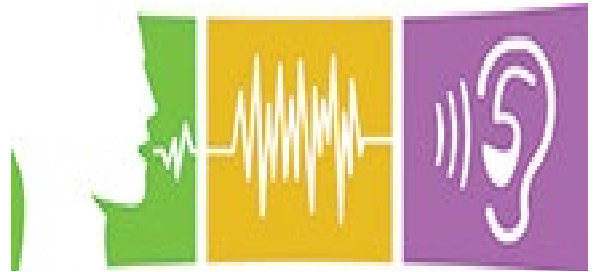




The Speech-Language Pathology and Audiology and Hearing Aid Dispensers Board



BOARD MEETING



December 13, 2022

Teleconference



TELECONFERENCE BOARD MEETING NOTICE AND AGENDA

The Speech-Language Pathology & Audiology & Hearing Aid Dispensers Board (Board) will hold a Board Meeting via WebEx Events on

Tuesday, December 13, 2022, beginning at 1:00 p.m.

NOTE: Pursuant to the provisions of Government Code section 11133, neither Board member locations nor a public meeting location are provided. Public participation may be through teleconferencing as provided below. If you have trouble getting on the WebEx event to listen or participate, please call 916-287-7915.

IMPORTANT NOTICE TO THE PUBLIC:

The Board will hold this public meeting via WebEx, to observe and participate, please log on to WebEx (Instructions to connect to this meeting can be found at the end of this agenda). To participate in the WebEx Events meeting, please log on to the following websites each day of the meeting:

Tuesday, December 13, 2022, WebEx Link, beginning at 1:00 p.m.:

If accessing by computer or online:

<https://dca-meetings.webex.com/dca-meetings/j.php?MTID=m05df509cdec2b3eac41df189119fcf4>

If accessing by phone: Dial +1-415-655-0001 US Toll, Access code: 249 194 52327, Passcode: 75724231

To observe the meeting without the ability to provide public comment, a live stream of the Board Meeting will be available during each day of the meeting at <https://thedcapage.blog/webcasts/>

Due to potential technical difficulties, please consider submitting written comments by 5:00 pm, Friday, December 9, 2022, to speechandhearing@dca.ca.gov for consideration.

Action may be taken on any agenda item. Items may be taken out of order to facilitate the effective transaction of Board business.

Tuesday, December 13, 2022, beginning at 1:00 p.m.

Board Members

Marcia Raggio, Dispensing Audiologist, Board Chair
Holly Kaiser, Speech-Language Pathologist, Vice Chair
Tod Borges, Hearing Aid Dispenser
Karen Chang, Public Member
Gilda Dominguez, Speech-Language Pathologist
Tulio Valdez, Otolaryngologist, Public Member
Amy White, Dispensing Audiologist
VACANT, Hearing Aid Dispenser
VACANT, Public Member

Full Board Meeting Agenda

OPEN SESSION

1. Call to Order / Roll Call / Establishment of Quorum
2. Public Comment for Items Not on the Agenda (*The Board may not discuss or take any action on any item raised during this public comment section, except to decide whether to place the matter on the agenda of a future meeting (Government Code Sections 11125, 11125.7(a))*)
3. Discussion and Possible Action to Amend and Adopt Regulations Regarding Uniform Standards Related to Substance-Abusing Licensees as stated in Title 16, CCR sections 1399.102, 1399.131, 1399.131.1, 1399.155, and 1399.155.1
4. Discussion and Possible Action to Adopt Regulations Regarding Notice to Consumers as stated in Title 16, CCR sections 1399.129 and 1399.157.1
5. Discussion and Possible Action to Amend Regulations Regarding Required Professional Experience Direct Supervision Requirements and Tele-Supervision as stated in Title 16, CCR sections 1399.153 and 1399.153.3
6. Future Agenda Items

CLOSED SESSION

7. Pursuant to Government Code Section 11126(c)(3), the Board will Meet in Closed Session to Discuss Disciplinary Matters Including Proposed Decisions, Stipulated Decisions, Defaults, Petitions for Reductions in Penalty, Petitions for Reconsideration, and Remands.

OPEN SESSION

8. Adjournment

Agendas and materials can be found on the Board's website at www.speechandhearing.ca.gov.

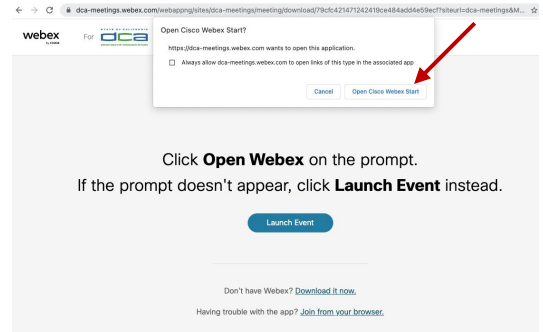
Action may be taken on any item on the agenda. The time and order of agenda items are subject to change at the discretion of the Board Chair and may be taken out of order. In accordance with the Bagley-Keene Open Meeting Act, all meetings of the Board are open to the public. In the event a quorum of the board is unable to attend the meeting, or the board is unable to maintain a quorum once the meeting is called to order, the members present may, at the Chair's

discretion, continue to discuss items from the agenda and make recommendations to the full board at a future meeting. Adjournment, if it is the only item that occurs after a closed session, may not be webcast.

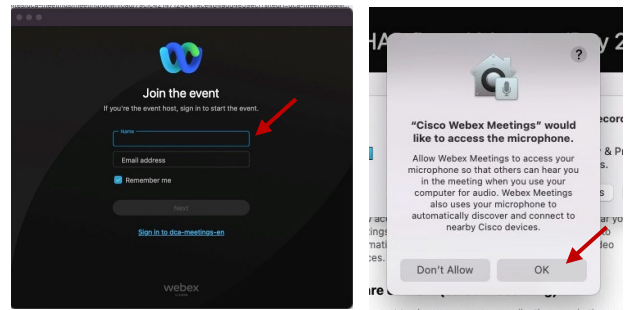
The meeting facility is accessible to persons with a disability. Any person who needs a disability-related accommodation or modification in order to participate in the meeting may make a request by contacting the Board office at (916) 287-7915 or making a written request to Cherise Burns, Assistant Executive Officer, 1601 Response Road, Suite 260, Sacramento, California 95815. Providing your request at least five (5) business days before the meeting will help ensure availability of the requested accommodation.

If joining using the meeting link

- 1 Click on the meeting link. This can be found in the meeting notice you received.
- 2 If you have not previously used Webex on your device, your web browser may ask if you want to open Webex. Click "Open Cisco Webex Start" or "Open Webex", whichever option is presented. DO NOT click "Join from your browser", as you will not be able to participate during the meeting.



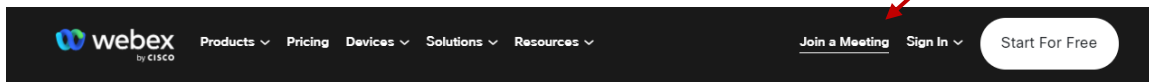
- 3 Enter your name and email address. Click "Join as a guest". Accept any request for permission to use your microphone and/or camera.



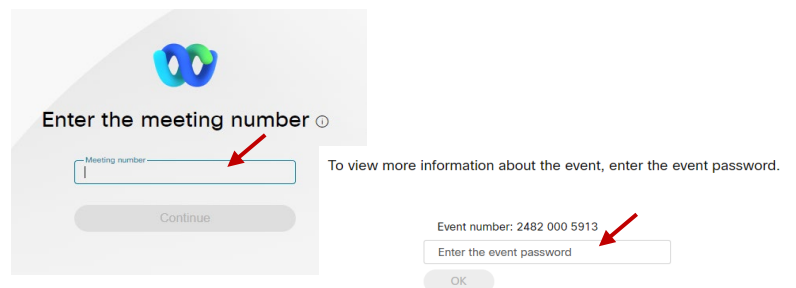
OR

If joining from Webex.com

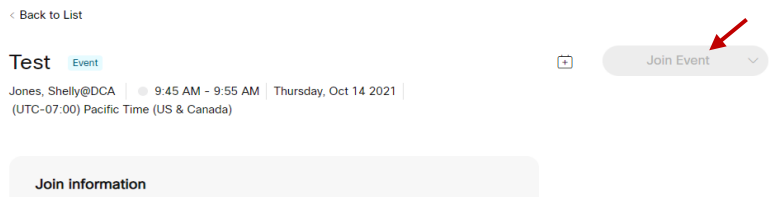
- 1 Click on "Join a Meeting" at the top of the Webex window.



- 2 Enter the meeting/event number and click "Continue". Enter the event password and click "OK". This can be found in the meeting notice you received.



- 3 The meeting information will be displayed. Click "Join Event".



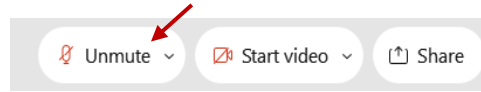
OR

Connect via telephone*:

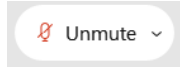
You may also join the meeting by calling in using the phone number, access code, and passcode provided in the meeting notice.

Microphone

Microphone control (mute/unmute button) is located on the command row.

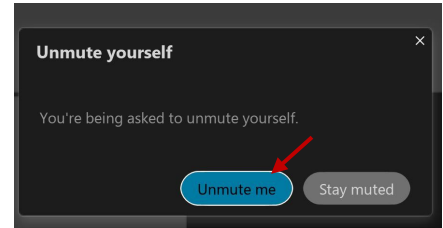


Green microphone = Unmuted: People in the meeting can hear you.



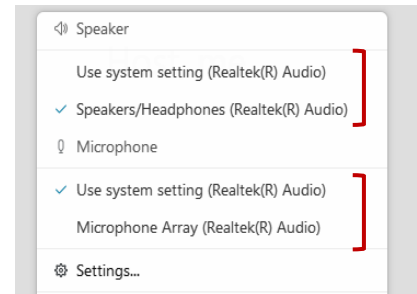
Red microphone = Muted: No one in the meeting can hear you.

Note: Only panelists can mute/unmute their own microphones. Attendees will remain muted unless the moderator enables their microphone at which time the attendee will be provided the ability to unmute their microphone by clicking on "Unmute Me".



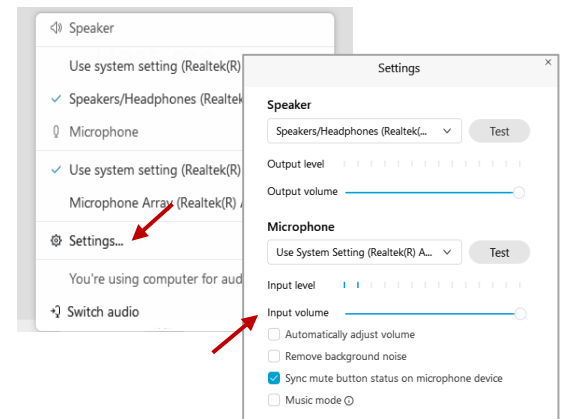
If you cannot hear or be heard

- 1 Click on the bottom facing arrow located on the Mute/Unmute button.
- 2 From the pop-up window, select a different:
 - Microphone option if participants can't hear you.
 - Speaker option if you can't hear participants.



If your microphone volume is too low or too high

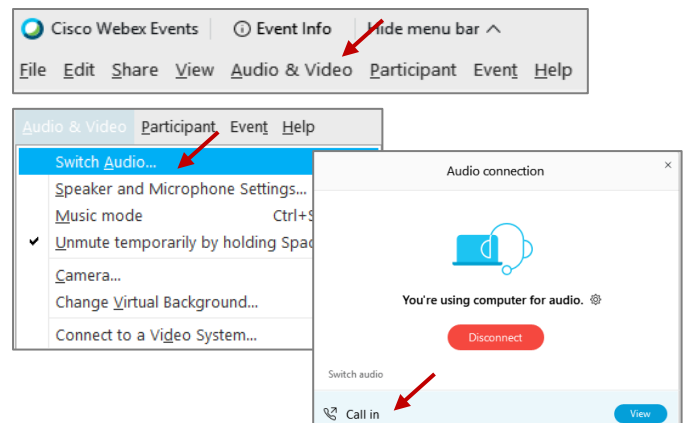
- 1 Locate the command row – click on the bottom facing arrow located on the Mute/Unmute button.
- 2 From the pop-up window:
 - Click on "Settings...":
 - Drag the "Input Volume" located under microphone settings to adjust your volume.



Audio Connectivity Issues

If you are connected by computer or tablet and you have audio issues or no microphone/speakers, you can link your phone through Webex. Your phone will then become your audio source during the meeting.

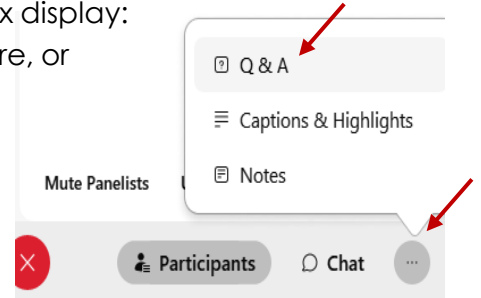
- 1 Click on "Audio & Video" from the menu bar.
- 2 Select "Switch Audio" from the drop-down menu.
- 3 Select the "Call In" option and following the directions.



The question-and-answer feature (Q&A) is utilized for questions or comments. Upon direction of the meeting facilitator, the moderator will open the Q&A panel for meeting participants to submit questions or comments. *NOTE: This feature is not accessible to those joining the meeting via telephone.*

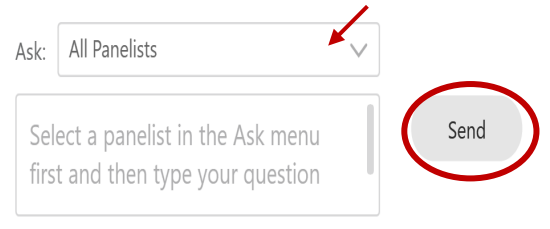
1 Access the Q&A panel at the bottom right of the Webex display:

- Click on the icon that looks like a “?” inside of a square, or
- Click on the 3 dots and select “Q&A”.



2 In the text box:

- Select “All Panelists” in the dropdown menu,
- Type your question/comment into the text box, and
- Click “Send”.



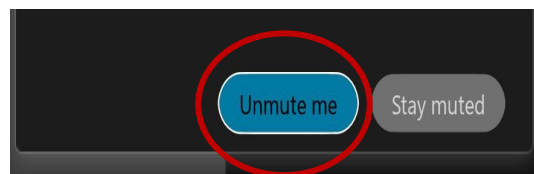
OR

If connected via telephone:

- Utilize the raise hand feature by pressing *6 to raise your hand.
- Repeat this process to lower your hand.

3 The moderator will call you by name and indicate a request has been sent to unmute your microphone. Upon hearing this prompt:

- Click the **Unmute me** button on the pop-up box that appears.

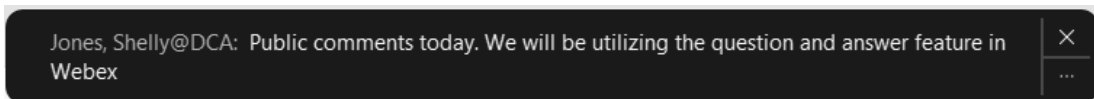


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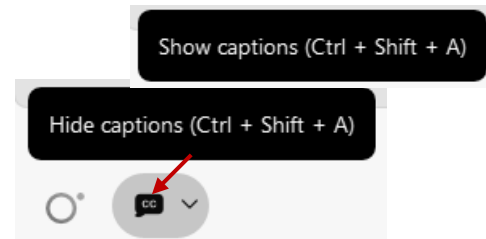
If connected via telephone:

- Press *3 to unmute your microphone.

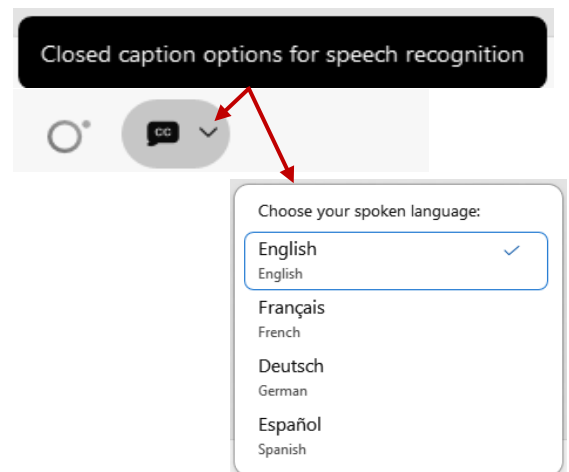
Webex provides real-time closed captioning displayed in a dialog box on your screen. The captioning box can be moved by clicking on the box and dragging it to another location on your screen.



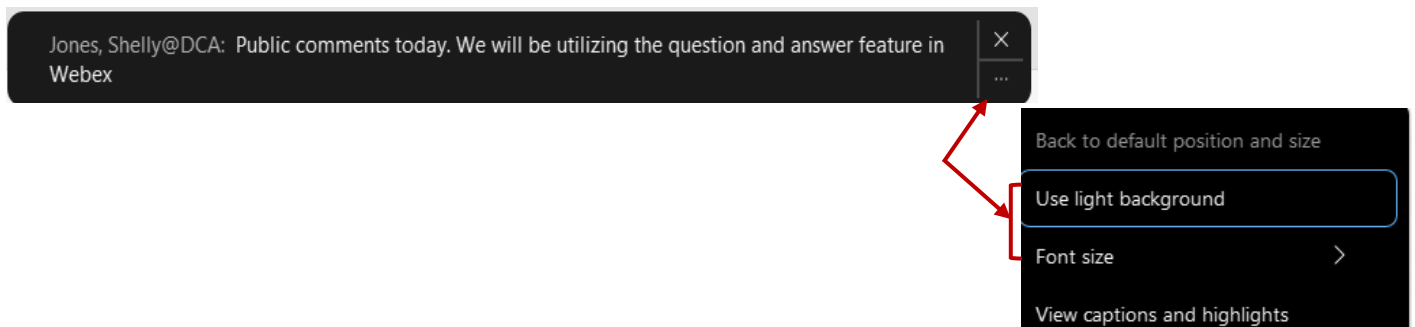
The closed captioning can be hidden from view by clicking on the closed captioning icon. You can repeat this action to unhide the dialog box.



You can select the language to be displayed by clicking the drop-down arrow next to the closed captioning icon.



You can view the closed captioning dialog box with a light or dark background or change the font size by clicking the 3 dots on the right side of the dialog box.





MEMORANDUM

DATE	November 16, 2022
TO	Speech-Language Pathology and Audiology and Hearing Aid Dispensers Board
FROM	Maria Liranzo, Legislation/Regulation/Budget Analyst
SUBJECT	Agenda Item 3: Discussion and Possible Action to Amend and Adopt Regulations Regarding Uniform Standards Related to Substance-Abusing Licensees as stated in Title 16, CCR sections 1399.102, 1399.131, 1399.131.1, 1399.155, and 1399.155.1

Background

This proposed change will require licensees to provide notice that they are licensed and regulated by this Board.

The 45-day public comment period began on September 30, 2022, and ended on November 15, 2022. The Speech-Language Pathology and Audiology and Hearing Aid Dispensers Board (Board) did not hold a public hearing for this proposed regulatory action nor was one requested from any interested person or their authorized representative.

The Board received four (4) written comments during the 45-day public comment period:

- Two (2) in support, and
- Two (2) had no comments.

The Administrative Procedure Act (APA) does not require the Board to respond to written comments in support of a regulatory action during the final rulemaking process. However, the Board is required to respond to written comments that object or make recommendations regarding the regulatory action or the procedures followed by the Board in proposing the regulatory action.

Detailed Summary of Comments and Board Responses

Summary: Melanie Lopez and Meghan Hechinger commented to express not having any comments.

Board Response: The Board determined that no changes to the proposed regulatory text were necessary to accommodate this comment because no objection or recommendation was provided.

Summary: Emily Garcia commented on making this applicable to speech-language pathology assistant.

Board Response: The Board determined that no changes to the proposed regulatory text were necessary to accommodate this comment because no objection or recommendation was provided. The regulatory action will be applicable to all licensees regulated by the Board who the Board finds evidence that they are a substance-abusing licensee.

Action Requested

Staff recommends the Board review and discuss the provided materials. The Board may wish to determine whether or not to approve the Board's response as currently drafted, or propose additional changes, and direct Board Staff to finalize the rulemaking process.

Suggested Motion Language

Move to approve the proposed Board responses to Comments, and direct staff to take all steps necessary to complete the rulemaking process, including the filing of the final rulemaking package with the Office of Administrative Law, authorize the Executive Officer to make any non-substantive changes to the proposed regulations before completing the rulemaking process, and adopt the proposed regulations at Title 16, CCR Sections 1399.102, 1399.131, 1399.131.1, 1399.155, and 1399.155.1 as noticed.

Attachment A: Uniform Standards Public Comments
Attachment B: Uniform Standards Proposed Text

Uniform Standards Public Comments

Received September 30, 2022 – November 15, 2022

To request a copy of the public comments, please send an email to speechandhearing@dca.ca.gov.

DEPARTMENT OF CONSUMER AFFAIRS
**TITLE 16. SPEECH-LANGUAGE PATHOLOGY AND AUDIOLOGY AND
HEARING AID DISPENSERS BOARD**

ORDER OF ADOPTION

Uniform Standards

Amend section 1399.102 of Article 1 of Division 13.3 of Title 16 of the California Code of Regulations to read as follows:

§ 1399.102. Definitions.

For the purpose of the regulations contained in this chapter, the term:

(a) "Code" means the Business and Professions Code.

(b) "Board" means the Speech-Language Pathology and Audiology and Hearing Aid Dispensers Board.

~~(b)~~(c) "Supervisor" means a person who holds a license issued pursuant to the provisions of Sections 2538.26 and 2538.27 of the Code and who accepts responsibility for the supervision and training of a person issued a temporary license under Section 2538.28 of the Code.

~~(e)~~(d) "Supervision" means adequate direction and inspection by a supervisor.

~~(d)~~(e) "Training" means the instruction of a trainee-applicant in the fitting or selling of hearing aids.

~~(e)~~(f) "Trainee-applicant" means a temporary licensee authorized to fit or sell hearing aids under Section 2538.28 of the Code under the supervision of a licensed hearing aid dispenser.

Note: Authority cited: Section 2531.06, Business and Professions Code.

Reference: Sections 2531.06 and 2538.28, Business and Professions Code.

Amend section 1399.131 of Article 6 of Division 13.3 of Title 16 of the California Code of Regulations to read as follows:

§ 1399.131. Disciplinary Guidelines and Exceptions for Uniform Standards Related to Substance-Abusing Licensees.

(a) In reaching a decision on a disciplinary action under the Administrative Procedure

Act (Government Code Section 11400 et seq.), the ~~board~~Board shall consider the disciplinary guidelines entitled “Disciplinary Guidelines and Model Disciplinary Orders” Sixth Edition, June 1997 which are hereby incorporated by reference. Deviation from these guidelines and orders, including the standard terms of probation, is appropriate where the ~~board~~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; evidentiary problems.

(b) Notwithstanding subsection (a), the Board shall use the uniform standards for substance-abusing licensees as provided in Section 1399.131.1, without deviation, for each individual determined to be a substance-abusing licensee.

(c) 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 any finding that the licensee has committed a sex offense or been convicted of a sex offense, shall contain an order revoking the license. The proposed decision shall not contain any order staying the revocation of the license.

(d) As used in this section, the term “sex offense” shall mean any of the following:

~~(a)~~(1) Any offense for which registration is required by Section 290 of the Penal Code or a finding that a person committed such an act.

~~(b)~~(2) Any offense defined in Section 261.5, 313.1, 647b, 243.4 (a)-(d), or 647 subsections (a) or (d) of the Penal Code or a finding that a person committed such an act.

~~(c)~~(3) Any attempt to commit any of the offenses specified in this section.

~~(d)~~(4) Any offense committed or attempted in any other state or against the laws of the United States which, if committed or attempted in this state, would have been punishable as one or more of the offenses specified in this section.

Note: Authority cited: ~~Section~~Sections 315, 315.2, 315.4, and 2531.95, Business and Professions Code; and Sections 11400.20 and 11425.50(e), Government Code.
Reference: Sections 315, 315.2, 315.4, 475, 480, 2533, 2533.1, 2533.2, and 2538.40, Business and Professions Code; and Sections 11400.20 and 11425.50(e), Government Code.

Add section 1399.131.1 to Article 6 of Division 13.3 of Title 16 of the California Code of Regulations to read as follows:

§ 1399.131.1. Uniform Standards Related to Substance-Abusing Licensees.

(a) If after notice and hearing conducted in accordance with Chapter 5, Part 1, Division 3, Title 2 of the Government Code (commencing with sections 11500 et seq.), the Board finds that the evidence establishes that an individual is a substance-abusing licensee, then the terms and conditions contained in the document entitled “Uniform Standards Regarding Substance-Abusing Healing Arts Licensees, March 2019”, which is hereby incorporated by reference, shall be used in any probationary order of the Board affecting that licensee.

(b) Nothing in this Section shall prohibit the Board from imposing additional terms or conditions of probation that are specific to a particular case or that are derived from the Board’s guidelines referenced in subsection 1399.131 in any order that the Board determines would provide greater public protection.

Note: Authority cited: Sections 315, 315.2, 315.4, and 2531.95, Business and Professions Code. Reference cited: Sections 315, 315.2, and 315.4, Business and Professions Code; and Sections 11400.20 and 11425.50(e), Government Code.

Amend section 1399.155 of Article 6 of Division 13.4 of Title 16 of the California Code of Regulations to read as follows:

§ 1399.155. Disciplinary Guidelines and Exceptions for Uniform Standards Related to Substance-Abusing Licensees.

(a) 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 July 16, 2004” ~~that~~which 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.

(b) Notwithstanding subsection (a), the Board shall use the uniform standards for substance-abusing licensees as provided in Section 1399.155.1, without deviation, for each individual determined to be a substance-abusing licensee.

(c) 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 any finding that the licensee has committed a sex offense or been convicted of a sex offense, shall contain an order revoking the license. The proposed decision shall not contain any order staying the revocation of the license.

(d) As used in this section, the term “sex offense” shall mean any of the following:

~~(a)~~(1) Any offense for which registration is required by Section 290 of the Penal Code or a finding that a person committed such an act.

~~(b)~~(2) Any offense defined in Section 261.5, 313.1, 647b, 243.4 (a)-(d), or 647 subsections (a) or (d) of the Penal Code or a finding that a person committed such an act.

~~(c)~~(3) Any attempt to commit any of the offenses specified in this section.

~~(d)~~(4) Any offense committed or attempted in any other state or against the laws of the United States which, if committed or attempted in this state, would have been punishable as one or more of the offenses specified in this section.

Note: Authority cited: Sections 315, 315.2, 315.4, and 2531.95, Business and Professions Code; and Sections 11400.20 and 11425.50(e), Government Code. Reference: Sections 315, 315.2, 315.4, 2533, 2533.1, and 2533.2, Business and Professions Code; and Sections 11400.20 and 11425.50(e), Government Code.

Amend section 1399.155.1 of Article 6 of Division 13.4 of Title 16 of the California Code of Regulations to read as follows:

§ 1399.155.1. Audiologists – Screening Tests. [Renumbered]Uniform Standards Related to Substance-Abusing Licensees.

(a) If after notice and hearing conducted in accordance with Chapter 5, Part 1, Division 3, Title 2 of the Government Code (commencing with sections 11500 et seq.), the Board finds that the evidence establishes that an individual is a substance-abusing licensee, then the terms and conditions contained in the document entitled “Uniform Standards Regarding Substance-Abusing Healing Arts Licensees, March 2019”, which is hereby incorporated by reference, shall be used in any probationary order of the Board affecting that licensee.

(b) Nothing in this Section shall prohibit the Board from imposing additional terms or conditions of probation that are specific to a particular case or that are derived from the Board’s guidelines referenced in subsection 1399.155 in any order that the Board determines would provide greater public protection.

Note: Authority cited: ~~Section~~Sections 315, 315.2, 315.4, and 2531.95, Business and Professions Code. Reference: Sections 315, 315.2, and 315.4, Business and Professions Code; and Sections 11400.20 and 11425.50(e), Government Code.



MEMORANDUM

DATE	December 6, 2022
TO	Speech-Language Pathology and Audiology and Hearing Aid Dispensers Board
FROM	Maria Liranzo, Legislation/Regulation/Budget Analyst
SUBJECT	Agenda Item 4: Discussion and Possible Action to Adopt Responses to Comments Received Regarding Notice to Consumers as Stated in Title 16, CCR Sections 1399.129 and 1399.157.1

Background

This proposed change will require licensees to provide notice that they are licensed and regulated by this Board.

The 45-day public comment period began on September 9, 2022, and ended on October 25, 2022. The Speech-Language Pathology and Audiology and Hearing Aid Dispensers Board (Board) did not hold a public hearing for this proposed regulatory action nor was one requested from any interested person or their authorized representative.

The Board received twelve (12) written comments during the initial 45-day comment period.

- Three (3) in support,
- Six (6) expressed concerns with the proposed regulatory changes,
- Two (2) in opposition, and
- One (1) had no comments.

The Board approved modifications to the proposed regulatory text on October 28, 2022. The Board modified the proposed regulatory text as follows:

- *Amend sections 1399.129(b)(1) and 1399.157.1(c)(1) to change the font size from 48- to 36-point type.* The Board determined that the 48-point type in Arial font is too large to fit all the required information on a letter size paper (8.5 x 11 inches). Requiring 36-point type in Arial font allows licensees to use a paper size that is commonly used in the United States while maintaining a font size that is large enough for the consumer to read the notice with ease from locations such as a wall or receptionist desk.

On November 18, 2022, the Board issued a 15-day notice of availability of the modified text, and the public comment period closed on December 5, 2022. The Board received eight (8) written comments concerning the modifications to the proposed text.

The Administrative Procedure Act (APA) does not require the Board to review or respond to positive written comments in support of this regulatory action during the final rulemaking process. However, the Board is required to review or respond to written comments that object or makes a recommendation to the regulatory action or the procedures followed by the Board in proposing the regulatory action.

Summary of Comments and Board Response

Summary: Laura Hanaford commented to express concerns for licensees in the public-school setting and inquired about the most suitable method of notice for licensees in public school setting.

Board Response: The Board determined that while the comment was germane to the proposed regulatory action, no changes to the proposed regulatory text were necessary to accommodate this comment because no recommendation was provided. The Board does not find it necessary to specify suitable method for any particular work settings as it does not want to limit licensees ability to make such determination for themselves. Providing three different methods to choose from gives licensees the flexibility to determine the best method according to their work setting and how they interact with their patients/clients.

Summary: Ruby Sinha commented to express concerns with the number of caseloads in public school setting.

Board Response: The Board determined that no changes to the proposed regulatory text were necessary to accommodate this comment because the comment was not germane to this rulemaking package. The Board does not have jurisdiction regarding caseloads in public school settings.

Summary: Jesse Paulin commented twice to express concerns with public access to licensees' personal contact information and the required number of "live" continuing education courses.

Board Response: The Board determined that no changes to the proposed regulatory text were necessary to accommodate the comment regarding personal information because the comment did not provide a recommendation. The Board is requiring licensees to provide their patients/clients with the Board's name, telephone number, and website address; and not licensee information that isn't presently made available to the public such as their email address, home address, or personal phone number.

The Board determined that no changes to the proposed regulatory text were necessary to accommodate the comment regarding continuing education because the comment was not germane to this rulemaking package. Continuing education requirements are covered in regulations that are not the subject of this proposed action.

Summary: Jodie Victor inquired for the most suitable method of notice for licensees in public school setting.

Board Response: The Board determined that while the comment was germane to the proposed regulatory action, no changes to the proposed regulatory text were necessary to accommodate this comment because no objection or recommendation was provided. The Board does not find it necessary to specify suitable methods for any particular work settings as it does not want to limit licensees' ability to make such determinations for themselves. Providing three different methods to choose from gives licensees the flexibility to determine the best method for their work setting and how they interact with their patients/clients.

Summary: Ariella Ives commented in opposition and expressed concern about consumers being able to use the internet to find the Board's information and an increase in cost to licensees.

Board Response: The Board determined that while the comment was germane to the proposed regulatory action, no changes to the proposed regulatory text were necessary to accommodate this comment because the comment did not provide a recommendation that was equally or more effective in achieving full compliance with the law being implemented or made specific by this regulatory action. Business and Professions Code (BPC) section 138 require boards to initiate the process of adopting regulations to require licensees to "provide notice to their clients or customers that the practitioner is licensed by this state." Furthermore, the Board determined businesses would incur no cost to comply with this regulation because the Board anticipates licensees will be able to print and provide the notice in a manner that can be covered within the cost of normal business operations.

Summary: Rosalio and Adriana Perez commented in opposition and expressed concern about an increase in cost to licensees.

Board Response: The Board determined that while the comment was germane to the proposed regulatory action, no changes to the proposed regulatory text were necessary to accommodate these comments because no recommendation was provided. The Board determined businesses would incur no cost to comply with this regulation as the Board anticipates licensees will print out and provide the notice within the costs of normal business operations.

Summary: Melanie Lopez commented to express not having any comments.

Board Response: The Board determined that no changes to the proposed regulatory text were necessary to accommodate this comment because no objection or recommendation was provided.

Summary: Dana Alkhandak commented to express concerns with audiologists being held to a more stringent standard than any other medical professionals.

Board Response: The Board determined that while the comment was germane to the proposed regulatory action, no changes to the proposed regulatory text were necessary to accommodate this comment because no recommendation was provided. BPC section 138 requires boards to initiate the process of adopting regulations to require licensees to “provide notice to their clients or customers that the practitioner is licensed by this state.” This will be required for other professions such as dentistry, medicine, nursing, and psychology. As of November 16, 2022, the Medical Board, Dental Board, Board of Psychology, Board of Occupational Therapy, Physical Therapy Board, and Board of Optometry are some of the boards that have either a statutory or regulatory requirement similar to this proposed regulation. The Board anticipates other boards will adopt regulatory changes similar to this proposed rulemaking in the future.

Summary: Linda Oliver commented on the negative impact it will have on professional image and esthetics, and consumer confidence in the care and in the professional serving them. Linda Oliver noted this isn’t required in optometry, dentist, pharmacist, or doctor’s offices.

Board Response: The Board determined that while the comment was germane to the proposed regulatory action, no changes to the proposed regulatory text were necessary to accommodate this comment because the comment did not provide a recommendation that was equally or more effective in achieving full compliance with the law being implemented or made specific by this regulatory action. BPC section 138 requires boards to initiate the process of adopting regulation to require licensees to “provide notice to their clients or customers that the practitioner is licensed by this state.” This will be required for other professions such as dentistry, medicine, nursing, and psychology. As of November 16, 2022, the Medical Board, Dental Board, Board of Psychology, Board of Occupational Therapy, Physical Therapy Board, and Board of Optometry are some of the boards that have either a statutory or regulatory requirement similar to this proposed regulatory. The Board anticipates other boards will adopt regulatory changes similar to this proposed regulatory in the future.

Summary: Teresa Koppang commented to express concerns regarding additional responsibility being placed on licensees and inquired why is this required.

Board Response: The Board determined that while the comment was germane to the proposed regulatory action, no changes to the proposed regulatory text were necessary to accommodate this comment because no recommendation was provided. BPC

section 138 requires boards to initiate the process of adopting regulation to require licensees to “provide notice to their clients or customers that the practitioner is licensed by this state.” Furthermore, as stated in the ISOR, the Board determined that the proposed regulatory action will not have a significant adverse economic impact on businesses or jobs.

Summary: Sarah Wyse commented to express concerns with public access to licensees’ contact information.

Board Response: The Board determined that while the comment was germane to the proposed regulatory action, no changes to the proposed regulatory text were necessary to accommodate this comment because no recommendation was provided. The Board is requiring licensees to provide their patients/clients with the Board’s name, telephone number, and website address; and not licensees’ personal information that isn’t already available to the public such as their email address, home address, or personal phone number.

Summary: Linda Gunn inquired if the notice includes personal contact information.

Board Response: The Board determined that while the comment was germane to the proposed regulatory action, no changes to the proposed regulatory text were necessary to accommodate this comment because no objection or recommendation was provided. The Board is requiring licensees to provide their patients/clients with the Board’s name, telephone number, and website address; and not licensees’ personal information that isn’t already available to the public such as their email address, home address, or personal phone number.

Summary: Miriam Kessler commented to express gratitude for the proposed regulatory action.

Board Response: The Board determined that no changes to the proposed regulatory text were necessary to accommodate this comment because no objection or recommendation was provided.

Summary: Lori Garabedian commented on this being unnecessary and consumers being able to use the internet to find this information.

Board Response: The Board determined that while the comment was germane to the proposed regulatory action, no changes to the proposed regulatory text were necessary to accommodate this comment because the comment did not provide a recommendation that was equally or more effective in achieving full compliance with the law being implemented or made specific by this regulatory action. BPC section 138 requires boards to initiate the process of adopting regulation to require licensees to “provide notice to their clients or customers that the practitioner is licensed by this state.”

Summary: Aieshea Banks commented on the proposed changes to SLPA supervision.

Board Response: The Board determined that no changes to the proposed regulatory text were necessary to accommodate this comment because the comment was not germane to this rulemaking package. SLPA supervision is regulated in regulations that are not the subject of this proposed rulemaking .

Summary: Donna Eskwitt commented in opposition and expressed concern about licensees being required to display their license and consumers being able to find the Board's information without the licensee, an increase in workload to the Board due to an increase in the number of complaints, and an increase in costs to licensees to create notices or revise documents to include notice. Donna Eskwitt noted this isn't required by the Board of Barbering or Cosmetology or the Medical Board and suggested that it should be required for sellers of over-the-counter (OTC) hearing aids

Board Response: The Board determined that while the comment was germane to the proposed regulatory action, no changes to the proposed regulatory text were necessary to accommodate this comment because the comment did not provide a recommendation that was equally or more effective in achieving full compliance with the law being implemented or made specific by this regulatory action. BPC section 138 requires boards to initiate the process of adopting regulations to require licensees to "provide notice to their clients or customers that the practitioner is licensed by this state." This will be required for other professions such as dentistry, medicine, nursing, and psychology. As of November 16, 2022, the Medical Board, Dental Board, Board of Psychology, Board of Occupational Therapy, Physical Therapy Board, and Board of Optometry are some of the boards that have either a statutory or regulatory requirement similar to this proposed regulation. The Board anticipates other boards will adopt regulatory changes similar to this proposed rulemaking in the future. In addition, the Board determined that there would be no increase in workload or costs and businesses would not incur cost to comply with this regulation because the Board anticipates licensees will print out and provide the notice within the costs of normal business operations.

The Board determined that no changes to the proposed regulatory text were necessary to accommodate the comment regarding OTC hearing aids sellers because the comment was not germane to this rulemaking package. The Board is unable to require sellers of OTC hearing aids to post this notice because the FDA does not permit state and local government laws to interfere with the sale of OTC hearing aids from those not licensed with this Board and OTC hearing aids sellers don't need to be licensed if the only hearing aids sold are OTC.

Action Requested

Staff recommends the Board review and discuss the provided materials. The Board may wish to determine whether or not to approve the Board's response as currently drafted, or propose additional changes, and direct Board staff to finalize the rulemaking process.

Suggested Motion Language

Move to approve the proposed Board responses to Comments, and direct staff to take all steps necessary to complete the rulemaking process, including the filing of the final rulemaking package with the Office of Administrative Law, authorize the Executive Officer to make any non-substantive changes to the proposed regulations before completing the rulemaking process, and adopt the proposed regulations at Title 16, CCR Sections 1399.129 and 1399.157.1 as noticed.

Attachment A: Notice to Consumer Public Comments
Attachment B: Notice to Consumer Modified Text
Attachment C: Notice to Consumer Option 1
Attachment D: Notice to Consumer Option 2
Attachment E: Notice to Consumer Option 3

Notice to Consumers Public Comments

Initial Public Comments

Received September 9, 2022 – October 25, 2022

Modified Text Public Comments

Received November 18, 2022 – December 5, 2022

To request a copy of the public comments, please send an email to speechandhearing@dca.ca.gov.

DEPARTMENT OF CONSUMER AFFAIRS
**TITLE 16. SPEECH-LANGUAGE PATHOLOGY AND AUDIOLOGY AND
HEARING AID DISPENSERS BOARD**

ORDER OF ADOPTION

Notice to Consumers

Adopt section 1399.129 of Article 5 of Division 13.3 of Title 16 of the California Code of Regulations to read as follows:

§ 1399.129. Application and Certificate Fees. [Repealed] Notice to Consumers.

(a) A licensee engaged in the practice of fitting or selling hearing aids shall provide notice to each client or patient of the fact that the licensee is licensed and regulated by the Speech-Language Pathology & Audiology & Hearing Aid Dispensers Board. The notice shall include the following statement:

“NOTICE TO CONSUMERS
Hearing Aid Dispensers, Hearing Aid Temporary Licensees,
Hearing Aid Trainees, and Dispensing Audiologists
are licensed and regulated by the
Speech-Language Pathology & Audiology &
Hearing Aid Dispensers Board
(916) 287-7915
www.speechandhearing.ca.gov”

(b) The notice required by this section shall be provided by one of the following methods:

(1) Prominently posting the notice in each of the practice locations the licensee provides services. The notice shall be in a conspicuous location and accessible to public view. It shall be in at least 36-point type in Arial font.

(2) Providing the client or patient, or the client’s or patient’s representative, with the notice in a written statement in at least 12-point type. An acknowledgement, stating the client or patient, or the client’s or patient’s representative, received the notice shall be signed and dated by the client or patient or the client’s or patient’s representative. The acknowledgment shall be retained in the client’s or patient’s records demonstrating receipt.

(3) Providing the notice on a written receipt where the notice is placed immediately above the signature line for the client or patient, or the client’s or patient’s representative, in at least 14-point type.

NOTE: Authority cited: ~~Section 3328~~Sections 2531.06 and 2531.95, Business and

Professions Code. Reference: Section ~~3456~~138, Business and Professions Code.

Adopt section 1399.157.1 of Article 8 of Division 13.4 of Title 16 of the California Code of Regulations to read as follows:

§ 1399.157.1. Professional Corporation Fees. [Renumbered] Notice to Consumers.

(a) A licensed Speech-Language Pathologist, Speech-Language Pathology Assistant, Required Professional Experience Licensee, or Speech-Language Pathology Aide shall provide notice to each patient of the fact that the licensee is licensed and regulated by the Speech-Language Pathology & Audiology & Hearing Aid Board. The notice shall include the following statement:

“NOTICE TO CONSUMERS
Speech-Language Pathologists, Speech-Language Pathology Assistants,
Required Professional Experience Licensees, and Speech-Language Pathology Aides
are licensed and regulated by the
Speech-Language Pathology & Audiology &
Hearing Aid Dispensers Board
(916) 287-7915
www.speechandhearing.ca.gov”

(b) A licensed Audiologist, Required Professional Experience Licensee, and Audiology Aide shall provide notice to each patient of the fact that the licensee is licensed and regulated by the Speech-Language Pathology & Audiology & Hearing Aid Board. The notice shall include the following statement:

“NOTICE TO CONSUMERS
Audiologists, Required Professional Experience Licensees,
and Audiology Aides
are licensed and regulated by the
Speech-Language Pathology & Audiology &
Hearing Aid Dispensers Board
(916) 287-7915
www.speechandhearing.ca.gov”

(c) The notice required by this section shall be provided by one of the following methods:

(1) Prominently posting the notice in each of the practice locations the licensee provides services. The notice shall be in a conspicuous location and accessible to public view. It shall be in at least 36-point type in Arial font.

(2) Providing the client or patient, or the client’s or patient’s representative, with the notice in a written statement in at least 12-point type. An acknowledgement,

stating the client or patient, or the client's or patient's representative, received the notice shall be signed and dated by the client or patient or the client's or patient's representative. The acknowledgment shall be retained in the client's or patient's records demonstrating receipt.

(3) Providing the notice on a written receipt where the notice is placed immediately above the signature line for the client or patient, or the client's or patient's representative, in at least 14-point type.

Note: Authority cited: ~~Sections 2531.25, 2536.7 and 2537.7~~Section 2531.95, Business and Professions Code. Reference: ~~Sections 2536.1, 2536.3, 2536.4, 2537.1, 2537.3 and 2537.4~~Section 138, Business and Professions Code.

NOTICE TO CONSUMERS

Speech-Language Pathologists,
Speech-Language Pathology
Assistants, Required Professional
Experience Licensees, and Speech-
Language Pathology Aides are licensed
and regulated by the Speech-Language
Pathology & Audiology & Hearing Aid
Dispensers Board (916) 287-7915
www.speechandhearing.ca.gov

NOTICE TO CONSUMERS

Speech-Language Pathologists, Speech-Language Pathology Assistants, Required Professional Experience Licensees, and Speech-Language Pathology Aides are licensed and regulated by the Speech-Language Pathology & Audiology & Hearing Aid Dispensers Board (916) 287-7915 www.speechandhearing.ca.gov

Client/Patient Copy

SAMPLE

I acknowledge receipt of the Notice to Consumers

Print:

Date:

Sign:

Keep in client/patient record

SAMPLE

Company Name

INVOICE

Street address
City, State/region, Postal code
Country/region
Phone: ###-###-####

INVOICE # 000
DATE: DATE

PURCHASED BY:

Customer name
Company
Street address
City, State/region, Postal code
Country/region
Phone: ###-###-####

SHIP TO:

Recipient name
Company
Street address
City, State/region, Postal code
Country/region
Phone: ###-###-####

QUANTITY	DESCRIPTION	UNIT PRICE	TOTAL
		Subtotal	
		Sales tax	
		Shipping and handling	
		TOTAL DUE	

NOTICE TO CONSUMERS

Speech-Language Pathologists, Speech-Language Pathology Assistants, Required Professional Experience Licensees, and Speech-Language Pathology Aides are licensed and regulated by the Speech-Language Pathology & Audiology & Hearing Aid Dispensers Board (916) 287-7915 www.speechandhearing.ca.gov

I agree to pay the total amount.

Signature:

THANK YOU FOR YOUR BUSINESS!

Client/Patient Copy



MEMORANDUM

DATE	December 6, 2022
TO	Speech-Language Pathology and Audiology and Hearing Aid Dispensers Board
FROM	Heather Olivares, Legislation/Regulation Analyst
SUBJECT	Agenda Item 5: Discussion and Possible Action to Amend Regulations Regarding Required Professional Experience Direct Supervision Requirements and Tele-Supervision as stated in Title 16, CCR sections 1399.153 and 1399.153.3

Background

The Board approved regulatory language for the RPE Direct Supervision and Tele-Supervision Regulations on October 8, 2021 and received forty-four comments during the initial public comment period from August 5th through September 20, 2022. The Board modified the regulatory text on October 28, 2022. An additional 15-day public comment period ran from November 7, 2022 to November 23, 2022 and the Board received seven additional comments. Board staff drafted proposed responses to the public comments for your review and approval.

Proposed Responses to Initial Public Comments

Written Comment: The Board received 32 public comments indicating general support for allowing for the tele-supervision of RPEs for up to half of the required monthly supervision hours. The commenters stated the proposed changes will address shortages in the field and allow for RPE and supervisor flexibility. The commenters stated in-person supervision allows real time feedback. The commenters also stated teletherapy is an effective service delivery system and remote supervision is less invasive.

Response to Comment: The Board appreciates the support expressed for the proposed regulatory change to allow tele-supervision of RPE temporary licensees for up to half of the required monthly supervision hours. This proposed change will provide greater flexibility in meeting the monthly supervision requirements which could help the RPE supervisor better manage other responsibilities. The Board also agrees that in-person supervision allows the RPE temporary licensee to pick up on non-verbal cues from the RPE supervisor during sessions that can help shape behavior.

Written Comment: The Board received 3 public comments requesting the Board allow 100 percent tele-supervision for RPE temporary licensees. The commenters raised concerns regarding the shortage of speech-language pathologists, lack of availability of speech-

language pathologists for in-person supervision, health and safety conditions due to the COVID-19 pandemic, and services being offered online instead of in-person.

Response to Comment: The Board rejects these comments. The Board discussed allowing 100 percent tele-supervision and decided that some in-person supervision is necessary to establish trust and rapport 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.

Written Comment: The Board received 2 public comments urging that all supervision hours should be allowed to be completed through tele-supervision for licensees working for teletherapy based companies. The commenters raised concerns that it is counterproductive to make supervisors sit in the room to supervise a teletherapy session and in-person supervision becomes a hinderance rather than a benefit when teletherapy is being utilized.

Response to Comment: The Board rejects these comments. The Board discussed allowing 100 percent tele-supervision and decided that some in-person supervision is necessary to establish trust and rapport 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.

Written Comment: The Board received 1 public comment urging that all supervision hours should be allowed to be completed through tele-supervision if in-person supervision is not allowed by the facility or hospital for reasons such as a disease outbreak.

Response to Comment: The Board rejects this comment. The Board discussed allowing 100 percent tele-supervision and decided that some in-person supervision is necessary to establish trust and rapport 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. Additionally, in the case of a public health emergency such as the COVID-19 pandemic, there are already laws in place that authorize the Governor to waive any laws and regulations that conflict with public health mandates.

Written Comment: The Board received 1 public comment seeking clarification if the RPE temporary licensee can document the patient consent or if the RPE supervisor must do the documentation.

Response to Comment: The Board appreciates this comment and agrees that the proposed regulatory changes can be clarified regarding obtaining patient consent. With the use of tele-health, the RPE temporary licensee may be in the same physical location as the patient and/or the patient's record and it would be more efficient for the RPE temporary licensee to document the consent to the use of tele-supervision rather than only allowing the RPE supervisor to meet this requirement. The Board modified Section 1399.153.3(c)(1)(B) to allow either the RPE supervisor or RPE temporary license holder to document verbal or written consent in the patient's record.

Written Comment: The Board received 1 public comment that there should be a limit to the number of speech therapy sessions a practitioner can conduct when providing speech therapy sessions in a school.

Response to Comment: The Board rejects this comment as student caseloads are not germane to this rulemaking package and would need to be addressed in a separate regulatory proposal.

Written Comment: The Board received 1 public comment urging that there should not be a requirement to attend live continuing education courses.

Response to Comment: The Board rejects this comment as continuing education requirements are not germane to this rulemaking package and would need to be addressed in a separate regulatory proposal.

Written Comment: The Board received 1 public comment stating that the regulatory proposal is not efficient and may increase the cost of the license.

Response to Comment: The Board rejects this comment since the Board has made a determination that the proposed regulatory action will not have a significant statewide adverse economic impact on licensees or businesses. 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, but does not make tele-supervision mandatory.

Written Comment: The Board received 1 public comment urging that there should be an option to opt-out of providing personal information such as email addresses, phone numbers, and home addresses.

Response to Comment: The Board rejects this comment as requiring disclosure of personal information is not germane to this rulemaking package and would need to be addressed in a separate regulatory proposal.

Written Comment: The Board received 1 public comment in support of in-person direct supervision for at least 50 percent of the required supervision hours for RPEs working in medical settings.

Response to Comment: The Board appreciates the support of direct supervision in medical settings; however, the Board believes RPE temporary licensees working in all settings can benefit from in-person direct supervision for at least 50 percent of the required monthly supervision hours.

Written Comment: The Board received 1 public comment in support of patient informed consent for the use of tele-supervision.

Response to Comment: The Board appreciates this comment and agrees it is important for consumer protection to obtain patient consent prior to using tele-supervision. With the increased use of tele-health, the Board has modified Section 1399.153.3(c)(1)(B) to allow either the RPE supervisor or RPE temporary license holder to document verbal or written consent in the patient's record.

Written Comment: The Board received 2 public comments in support of tele-supervision for speech-language pathology assistants.

Response to Comment: The Board rejects this comment as the supervision of speech-language pathology assistants is not germane to this rulemaking package and would need to be addressed in a separate regulatory proposal.

Written Comment: The Board received 1 public comment seeking clarification of tele-supervision for students and speech-language pathology assistants.

Response to Comment: The Board rejects this comment as the supervision of students and speech-language pathology assistants is not germane to this rulemaking package and would need to be addressed in a separate regulatory proposal.

Verbal Comment: The Board received a public comment at the October 28, 2022 Board meeting requesting the Board allow 100 percent tele-supervision for RPE temporary licensees.

Response to Comment: The Board rejects this comment. The Board has discussed allowing 100 percent tele-supervision and has decided that some in-person supervision is necessary. The Board made a policy decision to stay with the 50 percent limitation for tele-supervision.

Proposed Responses to Modified Text Public Comments

Written Comment: The Board received 2 public comments indicating general support for allowing for the tele-supervision of RPEs for up to half of the required monthly supervision hours.

Response to Comment: The Board appreciates the support expressed for the proposed regulatory change to allow tele-supervision of RPE temporary licensees for up to half of the required monthly supervision hours. This proposed change will provide greater flexibility in meeting the monthly supervision requirements, while also requiring some in-person supervision which allows the RPE temporary licensee to pick up on non-verbal cues from the RPE supervisor that can help shape behavior.

Written Comment: The Board received 2 public comments requesting the Board allow 100 percent tele-supervision for RPE temporary licensees. The commenters stated teletherapy is an effective service delivery method and increases access for consumers and RPEs.

Response to Comment: The Board rejects these comments. The Board discussed allowing 100 percent tele-supervision and decided that some in-person supervision is necessary to

establish trust and rapport 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.

Written Comment: The Board received 1 public comment that RPE supervisors don't maintain student files and usually do not have direct contact with the student's parents, which would make it difficult for RPE supervisors to obtain patient consent.

Response to Comment: The Board rejects this comment because the Board modified the regulatory text in Section 1399.153.3(c)(1)(B) to allow either the RPE supervisor or RPE temporary license holder to document verbal or written consent in the patient's record.

Written Comment: The Board received 1 public comment urging that RPEs shouldn't be limited to working only in-person.

Response to Comment: The Board rejects this comment because the Board modified the regulatory text by removing the prior regulatory text in Section 1399.153.3(c)(1)(E) that would have required the RPE temporary license holder to be physically present with the patient while being tele-supervised by the RPE supervisor.

Written Comment: The Board received 1 public comment concerning the RPE supervisor's legal responsibility for the health, safety, and welfare of the patients treated by the RPE temporary license holder. Specifically, the commenter is concerned the RPE supervisor could be held liable for accidents or illnesses that occur at the home, on the school playground, or in a hospital lobby.

Response to Comment: The Board rejects this comment because it was not directed at the proposed changes in this rulemaking and thus is outside the scope of this rulemaking. Additionally, existing law holds an RPE supervisor legally responsible for patients being treated by the RPE temporary license holder. Holding a supervisor responsible for the acts of a supervisee is not a new standard, but a constituent part of the relationship between a supervisor and supervisee. The Department of Consumer Affairs boards hold supervisors legally responsible in this way because the licensed supervisor knows the standards of the practice, while the supervisee is still learning. Supervisors are legally responsible for the care that their supervisees provide to patients for the protection of the public (see *Davis v. Physician Assistant Board* (2021) 66 Cal.App.5th 227). This is consistent with the way all supervisees, interns, trainees, and/or other staff are regulated in the professions regulated by the Department of Consumer Affairs. Reducing the standard of supervisor responsibility would decrease consumer protection and directly contradict the Board's public protection mandate.

Written Comment: The Board received 1 public comment urging the Board to limit tele-supervision on a quarterly basis rather than a monthly basis. The commenter states this will provide greater flexibility for the supervision to be conducted entirely in-person one month and entirely via tele-supervision the next month. The commenter also states this change may

reduce the need for travel for in-demand healthcare workers while preserving the requirement that at least half of the supervision be carried out in-person.

Response to Comment: The Board appreciates this comment and is proposing changes to Section 1399.153.3(c)(1)(A) to change the tele-supervision limit from four hours per month to 12 hours per quarter for full-time RPEs and 2 hours per month to 6 hours per quarter for part-time RPEs. The Board agrees this change will provide flexibility for RPE temporary license holders and RPE supervisors to alternate in-person supervision and tele-supervision each month, while still maintaining limits on the use of tele-supervision.

Response to Comment: The Board rejects this comment. The Board believes in-person supervision is necessary to establish trust and rapport 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, and for these reasons in-person supervision should take place each month.

Proposed Responses to Late Public Comments

Written Comment: The Board received 1 public comment urging that all supervision hours should be allowed to be completed through tele-supervision for licensees working for telepractice based companies. The commenter raised concerns that it is counterproductive to make supervisors sit next to the RPE temporary licensee and observe them providing services via telepractice. The commenter also stated telepractice has led to higher attendance for patients and increased participation of caregivers.

Response to Comment: The Board rejects this comment. The Board discussed allowing 100 percent tele-supervision and decided that some in-person supervision is necessary to establish trust and rapport 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.

Action Requested

Staff recommends the Board review the public comments and proposed responses.

Please note: Based on whether or not the Board decides to make changes to the regulatory text, the appropriate response to the public comment yellow highlighted above will need to be approved.

Suggested Motion Language for adopting responses to comments and changing the regulatory text:

Move to approve the proposed responses to comment and the proposed Modified Text changing Section 1399.153.3(c)(1)(A), and if no negative comments are received during the 15-day public comment period, direct staff to take all steps necessary to complete the rulemaking process, delegate to the Executive Officer the authority to make any technical or

non-substantive changes to the responses to comments and the proposed regulations that may be required in completing the rulemaking file and adopt the proposed regulatory changes.

Suggested Motion Language adopting the responses to comments (no text change):

Move to approve the proposed responses to public comments as outlined in this memo, direct staff to take all steps necessary to complete the rulemaking process, delegate authority to the Executive Officer to make any technical or non-substantive changes to the proposed regulations or the responses to comments that may be required in completing the rulemaking file and adopt the proposed regulatory changes as noticed.

Attachment A: Proposed Modified Text
Attachment B: 45 Day Public Comments
Attachment C: 15 Day Public Comments
Attachment D: Late Public Comments

DEPARTMENT OF CONSUMER AFFAIRS
**TITLE 16. SPEECH-LANGUAGE PATHOLOGY AND AUDIOLOGY
AND HEARING AID DISPENSERS BOARD**

PROPOSED MODIFIED TEXT
Required Professional Experience
Direct Supervision Requirements and Tele-Supervision

Legend:	Added text is indicated with an <u>underline</u> . Deleted text is indicated by strikeout . Modification by addition is indicated by <u>double underline</u> Modification by deletion is indicated by double strikethrough Modifications are also shown in yellow highlighting
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Amend section 1399.153 of Division 13.4 of Title 16 of the California Code of Regulations to read as follows:

§ 1399.153 Definitions

As used in this article, the term:

(a) “Required professional experience” or “RPE” means the supervised practice of speech-language pathology or audiology for the purpose of meeting the requirements for licensure in accordance with Sections 2530.5, subdivision (f), ~~and 2532.2, subdivision (d)~~, and 2532.25, subdivision (b)(2) of the Code and these regulations.

(b) “Required professional experience supervisor” or “RPE supervisor” means a person who is licensed as a speech-language pathologist or audiologist in the field for which licensure is sought, or has qualifications deemed equivalent by the Board. “Qualifications deemed equivalent by the Board” include a supervisor who holds legal authorization to practice in the state where the experience is being obtained in the field for which licensure is sought if the required professional experience is obtained in a setting which is exempt from the licensure requirements of the Act or out of state.

(c) “Required professional experience temporary license holder” or “RPE temporary license holder” means a person who has complied with Section 1399.153.2 of these regulations.

(d) “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.

(e) “Tele-supervision” means 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.

Note: Authority cited: Section 2531.95, Business and Professions Code. Reference cited: Sections 2530.5, 2532.2, and 2532.25, Business and Professions Code.

Amend section 1399.153.3 of Division 13.4 of Title 16 of the California Code of Regulations to read as follows:

§ 1399.153.3 Responsibilities of RPE Supervisors

An RPE supervisor's responsibilities shall include, but are not limited to:

(a) Legal responsibility for the health, safety and welfare of the patients treated by the RPE temporary license holder.

(b) ~~Insuring~~ Ensuring that the extent, kind, and quality of functions performed by an RPE temporary license holder under the supervisor's supervision is in compliance with these regulations and is consistent with the RPE temporary license holder's education and training.

(c) ~~Insuring~~ Ensuring that such supervision consists of direct ~~monitoring~~ supervision for a minimum of eight (8) hours per month for each full-time RPE temporary license holder and four (4) hours per month for each part-time RPE temporary license holder.

(1) Tele-supervision of the RPE temporary license holder may be utilized in lieu of direct supervision if it meets the following requirements:

(A) Tele-supervision is limited to no more than ~~four (4) hours per month~~ **twelve (12) hours per quarter** for each full-time RPE temporary license holder and limited to no more than ~~two (2) hours per month~~ **six (6) hours per quarter** for each part-time RPE temporary license holder.

(B) The RPE supervisor informs the patient about the use of tele-supervision and obtains verbal or written consent from the patient for the use of the tele-supervision. The consent shall be documented by either the RPE supervisor or the RPE temporary license holder in the patient's record prior to the first use of tele-supervision with the patient.

(i) If verbal consent was received from the patient, the patient record shall reflect the consent was verbal and the date on which it was obtained.

(ii) If written consent was received from the patient, the patient record shall include a copy of the written consent, which shall include the date on which it was obtained.

(C) The RPE supervisor evaluates the functions the RPE temporary license holder will perform while tele-supervision will occur and, based on the RPE supervisor's professional judgement of the individual RPE temporary license holder's ability, the RPE supervisor determines there is no need to be physically present with the RPE temporary license holder.

(D) 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.

(E) The RPE supervisor determines, 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.

(d) ~~“Direct monitoring supervision”~~ of the RPE temporary license holder may consist of ~~the personal observation of~~ the following:

- (1) evaluation and assessment procedures;
- (2) treatment procedures;
- (3) record keeping, evaluation or assessment reports, correspondence, plans for management, and summaries of case conferences;
- (4) participation in case conferences.
- (5) At least fifty (50) percent of the supervisor's ~~observation~~ supervision, whether provided by direct supervision or tele-supervision shall be of the RPE temporary license holder's evaluation, assessment, and treatment procedures.

(e) Reviewing and evaluating the RPE temporary license holder's performance on a monthly basis for the purpose of improving his or her professional expertise. The RPE supervisor shall discuss the evaluations with the RPE temporary license holder and maintain written documentation of these evaluations and reviews. The written evaluations shall be signed by both the RPE supervisor and the RPE temporary license holder. If the supervisor determines the RPE temporary license holder is not minimally competent for licensure, the RPE temporary license holder shall be so notified orally and in writing. A written statement documenting the basis for the supervisor's determination shall be submitted with the final verification of experience to the Board.

(f) Reviewing and countersigning all evaluation and assessment reports, treatment plans, progress and discharge reports drafted by the RPE temporary license holder.

(g) A “Required professional experience supervisor” must have completed not less than six (6) hours of continuing professional development in supervision training prior to assuming responsibility as a RPE supervisor, and three (3) hours of continuing professional development in supervision training every four years thereafter. If the continuing professional development in supervision training is obtained from a Board-approved provider as defined in Section 2532.6 subdivision (e) of the Code, the hours may be applied towards the continuing professional development requirement for licensees set forth in Section 1399.160.3 of the California Code of Regulations.

Note: Authority cited: Sections 2531.95, 2532.2, and 2532.6, Business and Professions Code. Reference cited: Sections 2532.2 and 2532.6, Business and Professions Code.

RPE Direct Supervision and Tele-Supervision Public Comments

Initial Public Comments

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Modified Text Public Comments

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Late Public Comment

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To request a copy of the public comments, please send an email to speechandhearing@dca.ca.gov.