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SB-612 Speech-language pathologists. (2023-2024)

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Senate Bill No. 612

CHAPTER 620

An act to amend Section 2530.2 of the Business and Professions Code, and to amend Section 56363 of the Education Code, relating to healing arts.

[Approved by Governor October 08, 2023. Filed with Secretary of State October 08, 2023.]

LEGISLATIVE COUNSEL'S DIGEST

SB 612, Ochoa Bogh. Speech-language pathologists.

Existing law, until January 1, 2027, establishes the Speech-Language Pathology and Audiology and Hearing Aid Dispensers Board within the Department of Consumer Affairs and requires the board to license and regulate speech-language pathologists, audiologists, and hearing aid dispensers, among others.

Existing law prohibits a licensed speech-language pathologist from performing a flexible fiber optic transnasal endoscopic procedure unless they have received written verification from one otolaryngologist certified by the American Board of Otolaryngology that the licensed speech-language pathologist has performed a minimum of 25 supervised flexible fiber optic transnasal endoscopic procedures and that the licensed speech-language pathologist is competent to perform those procedures, as provided. By operation of law, these provisions became operative on January 1, 2023.

This bill would specify that a licensed speech-language pathologist who holds a written verification pursuant to the above-described provisions that was issued before January 1, 2023, shall be deemed to meet specified requirements regarding flexible fiber optic transnasal endoscopic procedures, as provided.

Vote: majority Appropriation: no Fiscal Committee: no Local Program: no

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 2530.2 of the Business and Professions Code is amended to read:

2530.2. As used in this chapter, unless the context otherwise requires:

- (a) "Board" means the Speech-Language Pathology and Audiology and Hearing Aid Dispensers Board.
- (b) "Person" means any individual, partnership, corporation, limited liability company, or other organization or combination thereof, except that only individuals can be licensed under this chapter.
- (c) A "speech-language pathologist" is a person who practices speech-language pathology.
- (d) The practice of speech-language pathology means all of the following:

(1) The application of principles, methods, instrumental procedures, and noninstrumental procedures for measurement, testing, screening, evaluation, identification, prediction, and counseling related to the development and disorders of speech, voice, language, or swallowing.

(2) The application of principles and methods for preventing, planning, directing, conducting, and supervising programs for habilitating, rehabilitating, ameliorating, managing, or modifying disorders of speech, voice, language, or swallowing in individuals or groups of individuals.

(3) Conducting hearing screenings.

(4) Performing suctioning in connection with the scope of practice described in paragraphs (1) and (2), after compliance with a medical facility's training protocols on suctioning procedures.

(e) (1) Instrumental procedures referred to in subdivision (d) are the use of rigid and flexible endoscopes to observe the pharyngeal and laryngeal areas of the throat in order to observe, collect data, and measure the parameters of communication and swallowing as well as to guide communication and swallowing assessment and therapy. Passage of these instruments without the presence of a physician and surgeon is subject to paragraph (2).

(2) Nothing in this subdivision shall be construed as a diagnosis. Any observation of an abnormality shall be referred to a physician and surgeon.

(f) (1) A licensed speech-language pathologist shall not perform a flexible fiber optic transnasal endoscopic procedure unless they have received written verification from one otolaryngologist certified by the American Board of Otolaryngology that the speech-language pathologist has performed a minimum of 25 supervised flexible fiber optic transnasal endoscopic procedures and they are competent to perform these procedures. Of these 25 procedures, the first 10 procedures shall be supervised by a licensed physician and surgeon who performs nasal endoscopy as part of their practice and the subsequent 15 procedures shall be supervised by either a licensed physician and surgeon who performs nasal endoscopy as part of their practice or by another licensed speech-language pathologist who is verified as competent in performing flexible fiber optic transnasal endoscopic procedures. The speech-language pathologist shall have this written verification on file and readily available for inspection upon request by the board. A speech-language pathologist with a verification on file shall pass a flexible fiber optic transnasal endoscopic instrument only upon the orders of a licensed physician and surgeon. The order by a physician and surgeon is deemed to allow a speech-language pathologist with verification, in accordance with this paragraph, to perform fiber optic transnasal endoscopic procedures at a location based on the patient's medical needs that complies with procedures specified in paragraph (1) of subdivision (g).

(2) A licensed speech-language pathologist who holds a written verification pursuant to this subdivision that was issued before January 1, 2023, shall be deemed to meet the requirements described in paragraph (1).

(g) (1) A licensed speech-language pathologist shall only perform flexible endoscopic procedures described in subdivision (e) in the following settings that requires the facility to have protocols for emergency medical backup procedures, including a physician and surgeon or other appropriate medical professionals being readily available.

(A) A clinic, as defined in Section 1200 of the Health and Safety Code.

(B) A facility described in Chapter 2.5 (commencing with Section 1440) of Division 2 of the Health and Safety Code.

(C) A health facility, as defined in Section 1250 of the Health and Safety Code.

(D) A hospice facility licensed pursuant to Chapter 8.5 (commencing with Section 1745) of Division 2 of the Health and Safety Code.

(E) A medical group practice, including a professional medical corporation, as defined in Section 2406, another form of corporation controlled by physicians and surgeons, a medical partnership, a medical foundation exempt from licensure, or another lawfully organized group of physicians and surgeons that provides health care services.

(2) A licensed speech-language pathologist performing flexible fiber optic transnasal endoscopic procedures on patients who have contraindications to the procedure shall consult and document clearance with the physician and surgeon that the licensed speech-language pathologist can safely perform the procedure. For purposes of this paragraph, contraindications for these procedures may include, but are not limited to, cases of bilateral obstruction of nasal passages, refractory epistaxis, cardiac disorder with acute risk of vasovagal episode and bradycardia, history of vasovagal episodes, facial trauma, recent trauma to the nasal cavity, or surrounding tissue and structures secondary to surgery or injury, severe bleeding disorders, severe movement disorders, severe agitation, and inability to cooperate with the examination.

(h) "Speech-language pathology aide" means any person meeting the minimum requirements established by the board, who works directly under the supervision of a speech-language pathologist.

(i) (1) "Speech-language pathology assistant" means a person who meets the academic and supervised training requirements set forth by the board and who is approved by the board to assist in the provision of speech-language pathology under the direction and supervision of a speech-language pathologist who shall be responsible for the extent, kind, and quality of the services provided by the speech-language pathology assistant.

(2) The supervising speech-language pathologist employed or contracted for by a public school may hold a valid and current license issued by the board, a valid, current, and professional clear clinical or rehabilitative services credential in language, speech, and hearing issued by the Commission on Teacher Credentialing, or other credential authorizing service in language, speech, and hearing issued by the Commission on Teacher Credentialing that is not issued on the basis of an emergency permit or waiver of requirements. For purposes of this paragraph, a "clear" credential is a credential that is not issued pursuant to a waiver or emergency permit and is as otherwise defined by the Commission on Teacher Credentialing. Nothing in this section referring to credentialed supervising speech-language pathologists expands existing exemptions from licensing pursuant to Section 2530.5.

(j) An "audiologist" is one who practices audiology.

(k) "The practice of audiology" means the application of principles, methods, and procedures of measurement, testing, appraisal, prediction, consultation, counseling, and instruction related to auditory, vestibular, and related functions and the modification of communicative disorders involving speech, language, auditory behavior, or other aberrant behavior resulting from auditory dysfunction; and the planning, directing, conducting, supervising, or participating in programs of identification of auditory disorders, hearing conservation, cerumen removal, aural habilitation, and rehabilitation, including hearing aid recommendation and evaluation procedures, including, but not limited to, specifying amplification requirements and evaluation of the results thereof, auditory training, and speech reading, and the selling of hearing aids.

(l) A "dispensing audiologist" is a person who is authorized to sell hearing aids pursuant to their audiology license.

(m) "Audiology aide" means any person meeting the minimum requirements established by the board who works directly under the supervision of an audiologist. The board may by regulation exempt certain functions performed by an industrial audiology aide from supervision provided that their employer has established a set of procedures or protocols that the aide shall follow in performing these functions.

(n) "Medical board" means the Medical Board of California.

(o) A "hearing screening" performed by a speech-language pathologist means a binary puretone screening at a preset intensity level for the purpose of determining if the screened individuals are in need of further medical or audiological evaluation.

(p) "Cerumen removal" means the nonroutine removal of cerumen within the cartilaginous ear canal necessary for access in performance of audiological procedures that shall occur under physician and surgeon supervision. Cerumen removal, as provided by this section, shall only be performed by a licensed audiologist. Physician and surgeon supervision shall not be construed to require the physical presence of the physician, but shall include all of the following:

(1) Collaboration on the development of written standardized protocols. The protocols shall include a requirement that the supervised audiologist immediately refer to an appropriate physician any trauma, including skin tears, bleeding, or other pathology of the ear discovered in the process of cerumen removal as defined in this subdivision.

(2) Approval by the supervising physician of the written standardized protocol.

(3) The supervising physician shall be within the general vicinity, as provided by the physician-audiologist protocol, of the supervised audiologist and available by telephone contact at the time of cerumen removal.

(4) A licensed physician and surgeon may not simultaneously supervise more than two audiologists for purposes of cerumen removal.

SEC. 2. Section 56363 of the Education Code is amended to read:

56363. (a) As used in this part, the term "designated instruction and services" means "related services" as that term is defined in Section 1401(26) of Title 20 of the United States Code and Section 300.34 of Title 34 of the Code of Federal Regulations. The term "related services" means transportation, and such developmental, corrective, and other supportive services (including speech-language pathology and audiology services, interpreting services, psychological services, physical and occupational therapy, recreation, including therapeutic recreation, social work services, school nurse services designed to enable an individual with exceptional needs to receive a free appropriate public education as described in the individualized education program of the

child, counseling services, including rehabilitation counseling, orientation, and mobility services, and medical services, except that such medical services shall be for diagnostic and evaluation purposes only) as may be required to assist an individual with exceptional needs to benefit from special education, and includes the early identification and assessment of disabling conditions in children.

(b) These services may include, but are not limited to, the following:

- (1) Language and speech development and remediation. The language and speech development and remediation services may be provided by a speech-language pathology assistant as defined in Section 2530.2 of the Business and Professions Code.
- (2) Audiological services.
- (3) Orientation and mobility services.
- (4) Instruction in the home or hospital.
- (5) Adapted physical education.
- (6) Physical and occupational therapy.
- (7) Vision services.
- (8) Specialized driver training instruction.
- (9) Counseling and guidance services, including rehabilitation counseling.
- (10) Psychological services other than assessment and development of the individualized education program.
- (11) Parent counseling and training.
- (12) Health and nursing services, including school nurse services designed to enable an individual with exceptional needs to receive a free appropriate public education as described in the individualized education program.
- (13) Social worker services.
- (14) Specially designed vocational education and career development.
- (15) Recreation services.
- (16) Specialized services for low-incidence disabilities, such as readers, transcribers, and vision and hearing services.
- (17) Interpreting services.

(c) The terms "designated instruction and services" and "related services" do not include a medical device that is surgically implanted, including cochlear implants, the optimization of the functioning of a medical device, maintenance of that device, or the replacement of that device, pursuant to Section 300.34(b) of Title 34 of the Code of Federal Regulations. In accordance with Section 300.34(b) of Title 34 of the Code of Federal Regulations, nothing in this subdivision shall do any of the following:

- (1) Limit the right of an individual with exceptional needs with a surgically implanted device, including a cochlear implant, to receive related services or designated instruction and services that are determined by the individualized education program team to be necessary for the individual to receive a free appropriate public education.
- (2) Limit the responsibility of a local educational agency to appropriately monitor and maintain medical devices that are needed to maintain the health and safety of the individual, including breathing, nutrition, or operation of other bodily functions, while the individual is transported to and from school or is at school.
- (3) Prevent the routine checking of an external component of a surgically implanted device to make sure it is functioning properly, as required by Section 300.113(b) of Title 34 of the Code of Federal Regulations.