



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

*UNIFORM STANDARDS RELATED TO SUBSTANCE ABUSE AND
DISCIPLINARY GUIDELINES*

July 16, 2004 August 2010

Speech-Language Pathology and Audiology Board

DISCIPLINARY GUIDELINES

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INTRODUCTION

The Speech-Language Pathology and Audiology and Hearing Aid Dispensers Board (Board) is a consumer protection agency with the primary mission of protecting consumers of speech-language pathology, audiology, and hearing aid dispenser services from potentially harmful licensees. In keeping with its obligation to protect the consumer, the Board has adopted the following Disciplinary Guidelines for disciplinary orders, terms and conditions of probation for violations of the laws governing speech-language pathology, audiology and hearing aid dispensing as well as Uniform Standards Related to Substance Abuse.

The Board carefully considers all facts and circumstances associated with each case in its efforts to protect consumers. Subsequently, the Administrative Law Judge ("ALJ") shall provide in all proposed decisions a detailed basis of his or her decision in the "Findings of Fact" particularly when there is a deviation from the Guidelines. Justification for the deviation shall be clearly outlined in the decision to enable the Board to understand the reasons to evaluate the suitability of the decision. However, an ALJ is prohibited from deviating from the Uniform Standards Related to Substance Abuse.

If at the time of hearing the ALJ finds that the Respondent, for any reason, is not capable of safe practice, the ALJ shall order outright revocation of the license. This is particularly important in cases of patient sexual abuse or bodily harm. Suspension of a license may also be appropriate where the public may be better protected if the practice of the licensee is suspended in order to correct deficiencies in skills, education or rehabilitation.

Speech-Language Pathology and Audiology and Hearing Aid Dispensers Board

UNIFORM STANDARDS RELATED TO SUBSTANCE ABUSE AND DISCIPLINARY GUIDELINES

The following Standards shall be adhered to in all cases when a licensee's license is placed on probation due to a substance abuse problem. These Standards are not guidelines and shall be followed in all instances; however, the Board may impose more restrictive standards if necessary to protect the public.

SPEECH-LANGUAGE PATHOLOGISTS, AND AUDIOLOGISTS AND HEARING AID DISPENSERS

Section 1399.155 of Division 13.4 of Title 16, Article 6 entitled "Disciplinary Guidelines" of the California Code of Regulations is amended to read:

Article 6. Uniform Standards Related to Substance Abuse and Disciplinary Guidelines

1399.155. Uniform Standards Related to Substance Abuse and Disciplinary Guidelines.

In reaching a decision on a disciplinary action under the Administrative Procedure Act (Section 11400 et seq. of the Government Code) the board shall ~~consider the disciplinary guidelines entitled~~ comply with the "Uniform Standards Related to Substance Abuse and Disciplinary Guidelines Revised August 2010 July 16, 2004," that are hereby incorporated by reference. Deviation from these disciplinary guidelines and orders, including the standard terms and conditions 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. Neither the board nor an administrative law judge may impose any terms or conditions of probation that are less restrictive than the Uniform Standards Related to Substance Abuse.

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 has committed an act or been convicted of a sex offense as defined in Section 44010 of the Education Code, shall contain an order revoking the license. The proposed decision shall not contain an order staying the revocation of the license.

Note: Authority cited: Sections 2531.95, Business and Professions Code; and Sections 11400.20, Government Code. Reference: Sections 2533 and 2533.1, Business

and Professions Code; and Sections 11400.20 and 11425.50(e), Government Code.

UNIFORM STANDARDS FOR THOSE LICENSEES WHOSE LICENSE IS ON PROBATION DUE TO A SUBSTANCE ABUSE PROBLEM

Clinical Diagnostic Evaluations:

Whenever a licensee is ordered to undergo a clinical diagnostic evaluation, the evaluator shall be a licensed practitioner who holds a valid, unrestricted license to conduct clinical diagnostic evaluations, has five (5) years experience in providing evaluations of health professionals with substance abuse disorders, and is approved by the Board. The evaluations shall be conducted in accordance with acceptable professional standards for conducting substance abuse clinical diagnostic evaluations.

Clinical Diagnostic Evaluation Report:

The clinical diagnostic evaluation report shall set forth, in the evaluator's opinion, whether the licensee has a substance abuse problem, whether the licensee is a threat to himself or herself or others, and recommendations for substance abuse treatment, practice restrictions, or other recommendations related to the licensee's rehabilitation and safe practice.

The evaluator shall not have a financial, personal or business relationship with the licensee within the last five (5) years. The evaluator shall provide an objective, unbiased, and independent evaluation.

If the evaluator determines during the evaluation process that a licensee is a threat to himself or herself or others, the evaluator shall notify the board within 24 hours of such a determination.

For all evaluation, a final written report shall be provided to the board no later than ten (10) days from the date the evaluator is assigned the matter unless the evaluator requests additional information to complete the evaluation, not to exceed 30 days.

The Board shall review the clinical diagnostic evaluation to determine whether or not the licensee is safe to return to either part-time or full-time practice and what restrictions or recommendations should be imposed on the licensee based on the application of the following criteria:

License type, licensee's history, documented length of sobriety, scope and pattern of substance abuse, treatment history, medical history, current medical condition, nature, duration and severity of substance abuse problem, and whether the licensee is a threat to himself or herself or others.

When determining if the licensee should be required to participate in inpatient, outpatient or any other type of treatment, the Board shall take into consideration the recommendation of the clinical diagnostic evaluation, license type, licensee's history, length of sobriety, scope and pattern of substance abuse, treatment history, medical history, current medical condition, nature, duration and severity of substance abuse and whether the licensee is a threat to himself or herself or others.

Worksite Monitor Requirements:

If a Board determines that a worksite monitor is necessary for a particular licensee, the worksite monitor must meet the following requirements to be considered for approval by the Board:

The worksite monitor shall not have financial, personal, or familial relationship with the licensee, or other relationship that could reasonably be expected to compromise the ability of the monitor to render impartial and unbiased reports to the board. If it is impractical for anyone but the licensee's employer to serve as the worksite monitor, this requirement may be waived by the board; however, under no circumstances shall a licensee's worksite monitor be an employee of the licensee.

The worksite monitor's license scope of practice shall include the scope of practice of the licensee that is being monitored or be another health care professional if no monitor with like practice is available.

The worksite monitor shall have an active unrestricted license, with no disciplinary action within the last five (5) years.

The worksite monitor shall sign an affirmation that he or she has reviewed the terms and conditions of the licensee's disciplinary order and agrees to monitor the licensee as set forth by the Board.

The worksite monitor must adhere to the following required methods of monitoring the licensee:

- a) Have face-to-face contact with the licensee in the work environment on a frequent basis as determined by the Board, at least once per week.
- b) Interview other staff in the office regarding the licensee's behavior, if applicable.
- c) Review the licensee's work attendance.

Reporting by the worksite monitor to the Board shall be as follows:

Any suspected substance abuse must be verbally reported to the Board and the licensee's employer within one (1) business day of occurrence. If occurrence is not during the Board's normal business hours the verbal report must be within one (1) hour of the next business day. A written report shall be submitted to the Board within 48 hours of occurrence.

The worksite monitor shall complete and submit a written report monthly or as directed by the board. The report shall include: the licensee's name; license number; worksite

monitor's name and signature; worksite monitor's license number; worksite location(s); dates licensee had face-to-face contact with monitor; staff interviewed if applicable; attendance report; any change in behavior and/or personal habits; any indicators that can lead to suspected substance abuse.

The licensee shall complete the required consent forms and sign an agreement with the worksite monitor and the Board to allow the Board to communicate with the worksite monitor.

If a licensee tests positive for a banned substance, the Board shall order the licensee to cease practice. The Board shall also immediately notify the licensee's employer that the licensee has been ordered to cease practice and he or she may not resume working until the cease practice order is lifted.

Major and Minor Violations:

Major Violations include, but are not limited to, the following:

1. Failure to complete a board-ordered program;
2. Failure to undergo a required clinical diagnostic evaluation;
3. Committing multiple minor violations of probation terms and conditions;
4. Treating a patient while under the influence of drugs or alcohol;
5. Committing any drug or alcohol offense that is a violation of the Business and Professions Code or state or federal law;
6. Failure to obtain biological testing for substance abuse;
7. Testing positive for a banned substance;
8. Knowingly using, making, altering or possessing any object or product in such a way as to defraud a drug test designed to detect the presence of alcohol or a controlled substance.

Consequences for major violations include, but are not limited to:

1. Licensee will be ordered to cease practice.
 - a. The licensee must undergo a new clinical diagnostic evaluation, and
 - b. The licensee must test negative for at least a month of continuous drug testing before being allowed to go back to work.
2. Termination of a contract/agreement.
3. Referral for disciplinary action, such a suspension, revocation, or other action as determined by the Board.

Minor Violations include, but are not limited to, the following:

1. Failure to submit required documentation as required
2. Unexcused attendance at required meetings;
3. Failure to contact a monitor as required;
4. Any other violations that do not present an immediate threat to the licensee or to the public.

Consequences for minor violations include, but are not limited to:

1. Removal from practice;

2. Practice limitations;
3. Required supervision;
4. Increased documentation;
5. Issuance of citation and fine or a warning notice;
6. Required re-evaluation or testing;
7. Other action as determined by the Board.

Drug Testing Standards:

The following drug testing standards shall apply to each licensee subject to drug testing:

1. Licensees shall be randomly drug tested at least 104 times per year for the first year and at any time as directed by the board. After the first year, licensees, who are practicing, shall be randomly drug tested at least 50 times per year, and at any time as directed by the board.
2. Drug testing may be required on any day, including weekends and holidays.
3. The scheduling of drug tests shall be done on a random basis, preferably by a computer program.
4. Licensees shall be required to make daily contact to determine if drug testing is required.
5. Licensees shall be drug tested on the date of notification as directed by the board.
6. Specimen collectors must either be certified by the Drug and Alcohol Testing Industry Association or have completed the training required to serve as a collector for the U.S. Department of Transportation.
7. Specimen collectors shall adhere to the current U.S. Department of Transportation Specimen Collection Guidelines.
8. Testing locations shall comply with the Urine Specimen Collection Guidelines published by the U.S. Department of Transportation, regardless of the type of test administered.
9. Collection of specimens shall be observed.
10. Prior to vacation or absence, alternative drug testing location(s) must be approved by the board.
11. Laboratories shall be certified and accredited by the U.S. Department of Health and Human Services.

A collection site must submit a specimen to the laboratory within one (1) business day of receipt. A chain of custody shall be used on all specimens. The laboratory shall process results and provide legally defensible test results within seven (7) days of receipt of the

specimen. The appropriate board will be notified of non-negative test results within one (1) business day and will be notified of negative test results within seven (7) business days.

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DISCIPLINARY GUIDELINES

Guidelines to Consider When Rendering Discipline

In determining whether revocation, suspension or probation is to be imposed in a given case, factors such as the following should be considered:

1. Nature and severity of the act(s), offenses, or crime(s) under consideration.
2. Actual or potential harm to the public.
3. Actual or potential harm to any patient.
4. Prior disciplinary record.
5. Number and/or variety of current violations.
6. Mitigation evidence.
7. Rehabilitation evidence.
8. In case of a criminal conviction, compliance with conditions of sentence or court-ordered probation.
9. Overall criminal record.
10. Time passed since the act(s) or offense(s) occurred.
11. If applicable, evidence of expungement proceedings pursuant to Penal Code Section 1203.4.

Situations Where Revocation Shall Be Imposed

In addition to violation of the laws governing speech-language pathology, audiology and hearing aid dispensing, there are other circumstances that necessitate outright revocation as the recommended penalty.

1. Failure to file a notice of defense or to appear at a disciplinary hearing, where the Board has requested revocation.
2. Violation of the terms or conditions of a Respondent's probation order.
3. Substantiated evidence or convictions of physical or sexual abuse offenses.
4. Second offenses, unless the Respondent can demonstrate that he or she has been fully rehabilitated.

~~RECOMMENDED LANGUAGE FOR ISSUANCE AND PLACEMENT OF A LICENSE ON PROBATION FOR INITIAL LICENSURE AND~~

REINSTATEMENT OF LICENSE

Model Introductory Language for Probation Orders

~~In order to provide clarity and consistency in its decisions, the Speech-Language Pathology and Audiology and Hearing Aid Dispensers Board recommends the following language in proposed decisions or stipulated agreements for applicants who hold a license in another state and for petitioners for reinstatement who are issued a license that is placed on probation.~~

~~Suggested language for applicants who are placed on probation:~~

When a stipulated settlement or proposed decision contains probationary terms and conditions, the following language shall be included:

- **Licensees:** Speech-Language Pathologist (SLP), Audiologist (AU), Dispensing Audiologist (DAU), Speech-Language Pathology Assistant (SLPA), Hearing Aid Dispenser (HAD) license no. _____ issued to Respondent _____ is hereby revoked; however, the revocation is stayed and Respondent's license is placed on probation for _____ years on the following terms and conditions.
- **Applicants:** "The application of respondent _____ for licensure is hereby granted. Upon successful completion of all licensing requirements, a license shall be issued to respondent. Said license shall immediately be revoked, the order of revocation stayed and respondent placed on probation for a period of _____ years on the following terms and conditions.:"

~~Suggested language for applicants who are licensed in another state and are placed on probation:~~

~~"The application of respondent for licensure is hereby granted and a license shall be issued to respondent. Said license shall immediately be revoked, the order of revocation stayed and respondent placed on probation for a period of _____ years on the following terms and conditions::"~~

~~Suggested language for reinstatement of licensure with conditions of probation:~~

~~"The application of respondent _____ for reinstatement of licensure is hereby granted. A license shall be issued to respondent. Said license shall immediately be revoked, the order of revocation stayed and respondent placed on probation for a period of _____ years on the following terms and conditions::"~~

- **Reinstatements:** The petition of _____ for reinstatement of the SLP, AU, DAU, SLPA, HAD license is hereby GRANTED, as follows.

SLP, AU, DAU, SLPA, HAD license number _____ is reinstated. The

license will be immediately revoked; however, the revocation is stayed for _____ years on the following terms and conditions:

In cases where a petitioner for reinstatement has not practiced in the State of California for an extended amount of time, he or she must retake the licensing exam before being reinstated. This information must be provided to the Administrative Law Judge so that the following term and condition can be included in the purposed decision: "Upon successful completion of the licensure examination, a license shall be issued to Respondent."

NOTE: If cost recovery was ordered in the revocation or surrender of a license and the cost recovery has not been paid in full by petitioner, a probation term and condition requiring payment of original cost recovery on a payment plan shall be included in the decision.

Probationary Considerations

As part of the Board's mission to protect the consumer, any disciplinary order in which probation is imposed should include terms and conditions that ensure consumer protection.

For purposes of implementation of these terms and conditions of probation, any reference to the Board also means staff working for the Speech-Language Pathology and Audiology and Hearing Aid Dispensers Board.

Probationary Term

The Board generally recommends a minimum probation term of 3 years. The term may be increased depending upon the severity of the violation(s).

Probationary Conditions

Conditions of probation are divided into two categories:

1. **Standard** conditions that are included in all probation orders; and
2. **Additional** conditions which are applicable to the nature of the violation(s).

List of Probation Terms and Conditions

Standard Probation Terms and Conditions

Model introductory language and terms and conditions 1-15 are required in all probation orders:

- | | |
|---|--|
| <u>1) Severability Clause</u> | <u>9) Educational Course</u> |
| <u>2) Obey all Laws</u> | <u>10) Consumer Restitution</u> |
| <u>3) Comply with Probation Program</u> | <u>11) Recovery of Costs</u> |
| <u>4) Changes of Name and Address</u> | <u>12) Function as a Licensee</u> |
| <u>5) Submit Quarterly Written Declarations</u> | <u>13) Voluntary License Surrender</u> |
| <u>6) Employee Notification</u> | <u>14) Violation of Probation</u> |
| <u>7) Interviews with Board Representatives</u> | <u>15) Completion of Probation</u> |
| <u>8) Employment Limitations</u> | |

Additional Probation Terms and Conditions

In addition to the standard terms and conditions (1-15), additional terms and conditions (16-28), are required (as applicable) if the offense involves one of the following: sexual misconduct, alcohol/drug abuse, mental/physical disabilities, fraudulent conduct, or lack of knowledge or skills. These additional terms and conditions should be included if relevant to the violation.

- | | |
|---|--|
| <u>16) Submit to Examination by Physician</u> | <u>24) Take and Pass Licensure Examination</u> |
| <u>17) Psychological Evaluation</u> | <u>25) Supervised Practice</u> |
| <u>18) Psychotherapy</u> | <u>26) Worksite Monitor</u> |
| <u>19) Clinical Diagnostic Evaluation</u> | <u>27) Restrictions on Licensed Practice</u> |
| <u>20) Attend Chemical Dependency Support and Recovery Groups</u> | <u>28) Actual Suspension of License</u> |
| <u>21) Abstain from Controlled Substances</u> | |
| <u>22) Abstain from the Use of Alcohol</u> | |
| <u>23) Submit Biological Fluid Samples</u> | |

STANDARD TERMS AND CONDITIONS OF PROBATION (1-15)

1. SEVERABILITY CLAUSE

Each term and condition of probation is a separate and distinct term and condition. If any term or condition of this Decision and Order, or any application thereof, is declared unenforceable in whole, in part, or to any extent, the remainder of this Decision and Order, and all other applications thereof, shall not be affected. Each and condition of

this Decision and Order shall separately be valid and enforceable to the fullest extent permitted by law.

Rationale: The severability clause is required for all decisions and orders and stipulated agreements where there are terms and conditions of probation, to avoid the possibility of all probation terms and conditions being invalidated upon a successful appeal.

42. OBEY ALL LAWS:

Respondent shall obey all federal, state, US Military and local laws, including all statutes and regulations governing the practice of the licensee.

Further, respondent shall, within five (5) days of any arrest, submit to the Board in writing a full and detailed account of such arrest.

Rationale: If there has been a violation of any law or regulation that is substantially related to the qualifications, functions, or duties of an SLP, AU, DAU, HAD and/or SLPA, this would constitute a violation of Respondent's probation and allow the Board to carry out the disciplinary order.

23. COMPLY WITH PROBATION PROGRAM

Respondent shall fully comply with the Board's probation program, ~~established by the Board and shall cooperate with the representatives of the Board. and shall, upon notice, report to the Board's staff.~~ Respondent shall contact enforcement staff regarding any questions specific to the probation order. Respondent shall not have any unsolicited or unapproved contact with victims or complainants associated with the case or persons serving the Board as expert consultants.

Rationale: Comply with probation monitoring to ensure consumer protection and the Respondent cannot use the excuse they didn't understand. Lastly, to protect the victims, complainants and witnesses from harassment by the Respondent

43. CHANGES OF NAME AND ADDRESS NOTIFICATION

Respondent shall notify the board in writing, within five (5) days of a change of name, residence or mailing address ~~notify the Board in writing of the new address.~~

Rationale: This allows the Board to be informed of Respondent's current name, address of record, employment information, including his or her business address, phone number, and employer (if applicable) in the event the Board needs to locate the Respondent or communicate with his or her employer.

~~4. OUT OF STATE RESIDENCY~~ **(INCORPORATED INTO TERMS AND CONDITITION 12)**

~~Respondent shall notify the Board immediately in writing if he or she leaves California to reside or practice in another state.~~

~~Respondent shall notify the Board immediately upon return to California.~~

~~The period of probation shall be tolled during the time respondent is residing or practicing outside California.~~

5. SUBMIT QUARTERLY WRITTEN DECLARATIONS

Respondent shall submit to the Board quarterly written declarations and verification of actions signed under penalty of perjury. These declarations shall certify and document compliance with all the terms and conditions of probation.

Rationale: By the Respondent making declarations under penalty of perjury, this assures the Board that the Respondent is making true statements to the Board. Receiving these reports quarterly allows the Board to track the Respondent's compliance, and offers a process for review in determining whether or not his or her license should be restored at the completion of his or her probation.

6. EMPLOYEE NOTIFICATION OF PROBATION TERMS AND RESTRICTIONS

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

The respondent shall provide to the Board the names, physical addresses, and telephone numbers of all employers, supervisors and contractors.

The respondent shall complete the required consent forms and sign an agreement with the employer and supervisor, or contractor, and the Board to allow the Board to communicate with the employer and supervisor or contractor.

Respondent shall cause each employer and supervisor or contractor to submit quarterly written declarations to the Board. These declarations shall include a performance evaluation.

Respondent shall notify the Board, in writing, of any change in his or her employment status, within ten (10) days of such change.

Rationale: Respondent's license being placed on probation shows the Board that his or her conduct is in need of rehabilitation, subsequently, Respondent's deficiencies should

be noted to the employer as to protect the health and welfare of the public.

7. INTERVIEWS WITH BOARD REPRESENTATIVES

Respondent shall appear in person for interviews with the Board, or its designee, upon request at various intervals and with reasonable notice. ~~An initial probation visit will be required within sixty (60) days of the effective date of the Decision. The purpose of this initial interview is to introduce Respondent to the Board's representatives and to familiarize Respondent with specific probation conditions and requirements. Additional meetings may be scheduled as needed.~~

Rationale: *This allows the Board to schedule in-person interviews to monitor Respondent's compliance with the probation order to ensure public protection.*

8. EMPLOYMENT LIMITATIONS

While on probation, Respondent may not work as a faculty member in an accredited or approved school of speech-language pathology or school of audiology.

RATIONALE: *A licensee whose has had his or her license disciplined and is currently serving probation should not be allowed to provide instruction to speech-language pathology or audiology students.*

9. EDUCATIONAL COURSE

Respondent shall take and successfully complete course work substantially related to the violation. Within sixty (60) days of the effective date of the Decision, Respondent shall submit a plan to comply with this requirement. Respondent must obtain approval of such plan by the Board prior to enrollment in any course of study.

Respondent shall successfully complete the required remedial education no later than the end of the first year of probation. Upon successful completion of the course, Respondent shall cause the instructor to furnish proof to the Board immediately.

RATIONALE: *In those instances where a licensee has demonstrated negligence or incompetence, or has been found to have performed work or attempted treatment beyond the scope of training or experience, the Board will impose a program of remedial education. This program shall specify the areas and hours of education remediation required, and may also dictate the institution(s) where the education will be received. A remedial education program is usually required prior to allowing the licensee to return to the identified deficient area of practice, and requires prior approval by the Board. Continuing education courses used for renewal of licensure will not fulfill the remedial education requirement. This program is for licensees who have demonstrated deficiencies in skill but do not constitute a present danger to patients in other areas of practice.*

10. CONSUMER RESTITUTION

Respondent shall make restitution to consumer(s) named in the decision in the amount

of damage specified within one (1) year of the effective date of the decision.

RATIONALE: Where there has been patient harm resulting from negligent or incompetent treatment or a determination has been made concerning fraudulent billing or failure to adhere to warranty requirements, restitution may be warranted. Careful scrutiny should be made to ensure that proper restitution is made to either the patient or any other applicable entity. Restitution may be made within a specific time frame or on a payment schedule. Restitution should cover those amounts that are a direct result of the actions of Respondent.

11. RECOVERY OF COSTS (RENUMBERED - FORMERLY TERM AND CONDITION 25)

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

Respondent shall pay to the Board its costs of investigation and enforcement in the amount of \$. Respondent shall be permitted to pay these costs in a payment plan approved by the Board, with payments to be completed no later than six (6) months prior to the end of the probationary term.

Rationale: The Board incurs costs associated with the investigation and disciplinary process; this requires the Respondent to reimburse the Board for those expenditures

102. FUNCTION AS A LICENSEE IN A LICENSED CAPACITY

~~During probation, Respondent shall work in his or her capacity in the State of California. If respondent is unable to secure employment in his or her capacity, the period of probation shall be tolled during that time.~~

Respondent, during the period of probation, shall engage in the practice of [INSERT APPROPRIATE LICENSING CATEGORY, [e.g. speech-language pathology, audiology, or hearing aid dispensing] in California for a minimum of sixteen (16) hours per week or sixty-four (64) hours per calendar month. For the purpose of compliance with this section, “engaged in the practice of [INSERT APPROPRIATE LICENSING CATEGORY] may include, when approved the Board, volunteer work in [INSERT APPROPRIATE LICENSING CATEGORY], or work in any non-direct patient position that requires licensure. In the event Respondent should leave California to practice outside the state, Respondent must provide written notification (within five (5) calendar days) to the Board of the dates of departure and anticipated return to the state. Respondent’s probation is tolled, if and when he or she ceases practicing in California. Periods of practice outside of California will not apply to the reduction of the probationary period.

In the event Respondent ceases to practice a minimum of sixteen (16) hours per calendar week or sixty-four (64) hours per calendar month in California, Respondent must provide written notification of that fact to the Board. The period when the Respondent is not practicing, the minimum number of hours, will not apply to the reduction of the probationary period. Absence from practice shall not relieve the

Respondent from maintaining a current license or from fulfilling all of the terms and conditions of probation. For purposes of this term and condition, non-practice due to Board ordered suspension shall not be considered a period of non-practice. If Respondent stops practicing in California for a total of five (5) years, (or three (3) years for a Hearing Aid Dispensers) Respondent's license shall be automatically cancelled.

If Respondent has not complied with this term and condition during the probationary period, and Respondent has presented sufficient documentation of his or her good faith efforts to comply with this term and condition, and if Respondent is in compliance with all other probation terms and conditions, the Board, in its sole discretion, may grant an extension of Respondent's probation period up to one year without further hearing in order to comply with this term and condition. During the one year extension, all original terms and conditions of probation shall apply unless they have been modified by the Board via a petition for modification of probation.

RATIONALE: *This provides the Board with an opportunity to monitor Respondents and determine if they can perform the functions and duties of his or her licensing category in a competent manner. It also prevents Respondents from merely "sitting out" the probation and avoiding the necessity of demonstrating competence and compliance with probation terms and conditions.*

11. MAINTAIN A VALID LICENSE (INCORPORATED INTO TERM AND CONDITION 12)

~~Respondent shall, at all times while on probation, maintain an active current license with the Board, including any period during which suspension or probation is tolled.~~

~~Should Respondent's license, by operation of law or otherwise, expire, upon renewal or reinstatement, Respondent's license shall be subject to any and all terms of this probation not previously satisfied.~~

13. VOLUNTARY LICENSE SURRENDER

During Respondent's term of probation, if he or she wishes to cease practice, Respondent may request in writing to surrender the license(s) to the Board. The Board shall evaluate the request and notify Respondent in writing whether to grant the request. Upon formal acceptance of the license surrender, Respondent's license will no longer be subject to the terms and conditions of probation. Respondent shall return the pocket license(s) and wall certificate(s) to the Board within (10) days of the effective date of the surrender.

Surrender of Respondent's license shall be considered a disciplinary action and shall become a part of Respondent's license history with the Board. If Respondent re-applies for a license, the application shall be treated as a petition for reinstatement of a revoked license.

Rationale: *If Respondent feels he or she cannot follow any one of the terms and conditions of*

the probation order due to a discontinuance of practice, this term and condition gives him or her the option to voluntarily surrender his or her license.

124. VIOLATION OF PROBATION

If Respondent violates probation in any respect, the Board may seek to revoke probation and carry out the disciplinary order that was stayed. The Respondent shall receive prior notice and the opportunity to be heard. If a Petition to Revoke Probation, an Accusation, a Petition to Vacate Stay or other formal disciplinary action is filed against Respondent during probation, the Board shall have continuing jurisdiction and the period of probation shall be extended and Respondent shall comply with all probation terms and conditions until the matter is final. No petition for modification or termination of probation shall be considered while there is an accusation or petition to revoke probation pending against Respondent.

Rationale: This allows the Board to carry out the disciplinary order stated in the decision when a Respondent fails to comply with any of his or her probation terms and conditions.

135. COMPLETION OF PROBATION

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

Rationale: When the Respondent has completed his or her term of probation by successfully fulfilling all of the terms and conditions, he or she has demonstrated his or her ability to practice unrestricted.

OPTIONAL ADDITIONAL TERMS AND CONDITIONS OF PROBATION (146-268)

146. SUBMIT TO EXAMINATION BY PHYSICIAN

Within sixty (60) days of the effective date of the Decision, Respondent shall submit to a physical examination by a physician and surgeon of his or her choice who meets minimum criteria established by the Board. The physician and surgeon shall must be licensed in California and Board certified in Family Practice, Internal Medicine, or a related specialty. The purpose of this examination shall be to determine Respondent's ability to safely perform all professional duties with safety to self and to the public. Respondent shall provide the examining physician and surgeon with a copy of the Board's Decision prior to the examination. Cost of such examination shall be paid by Respondent.

Respondent shall cause the physician and surgeon to complete a written medical report. This report shall be submitted by the physician and surgeon to the Board within ninety (90) days of the effective date of the Decision. If the examining physician and surgeon finds that Respondent is not physically fit to practice or can only practice with restrictions, the examining physician and surgeon shall notify the Board within three (3)

working days. The Board shall notify the respondent in writing of the ~~examining~~ physician's and surgeon's determination of unfitness to practice and shall order the Respondent to cease practice or place restrictions on Respondent's practice, licensed activities as a condition of probation. Respondent shall comply with any order to cease practice or restriction of his or her practice ~~this condition~~ until the Board is satisfied of Respondent's fitness to practice safely and has so notified the Respondent in writing. Respondent shall document compliance in the manner required by the Board.

Rationale: *This permits the Board to require the probationer to obtain appropriate treatment for physical problems/disabilities which could affect safe practice. The physical examination can also be conducted to ensure that there is no physical evidence of alcohol/drug abuse.*

157. PSYCHOLOGICAL EVALUATION

Respondent shall participate in a psychiatric or psychological evaluation. This evaluation shall be for the purpose of determining Respondent's current mental, psychological and emotional fitness to safely perform all professional duties with safety to self and to the public. Respondent shall provide the evaluator with a copy of the Board's Decision prior to the evaluation. The evaluation shall be performed by a psychiatrist physician and surgeon licensed in California and Board certified in psychiatry or by a clinical psychologist licensed in California approved by the Board.

Within twenty (20) days of the effective date of the Decision, ~~Respondent shall submit to the Board~~ shall provide to the Respondent, the name of one or more proposed evaluators ~~for prior approval by the Board~~ approved to conduct the psychological evaluation.

Respondent shall fully cooperate with the provision and undergo a psychiatric or psychological evaluation within thirty (30) days of the effective date of the Decision. The ~~cause the evaluator to~~ shall submit to the Board a written psychiatric or psychological report evaluating Respondent's status and progress as well as such other information as may be requested by the Board. This report shall be submitted within ~~ninety (90)~~ sixty (60) days from the effective date of the Decision. Cost of ~~such~~ the evaluation shall be paid by the Respondent.

If the evaluator finds that Respondent is not psychologically fit to practice safely, or can only practice safely with restrictions, the evaluator shall verbally notify the Board within ~~three (3)~~ one (1) working days. The Board shall notify the Respondent in writing of the evaluator's determination of unfitness to practice and shall notify the Respondent to cease or restrict licensed activities as a condition of probation. Respondent shall comply with this condition until the Board is satisfied of Respondent's fitness to practice safely and has so notified the Respondent. Respondent shall document compliance in the manner required by the Board.

If the evaluator finds that psychotherapy is required, Respondent shall participate in a therapeutic program at the Board's discretion. Cost of such therapy shall be paid for by Respondent.

Rationale: Psychological evaluations shall be utilized when an offense calls into question the judgment and/or emotional and/or mental condition of the Respondent or where there has been a history of abuse or dependency of alcohol or controlled substances. When appropriate, Respondent shall be barred from rendering services under the terms and conditions of probation until he or she has undergone an evaluation, the evaluator has recommended resumption of practice, and the Board has accepted and approved the evaluation.

168. PSYCHOTHERAPY

Respondent shall participate in ongoing psychotherapy with a California licensed ~~psychiatrist~~ physician and surgeon who is Board certified in Psychiatry, clinical psychologist, marriage, family, and child counselor, or licensed clinical social worker approved by the Board. Counseling shall be at least once a week unless otherwise determined by the Board. Respondent shall continue in such therapy at the Board's discretion. Cost of such therapy shall be paid for by Respondent.

Within twenty (20) days of the effective date of the Decision, ~~Respondent shall submit to the Board~~ shall submit to the Respondent the name of one or more proposed therapists for prior approval. ~~to provide on-going therapy Upon approval by the Board,~~ Respondent shall commence psychotherapy within ten (10) days of receiving notification by the Board of the name's of approved therapists. Respondent shall provide the therapist with a copy of the Board's Decision no later than the first counseling session.

If the therapist finds that Respondent is not psychologically fit to practice safely, or can only practice safely with restrictions, the therapist shall notify the Board within three (3) working days. The Board shall notify the Respondent in writing of the therapist's determination of unfitness to practice and shall notify the Respondent to cease or restrict licensed activities as a condition of probation. Respondent shall comply with this condition until the Board is satisfied of Respondent's fitness to practice safely and has so notified the Respondent.

~~Respondent shall cause~~ The therapist shall to submit quarterly written declarations to the Board concerning Respondent's fitness to practice and progress in treatment.

RATIONALE: This should be imposed whenever there is evidence that the Respondent may have a psychological problem that may impact his or her being able to practice safely. If the Respondent is already in therapy this condition should be imposed to ensure that he or she continues to receive help.

19. CLINICAL DIAGNOSTIC EVALUATION

Within 20 days of the effective date of the Decision and at any time upon order of the Board, Respondent shall undergo a clinical diagnostic evaluation. Respondent shall provide the evaluator with a copy of the Board's Decision prior to the clinical diagnostic evaluation being performed.

Any time the Respondent is ordered to undergo a clinical diagnostic evaluation, his or her license shall cease practice for minimum of 1 month pending the results of a clinical diagnostic evaluation. [Pending statutory amendments providing authority for cease practice] During such time, the Respondent shall submit to random drug testing at least (2) times per week.

Respondent shall cause the evaluator to submit to the Board a written clinical diagnostic evaluation report within 10 days from the date the evaluation was completed, unless an extension, not to exceed 30 days, is granted to the evaluator by the Board. Cost of such evaluation shall be paid by the Respondent.

Respondent's license shall remain suspended until the Board determines that he or she is able to safely practice either full-time or part-time and has had at least 1 month of negative drug test results. Respondent shall comply with any restrictions or recommendations made as a result of the clinical diagnostic evaluation.

Rationale: *This provision should be included when a Respondent's license is placed on probation for a substance or alcohol abuse problem so that the Board has the ability to order at any time during the probation period a Respondent to undergo an evaluation to determine if he or she is currently safe to practice.*

17. REHABILITATION PROGRAM

~~Within thirty (30) days of the effective date of the Decision, Respondent shall enter a rehabilitation and monitoring program specified by the Board. Respondent shall successfully complete such treatment contract as may be recommended by the program and approved by the Board.~~

~~Components of the treatment contract shall be relevant to the violation and to the Respondent's current status in recovery or rehabilitation. The components may include, but are not limited to: restrictions on practice and work setting, random bodily fluid testing, abstention from drugs and alcohol, use of worksite monitors, participation in chemical dependency rehabilitation programs or groups, psychotherapy, counseling, psychiatric evaluations, and other appropriate rehabilitation or monitoring programs.~~

~~The cost for participation in this program shall be paid for by Respondent.~~

1820. ATTEND CHEMICAL DEPENDENCY SUPPORT AND RECOVERY GROUPS

Within five (5) days of the effective date of the Decision, Respondent shall begin attendance at a chemical dependency support group (e.g., Alcoholics Anonymous, Narcotics Anonymous). Documentation of attendance shall be submitted by the Respondent with each quarterly written report. Respondent shall continue attendance in such a group for the duration of probation unless notified by the Board in writing that attendance is no longer required.

RATIONALE: This provision should be included when a Respondent has an alcohol problem so that the Board can monitor whether the Respondent is in violation of probation.

1921. ABSTAIN FROM CONTROLLED SUBSTANCES

Respondent shall completely abstain from the personal use or possession of controlled substances as defined in the California Uniform Controlled Substances Act and dangerous drugs as defined in Section 4022 of the Business and Professions Code, except when lawfully prescribed by a licensed practitioner for a bona fide illness.

RATIONALE: This provision should be included when a Respondent has a substance abuse problem so that the Board can monitor whether the Respondent is in violation of probation.

202. ABSTAIN FROM USE OF ALCOHOL

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

RATIONALE: This provision should be included when a Respondent has an alcohol problem so that the Board can monitor whether the Respondent is in violation of probation.

243. SUBMIT BIOLOGICAL FLUID SAMPLES

Respondent shall immediately submit to random and directed biological fluid testing paid for by Respondent, at the request of the Board or its designee. The Respondent shall be subject to a minimum of one-hundred and four (104) random tests per year within the first year of probation and at minimum of fifty (50) random tests per year thereafter for the duration of the probationary term. Positive test results will be reported to the Board

Respondent shall make daily contact as directed by the Board to determine if he or she must submit to drug testing. Respondent shall submit his or her drug test on the same day that he or she is notified that a test is required. All alternative drug testing sites due to vacation or travel outside of California must be approved by the Board prior to the vacation or travel.

If Respondent tests positive for a banned substance, Respondent shall cease practice upon order of the Board.

Rationale: This provision should be included when a Respondent's license is placed on probation for a substance or alcohol abuse problem so that the Board can monitor whether or not the Respondent is abstaining from the use of banned substances or alcohol.

224. TAKE AND PASS LICENSURE EXAMINATION

Option #1:

Respondent shall take and pass the first administration after the effective date of this decision of the written and/or practice licensure examination as designated by the Board. If Respondent fails the examination, Respondent must take and pass a re-examination consisting of the written and/or practical licensure examination which is administered for the purpose of licensure. If respondent is required to take and pass both the written and practical examinations, the written examination must be taken and passed prior to taking the practical examination. The waiting period between repeat written examinations shall be at least two weeks, until the examinations are passed. Respondent shall pay all examination fees and pass the required examinations no later than 100 days prior to the termination date of probation.

Option #2 (Condition Precedent):

Before resuming practice, Respondent shall take and pass the written and/or practical licensure examination(s) currently required of new applicants prior to resuming practice. Respondent shall pay all examination fees.

Rationale: *In cases involving evidence of severe deficiencies in the body of knowledge required to be minimally competent to practice, it may be appropriate to require the Respondent to take and pass licensing examination(s) during the course of the probation period. In some instances, it may be appropriate for practice to be suspended until the examination is passed (condition precedent).*

235. SUPERVISED PRACTICE

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

~~Respondent may not function as a supervisor for any required professional experience (RPE) candidate or any speech-language pathology assistant or aide, during the period of probation or until approved by the Board.~~

Within 60 days of the effective date of this decision, Respondent shall submit to the Board, for its prior approval, the name and qualifications of one or more proposed supervisors and a plan for each such supervisor by which Respondent's practice would be supervised. The Board will advise Respondent within two weeks whether or not the proposed supervisor and plan of supervision are approved. Respondent shall not practice until receiving notification of Board approval of Respondent's choice of a supervisor and plan of supervision.

The plan of supervision shall be [INSERT METHOD](i.e. *direct and require the physical presence of the supervisor at the actual location during the time services are performed.*) (general and not require the physical presence of the supervisor during the time services are performed, but does require an occasional random check of the work performed as well as quarterly monitoring visits at the office or place of practice).

Additionally, the supervisor shall have full and random access to all patient records of Respondent. The supervisor may evaluate all aspects of Respondent's practice regardless of Respondent's areas of deficiencies.

Each proposed supervisor shall be a California licensed [SELECT LICENSE TYPE] who shall submit written reports to the Board on a quarterly basis verifying that supervision has taken place as required and include an evaluation of Respondent's performance. It shall be Respondent's responsibility to assure that the required reports are filed in a timely manner. Each supervisor shall have been licensed in California for at least three (3) years and not have ever been subject to any disciplinary action by the Board. An administrative citation and fine does not constitute discipline and therefore, in and of itself is not a reason to deny an individual as a supervisor.

The supervisor shall be independent, with no prior business, or professional relationship with Respondent and the supervisor shall not be in a familial relationship with or be an employee, partner or associate of Respondent. If the supervisor terminates or is otherwise no longer available, Respondent shall not practice until a new supervisor has been approved by the Board. All costs of the supervision shall be borne by the Respondent.

OPTION: Additionally, Respondent may be prohibited from engaging in solo practice as well as being required to work in a supervised environment.

RATIONALE: *This allows the Board to monitor the competency of Respondent by use of a fellow practitioner. It is most appropriate in those cases involving incompetence, negligence, and sexual misconduct. The type of supervision needs to be clearly defined relative to the necessity for the presence of the supervisor. Direct supervision would require the physical presence of the supervisor during the time services are performed. General supervision does not require the physical presence of the supervising. The type of required supervision depends on the severity of the violation(s).*

26. WORKSITE MONITOR

Respondent shall submit the name of the proposed worksite monitor within 20 days of the effective date of the Decision. Respondent shall complete any required consent forms and sign an agreement with the worksite monitor and the Board regarding the Respondent and the worksite monitor's requirements and reporting responsibilities. Once a worksite monitor is approved, Respondent may not practice unless the monitor is present at the worksite. If the worksite monitor terminates the agreement with the Board and the Respondent, the Respondent shall not resume practice until another worksite monitor is approved by the Board.

Rationale: *This provision should be included when a Respondent's license is placed on probation for substance or alcohol abuse so that the Board becomes aware of potential problems a probationer may have before any patient harm occurs.*

247. RESTRICTIONS ON LICENSED PRACTICE

~~Respondent shall practice only with a restricted patient population, in a restricted practice setting, or engage in limited practice procedures. These restrictions shall be specifically defined in the Decision and be appropriate to the violation. Respondent shall be required to document compliance in the manner required by the Board.~~

During probation Respondent is prohibited from (insert restriction).

Rationale: In cases wherein some factor of the patient population at large (e.g. age, gender) may put a patient at risk if in treatment with the Respondent, this term and condition should be utilized. Additional language can be added for clarification.

25. ~~RECOVERY OF COSTS~~ (MOVED TO TERM AND CONDITION 11)

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

268. ACTUAL SUSPENSION OF LICENSE

As part of probation, respondent is suspended from practice for ____ months beginning the effective date of this decision. Respondent shall be responsible for informing his or her employer of the Board's decision, the reasons for the length of suspension. Prior to the lifting of the actual suspension of license, the Board shall receive pertinent documentation confirming that respondent is safe to return to practice under specific terms and conditions as determined by the Board. ~~Respondent shall provide documentation of completion of educational courses or treatment rehabilitation if required.~~

Rationale: This should be imposed when it is necessary for the licensee to complete other terms and conditions to ensure consumer protection before the licensee is safe to resume practice.

~~RECOMMENDED LANGUAGE FOR ISSUANCE AND PLACEMENT OF A LICENSE ON PROBATION FOR INITIAL LICENSURE AND REINSTATEMENT OF LICENSE~~ (MODIFIED AND MOVED TO PAGE 12)

~~In order to provide clarity and consistency in its decisions, the Speech-Language Pathology and Audiology and Hearing Aid Dispensers Board recommends the following language in proposed decisions or stipulated agreements for applicants who hold a license in another state and for petitioners for reinstatement who are issued a license that is placed on probation.~~

~~Suggested language for applicants who are placed on probation:~~

~~"The application of respondent _____ for licensure is hereby granted. Upon successful completion of all licensing requirements, a license shall be issued to respondent. Said license shall immediately be revoked, the order of revocation stayed and respondent placed on probation for a period of _____ years on the following terms and conditions:"~~

~~Suggested language for applicants who are licensed in another state and are placed on probation:~~

~~"The application of respondent for licensure is hereby granted and a license shall be issued to respondent. Said license shall immediately be revoked, the order of revocation stayed and respondent placed on probation for a period of _____ years on the following terms and conditions:"~~

~~Suggested language for reinstatement of licensure with conditions of probation:~~

~~"The application of respondent _____ for reinstatement of licensure is hereby granted. A license shall be issued to respondent. Said license shall immediately be revoked, the order of revocation stayed and respondent placed on probation for a period of _____ years on the following terms and conditions:"~~

Recommended Action by Violation

The Business and Professions Code section 2530, and general provision sections of the Business and Professions Code specify the offenses for which the Board may take disciplinary action. Below are the code sections with the recommended disciplinary actions listed by the degree of the offense.

When filing an Accusation, the Office of the Attorney General may also cite additional related statutes and regulations.

*Note: Under Term and Conditions of Probation you will find the applicable numbered terms and conditions to include in a decision and order.

PENALTIES FOR DISCIPLINARY ACTIONS

Except where otherwise indicated, the following penalties apply to speech-language pathologists, audiologists, dispensing audiologists and speech-language pathology assistants.

UNPROFESSIONAL CONDUCT (GENERAL)

Sections 480 & 2533 of the Business and Professions Code
Section 1399.156 of the California Code of Regulations, Title 16

MAXIMUM	Revocation or Denial
MINIMUM	18 Months Probation Standard Terms <u>and Conditions</u> of Probation (1-135) If warranted: Psychological Evaluation (157) Supervised Practice (235) Restrictions on Licensed Practice (257) Actual Suspension of License (278)

**UNPROFESSIONAL CONDUCT -- CONVICTION OF A CRIME OR
ACT INVOLVING DISHONESTY, FRAUD, OR DECEIT**

Sections 480(a)(1), 480(a)(2), 490 & 2533(a) of the Business and Professions Code

MAXIMUM	Revocation or Denial
MINIMUM	18 Months Probation Standard Terms <u>and Conditions</u> of Probation (1-135) If warranted: Psychological Evaluation (157) Supervised Practice (235) Restrictions on Licensed Practice (257) Actual Suspension of License (278)

UNPROFESSIONAL CONDUCT -- SECURING LICENSE UNLAWFULLY

Sections 498 & 2533(b) of the Business and Professions Code

MINIMUM	Revocation or Denial
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Note: The severity of this offense warrants revocation or denial in all cases.

MENTAL OR PHYSICAL ILLNESS

Section 820 of the Business and Professions Code

MAXIMUM	Revocation
MINIMUM	5 Years Probation Standard Terms and Conditions of Probation (1-15) Submit to Examination by Physician (16) Psychological Evaluation (17) If warranted: Psychotherapy (18) Worksite Monitor (26)

Actual Suspension of License (28)

Note: *In some instances public safety can only be assured by removing the licensee from practice.*

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

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

MAXIMUM	Revocation or Denial
MINIMUM	3 Years Probation Standard Terms <u>and Conditions</u> of Probation (1-135) <u>Submit to Examination by Physician Exam</u> (146) <u>Clinical Diagnostic Evaluation</u> (19) <u>Attend Chemical Dependency Support and Recovery</u> <u>Groups</u> (1820) <u>Abstain from DrugsControlled Substances</u> and <u>Alcohol</u> (19-201-22) <u>Submit Biological Fluids Samples</u> (243) <u>Worksite Monitor</u> (26) <u>Supervised Practice</u> (235) <u>Actual Suspension of License</u> (278) If warranted: Psychological Evaluation (157) Psychotherapy (168) <u>Drug and Alcohol Rehabilitation</u> (17) <u>Restrictions on Licensed Practice</u> (257) <u>Suspension</u> (26)

Note: *In some instances public safety can only be assured by removing the licensee from practice. Factors to be considered are: insufficient evidence of rehabilitation, denial of problem, unstable employment history, significant diversion of patients' medications, prior disciplinary action, multiple violations and patient harm.*

**UNPROFESSIONAL CONDUCT -- USE OF ANY DANGEROUS DRUGS
SPECIFIED IN SECTION 4022 OF BUSINESS AND PROFESSION CODE,
OR USE OF ALCOHOLIC BEVERAGES EXTENT IMPAIRS ABILITY
TO PRACTICE SAFELY**

Section 2533(c)(2) of the Business and Professions Code

MAXIMUM	Revocation or Denial
MINIMUM	3 Years Probation Standard Terms <u>and Conditions</u> of Probation (1-135)

Submit to Examination by Physician Exam (146)
Clinical Diagnostic Evaluation (19)
Attend Chemical Dependency Support and Recovery
Groups (1820)
Abstain from DrugsControlled Substances and
Alcohol (19-201-22)
Submit Biological Fluids Samples (213)
Supervised Practice (235)
Worksite Monitor (24)
Actual Suspension of License (278)
 If warranted:
 Psychological Evaluation (157)
 Psychotherapy (168)
 ~~Drug and Alcohol Rehabilitation (17)~~
 Restrictions on Licensed Practice (257)
 ~~Suspension (26)~~

Note: In some instances public safety can only be assured by removing the licensee from practice. Factors to be considered are: insufficient evidence of rehabilitation, denial of problem, unstable employment history, significant diversion of patients' medications, prior disciplinary action, multiple violations and patient harm.

**UNPROFESSIONAL CONDUCT -- MORE THAN ONE MISDEMEANOR
 OR ANY FELONY INVOLVING USE, CONSUMPTION, OR SELF-ADMINISTRATION
 OF ANY CONTROLLED SUBSTANCES, ALCOHOL,
 OR DANGEROUS DRUG**

Section 2533(c)(3) of the Business and Professions Code

MAXIMUM	Revocation or Denial
MINIMUM	18 Months Probation <u>Standard Terms and Conditions of Probation (1-135)</u> <u>Clinical Diagnostic Evaluation (17)</u> <u>Attend Chemical Dependency Support and Recovery</u> <u>Groups (1820)</u> <u>Abstain from DrugsControlled Substances and</u> <u>Alcohol (19-201-22)</u> <u>Submit Biological Fluids Samples (213)</u> <u>Worksite Monitor (24)</u> <u>Actual Suspension of License (278)</u> If warranted: Submit to Physical Examination by Physician (146) Psychological Evaluation (157) Drug and Alcohol Rehabilitation (17) <u>Supervised Practice (235)</u>

Restrictions on Licensed Practice (257)
Suspension (26)

Note: In some instances public safety can only be assured by removing the licensee from practice. Factors to consider are; conviction of possession of drugs for sale, contribution to delinquency of minors, and other similar offenses.

UNPROFESSIONAL CONDUCT -- ADVERTISING

Section 1399.156.4 of the California Code of Regulations, Title 16

MAXIMUM	Revocation or Denial
MINIMUM	18 Months Probation Standard Terms <u>and Conditions</u> of Probation (1-135) If warranted: Supervised Practice (235)

**UNPROFESSIONAL CONDUCT -- COMMITTING A DISHONEST OR
FRAUDULENT ACT SUBSTANTIALLY RELATED TO QUALIFICATIONS,
FUNCTIONS, OR DUTIES OF LICENSEES (Non-Drug Related)**

Section 2533(e) of the Business and Professions Code

MAXIMUM	Revocation or Denial
MINIMUM	18 Months Probation Standard Terms <u>and Conditions</u> of Probation (1-135) Supervised Practice (235) If warranted: Physician Examination (14) Psychological Evaluation (157) <u>Restrictions on Licensed Practice (257)</u> <u>Actual Suspension of License (278)</u>

**UNPROFESSIONAL CONDUCT AIDING AND ABETTING IN
THE COMMISSION OF A VIOLATION OF
AN ACT OR REGULATION**

Section 1399.156(a) of the California Code of Regulations, Title 16

MAXIMUM	Revocation or Denial
MINIMUM	18 Months Probation Standard Terms <u>and Conditions</u> of Probation (1-135)

**UNPROFESSIONAL CONDUCT-CORRUPT OR ABUSIVE
ACT AGAINST A PATIENT**

Section 1399.156(b) of the California Code of Regulations, Title 16

MAXIMUM	Revocation or Denial
MINIMUM	3 Years Probation Standard Terms <u>and Conditions</u> of Probation (1-135) <u>Supervised Practice</u> (235) If warranted: Psychological Evaluation (157) Psychotherapy (168) <u>Restrictions on Licensed Practice</u> (257) <u>Actual Suspension of License</u> (278)

Note: *In some instances public safety can only be assured by removing the licensee from practice. Factors to be considered are; insufficient evidence of rehabilitation, denial of problem, prior disciplinary action, multiple violations and patient harm.*

UNPROFESSIONAL CONDUCT- INCOMPETENCE OR NEGLIGENCE

Section 1399.156(c) of the California Code of Regulations, Title 16

MAXIMUM	Revocation or Denial
MINIMUM	3 Years Probation Standard Terms <u>and Conditions</u> of Probation (1-135) <u>Supervised Practice</u> (235) If warranted: Psychological Evaluation (157) Psychotherapy (168) <u>Restrictions on Licensed Practice</u> (257) <u>Actual Suspension of License</u> (278)

Note: *In some instances public safety can only be assured by removing the licensee from practice. Factors to be considered are; insufficient evidence of rehabilitation, denial of problem, prior disciplinary action, multiple violations and patient harm.*

**UNPROFESSIONAL CONDUCT BY SPEECH-LANGUAGE PATHOLOGY
CORPORATION OR AUDIOLOGY CORPORATION**

Section 2537, 2537.2, 2537.3 & 2537.4 of the Business and Professions Code

MAXIMUM	Revocation or Denial
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MINIMUM 18 Months Probation
Standard Terms and Conditions of Probation (1-135)

DISCIPLINARY ACT BY FOREIGN JURISDICTION

Section 141 of the Business and Professions Code

MAXIMUM Revocation or Denial

MINIMUM 18 Months Probation
Standard Terms and Conditions of Probation (1-135)
If warranted:
~~Support and Recovery Groups (18)~~
~~Abstain from Drugs and Alcohol (19-20)~~
~~Submit Biological Fluids (21)~~
~~Physical Examination (14)~~
~~Psychological Evaluation (15)~~
~~Drug and Alcohol Rehabilitation (17)~~
~~Supervision (23)~~
~~Restricted Practice (25)~~
~~Suspension (27)~~
Additional Probation Terms and Conditions (16-28)

SEXUAL MISCONDUCT

Section 726 of the Business and Professions Code

MAXIMUM Revocation or Denial

MINIMUM 3 Years Probation
Standard Terms and Conditions of Probation (1-135)
Supervised Practice (235)
If warranted:
Psychological Evaluation (157)
Psychotherapy (168)
Restrictions on Licensed Practice (257)
Actual Suspension of License (278)

VIOLATION OF REQUIRED PROFESSIONAL EXPERIENCE (RPE) REGULATIONS

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

MAXIMUM Revocation or Denial

MINIMUM 18 Months Probation

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

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

MINIMUM	18 Months Probation
	Standard Terms and Conditions of Probation (1-135)

Sections 1399.170.19 of the California Code of Regulations, Title 16

MINIMUM	18 Months Probation Standard Terms and Conditions of Probation (1-135)
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Additional Terms and Conditions of Probation (16-28)

Except where otherwise indicated, the following terms and conditions apply to hearing aid dispensers and dispensing audiologists unless noted

MINIMUM	<u>3 Years Probation</u> <u>Standard Terms and Conditions of Probation (1-15)</u> <u>Supervised Practice (24)</u> <u>If warranted:</u> <u>Psychological Evaluation (17)</u> <u>Psychotherapy (18)</u> <u>Restrictions on Licensed Practice (27)</u> <u>Actual Suspension of License (28)</u>
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MENTAL OR PHYSICAL ILLNESS

Section 820 of the Business and Professions Code

MAXIMUM	<u>Revocation or Denial</u>
MINIMUM	<u>5 Years Probation</u> <u>Standard Terms and Conditions of Probation (1-15)</u> <u>Physician Exam (15)</u> <u>Psychological Evaluation (17)</u> <u>If warranted:</u> <u>Psychotherapy (18)</u> <u>Supervised Practice (25)</u> <u>Actual Suspension of License (28)</u>

Note: *In some instances public safety can only be assured by removing the licensee from practice. Factors to be considered are: denial of problem, unstable employment history, prior disciplinary action, multiple violations, patient harm and danger to self and/or others.*

UNLICENSED PRACTICE

Section 3350 of the Business and Professions Code

MAXIMUM	<u>Revocation</u>
MINIMUM	<u>2 Years Probation</u> <u>Standard Terms and Conditions of Probation (1-15)</u> <u>If warranted:</u> <u>Actual Suspension of License (28)</u>

TEMPORARY LICENSEE AS SOLE PROPRIETOR, MANAGER, OR OPERATOR OR CLAIMING TO HOLD LICENSE AS A HEARING AID DISPENSER

Section 3359 of the Business and Professions Code

MAXIMUM	<u>License Denied</u>
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MINIMUM License Issued, 2 Years Probation
Standard Terms and Conditions of Probation (1-15)

PRACTICING WITHOUT NOTIFYING THE BOARD OF BUSINESS ADDRESS

Section 3362* of the Business and Professions Code

MAXIMUM 2 Years Probation
Standard Terms and Conditions of Probation (1-15)
If warranted:
Actual Suspension of License (28)

MINIMUM Public Reproval

PRACTICING WITHOUT PROPERLY POSTING LICENSE

Section 3363 of the Business and Professions Code

MAXIMUM 2 Years Probation
Standard Terms and Conditions of Probation (1-15)
If warranted:
Actual Suspension of License (28)

MINIMUM Public Reproval

PRACTICING FROM A BRANCH OFFICE WHICH IS NOT LICENSED

Section 3364 of the Business and Professions Code

MAXIMUM 2 Years Probation
Standard Terms and Conditions of Probation (1-15)
If warranted:
Actual Suspension of License (28)

MINIMUM Public Reproval

FAILURE TO DELIVER PROPER RECEIPT

Section 3365 of the Business and Professions Code

MAXIMUM 3 Years Probation
If warranted:
Standard Terms and Conditions of Probation (1-15)
Actual Suspension of License (28)

MINIMUM Public Reproval

FAILURE TO MAKE PHYSICIAN REFERRAL
Section 3365.5 of the Business and Professions Code

MAXIMUM	Revocation
MINIMUM	5 Years Probation
	<u>Standard Terms and Conditions of Probation (1-15)</u>
	If warranted:
	<u>Supervised Practice (25)</u>
	<u>Actual Suspension of License (28)</u>

UNAUTHORIZED SELLING OF A HEARING AID TO A PERSON UNDER SIXTEEN(16) YEARS OF AGE

Section 3365.6* of the Business and Professions Code

MAXIMUM	Revocation
MINIMUM	5 Years Probation
	<u>Standard Terms and Conditions of Probation (1-15)</u>
	If warranted:
	<u>Written Examination (23)</u>
	<u>Supervised Practice (25)</u>
	<u>Restrictions on Licensed Practice (27)</u>
	<u>Actual Suspension of License (28)</u>

FAILURE TO MAINTAIN REQUIRED RECORDS

Section 3366 of the Business and Professions Code

MAXIMUM	1 year suspension, stayed with 3 years probation
	<u>Standard Terms and Conditions of Probation (1-15)</u>
	If warranted:
	<u>Supervised Practice (25)</u>
	<u>Actual Suspension of License (28)</u>
MINIMUM	Public Reproval

THE IMPROPER OR UNNECESSARY FITTING OF A HEARING AID

Section 3401(a) of the Business and Professions Code

MAXIMUM	Revocation
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<u>MINIMUM</u>	<u>5 Years Probation</u>
	<u>Standard Terms and Conditions of Probation (1-15)</u>
	<u>If warranted:</u>
	<u>Take and Pass Licensure Examination (24)</u>
	<u>Supervised Practice (25)</u>
	<u>Actual Suspension of License (28)</u>

GROSS NEGLIGENCE

Section 3401(b) of the Business and Professions Code

<u>MAXIMUM</u>	<u>Revocation</u>
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<u>MINIMUM</u>	<u>5 Years Probation</u>
	<u>Standard Terms and Conditions of Probation (1-15)</u>
	<u>If warranted:</u>
	<u>Take and Pass Licensure Examination (24)</u>
	<u>Supervised Practice (25)</u>
	<u>Actual Suspension of License (28)</u>

REPEATED NEGLIGENT ACTS

Section 3401(c) of the Business and Professions Code

<u>MAXIMUM</u>	<u>Revocation</u>
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<u>MINIMUM</u>	<u>5 Years Probation</u>
	<u>Standard Terms and Conditions of Probation (1-15)</u>
	<u>If warranted:</u>
	<u>Take and Pass Licensure Examination (24)</u>
	<u>Supervised Practice (25)</u>
	<u>Actual Suspension of License (28)</u>

CRIMINAL CONVICTION

Section 3401(d) of the Business and Professions Code

<u>MAXIMUM</u>	<u>Revocation</u>
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<u>MINIMUM</u>	<u>5 Years Probation</u>
	<u>Standard Terms and Conditions of Probation (1-15)</u>
	<u>If warranted:</u>
	<u>Additional Terms and Conditions of Probation</u>
	<u>(16-28)</u>

OBTAINING A LICENSE BY FRAUD

Section 3401(e) of the Business and Professions Code

MINIMUM Revocation

**USING THE TERM "DOCTOR", "PHYSICIAN" OR "AUDIOLOGIST" UNLESS
AUTHORIZED**

Section 3401(f) of the Business and Professions Code

MAXIMUM Revocation

MINIMUM 5 Years Probation
Standard Terms and Conditions of Probation (1-15)
If warranted:
Actual Suspension of License (28)

FRAUD OR MISREPRESENTATION IN PRACTICE

Section 3401(g) of the Business and Professions Code

MAXIMUM Revocation

MINIMUM 5 Years Probation
Standard Terms and Conditions of Probation (1-15)
If warranted:
Psychological Evaluation (17)
Supervised Practice (25)
Actual Suspension of License (28)

EMPLOYING AN UNLICENSED PERSON

Section 3401(h) of the Business and Professions Code

MAXIMUM Revocation

MINIMUM 5 Years Probation
Standard Terms and Conditions of Probation (1-15)
If warranted:
Supervised Practice (25)
Actual Suspension of License (28)

ILLEGAL ADVERTISING

Section 3401(i)* of the Business and Professions Code

MAXIMUM Revocation

MINIMUM Public Reproval

LETTING ANOTHER USE HIS OR HER LICENSE
Section 3401(k) of the Business and Professions Code

MAXIMUM Revocation

MINIMUM 5 Years Probation
Standard Terms and Conditions of Probation (1-15)
If warranted:
Supervised Practice (25)
Actual Suspension of License (28)

DOING ANY ACT WHICH WOULD BE GROUNDS FOR LICENSE DENIAL
Section 3401(m) of the Business and Professions Code

MAXIMUM Revocation

MINIMUM 5 Years Probation
Standard Terms and Conditions of Probation (1-15)
If warranted:
Additional Terms and Conditions of Probation
(16-28)

SALE OR BARTER OF A LICENSE OR OFFER TO SELL OR BARTER A LICENSE
Section 3421 of the Business and Professions Code

MAXIMUM Revocation

MINIMUM 5 Years Probation
Standard Terms and Conditions of Probation (1-15)
If warranted:
Psychological Evaluation (17)
Actual Suspension of License (28)

PURCHASE OR PROCURE BY BARTER A LICENSE WITH THE INTENT TO
PRACTICE
Section 3422 of the Business and Professions Code

MINIMUM	Denial of right to seek licensure as a hearing aid dispenser pursuant to B & P 480 (2) (3).
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ALTER WITH FRAUDULENT INTENT ANY MATERIAL ISSUED BY THE BOARD
Section 3423 of the Business and Professions Code

If done by a temporary licensee:

MINIMUM	Revocation of temporary license and denial of permanent licensure.
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If done by a permanent licensee:

MAXIMUM	Revocation
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MINIMUM	5 Years Probation
	<u>Standard Terms and Conditions of Probation (1-15)</u>
	<u>If warranted:</u>
	<u>Psychological Evaluation (17)</u>
	<u>Supervised Practice (25)</u>
	<u>Actual Suspension of License (28)</u>

LYING ON THE LICENSE APPLICATION
Section 3426 of the Business and Professions Code

MINIMUM	Revocation/License denial pursuant to B & P 480 (c)
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PRACTICING WITHOUT A VALID LICENSE
Section 3427* of the Business and Professions Code

MAXIMUM	Revocation
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MINIMUM	Public Reproval
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UNLAWFUL PRACTICE
Section 3427.5 of the Business and Professions Code

MAXIMUM	Revocation
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MINIMUM	5 Years Probation
	<u>Standard Terms and Conditions of Probation (1-15)</u>
	<u>If warranted:</u>
	<u>Take and Pass Licensure Examination (23)</u>

Supervised Practice (25)
Actual Suspension of License (28)

ADVERTISING WITHOUT A VALID LICENSE
Section 3428* of the Business and Professions Code

MAXIMUM Revocation/Denial of Licensure

MINIMUM Public Reproval

PRACTICING WITHOUT A BUSINESS ADDRESS
Section 3429 of the Business and Professions Code

MAXIMUM 5 Years Probation

MINIMUM Publi Reproval

**Does not apply to a Dispensing Audiologist*

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