



Speech-Language Pathology and Audiology Board

DISCIPLINARY GUIDELINES

July 16, 2004



Speech-Language Pathology and Audiology Board

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Speech-Language Pathology and Audiology Board

DISCIPLINARY GUIDELINES

SPEECH-LANGUAGE PATHOLOGISTS AND AUDIOLOGISTS

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. Disciplinary Guidelines

1399.155. 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 "Disciplinary Guidelines Revised July 16, 2004," that are hereby incorporated by reference. Deviation from these 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.

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.

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 as well as speech-language pathology assistants.

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

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

Respondent shall cause each employer 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.

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, 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. 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 until the matter is final.

13. COMPLETION OF PROBATION

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

OPTIONAL TERMS AND CONDITIONS OF PROBATION (14-26)

14. 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 of his or her choice who meets minimum criteria established by the Board. The physician 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 perform all professional duties with safety to self and to the public. Respondent shall provide the examining physician 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 to complete a written medical report. This report shall be submitted by the physician to the Board within ninety (90) days of the effective date of the Decision. If the examining physician finds that Respondent is not physically fit to practice or can only practice with restrictions, the examining physician shall notify the Board within three (3) working days. The Board shall notify the respondent in writing of the examining physician's determination of unfitness to practice and shall order 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.

15. 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 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 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 the name of one or more proposed evaluators for prior approval by the Board.

Respondent shall cause the evaluator to 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) days from the effective date of the Decision. Cost of such evaluation shall be paid by the Respondent.

If the evaluator finds that Respondent is not psychologically fit to practice safely, or can only practice with restrictions, the evaluator shall notify the Board within three (3) 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.

16. PSYCHOTHERAPY

Respondent shall participate in ongoing psychotherapy with a California licensed psychiatrist, 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 the name of one or more proposed therapists for prior approval. Upon approval by the Board, Respondent shall commence psychotherapy. 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 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 to submit quarterly written declarations to the Board concerning Respondent's fitness to practice and progress in treatment.

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.

18. ATTEND CHEMICAL DEPENDENCY SUPPORT AND RECOVERY GROUPS

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.

19. 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.

20. ABSTAIN FROM USE OF ALCOHOL

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

21. SUBMIT BIOLOGICAL FLUID SAMPLES

Respondent shall immediately submit to biological fluid testing paid for by Respondent, at the request of the Board or its designee. Positive test results will be immediately reported to the Board.

22. TAKE AND PASS LICENSURE EXAMINATION

Before resuming practice, Respondent shall take and pass the licensure examination currently required of new applicants prior to resuming practice. Respondent shall pay all examination fees.

23. SUPERVISION

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

Respondent may not function as a supervisor for any required professional experience (RPE) candidate during the period of probation or until approved by the Board.

24. 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.

25. RECOVERY OF COSTS

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

26. 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 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 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**

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 (1-13) If warranted: Supervision (23) Psychological Evaluation (15) Restricted Practice (24) Suspension (26)

**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 (1-13) If warranted: Supervision (23) Psychological Evaluation (15) Restricted Practice (24) Suspension (26)

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.

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

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

MAXIMUM	Revocation or Denial
MINIMUM	3 Years Probation Standard Terms of Probation (1-13) Physician Exam (14) Support and Recovery Group (18) Abstain from Drugs and Alcohol (19-20) Submit Biological Fluids (21) Supervision (23) If warranted: Psychological Evaluation (15) Psychotherapy (16) Drug and Alcohol Rehabilitation (17) Restricted Practice (24) 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 -- 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 (1-13) Physician Exam (14) Support and Recovery Group (18) Abstain from Drugs and Alcohol (19-20) Submit Biological Fluids (21) Supervision (23) If warranted: Psychological Evaluation (15)

Psychotherapy (16)
Drug and Alcohol Rehabilitation (17)
Restricted Practice (24)
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 (1-13) Support and Recovery Group (18) Abstain from Drugs and Alcohol (19-20) Submit Biological Fluids (21) If warranted: Physical Examination (14) Psychological Evaluation (15) Drug and Alcohol Rehabilitation (17) Supervision (23) Restricted Practice (24) 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 (1-13) If warranted: Supervision (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 (1-13) Supervision (23) If warranted: Physician Examination (14) Psychological Evaluation (15) Restricted Practice (24) Suspension (26)

**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 (1-13)

**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 (1-13) Supervision (23) If warranted: Psychological Evaluation (15) Psychotherapy (16) Restricted Practice (24) 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, 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 (1-13) Supervision (23) If warranted: Psychological Evaluation (15) Psychotherapy (16) Restricted Practice (24) 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, 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 (1-13)

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 (1-13) If warranted: Support and Recovery Group (18) Abstain from Drugs and Alcohol (19-20) Submit Biological Fluids (21) Physical Examination (14) Psychological Evaluation (15) Drug and Alcohol Rehabilitation (17) Supervision (23) Restricted Practice (24) Suspension (26)

SEXUAL MISCONDUCT

Section 726 of the Business and Professions Code

MAXIMUM	Revocation or Denial
MINIMUM	3 Years Probation Standard Terms of Probation (1-13) Supervision (23) If warranted: Psychological Evaluation (15) Psychotherapy (16) Restricted Practice (24) Suspension (26)

**VIOLATION OF REQUIRED PROFESSIONAL EXPERIENCE
(RPE) REGULATIONS**

Sections 1399.153 – 1399.153.10 of the California Code of Regulations, Title 16

MAXIMUM Revocation or Denial

MINIMUM 18 Months Probation
Standard Terms of Probation (1-13)

**VIOLATION OF LAWS AND REGULATIONS RELATING
TO SPEECH-LANGUAGE PATHOLOGY AND AUDIOLOGY AIDES**

Section 2530.6 of the Business and Professions Code

Sections 1399.154 – 1399.154.7 of the California Code of Regulations, Title 16

MAXIMUM Revocation or Denial

MINIMUM 18 Months Probation
Standard Terms of Probation (1-13)

**VIOLATION OF LAWS AND REGULATIONS RELATING
TO SPEECH-LANGUAGE PATHOLOGY ASSISTANTS**

Sections 2533 & 2538.1 of the Business and Professions Code

Sections 1399.170.19 of the California Code of Regulations, Title 16

MAXIMUM Revocation or Denial

MINIMUM 18 Months Probation
Standard Terms of Probation (1-13)
If warranted:
Physician Exam (14)
Psychological Examination (15)
Psychotherapy (16)
Drug and Alcohol Rehabilitation (17)
Support and Recovery Group (18)
Abstain from Drugs and Alcohol (19-20)
Submit Biological Fluids (21)
Supervision (23)
Restricted Practice (24)
Suspension (26)