

DEPARTMENT OF CONSUMER AFFAIRS
TITLE 16. PROFESSIONAL AND VOCATIONAL REGULATIONS
DIVISION 13.4.
SPEECH-LANGUAGE PATHOLOGY AND AUDIOLOGY
AND HEARING AID DISPENSERS BOARD

NOTICE OF PROPOSED REGULATORY ACTION CONCERNING:
Required Professional Experience (RPE) Direct Supervision Requirements and
Tele-Supervision

NOTICE IS HEREBY GIVEN that the Speech-Language Pathology and Audiology and Hearing Aid Dispensers Board (hereafter Board) is proposing to take the action described in the Informative Digest below, after considering all comments, objections, and recommendations regarding the proposed action.

PUBLIC HEARING

The Board has not scheduled a public hearing on this proposed action. However, the Board will hold a hearing if it receives a written request for a public hearing from any interested person, or his or her authorized representative, no later than 15 days prior to the close of the written comment period. A hearing may be requested by making such request in writing addressed to the individuals listed under “Contact Person” in this Notice.

WRITTEN COMMENT PERIOD

Written comments relevant to the action proposed, including those sent by mail or e-mail to the address listed under “Contact Person” in this Notice, must be received by the Board at its office no later than **Tuesday, September 20, 2022, by 5:00 p.m.**

AUTHORITY AND REFERENCE

Pursuant to the authority vested by Business and Professions Code (BPC) sections 2531.95, 2532.2, and 2532.6, and to implement, interpret, or make specific BPC sections 2530.5, 2532.2, 2532.25, and 2532.6 the Board is considering amending sections 1399.153 and 1399.153.3 of Title 16 of the CCR.

INFORMATIVE DIGEST / POLICY STATEMENT OVERVIEW

The 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.)

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 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.

Amend Section 1399.153

Specifically, “direct supervision” will be defined as 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. “Tele-supervision” will be defined 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.

Amend Section 1399.153.3

Section 1399.153.3 currently outlines the RPE supervisor’s responsibilities, specifies that the current required supervisions hours are eight (8) hours per month for full-time RPEs and four (4) hours per month for part-time RPEs, and specifies the functions that may be directly monitored. This proposal will provide how often and under what circumstances tele-supervision may be utilized to meet the required monthly supervision hours. This proposal will also require the RPE supervisor to inform the patient about the use of tele-supervision and obtain verbal or written consent from the patient and require the RPE temporary licensee to be physically present with the patient while patient services are being provided. This proposal will make other grammatical and clarifying changes.

ANTICIPATED BENEFITS OF PROPOSAL

This regulatory proposal will provide clarity to the regulated community regarding when and to what degree tele-supervision can be utilized to meet the monthly supervision requirements for RPE temporary licensees. Allowing tele-supervision for up to half of the required monthly supervision hours will allow RPE temporary licensees and their supervisors 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.

CONSISTENCY AND COMPATIBILITY WITH EXISTING STATE REGULATIONS

During the process of developing this regulatory proposal, the Board conducted a search of any similar regulations of these topics and has concluded that these regulations are neither duplicative, inconsistent, nor incompatible with existing state regulations.

DISCLOSURES REGARDING THIS PROPOSED ACTION

The Board has made the following initial determinations:

FISCAL IMPACT ESTIMATES

Fiscal Impact on Public Agencies Including Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State:

None. The regulations do not result in a fiscal impact to the state.

The Board does not anticipate an increase in workload because this regulatory proposal does not create a new requirement but instead provides an option to utilize tele-supervision in lieu of direct supervision. The purpose of this regulatory proposal is to provide RPE temporary licensees and RPE supervisors the ability to meet a portion of the required monthly supervision hours via tele-supervision.

There are no costs or savings in federal funding to the state.

Nondiscretionary Costs/Savings to Local Agencies: None.

Local Mandate: None.

Cost to any Local Agency or School District for which Government Code Sections 17500 - 17630 Require Reimbursement: None.

RESULTS OF ECONOMIC IMPACT ASSESSMENT/ANALYSIS

Impact on Jobs/Businesses

The Board has determined that this regulatory proposal will not have any significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states.

The Board has determined that this regulatory proposal will have the following effects:

- It will not create or eliminate jobs in 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 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 expand or eliminate existing business because this regulation only creates a new kind of supervision that can be utilized by the same supervisor in lieu of direct supervision.
- This regulatory proposal will affect the health and welfare of California residents because it ensures consumer protection by requiring the RPE supervisor to inform the patient about the use of tele-supervision and obtain verbal or written consent and requiring the RPE temporary licensee to be physically present with the patient while patient services are being provided.
- This regulatory proposal will not affect worker safety because it does not relate to worker safety.
- This regulatory proposal will not affect the state's environment it does not relate to the environment.

Business Reporting Requirements

The regulatory action does not require businesses to file a report with the Board.

Effect on Small Business

The Board has determined that the proposed regulations will not affect small businesses because this proposal only creates a new kind of supervision that can be utilized by the same supervisor in lieu of direct supervision.

Cost Impact on Representative Private Person or Business

There may be potential technology costs for private persons or businesses in order to utilize tele-supervision to meet the required supervision hours. However, any expenses would be optional since utilizing tele-supervision is not required by this regulation. Additionally, this regulation does not specify that a specific form of technology must be utilized if RPE temporary licensees and RPE supervisors choose to utilize tele-supervision. The agency is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

Significant Effect on Housing Costs: None.

CONSIDERATION OF ALTERNATIVES

In accordance with Government Code section 11346.5, subdivision (a)(13), the Board must determine that no reasonable alternative it considered to the regulation or that has otherwise been identified and brought to its attention would be more effective in carrying out the purpose for which the action is proposed; as effective and less burdensome to affected private persons than the proposal described in this Notice; or would be more cost effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.

Any interested person may submit comments to the Board in writing relevant to the above determinations at 1601 Response Road, Suite 260, Sacramento, California 95815 or by e-mail to SpeechandHearingRegulations@dca.ca.gov.

AVAILABILITY OF STATEMENT OF REASONS AND RULEMAKING FILE

The Board has compiled a record for this regulatory action, which includes the Initial Statement of Reasons, proposed regulatory text, and all the information on which this proposal is based. The material is contained in the rulemaking file that is available for public inspection upon request to the "Contact Person" named in this Notice.

TEXT OF PROPOSAL

Copies of the exact language of the proposed regulations, and any document incorporated by reference, and of the initial statement of reasons, and all of the information upon which the proposal is based, may be obtained upon request from the Board at 1601 Response Road, Suite 260, Sacramento, California 95815 or by e-mail to SpeechandHearingRegulations@dca.ca.gov.

AVAILABILITY OF CHANGED OR MODIFIED TEXT

After considering all timely and relevant comments, the Board, upon its own motion or at the request of any interested party, may thereafter adopt the proposals substantially as described below or may modify such proposals if such modifications are sufficiently related to the original text. With the exception of technical or grammatical changes, the full text of any modified proposal, with the modifications clearly indicated, will be available for review and written comment for 15 days prior to its adoption from the person designated in this Notice as the "Contact Person" and will be mailed to those persons who submit written or oral testimony related to this proposal or who have requested notification of any changes to the proposal.

AVAILABILITY AND LOCATION OF THE FINAL STATEMENT OF REASONS AND RULEMAKING FILE

All the information upon which the proposed regulations are based is contained in the rulemaking file which is available for public inspection by contacting the person named below.

You may obtain a copy of the Final Statement of Reasons once it has been prepared by making a written request to the "Contact Person" named below or by accessing the website listed below.

CONTACT PERSONS

Inquiries or comments concerning the proposed rulemaking action may be addressed to:

Name: Heather Olivares, Legislation/Regulation Analyst
Address: Speech-Language Pathology and Audiology and Hearing Aid
Dispensers Board
1601 Response Road, Suite 260
Sacramento, California 95815
Telephone No.: (916) 905-5486
E-Mail Address: SpeechandHearingRegulations@dca.ca.gov

The backup contact person is:

Name: Cherise Burns, Assistant Executive Officer
Address: Speech-Language Pathology and Audiology and Hearing Aid

Dispensers Board
1601 Response Road, Suite 260
Sacramento, California 95815
Telephone No.: (916) 905-5454
E-Mail Address: SpeechandHearingRegulations@dca.ca.gov

AVAILABILITY OF DOCUMENTS ON THE INTERNET

Copies of the Notice of Proposed Action, the Initial Statement of Reasons, and the text of the regulations can be accessed through the Board's website at www.speechandhearing.ca.gov/board_activity/lawsregs/proposed_regulations.shtml