



BOARD MEETING MINUTES

Sacramento, California

February 20-21, 2020

For the sake of clarity, the meeting minutes are organized in numerical order to reflect their original order on the agenda; however, issues were taken out of order during the meeting.

Audiology Practice Committee Meeting

Marcia Raggio, Committee Chair called the Audiology Practice Committee meeting to order at 1:07 p.m. Ms. Raggio called roll; three members of the Committee were present and thus a quorum was established.

1. Call to Order / Roll Call / Establishment of Quorum

Committee Members Present

Marcia Raggio, Committee Chair
Rodney Diaz, Committee Member
Karen Chang, Committee Member

2. Public Comment for Items not on the Agenda

There were no comments from the public, outside agencies, or associations.

3. Discussion and Possible Action on Clarifying the Regulation on the Required Number of Clock Hours for Audiologists (As Stated in Business and Professions Code (BPC) sections 2532.2 and 2532.25, and Title 16, California Code of Regulations (CCR) section 1399.152.2)

Ms. Raggio stated there are two issues of concern: 1) Current regulations only require 300 clinical clock hours, which is based on audiologists requiring a master's degree. Now that audiologists require a clinical doctorate degree, most institutions require 1800 clinical clock hours and 2) Current law requires clinical clock hours to be completed in no less than 12-months.

Legislation is necessary in order to change the 12-month requirement. Sabina Knight, DCA Legal Counsel suggested removing the 12-month requirement and leaving the statute vague regarding the clinical clock hours. The required number of clock hours would be clarified in regulation.

Ms. Raggio stated the requirement for multiple clinical settings is also outdated. Mr. Sanchez stated the requirement in regulation for multiple clinical settings is based on statute that requires supervision of clinical practice with individual's representative of a

wide spectrum of ages and audiological disorders. Mr. Sanchez stated the regulations may need to be revised to separate out the requirements for audiologists and speech-language pathologists.

M/S/C Raggio/Diaz

Motion that Board staff draft statutory language eliminating the 12-month requirement and regulatory language requiring 1800 clinical clock hours and eliminating the requirement for three clinical settings. The motion carried 3-0.

4. Discussion and Possible Action regarding Statutory and Regulatory Changes Defining Specific Tasks of an Audiology Aide (As Stated in BPC section 2530.2 and Title 16, CCR section 1399.154.2)

Ms. Raggio discussed language from the American Academy of Audiology (AAA) and the American Speech-Language-Hearing Association (ASHA) regarding the role of an audiology assistant. The language states audiology assistants should be trained to do specific tasks that support the audiologist without making diagnostic decisions.

Ms. Raggio expressed concern regarding the requirement for the audiologist to be physically present because there is not a clear definition of physically present. Ms. Raggio stated physically present should not mean over the shoulder because that will prohibit the audiologist from being available to perform other tasks.

Ms. Burns stated the regulatory package will need to explain why a task is outside of the scope of an audiology aide. Ms. Burns suggested developing different levels of supervision requirements similar to the SLPA regulations.

Ms. Chang and Ms. Raggio stated the ASHA list of tasks that can be performed by an audiology assistant is a good starting point. Ms. Raggio also stated the AAA and ASHA language recommends that audiology assistants complete continuing education requirements. Mr. Sanchez stated the audiology aide is a one-time registration process with no renewal requirement or continuing education requirement. Mr. Sanchez stated this issue could be addressed as part of the sunset review process.

Mr. Diaz suggested polling audiology supervisors to inquire if they prefer a negative list of tasks that are prohibited for audiology aides or a positive list of tasks appropriate for an audiology aide. Mr. Diaz pointed out ASHA has both a positive and negative list.

Bryce Docherty with Hearing HealthCare Providers stated the prior lists developed for audiology aides were contentious and suggested including this issue as part of the sunset review process to seek guidance from the Legislature. Mr. Docherty stated the Board should also seek feedback from all stakeholders who may be interested.

M/S/C Raggio/Diaz

Motion for a Committee member to work with Board staff to develop a suggested list of positive and negative tasks for audiology aides and work with the California Academy of Audiology and Hearing HealthCare Providers to survey membership. The motion carried 3-0.

5. Adjournment

Ms. Raggio adjourned the Audiology Practice Committee meeting at 2:08 p.m.

Full Board Meeting

Dee Parker, Board Chair, called the Speech-Language Pathology and Audiology and Hearing Aid Dispensers Board meeting to order at 2:19 p.m. New Board Member, Tod Borges was sworn-in. Ms. Parker called roll; six members of the Board were present and thus a quorum was established.

1. Call to Order / Roll Call / Establishment of Quorum

Board Members Present

Dee Parker, SLP, Board Chair
Marcia Raggio, AuD, Vice Chair
Tod Borges, HAD, Board Member
Rodney Diaz, Otolaryngologist, Public Board Member
Debbie Snow, Public Board Member
Karen Chang, Public Board Member

Staff Present

Paul Sanchez, Executive Officer
Sabina Knight, DCA Legal Counsel
Tenisha Graves, Enforcement Coordinator
Heather Olivares, Legislation/Regulation Analyst
Breanne Humphreys, Operations Manager
Cherise Burns, Assistant Executive Officer

Guests Present

Linda Pippert, CSHA Board Chair
Holly Kaiser, CSHA Director
Bryce Docherty, HHP-CA
Karen Halbo, DCA Legal Regulations Unit
Vanessa Cajina, HHP-CA
Amy White

2. Public Comment for Items not on the Agenda

There were no comments from the public, outside agencies, or associations.

3. Review and Possible Approval of the October 10-11, 2019 Board Meeting Minutes

Sabina Knight, DCA Legal Counsel provided technical and grammatical changes to Board staff.

M/S/C Chang/Raggio

Motion to approve the October 10-11, 2019 Board meeting minutes. The motion carried 6-0.

4. Discussion and Possible Action regarding Regulations as a result of AB 2138
Licensing Boards: Denial of Application: Revocation or Suspension of Licensure:
Criminal Conviction (As Stated in Title 16, CCR, sections 1399.132, 1399.133,
1399.134, 1399.156.1, 1399.156.2, and 1399.156.3)

Ms. Olivares reported the Board approved the AB 2138 regulations at the April 11-12, 2019 Board meeting and then the regulations are required to go through the DCA internal review process. Ms. Olivares stated changes to the regulatory language have been requested by DCA Legal.

Ms. Olivares provided an overview of the regulatory changes in section 1399.133 which are necessary to clarify that this section applies to denials and reinstatements. The regulatory change from “eligible” to “fit” is necessary to make the language consistent with section 1399.134.

Ms. Olivares provided an overview of the regulatory changes in section 1399.156.2 which are necessary to clarify that this section applies to denials and reinstatements. The regulatory change from “eligible” to “fit” is necessary to make the language consistent with section 1399.156.3.

Ms. Olivares reported the regulatory proposal has been approved by the Business, Consumer Services and Housing Agency for submission to the Office of Administrative Law and the official public comment period will begin on March 6, 2020.

M/S/C Borges/Diaz

Motion to approve the proposed text for a 45 day public comment period and delegate to the Executive Officer the authority to adopt the proposed regulatory changes if there are no adverse comments received during the public comment period, to follow established procedures and processes in doing so, and also delegate to the Executive Officer the authority to make any technical and non-substantive changes that may be required in completing the rulemaking file. The motion carried 6-0.

The Board approved the regulatory language regarding the ability to deny a license based on a criminal conviction and requirements related to the criteria of rehabilitation that the Board must consider when evaluating the denial of an application, discipline of a licensee, a petition for reinstatement, or a petition for early termination of probation, but this is the first step in the process and not the final approval. The regulatory proposal still needs to go through the formal rulemaking process set forth in the Administrative Procedure Act.

5. Discussion and Possible Action regarding Speech-Language Pathology Supervised Clinical Experience, Required Professional Experience Speech-Language Pathology Assistant Training Programs, Speech-Language Pathology Assistant Requirements and Qualifications for Registrations (As Stated in Title 16, CCR sections 1399.170, 1399.170.4, 1399.170.10, 1399.170.11, and 1399.170.15)

Ms. Olivares reported the Board approved the SLPA regulations at the May 31 – June 1, 2018 Board meeting with revisions to the application and checklist forms; however, two of the sections of the regulatory language conflict with the proposed regulations to increase the speech-language pathology and audiology fees.

Ms. Olivares stated sections 1399.170.13 and 1399.170.14 will be removed from the regulatory language. Ms. Olivares stated the forms will be updated and included as part of a future regulatory package.

Linda Pippert with CSHA discussed provisions in section 1399.170.15 that conflict with statute. In subsection (C), “monitor and evaluate assessment and treatment decisions of the speech-language pathology assistant” should be removed because evaluating or making treatment decisions are not part of the scope of practice for SLPAs.

Ms. Raggio inquired about the supervision requirement in subsection (D). Ms. Olivares suggested amending the regulatory language in subsection (D) to specify the requirements are “notwithstanding the provisions in section 1399.170.2” which will clarify the requirements after the initial 90-day period.

Sabina Knight, DCA Legal Counsel recommended changes to section 1399.170(j) to specify a person must hold a valid license. Linda Pippert with CSHA clarified that legal authorization to practice applies to speech-language pathologists using a credential.

Holly Kaiser with CSHA discussed provisions in section 1399.170.15 which do not allow a credentialed speech-language pathologist to meet the two-years of full-time experience requirement to be a supervisor. Mr. Sanchez suggested amending the regulatory language to apply to a licensed or credentialed speech-language pathologist.

M/S/C Snow/Diaz

Motion to approve the proposed text for a 45 day public comment period and delegate to the Executive Officer the authority to adopt the proposed regulatory changes if there are no adverse comments received during the public comment period, to follow established procedures and processes in doing so, and also delegate to the Executive Officer the authority to make any technical and non-substantive changes that may be required in completing the rulemaking file. The motion carried 6-0.

The Board approved the regulatory language regarding the approval of SLPA training programs, SLPA registration qualification, and SLPA supervision requirements, but this is the first step in the process and not the final approval. The regulatory proposal still needs to go through the formal rulemaking process set forth in the Administrative Procedure Act.

6. Discussion and Possible Action regarding Required Professional Experience Direct Supervision Requirements and Remote or Tele Supervision (As Stated in Title 16, CCR, sections 1399.153 and 1399.153.3)

Ms. Olivares reported the Board approved the RPE Tele Supervision regulations at the April 11-12, 2019 Board meeting, which including a definition of direct supervision and tele supervision. Ms. Olivares stated DCA Legal staff has requested clarification of the regulatory language.

Ms. Olivares stated the definitions of direct supervision and tele supervision need to be revised to clarify “visual personal observation” and “guidance.” Linda Pippert with CSHA suggested clarifying that both visual and auditory observation are required. Sabina Knight, DCA Legal Counsel suggested adding “one-on-one” to clarify that only one RPE is supervised at a time. Ms. Raggio stated the term “guidance” should continue to be used because it includes instruction, observation, and other types of direction.

Sabina Knight, DCA Legal Counsel suggested removing the language “related to the field for which licensure is sought performed by the RPE temporary license holder” and replacing it with “related to the practice of speech-language pathology or audiology.”

Mr. Diaz suggested adding the term “synchronous” to the definition of tele supervision as an alternative to “real-time”. Ms. Raggio suggested changing visual and auditory observation to audio/visual observation.

Ms. Olivares provided an overview of the other changes to the regulatory language including changing “insuring” to “ensuring” since this language is not related to insurance. Ms. Olivares stated section 1399.153.3(c)(1) is revised to specify tele supervision may be “utilized in lieu of” direct supervision to clarify that either direct supervision or tele supervision is used and they are not interchangeable.

Ms. Olivares stated section 1399.153.3(c)(1)(C) is being removed since there is not a definition of standard of care and no way to enforce this provision.

Ms. Olivares provided an overview of section 1399.153.3(c)(1)(F) which addresses issues unrelated to the RPE’s skill level that may make tele supervision inappropriate.

Sabina Knight, DCA Legal Counsel suggested removing “personal observation” from section 1399.153.3(d).

M/S/C Chang/Diaz

Motion to approve the proposed text for a 45 day public comment period and delegate to the Executive Officer the authority to adopt the proposed regulatory changes if there are no adverse comments received during the public comment period, to follow established procedures and processes in doing so, and also delegate to the Executive Officer the authority to make any technical and non-substantive changes that may be required in completing the rulemaking file. The motion carried 6-0.

The Board approved the regulatory language regarding direct supervision and tele supervision of RPEs, but this is the first step in the process and not the final approval. The regulatory proposal still needs to go through the formal rulemaking process set forth in the Administrative Procedure Act.

7. Discussion and Possible Action on Board Proposed Legislation Regarding BPC sections 2838.35 and 2539.4 Relative to Locked Hearing Aids Disclosure from Hearing Aid Dispensers and Dispensing Audiologists

Ms. Olivares reported legislative language was discussed at the October 10-11, 2019 Board meeting and concerns were raised regarding some of the terms including proprietary hearing aid software, corporate owned store, and franchised hearing aid manufacturer. Ms. Olivares provided an overview of the revised legislative language.

Ms. Raggio stated the revised language would require every dispenser to comply with the new requirements because every hearing aid manufacturer has their own software. Ms. Olivares stated a term can be used to specify who the new requirements apply to, but the term would need to be defined.

Amy White stated the terms “proprietary” and “locked” make the most sense. Mr. Borges stated there is a difference between servicing and programming; and the issue is the programming. Amy White stated a provider can choose to lock a hearing aid to protect their intellectual property for how they have programmed that hearing aid. Mr. Borges stated “locked” is the term that captures the issue.

Ms. Olivares suggested alternative language that would define proprietary hearing aid software. Ms. Raggio suggested continuing to work on this language. The Board Chair will appoint a sub-committee to work with Board staff on the legislative language.

8. Discussion and Possible Action on Regulatory Changes Regarding the Maximum Number of Support Personnel that a Speech-Language Pathology Supervisor Can Supervise (As Stated in Title 16, CCR section 1399.170.16)

Ms. Olivares provided an overview of written public comment from a licensed speech-language pathologist, Tracey McDonnell regarding the supervision of part-time SLPAs working less than 20 per week. Ms. Olivares provided an overview of section 1399.170.16 that specifies a supervisor shall not supervise more than three support personnel, not more than two of which hold the title of speech-language pathology assistant. Ms. McDonnell requested a regulatory change to allow for the supervision of the equivalent of two full time SLPAs.

Ms. Raggio expressed concern regarding the SLPAs working at the same time and suggested the Board may wish to require that the shifts of the SLPAs be staggered so they are not working at the same time. Mr. Borges expressed concern regarding the additional workload involved in supervising a SLPA such as the required paperwork.

Ms. Parker stated this is a consumer protection issue because SLPAs are often used to perform the work of a speech-language pathologist. Ms. Parker also discussed the post-baccalaureate programs being used to qualify as a SLPA while there is a shortage of speech-language pathologists. Ms. Raggio stated in the Bay Area the students that become SLPAs are the lower performing students who do not qualify to get into a graduate program.

Ms. Chang expressed concern that employers will hire part-time SLPAs to avoid providing health benefits. Ms. Chang inquired if adding more SLPAs into the workforce

would allow more consumers to receive services. Mr. Sanchez stated the Board has not received any reports of SLPAs having trouble finding a supervisor.

The Board decided not to move forward with a regulatory change regarding the supervision of SLPAs.

9. Legislation Update, Review, and Possible Action
a. Legislative Report

Ms. Olivares provided an update of upcoming legislative deadlines including the last day for bills to be introduced and the last day for policy committees to meet.

b. Board-Specific Legislation
• AB 598 (Bloom) Hearing aids: minors

Ms. Olivares provided an overview of the bill and reported the bill may be amended to create a state program that would help families pay for hearing aids. Ms. Raggio inquired about the Governor's proposal to allocate money to help families who don't qualify for Medi-Cal pay for hearing aids. Vanessa Cajina with HHP reported the Governor has allocated money in the Budget, but there isn't legislative language available yet. Ms. Cajina stated the intent is the Department of Health Care Services would administer the program.

Mr. Diaz stated the Board was in support of expanding access to pediatric hearing aids and the Board should remain in Support of this bill. Board staff will revise the letter of support based on the concept of expanding access to care.

- AB 1075 (Holden) California State University: speech-language pathologist programs

Ms. Olivares provided an overview of the bill and reported the bill was vetoed by the Governor because the Budget appropriated \$3 million to the CSU system to increase enrollment in speech-language pathologist programs and the CSU Board of Trustees should have flexibility to determine the most appropriate administrative approach to provide these funds to campuses.

c. Healing Arts Legislation
• SB 425 (Hill) Health care practitioners: licensee's file: probationary physician's and surgeon's certificate: unprofessional conduct

Ms. Olivares provided an overview of the bill and reported the bill was signed by the Governor.

- SB 639 (Mitchell) Medical services: credit or loan

Ms. Olivares provided an overview of the bill and reported the bill was signed by the Governor.

d. DCA-Wide Legislation
• AB 476 (Blanca Rubio) Department of Consumer Affairs: task force: foreign-trained professionals

Ms. Olivares provided an overview of the bill and reported the bill was vetoed by the Governor because creating a task force to integrate foreign-trained professionals into the workforce is unnecessary.

- AB 613 (Low) Professions and vocations: regulatory fees

Ms. Olivares provided an overview of the bill and reported the Board has a Support position on this bill. Ms. Olivares stated this is a two-year bill and it is unknown if it will move forward this year.

- AB 1076 (Ting) Criminal records: automatic relief

Ms. Olivares provided an overview of the bill and reported the bill was signed by the Governor.

- AB 1263 (Low) Contracts: consumer services: consumer complaints

Ms. Olivares provided an overview of the bill. Ms. Olivares stated this issue came up during the Dental Board's sunset review. Board staff does not anticipate an increase in complaints or workload for Enforcement staff. A Watch position was recommended.

- AB 1616 (Low) Department of Consumer Affairs: boards: expunged convictions

Ms. Olivares provided an overview of the bill and reported this bill is a follow-up to AB 2138, designed to reduce barriers to licensure. Ms. Olivares stated the Board is evaluating its business process to determine if there may be a workload increase. A Watch position was recommended.

- SB 225 (Durazo) Citizens of the state

Ms. Olivares provided an overview of the bill and reported the bill was signed by the Governor.

- SB 601 (Morrell) State agencies: licenses: fee waiver

Ms. Olivares provided an overview of the bill and reported the bill was signed by the Governor.

- SB 878 (Jones) Department of Consumer Affairs Licensing: applications: wait times

Ms. Olivares provided an overview of the bill. Ms. Olivares stated staff started posting licensing timeframes on the Board's website during the peak licensing season; however, there may be a slight increase in workload to update the licensing timeframes weekly. A Watch position was recommended.

10. Audiology Practice Committee Update

Ms. Raggio reported the Audiology Practice Committee discussed changing the required clinical clock hours for audiology to 1800 hours and removing the

requirement for experience in three different clinical settings. Ms. Raggio stated the Committee also discussed a statutory change to the requirement that clinical clock hours be completed in no less than 12-months. Ms. Raggio reported Board staff will revise the regulatory and statutory language and bring it back to a future meeting.

Ms. Raggio reported tasks for audiology aides was discussed. Ms. Raggio stated Board staff will develop lists of tasks that audiology aides can and cannot perform. Ms. Raggio stated this issue may be pursued as part of the sunset review process.

Amy White inquired if the training process for audiology aides was discussed. Ms. White stated there are formal audiology aide training programs available and inquired if that training program can be substituted for the audiologist developing their own training plan. Mr. Sanchez stated the registration of an audiology aide is really a registration of the supervisor and the supervisor can use the training program to develop their supervision plan.

11. Discussion and Possible Action on Updating the Board's Website on Auditory Processing Disorder Information

Ms. Raggio reported the Board received a complaint regarding the Board's statement on auditory processing disorder. Ms. Raggio stated she conducted research on this issue and revised the Board's statement for the website. Ms. Raggio stated it is important to consider that both professionals and consumers may read the Board's statement on auditory processing disorder.

Ms. Chang inquired why a link to additional information is not included. Ms. Raggio stated she is not aware of a single source that would be appropriate since the information comes from multiple sources.

Mr. Sanchez stated the revised statement on auditory processing disorder can be posted on the Board's website.

12. Update and Possible Action on Updating the Board's Website on Telehealth Information

Ms. Burns provided an overview of the revised telehealth statement for the Board's website. Ms. Burns suggested providing examples of non-clinical telehealth services. Mr. Borges stated it is difficult to distinguish between clinical and non-clinical services. Mr. Sanchez suggested removing the clinical and non-clinical language from the telehealth statement.

Mr. Borges expressed concern about the remote programming of hearing aids by practitioners outside of California who are not licensed in California. Ms. Raggio inquired about the federal Veteran's Administration practicing across state lines. Mr. Sanchez stated Business and Professions Code section 2530.5(h) provides an exemption for speech-language pathologists and audiologists employed by a federal agency.

13. Executive Officer's Report

a. Administration Update

Mr. Sanchez welcomed Tod Borges to the Board, filling the vacant hearing aid dispenser position. Mr. Sanchez stated Breanne Humphreys will be retiring and will be missed by the Board. Mr. Sanchez welcomed the Board's new Assistant Executive Officer, Cherise Burns. Mr. Sanchez stated the Board is currently recruiting for a regulations/legislation coordinator position.

Mr. Sanchez discussed the Business Modernization Project. Mr. Sanchez reported the Board will be starting the sunset review process. Mr. Sanchez also reported the Board is planning to move to a new location.

b. Budget Report

Mr. Sanchez provided an overview of the budget report.

c. Licensing Report

Mr. Sanchez provided an overview of the licensing cycle times.

d. Practical Examination Report

Mr. Sanchez provided an overview of the practical exam results from November 16, 2019 and January 25, 2020. Mr. Sanchez also provided upcoming practical exam and filing dates.

e. Enforcement Report

Mr. Sanchez reported the Board has received 137 complaints and subsequent arrest notifications. Mr. Sanchez also reported four citations have been issued, 18 formal discipline cases are pending with the Attorney General's Office, and the Board is currently monitoring 30 probationers.

Mr. Sanchez provided an overview of the report of disciplinary actions that have been adopted by the Board during the past twelve months.

14. Future Agenda Items and Future Board Meeting Dates

Ms. Raggio requested including audiologists doing cognitive testing on a future agenda.

Mr. Sanchez stated the next Board meeting will be in June. Ms. Burns suggested a Board meeting in October to prepare for the sunset review report. Locations for the June meeting were discussed. Board staff will propose some meeting dates for June.

15. Adjournment

The meeting was adjourned at 11:11 a.m.