

**TITLE 16. Speech-Language Pathology and Audiology
And Hearing Aid Dispensers Board
DEPARTMENT OF CONSUMER AFFAIRS**

FINAL STATEMENT OF REASONS

Subject Matter of Proposed Regulations

Speech-Language Pathology Assistant (SLPA) Supervision Requirements

Sections Affected

Sections 1399.170, 1399.170.2, 1399.170.15, 1399.170.16, 1399.170.17, and 1399.170.18 of Article 12 of Division 13.4 of Title 16, California Code of Regulations (CCR).

Updated Information

The Initial Statement of Reasons is included in the file. The information contained therein is updated as follows:

The 45-day public comment period began on November 11, 2022, and ended on December 27, 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 twenty-one (21) written comments during the initial 45-day comment period: three (3) in support, sixteen (16) expressed objection or recommended changes, one (1) inquired on the regulatory process, and one (1) was not related to the proposed regulatory changes.

The Board approved modifications to the proposed regulatory text on February 24, 2023. The Board modified the proposed regulatory text as follows:

- *Amended sections 1399.170.2(d) and 1399.170.15(b)(4) to require the supervision to be “direct supervision that is on-site observation and guidance” and not “immediate.”* Immediate supervision may be burdensome for speech-language pathologists (SLPs) supervising more than one (1) newly licensed SLPA and may negatively impact consumers’ access to care. However, as stated in the Initial Statement of Reasons (ISOR), the requirement ensures that supervision of newly licensed SLPAs involves on-site observation and guidance. This is because a SLPA may be employed in a work setting different from the one in which they completed their field work experience. By requiring this time period and type of supervision, the supervisor has the opportunity to monitor and evaluate the

SLPA's ability to provide services appropriate to the work setting and clients/patients being treated before allowing the SLPA to provide those services independently. Furthermore, it ensures that the supervisor can quickly intervene to correct any actions that could cause harm to a client/patient. For this reason, the Board found it necessary to modify the text to specify that the supervision during this early and more high-risk time period is in-person.

- *Amend section 1399.170.15(b) to clarify when a supervisor must meet the requirements to supervise a SLPA.* The existing language required clarification. As currently written, all supervisors will have to meet all the requirements in 16 CCR section 1399.170.15 in order to supervise or continue supervision. By modifying the language, the requirements will apply to supervision forms submitted to the Board on and after the regulation's effective date.
- *Amend section 1399.170.15(b)(3) to clarify requirements for supervising when providing services via a telehealth model.* The existing language lacked clarity in regard to the tele-supervision work model. Replacing the term "site(s)" with the phrase "assigned service setting(s)" will include the various settings that are found in a tele-supervision work model.
- *Amend section 1399.170.15(b)(5) to specify that the professional development training required to supervise must be completed before "assuming responsibility as a supervisor."* The existing language required clarification. As originally written, a supervisor would have to complete six (6) hours of continuing professional development in supervision training for every new supervisee. By modifying the language, the requirements will apply only to those supervising a SLPA for the first time.
- *Amend section 1399.170.15(c) to specify that the copy of the form provided to the SLPA must be "completed."* This enhances clarity as to the type of documentation that the supervisor must provide to their assistant. The SLPA should receive a copy of the form they have completed with the supervisor and not a blank or incomplete form.
- *Amend sections 1399.170.15(c) and 1399.170.17 to revise the prefix, number, and revision date of the "Responsibility Statement for Supervisors of a SLPA" form.* Because the form is being revised to reflect changes made by the modified text, the revision date is being updated. The form prefix and number are also being changed to comply with the State Forms Management Program as required by Government Code section 14771.
- *Amend section 1399.170.18 to include an updated termination form, and require supervisors provide a "completed" version of the form to the SLPA.* The form incorporated by reference in the existing text was outdated. Updating this information will increase the transparency of the process to terminate

supervision. Because the form applies to supervision for other license types, the Board identifies all the information it collects on the form as it relates to SLPA supervision in the regulatory language. The Board requires a written notification because the Board needs consent from licensees to make changes to their license records and accurately make changes to publicly available information. Updated license records are important to keep the public using the license search online database informed of licensees who supervise or need a supervisor in order to provide services. Requiring the written notification to include the SLPA's full legal name and license number allows the Board to accurately associate the information with their license record. For this same reason, the Board collects the supervisor's full legal name and license or credential number. The Board also collects the supervisor's address and telephone number in the event it needs to communicate with or send correspondence to the supervisor. The Board requires a termination effective date to ensure that a supervisor does not exceed the maximum number of support personnel stated in 16 CCR section 1399.170.16. Requiring that the termination notice be signed under penalty of perjury holds licensees responsible for the information provided to the Board. The Board has the ability to take discipline or enforcement action against licensees who commit a dishonest or fraudulent act that is substantially related to the qualifications, functions, or duties of a licensee (Business and Professions Code (BPC) section 2533.)

- *Amend the form to collect information regarding the SLPA's employment status and align with changes made by the modified text.* The Board will need to collect information regarding the SLPA employment status to ensure that a supervisor does not exceed the maximum number of support personnel as stated in 16 CCR section 1399.170.16. Without this information, the Board will be unable to verify and approve the supervision. Other changes were made to align with changes made by the modified text.

On March 9, 2023, the Board issued a 15-day notice of availability of the modified text, and the comment period closed on March 24, 2023. The 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 fourteen (14) written comments during the first 15-day comment period on the proposed modifications: two (2) in support, five (5) expressed objections or recommended changes, and seven (7) were not related to the modifications made to the proposed regulations.

The Board approved second modifications to the proposed regulatory text on April 27, 2023. The Board modified the proposed regulatory text as follows:

- *Amend section 1399.170.2(d) to remove text that repeats or rephrases regulation.*

Government Code section 11349.1 requires the Office of Administrative Law to use “nonduplication” as one of the standards of review for all regulations. According to Government Code section 11349, this means that a regulation cannot “serve the same purpose as ... another regulation” which this section does with 16 CCR section 1399.170.15(b)(4).

- *Amend section 1399.170.15(b)(1) to provide for a part-time equivalent for the required “full-time experience.”* Establishing a part-time equivalency for the required practice experience requirement may be necessary for SLPs who only work part-time. The Board determined that 3,120 hours is a reasonable amount of time because it is two (2) full calendar years for someone who works thirty (30) hours per week in private practice.
- *Amend the form to correct the information that collects the SLPA’s employment status and align with changes made by the modified text.* The California Department of Consumer Affairs (DCA) unveiled a new logo effective January 1, 2023. Additionally, regulations did not specify a maximum or minimum number of employment hours; therefore, the Board had been unable to provide this information on the form. Other changes were made to align with changes made in 16 CCR section 1399.15(b).

On May 10, 2023, the Board issued a 15-day notice of availability of the second modified text, and the comment period closed on May 25, 2023.

The Board received thirty-nine (39) written comments during the second 15-day comment period on the second modified text: seven (7) in support, seven (7) expressed objections or recommended changes, and twenty-five (25) were not related to the modifications made to the proposed regulations.

On June 14, 2023, the Board issued a 15-day notice of availability of the third modified text, and the comment period closed on June 29, 2023, to correct amendments made to 16 CCR section 1399.170.15(b)(1) which provided a part-time equivalent for the required full-time experience. As had been noticed to the public on May 10, 2023, in the second modified text, the text could be interpreted as two years working 3,120 hours. This was not the intent of the Board when it adopted modifications to the text on April 27, 2023. The third modified text corrects the text so that it could be more clearly understood as an alternative to the two years of full-time experience. The Board determined that 3,120 hours is a reasonable amount of time because it is calculated as two (2) full calendar years for someone who works thirty (30) hours per week in private practice.

The Board received eight (8) written comments during the third 15-day comment period on the third modified text: two (2) in support and six (6) were not related to the modifications made to the proposed regulations.

The Administrative Procedure Act (APA) does not require the Board to review or respond

to 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. The Board is also required to respond to any written comments received regarding the changes made to the proposed regulatory text if changes are made to the original text.

During the August 24-25, 2023 Board meeting, the Board reviewed and responded to written comments (discussed at the end).

Incorporation By Reference

The document incorporated by reference in this proposed regulation is the “Responsibility Statement for Supervision of a Speech-Language Pathology Assistant (DCA-SLPAHADB-SPA-110, Rev. 4/23).” It would have been cumbersome, unduly expensive, or otherwise impractical to publish this document in the California Code of Regulations. The document was made available to the public through the Board’s website or upon request by contacting the persons named in the Notice of Proposed Action.

Local Mandate

This regulatory action does not impose a mandate on local agencies or school districts.

Small Business Impact

The Board has determined that the proposed regulations will not have a significant adverse economic impact on small businesses. This is because the proposed regulatory action broadens and incorporates greater flexibility into SLPA supervision requirements, and thus may enhance industry growth within the industries this Board regulates.

Fiscal Impact

The Board anticipate an increase in workload and costs to the state as a result of the proposed regulations. The Board anticipates approximately 6,700 SLPA supervision forms will be submitted in year one of implementation with modest growth annually thereafter. This will be absorbed within resources requested through the annual budget process.

Economic Impact

The Board has determined that this regulatory proposal will not have a significant statewide adverse economic impact on businesses or jobs, including the ability of California businesses to compete with businesses in other states. This is because the proposed regulatory action broadens and incorporates more flexibility into SLPA

supervision requirements, and thus may enhance industry growth within the industries this Board regulates.

Anticipated Benefits of this Proposal

The proposed regulations will benefit the health and welfare of California residents by increasing access to advanced services as SLPs are relieved from performing routine services that can be performed by support personnel. The public will also benefit from the higher level of supervision during a SLPA's initial licensure and greater access to care through electronic means. It will not affect worker safety or the state's environment because the proposed regulatory action is related to licensing requirements and does not concern or impact worker safety or the state's environment.

Consideration of Alternatives

The Board determined that there are no reasonable alternatives to the regulation or that has otherwise been identified and brought to its attention (discussed below) that would be more effective in carrying out the purpose for which the action is proposed or would be as effective or less burdensome to affected private persons, or would be more cost effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.

Summary of Comments and Board Responses (45-Day Comment Period)

The Board received twenty-one (21) written comments during the initial 45-day comment period: three (3) in support, sixteen (16) expressed objections or recommended changes, one (1) inquired on the regulatory process, and one (1) was not related to the proposed regulatory changes.

Summary: The Board received a comment expressing concerns with SLPs supervising SLPAs outside of California and noted that supervision should be within the same state, company/district, even if it's teletherapy.

Board Response: The Board decided not to change the proposed regulatory text to accommodate this comment because the Board does not have jurisdiction outside of California. SLPs or SLPAs providing telehealth or teletherapy to patients outside of California are to check with the state licensing board where the client/patient resides regarding supervision requirements.

Summary: The Board received a comment asking if the required professional experience (RPE) would count for the two-year experience or if it would be required in the two years after permanent licensure.

Board Response on the TWO-YEAR PRACTICE EXPERIENCE REQUIREMENT:
The Board decided not to change the proposed regulatory text to accommodate this

comment because no objection or recommendation was provided. The academic and experience requirements to become licensed as a SLP are to prepare for entry-level practice and not management-level practice. The academic requirement is to take not less than six (6) hours of continuing professional development training before assuming responsibility as a supervisor. The experience requirement is to have gained of two (2) years of practice experience after becoming licensed, to ensure that SLPs who wish to be a supervisor have a higher level of knowledge and experience in the functions and duties related to the profession before observing and guiding others in the profession. As stated in the ISOR, the Board “finds that two (2) years of full-time experience is reasonable as this is the length of a renewal period for a SLP license.” The academic and experience requirements, taken together, protect consumers.

Summary: The Board received a comment expressing opposition to the two-year experience requirement because it negatively impacts the progression of the field and the quality of services that students receive by creating huge workload for SLPs and unnecessary costs to school districts. The comment noted that SLPAs go through an entire program and receive their own specific license, so they should not have to be continuously supervised.

Board Response: The Board decided not to change the proposed regulatory text to accommodate this comment based on the reasons stated in the Board Response on the TWO-YEAR PRACTICE EXPERIENCE REQUIREMENT, directly above. Furthermore, the Board does not believe the proposed changes negatively impact jobs or businesses because, as stated in the ISOR, the proposed regulatory action broadens and incorporates more flexibility into SLPA supervision while enhancing public safety. The Board believes that the increase in the number of support personnel that may be supervised and the greater flexibility allowed should alleviate any burdens the proposed changes may cause. Pursuant to BPC section 2538.1, the Board requires a SLPA to be supervised while licensed, and the Board defines the types of supervision available in 16 CCR section 1399.170 as immediate, direct, or indirect.

Summary: The Board received a comment expressing concern about SLPAs working without one hundred (100) percent supervision.

Board Response: The Board decided not to change the proposed regulatory text to accommodate this comment because the Board requires SLPAs to be supervised while licensed pursuant to BPC section 2538.1, supervision which the Board defines in 16 CCR section 1399.170 as potentially being immediate, direct, or indirect.

Summary: The Board received two (2) comments recommending changes to be more specific and detailed regarding what is considered full-time equivalent support personnel and suggesting the proposed language be revised to read: “two (2) part-time personnel in place of one (1) full-time personnel.”

Board Response: The Board decided not to change the proposed regulatory text to

accommodate this comment because in 16 CCR section 1399.170, the Board defines full-time equivalent to mean a person who works at least thirty (30) hours per week.

Summary: The Board received a comment regarding an increased risk of abuse with SLPA supervision and SLPAs working without a SLP physically present and recommending the Board to encourage appropriate wages and in-person services.

Board Response: The Board decided not to change the proposed regulatory text to accommodate this comment because SLPAs are already permitted to provide services without their supervisor being physically present (16 CCR section 1399.170). The Board gives supervisors the discretion to determine the type and amount supervision needed after the first ninety days following the SLPA's initial licensure, consistent with the skills and experience of the SLPA, the needs of the client, the work setting, the tasks assigned, and the laws and regulations. Issues regarding wages are outside the Board's jurisdiction.

Summary: The Board received a comment expressing concern about changes to 16 CCR section 1399.153.95 regarding the supervision of RPE temporary license holders.

Board Response: The Board decided not to change the proposed regulatory text to accommodate this comment because 16 CCR section 1399.153.95, which concerns RPE temporary license holders' supervision, is not among the regulation sections being amended in this proposed action.

Summary: The Board received a comment asking if there will be a grandfather clause or if SLPs who do not meet the two-year practice experience requirement will be forced to cease supervising.

Board Response: The Board determined that changes to the proposed regulatory text were necessary to accommodate this comment because, as currently written, all supervisors will have to meet all the requirements in 16 CCR section 1399.170.15 in order to supervise or continue supervision. This would be unduly burdensome to SLPAs and the Board, creating a large workload and significant fiscal impact to review all existing SLPA supervisors to ensure compliance. Therefore, the Board's staff proposed modifications to the text so that the requirements will apply to supervision forms submitted to the Board on and after the regulation's effective date. The Board recognizes that SLPs who do not meet the two-year practice experience requirement will not be able to assume a new supervision to replace a terminated supervision if that change occurs on and after the regulation's effective date until they have two years of practice experience. The Board estimates fifteen (15) percent of its licensed SLP population will fall under this category each year. The Board believes that the increase to the number of support personnel and the increased flexibility in supervision created by the proposed regulatory changes should alleviate the burden the two-year practice experience requirement may cause.

Summary: The Board received a comment recommending the Board make changes to align with the American Speech-Language-Hearing Association (ASHA) guidelines for SLPA supervision, which were recently updated, and suggesting revisions to the proposed language regarding the supervision of SLPAs during the first ninety (90) days following their initial licensure.

Board Response: The Board decided at the time not to change the proposed regulatory text to accommodate this comment. The Board subsequently determined at its April 2024 Board meeting that the comment warranted further discussion. However, as the suggested text language needs clarifying revisions to pass the Office of Administrative Law standards of review and, to prevent delaying the other proposed changes in this rulemaking, the Board determined that it was best to consider this recommendation in a subsequent rulemaking separate from this one.

Summary: The Board received a comment asking if a SLP can supervise three (3) full-time or six (6) part-time SLPAs.

Board Response: The Board decided not to change the proposed regulatory text to accommodate this comment because no objection or recommendation was provided. The proposed changes seek to give SLPs the flexibility to configure their support personnel in such a way that would allow them to have support personnel that is equivalent to three (3) full-time personnel by accommodating two (2) part-time personnel for one (1) full-time personnel, not to exceed a total of six (6) support personnel.

Summary: The Board received a comment recommending the Board to allow supervision via the telepractice model for SLPAs and stated that telepractice model is equally as effective as the in-person model for assessments, therapy sessions, consultations, attending Individualized Education Program (IEP) meetings, and supervision of RPE participants and Speech-Language Pathology Assistants. The comment also stated that telepractice model have the following benefits:

- There are no added benefits to in-person supervision when compared to utilizing the telepractice model for supervision.
- The telepractice model is supported by ASHA.
- SLPs have been effectively utilizing the telepractice model for evaluation, therapy sessions, consultation with parents and school staff, participation in IEP meetings, and supervision of RPE participants and SLPA guidelines for many years per ASHA guidelines.
- The telepractice model is supported during research studies completed by SLPs, and some of these studies have been added to continuing education courses in speechpathology.com.
- Published continuing education courses receiving state continuing education unit (CEU) and ASHA CEUs support the effectiveness of the telepractice model utilized by SLPs.

Board Response: The Board decided not to change the proposed regulatory text to accommodate this comment because the proposed regulation will permit tele-supervision of SLPA.

Summary: The Board received a comment recommending changes to the form to collect information on whether the SLPA is full-time or part-time and to define full-time equivalent. The comment expressed concerns with maximum number of support personnel and the risk to public safety and recommended the maximum number of allowed SLPA supervisees should be three (3).

Board Response: The Board determined that changes to the proposed regulatory text were necessary to accommodate the recommended changes to the supervision form because, without information on the SLPA's employment status, the Board will be unable to determine if the number of support personnel a supervisor has complies with the requirements proposed by this regulatory action.

The Board decided not to change the proposed regulatory text to accommodate the comment to address concerns regarding the number of support personnel because the Board recognizes that some support personnel may not be employed full-time. As stated in the ISOR, "it is common for SLPAs and SLP aides to work part-time at multiple locations or work part-time while pursuing higher education for career advancement." Therefore, the proposed changes seek to give SLPs the flexibility to configure their support personnel in such a way that would allow them to have support personnel that constitute the equivalent of three (3) full-time personnel by accommodating two (2) part-time personnel for one (1) full-time personnel not to exceed a total of six (6) support personnel.

Summary: The Board received a comment expressing concerns with the number of hours required for professional development training in supervision and that it needs to be completed prior to the supervision. The comment stated that it will deter and limit the number of professionals eligible to supervise SLPAs. The comment recommended revisions that would align with ASHA's requirements, which is a minimum of two (2) hours of professional development on supervision prior to supervising. The comment recommended that two (2) to three (3) hours of professional development in supervision prior to supervising would not deter SLPs from being supervisors.

Board Response: The Board decided not to change the proposed regulatory text to accommodate this comment because the Board has had this requirement since 2001 and requires the same number of hours prior to the supervision of RPE temporary license holders. Because the academic and experience requirements to become licensed are to prepare for entry-level practice and not management-level practice, the Board finds it reasonable and good public protection to require such training to be completed prior to the supervision instead of within the initial two years of supervision. The proposed change does alleviate the number of hours that needs to be completed

on a regular basis by requiring the training to be completed every four (4) hours instead of every two (2) hours.

Summary: The Board received a comment from the American Speech-Language-Hearing Association (ASHA) expressing support and recommending changes to the proposed regulatory text. The comment recommended clarifying the definitions of direct and indirect supervision and stated general support for tele-supervision per ASHA's 2022 guidelines. The comment recommended adding into 16 CCR section 1399.170.2(d) a minimum ongoing supervision requirement of documentation of direct supervision continuing to be provided by the supervisor every 30-60 days. The comment also recommended adding into 16 CCR section 1399.15(a) a requirement that supervision may vary based on a variety of factors identified in the commentor's recommended language. The comment noted that ASHA only requires a minimum of nine (9) months of experience after a supervisor is awarded their certification which differs to the requirements specified in 16 CCR section 1399.170.15(b)(1). The comment also expressed support and recommended changes to proposed changes to SLPA program/academic requirements.

Board Response: The Board decided not to change the proposed regulatory text to accommodate the comment regarding clarifying the definitions of direct and indirect supervision as the Board is satisfied with the clarity of the definitions of immediate, direct, or indirect supervision in 16 CCR section 1399.170. The Board also decided not to make any additional changes beyond the inclusion of tele-supervision within the definition of "direct supervision" in 16 CCR section 1399.170(d) in the proposed regulatory text. The Board decided not to change the proposed regulatory text to accommodate the comment regarding minimum ongoing supervision in 16 CCR section 1399.170.2(d). The Board subsequently determined at its April 2024 Board meeting that the comment warranted further discussion. However, because the suggested text language needed clarifying revisions to pass the Office of Administrative Law standards of review and, to prevent delaying the other proposed changes in this rulemaking, the Board determined that it was best to consider this recommendation in a subsequent rulemaking separate from this one.

The Board decided not to change the proposed regulatory text to accommodate the comment regarding 16 CCR section 1399.170.15(a) because the suggested language is duplicative. The suggested language is similar to the language being removed in 16 CCR section 1399.170.15(a) and as stated in the ISOR, the language "already exists in regulations" at 16 CCR section 1399.170.15(b)(3).

The Board decided not to change the proposed regulatory text to accommodate the comment regarding 16 CCR section 1399.170.15(b)(1) based on the reasons stated in the Board Response on the TWO-YEAR PRACTICE EXPERIENCE REQUIREMENT, above. The Board doesn't believe nine (9) months is a sufficient amount of time in which to gain the necessary higher level of knowledge and experience, especially for newly licensed SLPs who are practicing independently without supervision for the first

time.

The Board decided not to change the proposed regulatory text to accommodate the comment regarding SLPA program/academic requirements because that comment is not related to the proposed regulatory changes involved in this rulemaking.

Summary: The Board received a comment expressing opposition to changing gendered terms to gender-neutral terms in 16 CCR section 1399.170.17.

Board Response: The Board decided not to change the proposed regulatory text to accommodate this comment because the California State Legislature has encouraged state agencies to join them in an effort to revise policies, regulations, and other guidance to use inclusive language and avoid the use of gendered pronouns under Assembly Concurrent Resolution 260 (Low, Chapter 190, Statutes of 2018).

Summary: The Board received a comment asking for information on the regulatory process followed in proposing this regulatory change.

Board Response: The Board decided not to change the proposed regulatory text to accommodate this comment because no objection or recommendation was provided.

Note: Board staff responded to these comments and those responses are included with the Public Comments.

Summary: The Board received a comment from the California Speech-Language Hearing Association (CSHA) expressing support and recommending changes to the proposed regulatory text. The comment recommended clarification to the definition of “immediate supervision” in 16 CCR section 1399.170(c), and to the definitions of “direct supervision” and “indirect supervision” in 16 CCR section 1399.170.2(d) and (e), recommending removal of the requirement of immediate supervision during the first ninety (90) days following initial SLPA licensure and allowing direct supervision instead, adding a direct reference into the supervision form such as a hyperlink in 16 CCR section 1399.170.15(c), and clarifying the requirements in 16 CCR section 1399.170.15.(b)(3) when a supervisor is using the telehealth model. The comment expressed concerns with 16 CCR section 1399.170.17 and inquired how a lead supervisor is to determine what supervision is or isn’t being provided by another supervisor working for another organization.

Board Response: The Board decided not to change the proposed regulatory text to accommodate the comment regarding clarification to the definition of immediate supervision because the Board believes the language is clear that the supervisor is to be “physically present during services provided to the client by the speech-language pathology assistant” which is to say, the supervisor is physically present with both the SLPA and the client. This is because immediate supervision is required whenever a SLPA provides “direct client activity involving medically fragile patients” (16 CCR section 1399.170.2). These patients are described as clients who are “acutely ill and in

an unstable condition” (16 CCR section 1399.170). This type of client is not typically found in locations that are difficult for both the supervisor and SLPA to be physically present with the client. The Board decided not to change the proposed regulatory text as it is satisfied with the clarity of the definitions of “direct supervision” and “indirect supervision” in 16 CCR section 1399.170.2(d) and (e).

The Board determined that changes to the proposed regulatory text were necessary to accommodate the comment regarding the level of supervision during the first ninety (90) days of work following the SLPA’s initial licensure because immediate supervision may be burdensome for SLPs and may negatively impact consumers’ access to care. Because direct supervision has two methods, one of which is tele-supervision, the intent of this requirement is to ensure SLPAs receive adequate in-person supervision during their first ninety (90) days. The Board modified the text to specify that the direct supervision for this requirement must consist of on-site supervision and guidance. On-site supervision provides supervisors with an opportunity to monitor and evaluate a newly licensed SLPA’s ability to provide services while ensuring that the services provided by the SLPA are appropriate for the work setting and clients/patients being treated before allowing the SLPA to provide services at a lower level of supervision. This is because, as stated in the ISOR, a SLPA’s field work experience may be in a setting different from the work setting they are employed in. Furthermore, on-site supervision provides supervisors with an opportunity to quickly intervene to correct any actions that could cause harm to a client/patient

The Board decided not to change the proposed regulatory text to accommodate the comment regarding a direct reference to the supervision form such as a hyperlink because it is not common practice to codify hyperlinks into regulations due to changes that could occur to hyperlinks which could inherently make the information inaccurate.

The Board determined that changes to the proposed regulatory text were necessary to accommodate the comment regarding clarification to the requirements for the telehealth model because the existing language lacks clarity as it relates to the telehealth and tele-supervision work models. Replacing the term “site(s)” with the phrase “assigned service setting(s)” will better include the various settings that are found in telehealth and tele-supervision work models.

The Board decided not to change the proposed regulatory text to accommodate the comment regarding the responsibility of a lead supervisor because the sole responsibility a lead supervisor has is to assist the SLPAs in their compliance with their continuing professional development requirements. The Board determined at its August 2021 Board meeting that it would be burdensome to require the lead supervisor to be responsible for a SLPA’s supervision under other supervisors.

Summary: The Board received a comment during its Board meeting on February 24, 2023, asking if support personnel would include RPE temporary license holders.

Board Response: The Board decided not to change the proposed regulatory text to accommodate this comment because the Board had already discussed and determined at its August 2021 Board meeting that this regulatory proposal would not include RPE temporary license holders in the definition of support personnel.

Summary of Comments and Board Responses (First 15-Day Comment Period)

The Board received fourteen (14) written comments concerning the modifications to the proposed text: two (2) were in support, eight (8) expressed concerns, three (3) inquired about the regulatory process and one (1) was blank. Of the eight (8) comments expressing concerns, four (4) raised concerns related to the proposed modifications to the regulatory text and four (4) were not related to the modifications made to the proposed regulations.

Summary: The Board received comments addressing matters outside the scope of the proposed modifications. These comments expressed opposition to allowing SLPs to supervise up to 3 full-time SLPAs, or an equivalent amount up to six (6) support personnel, asked if the RPE would count for the two-year experience, commented that newly licensed SLPs are appropriately trained as supervisors to keep SLPAs supervised appropriately and requiring two years of full-time experience would mean not as many SLPAs which is a disservice to children in the community, and commented on economic hardship related to pay rates in private practices, pay differences between private practice and schools, inflation, and lower remittance from medical insurance.

Board Response: The Board decided not to change the proposed regulatory text to accommodate these comments because the comments received were not related to the modifications made to the proposed regulations pursuant to Government Code section 11346.8(c).

Summary: The Board received a comment expressing opposition to the required twenty (20) percent direct supervision consisting of on-site supervision and guidance during the initial ninety (90) days of a SLPA's licensure and expressed support for one hundred (100) percent tele-supervision.

Board Response: The Board decided not to change the proposed regulatory text to accommodate this comment because the Board finds it necessary to enhance public safety by requiring a higher level of supervision for newly licensed SLPAs. On-site supervision provides supervisors with an opportunity to monitor and evaluate a newly licensed SLPA's ability to provide services while ensuring that the services provided by the SLPA are appropriate for the work setting and clients/patients being treated before allowing the SLPA to provide services at a lower level of supervision. This is because, as stated in the ISOR, a SLPA's field work experience may be in a setting different from the work setting they are employed in. Furthermore, on-site supervision provides supervisors with an opportunity to quickly intervene to correct any actions that could cause harm to a client/patient. After this initial ninety-day period, the supervisor can

determine the amount and type of supervision needed, consistent with the SLPA's skills and experience, the needs of the clients/patients, and work setting.

Summary: The Board received a comment asking for clarification as to the at least twenty (20) percent per week on-site supervision for the first ninety (90) days following initial licensure.

Board Response: The Board decided not to change the proposed regulatory text to accommodate this comment because no objection or recommendation was provided. In the interest of protecting the public, the Board is requiring direct supervision that is on-site for at least twenty (20) percent per week of the SLPA's schedule during the first ninety (90) days of work following the SLPA's initial licensure. After this initial ninety-day period, the supervisor can determine the amount and type of supervision needed consistent with the SLPA's skills and experience, the needs of the clients/patients, and work setting.

Summary: The Board received a comment outside of the scope of the modifications asking if there will be accommodations for a part-time SLPs to get credit for the required two (2) years full-time experience.

Board Response: The Board determined that changes to the proposed regulatory text were necessary to accommodate this comment because the Board recognized that SLPs may have an employment status different than the one defined in the proposed regulations. Because of this, despite the comment being outside the scope of the modifications, the Board modified the text to include 3,120 hours as an equivalent for the two (2) years of full-time experience. The Board determined that 3,120 hours is a reasonable amount of time based upon it being two (2) full calendar years for someone who works thirty (30) hours per week in private practice.

Summary: The Board received a comment from ASHA expressing support for tele-supervision and recommended one hundred (100) percent direct supervision (including synchronous or live tele-supervision) of SLPAs for medically fragile clients/patients. The comment noted that the amount and type of supervision must be consistent with the SLPA's competency and skill level and not a specific percentage. The comment also noted that the SLP is responsible for determining how many SLPAs can be supervised while maintaining the highest level of quality for services provided and that no other states allow supervision of up to six (6) support personnel.

Board Response: The Board decided not to change the proposed regulatory text to accommodate this comment because the Board is permitting direct supervision to be provided through electronic means. However, the Board will continue to require supervisors to be physically present during services provided by the SLPA if the client is medically fragile. This is because medically fragile clients are "acutely ill and in an unstable condition" (16 CCR section 1399.170). By requiring physical presence for this supervision, the supervisor can quickly intervene to correct any actions a SLPA

performs that could cause harm to a medically fragile client.

The Board provides supervisors with the ability to determine the amount and type of supervision needed that is consistent with the SLPA's skills and experience, the needs of the clients/patients, and work setting. However, the Board finds it necessary to enhance public safety by requiring a higher level of supervision for newly licensed SLPAs during their first ninety (90) days of licensure. As stated in the ISOR, a SLPA's field work experience may be in a setting different from the work setting they are employed in. On-site supervision provides supervisors with an opportunity to monitor and evaluate a newly licensed SLPA's ability to provide services while ensuring that the services provided by the SLPA are appropriate for the work setting and clients/patients being treated before allowing the SLPA to provide services at a lower level of supervision. Furthermore, on-site supervision provides supervisors with an opportunity to quickly intervene to correct any actions that could cause harm to a client/patient. After this initial ninety-day period, the supervisor can determine the amount and type of supervision consistent with the SLPA's skills and experience, the needs of the clients/patients, and work setting. The Board chose to specify a weekly percentage of twenty (20) hours per week and not just a number of hours total in the first ninety (90) days to create consistent standards by making the requirement proportional across different work schedules.

The Board decided not to change the proposed regulatory text to accommodate the comment regarding the number of support personnel because that comment was not related to the modifications made to the proposed regulations pursuant to Government Code section 11346.8(c).

Summary: The Board received a comment recommending changes to the required practice experience of twenty-four (24) months or 3,120 hours, whichever comes first, and recommending grandfathering in current supervisors. The comment also recommended changes to the supervision of SLPAs during the first ninety (90) days following their initial licensure to be seventy-two (72) hours of direct observation and guidance, and noted the negative financial impacts to private practices.

Board Response: The Board determined that changes to the proposed regulatory text were necessary to accommodate the recommendations to change the required practice experience because the Board recognized that SLPs may have an employment status (part-time) different to the one presumed in the proposed regulations (full-time). Therefore, the Board modified the text to allow 3,120 hours to be equivalent to the two (2) years of full-time experience requirement. The Board determined that 3,120 hours is a reasonable amount of time based on it being two (2) full calendar years for someone who works thirty (30) hours per week in private practice.

The Board also modified the text so that the requirements apply only to supervision forms submitted to the Board on and after the regulation's effective date. As currently written, all supervisors would have to meet all the requirements in 16 CCR section

1399.170.15 in order to supervise or continue supervision. This would be unduly burdensome for the Board by creating a large workload and fiscal impact to review all SLPA supervision and ensure compliance. The Board recognizes that SLPs who do not meet the two-year practice experience requirement will not be able to assume a new supervision to replace a terminated supervision that occurs on and after the regulation's effective date until they have two (2) years of practice experience. The Board estimates fifteen (15) percent of its licensed SLP population will fall under this category each year. The Board believes that the increase in both the number and types of support personnel allowed to be supervised by these regulatory changes should alleviate the burden this two years of experience requirement may cause.

The Board did not accommodate the recommendations to change the supervision of SLPAs during the first ninety (90) days due to concerns that supervisors would frontload this requirement. The recommended changes would mean the requirement could be completed within thirty (30) days and not over ninety (90) days. The intent of this requirement is to establish adequate supervision for newly licensed SLPAs because, as stated in the ISOR, a SLPA's field work experience may be in a setting different from the work setting they are employed in. The Board estimates twelve (12) percent of its licensed SLPA population will fall under this category. Furthermore, the Board does not believe the proposed changes negatively impact jobs or businesses because the proposed regulatory action broadens and incorporates new flexibility into SLPA supervision while enhancing public safety. The Board doesn't believe requiring on-site supervision for twenty (20) percent per week of a SLPA's work schedule to be burdensome because an on-site direct supervision may include observing, coaching, or modeling screening or treatment (16 CCR sections 1399.170 and 1399.170.2). Because this requirement applies to newly licensed SLPAs employed for the first time and does not apply to SLPAs who have previously worked for more than ninety (90) days, the Board estimates twelve (12) percent of its licensed SLPA population will need to comply with these greater supervision requirements each year.

Summary of Comments and Board Responses (Second 15-Day Comment Period)

The Board received thirty-nine (39) written comments during the second 15-day comment period on the second modified text: seven (7) in support, seven (7) expressed objections or recommended changes, and twenty-five (25) were not related to the modifications made to the proposed regulations.

Summary: The Board received twenty-five (25) comments addressing matters outside the scope of the proposed modifications. These comments were:

- expressing support for tele-supervision,
- expressing opposition to the direct supervision that must consist of on-site observation,
- asking if there is a specified percentage of time for observation of SLPAs licensed beyond the first ninety (90) days of initial licensure,

- recommending changes to the twenty (20) percent direct supervision to include remote supervision,
- recommending changes to the number of support personnel to allow for a full-time equivalent employee,
- expressing concerns about regulations that limit service delivery models and the need for flexibility and a remote option,
- commenting on how the cost of living in California impacts hiring and retention and having access to SLPs nationally who can supervise California SLPAs could alleviate some of the hiring strains to be able to service patients and decrease waiting lists,
- expressing opposition to tele-supervision for new SLPAs,
- expressing opposition to the six (6) hours of training before supervision and recommending keeping the current requirement of obtaining that training during the initial two-year period,
- expressing concerns with SLPAs working independently on full caseloads with little to no supervision and patients being unaware who their treating provider is,
- commenting on the benefit of in-person supervision, and
- questioning the need to complete six (6) hours of continuing professional development (CPD) in supervision, when the CPD needs to be completed, and how long it is good for once completed.

Board Response: The Board decided not to change the proposed regulatory text to accommodate these comments because the comments received were not related to the modifications made to the proposed regulations pursuant to Government Code section 11346.8(c).

Summary: The Board received a comment expressing opposition to the two-year practice experience requirement, and the modifications to the text that added an alternative of working 3,120 hours to the two-year full-time practice requirement.

Board Response: The Board decided not to change the proposed regulatory text to accommodate this comment for the reasons stated in the section labeled Summary of Comments and Board Responses (45-Day Comment Period) in the response labeled Board Response on the TWO-YEAR PRACTICE EXPERIENCE REQUIREMENT.

Summary: The Board received a comment recommending the removal of the two-year practice experience requirement and the removal of “on-site observation and guidance” from the direct supervision required of a SLPA during the initial ninety (90) days of a SLPA’s licensure.

Board Response: The Board decided not to change the proposed regulatory text to accommodate the comment regarding the two-year practice experience, for the reasons stated in the section labeled Summary of Comments and Board Responses (45-Day Comment Period) in the response labeled Board Response on the TWO-YEAR PRACTICE EXPERIENCE REQUIREMENT.

The Board decided not to change the proposed regulatory text to accommodate the comment regarding the requirement that direct supervision consist of “on-site observation and guidance” during the initial ninety (90) days of a SLPA’s licensure because the comment was not related to the modifications made to the proposed regulations pursuant to Government Code section 11346.8(c).

Summary: The Board received a comment recommending clarification to the phrase “on-site observation.” The comment also recommended focusing on SLPs getting supervision training and not on SLPs’ length of experience in the practice before supervising a SLPA.

Board Response: The Board decided not to change the proposed regulatory text to accommodate the comment regarding clarification to “on-site observation” and focusing on supervision training because the comments were not related to the modifications made to the proposed regulations pursuant to Government Code section 11346.8(c).

The Board has had a supervision training requirement since 2001 and has similar requirements for RPE temporary license holder supervision. The Board is adding a two (2) years of practice experience requirement for supervisors for the reasons stated in the section labeled Summary of Comments and Board Responses (45-Day Comment Period) in the response labeled Board Response on the TWO-YEAR PRACTICE EXPERIENCE REQUIREMENT.

Summary: The Board received three (3) comments recommending changing the two-year practice experience requirement for supervisors to nine (9) months to align with the ASHA practice experience requirement for supervisors and reducing the requirement that twenty (20) percent per week of direct supervision must be on-site supervision and guidance during the initial ninety (90) days of a SLPA’s licensure to ten (10) percent.

Board Response: The Board decided not to change the proposed regulatory text to accommodate the comment regarding changing the two-year practice experience requirement for supervisors for the reasons stated in the section labeled Summary of Comments and Board Responses (45-Day Comment Period) in the response labeled Board Response on the TWO-YEAR PRACTICE EXPERIENCE REQUIREMENT. While at its April 2024 Board meeting the Board indicated aligning with ASHA standards warranted further discussion, to prevent delaying the other proposed changes in this rulemaking the Board has decided to consider that recommendation in a subsequent rulemaking separate from this one. At this time, the Board doesn’t find that nine (9) months is sufficient time in which a SLP can gain a sufficiently higher level of knowledge and experience, especially newly licensed SLPs who are practicing independently without supervision for the first time.

The Board decided not to change the proposed regulatory text to accommodate the

comment regarding the requirement that twenty (20) percent per week direct supervision must be on-site supervision and guidance during the initial ninety (90) days of a SLPA's licensure because the comment was not related to the modifications made to the proposed regulations pursuant to Government Code section 11346.8(c).

Summary: The Board received a comment recommending that the two-year practice experience requirement for supervisors include 3,120 hours or 2,160 hours and amending twenty (20) percent direct supervision per week to seventy-two (72) hours of direct observation and guidance within the first ninety (90) days of employment.

Board Response: The Board decided not to change the proposed regulatory text to accommodate this comment because the Board approved modifications to the proposed regulatory text on April 27, 2023, to include 3,120 hours as an equivalent for the two (2) years of full-time experience required by this proposed regulation.

The Board decided not to change the proposed regulatory text to accommodate the comment regarding reducing to ten (10) percent per week the direct supervision requirement during a SLPA's first ninety (90) days of initial licensure because the comment was not related to the modifications made to the proposed regulations pursuant to Government Code section 11346.8(c).

Summary of Comments and Board Responses (Third 15-Day Comment Period)

The Board received eight (8) written comments during the third 15-day comment period on the third modified text: two (2) in support and six (6) were not related to the modifications made to the proposed regulations.

Summary: The Board received six (6) comments asking about the required "on-site observation and guidance" supervision during the first ninety (90) days of SLPA initial licensure, expressing concerns with the changes to the number of support personnel and recommending that it be based on the number of people receiving services or the number of SLPs, expressing opposition to the two-year practice experience requirement and recommending that it be reduced to nine (9) months, and expressing opposition to the requirement that twenty (20) percent per week of direct supervision must be on-site observation and guidance during a SLPA's first ninety (90) days of initial licensure and recommending that it be virtual supervision.

Board Response: The Board decided not to change the proposed regulatory text to accommodate these comments because the comments received were not related to the modifications made to the proposed regulations pursuant to Government Code section 11346.8(c).

Summary of Comments and Board Responses (Late Submission)

Summary: The Board received a comment recommending a minimum, quantifiable,

measurable method for SLPA supervision after the initial 90 days of licensure.

Board Response: The Board decided not to change the proposed regulatory text to accommodate this comment because the comments received were not related to the modifications made to the proposed regulations on June 14, 2023, pursuant to Government Code section 11346.8(c).