele-supervision for approximately fifty (50) percent of the required clinical fellowship hours and the Board's decision that not all of the direct supervision hours should be completed through tele-supervision. Requiring in-person supervision for some of the required monthly supervision hours is necessary to establish rapport and trust between the RPE supervisor and RPE temporary licensee. In-person supervision also allows the RPE temporary licensee to pick up on non-verbal cues from the RPE supervisor during sessions that can help shape behavior.

### **Subdivision (c)(1)(B)**

The Board proposes to add subdivision (c)(1)(B) to require the RPE supervisor to inform the patient about the use of tele-supervision and obtain verbal or written consent from the patient for the use of the tele-supervision. The consent must be documented by the RPE supervisor in the patient's record prior to the first use of tele-supervision with the patient.

This subdivision is necessary for consumer protection to ensure the patient is aware of and is comfortable with the use of tele-supervision. The Board requires the RPE supervisor to document the consent to ensure that the patient consented and provide clear guidance for the Board's enforcement purposes.

### **Subdivision (c)(1)(B)(i)**

The Board proposes to add subdivision (c)(1)(B)(i) to require that, if the RPE supervisor obtained verbal consent from the patient, the patient record must reflect the consent was verbal and the date on which it was obtained.

This is necessary so there is documentation in the patient record to reflect the patient's provision of verbal consent. The Board is requiring the date of consent so it can ensure the consent was obtained prior to the patient's receipt of care.

### **Subdivision (c)(1)(B)(ii)**

The Board proposes to add subdivision (c)(1)(B)(ii) to require that, if the RPE supervisor obtained written consent from the patient, the patient record shall include a copy of the written consent, which must include the date on which it was obtained.

This is necessary so there is documentation in the patient record to reflect the patient's provision of written consent. The Board is requiring the date of consent so it can ensure the consent was obtained prior to the patient's receipt of care.

### **Subdivision (c)(1)(C)**

The Board proposes to add subdivision (c)(1)(C) to require the RPE supervisor to evaluate the functions the RPE temporary license holder will perform while tele-supervision will occur, and based on the RPE supervisor's professional judgment of the individual RPE temporary license holder's ability, determine there is no need to be physically present with the RPE temporary license holder.

This provision is consistent with Board policy that the RPE supervisor must consider the RPE temporary licensee's level of skill, functions previously performed, and the services to be provided to the patient in determining whether tele-supervision is appropriate. It is important for the RPE supervisor to remember the RPE temporary licensee is receiving required work experience prior to permanent licensure and there are some functions an RPE temporary license holder will perform that should only be done in-person. Additionally, the RPE temporary licensee may need additional guidance from the RPE supervisor while performing new functions and tele-supervision should not be used simply for the convenience of the RPE supervisor. The RPE supervisor may determine the RPE temporary license can perform record keeping, evaluation and assessment reports, correspondence, plans for management, and summaries of case conferences through tele-supervision. This provision will help ensure an adequately trained workforce and provide consumer protection.

### **Subdivision (c)(1)(D)**

The Board proposes to add subdivision (c)(1)(D) to require that, based on the functions the RPE supervisor will demonstrate to the RPE temporary license holder, the RPE supervisor determines in their professional judgment there is no need to be physically present with the RPE temporary license holder.

This provision is consistent with Board policy that the RPE supervisor must use their professional judgement to determine whether tele-supervision is appropriate based on the function to be demonstrated. It is important for the RPE supervisor to remember the RPE temporary licensee is receiving required work experience prior to permanent licensure and there are some functions a RPE supervisor will demonstrate that require hands-on demonstration of the therapy technique and can only be done in-person. This

provision will help ensure an adequately trained workforce and provide consumer protection.

### **Subdivision (c)(1)(E)**

The Board proposes to add subdivision (c)(1)(E) to require the RPE temporary licensee to be physically present with the patient while being tele-supervised by the RPE supervisor. BPC section 2531.02 provides protection of the public is the Board's highest priority in exercising its licensing, regulatory, and disciplinary functions. This provision will ensure consumer protection by requiring the RPE temporary licensee to be physically present with the patient while services are being provided. Patients are best served by receiving in-person services. For example, there are some therapy techniques that may need to be performed hands-on such as swallowing and feeding techniques, shaping of the mouth, and touch cues which can only occur in an in-person setting. Additionally, being physically present will allow the RPE temporary licensee and patient to pick up on non-verbal activity that is lost in an electronic environment.

### **Subdivision (c)(1)(F)**

The Board proposes to add subdivision (c)(1)(F) to require the RPE supervisor to determine, based on their professional judgement, that other issues or conditions do not exist that make the use of tele-supervision inappropriate in that given situation. This provision is consistent with Board policy that the RPE supervisor should have discretion to determine if other conditions exist that make tele-supervision inappropriate. These conditions can be issues unrelated to the RPE temporary licensee's skill level and demonstrated abilities, such as the setting where the patient services will take place or the cultural values and/or needs of the patient, that may make tele-supervision inappropriate.

### **Subdivision (d)**

The Board proposes to amend subdivision (d) to change direct "monitoring" to direct "supervision." This change is necessary to create consistency throughout the Board's regulations, as the term "direct supervision" is defined in section 1399.153. This subdivision is also amended to remove the term "personal observation" from the direct supervision requirement. This is necessary for consistency since the definition of direct supervision in section 1399.153 allows for audiovisual observation, which is not necessarily the same as personal observation.

### **Subdivision (d)(5)**

The Board proposes to amend subdivision (d)(5) to change "observation" to "supervision" and clarify the requirement can be met utilizing direct supervision or tele-

supervision. This is necessary so the subdivision encompasses both types of supervision, “direct supervision” and “tele-supervision” as defined in section 1399.153.

### **Underlying Data**

- May 21, 2018 Memo to the Speech-Language Pathology Practice Committee regarding RPE Direct Monitoring Requirements
- March 2, 2018 Letter to the Board from Holly Kaiser, licensed SLP
- May 8, 2018 Letter to the Board from Advanced School Staffing
- May 24, 2018 Letter to the Board from Springs Charter Schools
- May 2018 Speech-Language Pathology Practice Committee Meeting Minutes
- May 2018 Board Meeting Minutes
- August 1, 2018 Memo to Board regarding RPE Direct Monitoring Requirements and Remote or Tele Supervision
- August 2018 Board Meeting Minutes
- April 3, 2019 Memo to Board regarding RPE Direct Monitoring Requirements and Remote or Tele Supervision
- April 2019 Board Meeting Minutes
- January 30, 2020 Memo to Board regarding RPE Direct Monitoring Requirements and Remote or Tele Supervision
- February 2020 Board Meeting Minutes
- April 29, 2021 Memo to Board regarding RPE Direct Supervision Requirements and Remote or Tele Supervision
- May 2021 Board Meeting Minutes
- September 23, 2021 Memo to Board regarding RPE Direct Supervision Requirements and Remote or Tele Supervision
- October 2021 Board Meeting Minutes

### **Economic Impact Assessment**

This regulatory proposal will have the following effects:

- It will not create or eliminate jobs within the State of California because it only creates a new kind of supervision that can be utilized by the same supervisor in lieu of direct supervision.
- It will not create new business or eliminate existing businesses within the State of California because it only creates a new kind of supervision that can be utilized by the same supervisor in lieu of direct supervision.
- It will not affect the expansion of businesses currently doing business within the State of California because it only creates a new kind of supervision that can be utilized by the same supervisor in lieu of direct supervision.

- This regulatory proposal benefits the health and welfare of California residents by requiring the RPE supervisor to inform the patient about the use of tele-supervision and obtain verbal or written consent from the patient. This proposal will ensure consumer protection by requiring the RPE temporary licensee to be physically present with the patient while patient services are being provided.
- This regulatory proposal does not affect worker safety because the regulation does not relate to worker safety.
- This regulatory proposal does not affect the state's environment because the regulation does not relate to the environment.

### **Business Impact**

The Board has made a determination that the proposed regulatory action will not have a significant statewide adverse economic impact on businesses, including the ability of California businesses to compete with businesses in other states. This determination is based on this regulatory proposal providing licensees with the ability to utilize tele-supervision to meet a portion of the required supervision hours for RPE temporary licensees. This is not expected to affect businesses.

### **Specific Technologies or Equipment**

This regulatory proposal does not mandate the use of specific technologies or equipment.

### **Consideration of Alternatives**

No reasonable alternative to the regulatory proposal would be either more effective in carrying out the purpose for which the action is proposed or would be as effective or less burdensome to affected private persons and equally effective in achieving the purposes of the regulation in a manner that ensures full compliance with the law being implemented or made specific.

The Board considered not amending the regulations. However, the Board determined that was not appropriate as there would continue to be a lack of clarity for RPE temporary licensees and RPE supervisors whether tele-supervision may be utilized to meet the direct supervision requirements.