

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:
Speech-Language Pathology Assistant Supervision Requirements

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 their 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, facsimile, or e-mail to the addresses listed under "Contact Person" in this Notice, must be **received by the Board at its office no later than Tuesday, December 27, 2022**, or must be received by the Board at the hearing, should one be scheduled.

AUTHORITY AND REFERENCE

Pursuant to the authority vested by sections 2531.95 and 2538.1 of the Business and Professions Code (BPC), and to implement, interpret, or make specific BPC sections 2530.2 and 2538.1, the Board is considering amending sections 1399.170, 1399.170.2, 1399.170.15, 1399.170.16, 1399.170.17, and 1399.170.18 of Title 16 of the California Code of Regulations (CCR).¹

INFORMATIVE DIGEST / POLICY STATEMENT OVERVIEW

The Speech-Language Pathology and Audiology and Hearing Aid Dispensers Board (Board) is a state agency vested with the authority to license, regulate, and discipline within the practices of speech-language pathology, audiology, and hearing aid

¹ All CCR references are to Title 16 unless otherwise noted.

dispensing in accordance with BPC sections 2530.1 and 2531.02. The Board's mandate and mission is to protect the public from licensed speech-language pathologists, speech-language pathology assistants, speech-language pathology aides, audiologists, dispensing audiologists, audiology aides, hearing aid dispensers, hearing aid dispenser trainees, and temporary hearing aid dispenser licensees, who violate the law. To protect the public, the Board has set standards and requirements for support personnel used by speech-language pathologists (BPC sections 2530.6 and 2538.1.)

Existing law, under BPC section 2531.95, authorizes the Board to adopt or repeal regulations that may be necessary to execute any provisions of the Speech-Language Pathologists and Audiologists and Hearing Aid Dispensers Licensure Act. The Board intends to use this authority to amend regulations on standards and requirements for supervision of Speech-Language Pathology Assistants (SLPAs) in 16 CCR sections 1399.170, 1399.170.2, 1399.170.15, 1399.170.16, 1399.170.17, and 1399.170.18.

There is no existing federal regulation or statute comparable to these proposed regulations.

The SLPA license was first established in 1999 under Assembly Bill 205 (Machado, Chapter 1058, Statutes of 1998), which required the Board to adopt regulations to set SLPA standards and requirements. The Board promulgated regulations in 2001 and has made no major revisions to those regulations since that time.

This proposed regulation is necessary to allow for additional support personnel and greater flexibility in supervising them while ensuring support personnel who are SLPAs are adequately trained and supervised. The current supervision requirements are inadequate to meet the needs of the public receiving services through electronic means or in settings such as schools, medical or community-based facilities, and private practices. Support personnel are crucial because they help relieve speech-language pathologists (SLP) from routine services, allowing them to focus on advanced services in the areas of speech, language, swallowing, and voice disorders.

The following is a summary of the proposed changes the Board seeks to make:

Amend section 1399.170 of Article 12 of Division 13.4 of the CCR

This section is amended to permit supervision through electronic means, or tele supervision. These changes will enhance public access to care through a convenient option while increasing the opportunity for SLPs to focus on providing advanced services in the areas of speech, language, swallowing, and voice disorders, and not on routine services, which can otherwise be performed by a SLPA.

Amend section 1399.170.2 of Article 12 of Division 13.4 of the CCR

This section is amended to require a higher level of supervision during the first ninety (90) days of work following initial licensure. These changes will enhance the Board's

mission to protect the public by ensuring adequate supervision for newly licensed SLPAs.

Amend section 1399.170.15 of Article 12 of Division 13.4 of the CCR

This section is amended to align with other changes being proposed; to replace an existing form with a new form; to require supervisors to maintain a current, active and unrestricted California license and have experience in their profession before supervising a SLPA; and it reduces the required supervision continuing professional development hours after beginning supervision. Amendments to this section require a supervisor to provide immediate supervision, at least twenty percent per week, of a SLPAs work schedule for the first ninety days following initial licensure, and to document that supervision in the SLPA's personnel file. Additional amendments require the supervisor to review the SLPA laws and regulations with their SLPA supervisee(s), to notify the Board of compliance with the requirements by submitting a form within 30 days of the commencement of supervision, and to provide a completed copy of that form to their SLPA supervisee within forty-five days of the commencement of supervision. These changes will enhance the Board's mission to protect the public by ensuring SLPAs are adequately trained and supervised by experienced supervisors.

Amend section 1399.170.16 of Article 12 of Division 13.4 of the CCR

This section is amended to increase the number of allowable support personnel and to provide supervisors with the flexibility to configure their support personnel as they wish and need. These changes will enhance public access to care by increasing the opportunity for SLPs to focus on providing advanced services in the areas of speech, language, swallowing, and voice disorders, and not on routine services, which can otherwise be performed by their support personnel.

Amend section 1399.170.17 of Article 12 of Division 13.4 of the CCR

This section is amended to eliminate gendered pronouns and incorporate a gender-neutral term. This is a change without regulatory effect because the amendments are grammatical in nature. Changing gendered terms to gender-neutral terms aligns with similar efforts to update regulations throughout the state

Amend section 1399.170.18 of Article 12 of Division 13.4 of the CCR

This section is amended to require SLPA supervisors to provide a copy of the supervision termination form to their SLPA within forty-five days of the termination of supervision. This change will enhance transparency and accountability between the supervisor and SLPA.

Form Incorporated by Reference "Responsibility Statement for Supervisors of a

***Speech-Language Pathology Assistant” (77S-60, Rev. 5/22) in section
1399.170.15(c)***

The incorporated form is out of date and will be replaced with a new form, which will be incorporated by reference in section 1399.170.15(c). Supervisors use this form to attest that they know and understand their duties and responsibilities. These changes will enhance the Board’s mission to protect the public by providing the Board with a reasonable method to increase the likelihood that all SLPAs are adequately supervised.

Anticipated Benefits of Proposal

The Board has determined that this regulatory proposal will have the following benefits to health and welfare of California residents:

The proposed regulatory action, by broadening and incorporating flexibility into SLPA supervision requirements, may increase access to advanced services as SLPs are relieved from routine services that can be performed by a SLPA. The public will also benefit from the higher level of supervision during the SLPA’s initial licensure and more convenient access to care through electronic means.

Evaluation of Consistency and Compatibility with Existing State Regulations

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

INCORPORATION BY REFERENCE:

Responsibility Statement for Supervisors of a Speech-Language Pathology Assistant (77S-60, Rev. 5/22)

DISCLOSURES REGARDING THIS PROPOSED ACTION

Local Mandate: None

FISCAL IMPACT ESTIMATES

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

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

The Board anticipates approximately 6,700 SLPA supervision forms will be submitted in year one of implementation with modest growth annually thereafter. Each SLPA supervision form will take approximately 5 minutes to process at an estimated cost of \$4.50 each.

The Board estimates increased workload and costs ranging from approximately \$30,000 to \$82,000 per year and up to \$522,000 over a ten-year period.

The Board indicates any additional workload and costs will be absorbed within existing resources, but the Board may need to request additional resources through the annual budget process in the future.

The Board notes, the SLPA supervisor form was updated within normal business operations and did not result in increased workload or costs.

The regulations do not result in costs or savings in federal funding to the state.

Nondiscretionary Costs/Savings to Local Agencies: None

Significant Effect on Housing Costs (and, if applicable, including any estimated costs of compliance or potential benefits of a building standard): None

BUSINESS IMPACT ESTIMATES

The Board has made the initial determination that the proposed regulatory action will not have a significant statewide adverse economic impact on businesses or jobs, including the ability of California businesses to compete with businesses in other states. Rather, this proposed regulatory action broadening the SLPA supervision requirements will allow for additional support personnel and greater flexibility in supervising them while ensuring support personnel who are SLPAs are adequately trained and supervised. Finally, this broadening of supervisory standards will provide greater access to care for consumers.

The Board anticipates over 23,000 SLPs and 5,000 SLPAs in various settings such as schools, medical or community-based facilities, and private practices will be impacted by this proposed regulatory action.

RESULTS OF ECONOMIC IMPACT ASSESSMENT / ANALYSIS

Impact on Jobs / Businesses

The Board has determined that:

It may create new businesses or jobs within the State of California because the proposed regulatory action broadens and incorporates flexibility into SLPA supervision requirements and may increase the provision of care by electronic

means and may enhance industry growth within the industries the Board regulates.

It will not eliminate existing businesses or jobs because the proposed regulatory action broadens and incorporates flexibility into SLPA supervision requirements and may increase the provision of care by electronic means and does not inhibit industry growth within the industries the Board regulates.

It may expand existing businesses within the state because the proposed regulatory action broadens and incorporates flexibility into SLPA supervision requirements and may increase the provision of care by electronic means and may enhance industry growth within the industries the Board regulates.

Benefits of Regulation:

The Board anticipates the public will experience increased access to advanced services as SLPs are relieved from performing routine services that can be performed by support personnel. The public will also benefit from the higher level of supervision during a SLPA's initial licensure and greater access to care through electronic means. The regulations will increase access to speech language pathologists in rural settings who may not otherwise have access to such services because now supervisory care can be provided through electronic means, thereby increasing the health and welfare of California residents by allowing a broader reach of services statewide, which in turn can assist those that may need such services in the work setting, thereby contributing to worker safety. With regard to the impact of these regulation on the state's environment is it not applicable.

Cost Impact on Representative Private Person or Business

The Board notes that licensees are currently required to notify the Board and register as SLPA supervisors, as specified. The proposed regulatory requirements, including the requirement to submit the SLPA supervision form, are nominal and as such, the regulations are not anticipated to result in any substantial workload or costs to licensees.

Business Reporting Requirements

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

Effect on Small Business

The Board has made the initial determination that the proposed regulatory action will not have a significant adverse economic impact on small businesses. This initial determination is based on the Board broadening SLPA supervision requirements to allow for additional support personnel and greater flexibility to supervise support personnel while ensuring support personnel who are SLPAs are adequately trained and

supervised, thereby allowing a potential increase in the provision of care to consumers by electronic means. The Board does not anticipate any costs to small businesses to comply with these regulations other than the specific nominal cost to a licensee who may also be a small business.

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; would be 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, CA 95815 during the written comment period, or at the hearing if one is scheduled or requested.

AVAILABILITY OF INITIAL STATEMENT OF REASONS AND RULEMAKING FILE

The Board has compiled a record for this regulatory action, which includes the Initial Statement of Reasons (ISOR), proposed regulatory text, and all the information on which this proposal is based. This material is contained in the rulemaking file and is available for public inspection upon request to the contact persons 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, CA 95815.

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 comments 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 persons 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:	Maria Liranzo; Legislation, Regulations, and Budget Analyst
Address:	Speech-Language Pathology and Audiology and Hearing Aid Dispensers Board 1601 Response Road, Suite 260 Sacramento, CA 95815
Telephone No.:	(916) 905-5441
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, CA 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 with modifications noted, as well as the Final Statement of Reasons when completed, and modified text, if any, can be accessed through the Board's website at:

https://www.speechandhearing.ca.gov/board_activity/lawsregs/proposed_regulations.shtml